United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, SECOND SESSION

Vol. 148 WASHINGTON, MONDAY, SEPTEMBER 9, 2002 No. 112

Senate

The Senate met at 12 noon and was called to order by the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear Father, bless the families of our Nation.

Yesterday we celebrated Grandparents Day. Thank You for the special calling of grandparents to express esteem, encouragement, and affirmation to their grandchildren. In a very vital way, grandparents are able to communicate Your grace, Your unqualified and unlimited love, and the traits of Your character so needed in children in our culture.

Today we thank You for our own grandparents and all they contributed to our lives. Bless the Senators who have the privilege of being grandparents. Help them to be godly examples of what it means to know, trust, and serve You.

Most of all, Father, we pray for the strengthening of family ties that bind our hearts in love and mutual concern. There is so much in our culture that stretches and tears the fabric of the family. Help parents to put You and their families first in their priorities. May the inter-generational support of grandparents lift their burdens as they reap the blessings of raising children in Your moral and ethical absolutes. Bless the children of our land. Give them Your power to live confident lives. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable PATRICK J. LEAHY led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 9, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. LEAHY thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the distinguished senior Senator and grandfather from Nevada.

Mr. REID. That is true; 12 grandchildren, Mr. President, and one on the way.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that at 1 p.m. today there be 30 minutes of debate on Executive Calendar No. 889, equally divided between the chairman of the Judiciary Committee, the Presiding Officer, and the ranking member, Senator HATCH, or their designees, prior to a 1:30 p.m. vote on the confirmation of a judge.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

SCHEDULE

Mr. REID. Mr. President, we are going to have a period of morning business until 1 o'clock or shortly thereafter, with the first half of the time under the control of the majority leader and the second half under the control of the Republican leader.

We are going to have a debate at 1 o'clock dealing with the confirmation of Kenneth Marra to be a United States District Judge for the Southern District of Florida.

Following that vote, the Senate will resume consideration of the Homeland Security Act. Under the orders entered last Thursday, Senator THOMPSON will be recognized to offer an amendment. Following that, Senator BYRD will be recognized to offer an amendment. We hope there will be additional rollcall votes today, but we are not certain how long the debate will take on the homeland security amendments that will be offered.

We have a tremendous amount of work to do, and we will discuss that as the week wears on. Tomorrow morning we will go again to the Interior appropriations bill. We have an important vote on that tomorrow. We filed cloture, but in an effort to avoid that vote, there was an agreement made by the two leaders that we would vote on Tuesday morning on the disaster assistance part of the measure that is now before us.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 1 p.m., with Senators permitted to speak therein for up to 10 minutes each, following which there will be a period of one-half hour, equally divided between the chairman and

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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the ranking member of the Senate Judiciary Committee, or their designees.

Under the previous order, the first half of the time in morning business shall be under the control of the majority leader or his designee.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

IMPORTANT ISSUES BEFORE THE SENATE

Mr. REID. Mr. President, we have many important issues to consider in the limited time left in our legislative calendar, and therefore it is important we decide what our priorities must be.

President Bush has focused, in recent weeks, on Iraq, announcing his plans to send American troops there to accomplish the goal of a regime change. We have focused on the situation in Iraq now for about 3 weeks, or maybe more.

During the Presidency of his father, I was the first Democrat to announce publicly I would support the invasion in Desert Storm. I have no regret having done that. But there are, at this time, a number of questions that I think must be answered.

I expressed personally to the President on Wednesday in the White House that I thought there was a model to follow. It is a model that was created by President Bush, his father, and that model is one where there is support from the United Nations, the world community. The people of this country supported the action President Bush had taken, and the Congress supported that action. That is a model that I think is one of success.

There have been some in the administration who have said we don't need help. I am happy to see the President has reached out to the Prime Minister of Great Britain and met with him Saturday at Camp David. Today he is going to meet with the President of France. That is important. He needs to do that.

But we have to be very careful—and that is an understatement—in sending men and women into battle. We have about 12,000 or 13,000 troops stationed in Nevada at Nellis Air Force, Fallon Naval Air Training Center, and at the Hawthorn Ammunition Depot.

I want to make sure these people and others who serve in the Armed Forces are sent to do the right thing. I think we have to be very careful in what we are doing in this instance. I don't know what validity should be placed on it but certainly some. One American inspector was quoted in all the national press today as saying Saddam Hussein does not have the ability at this time to do anything regarding weapons of mass destruction. A case has to be made for that.

I am certainly standing by with an open mind, looking forward to whatever the President and his people bring forward. But I think the burden of proof is that we have to have a case made to us.

We represent the American people, as does the President. We are separate branches of Government, but they are equal in nature. We have a role to fill. He has a role to fill. And to this point, there have not been Members of Congress—Democrats or Republicans—convinced that would be the right thing to do.

I think we all have open minds. The American people all have open minds, and we want to do the right thing.

I repeat for the third time today: I am willing to listen to the President. I have listened to the President. I have a record—I am not embarrassed—about supporting his father. I am not a big fan of the War Powers Act. I felt that way in the House; I feel that way in the Senate. This is more than the War Powers Act. This is a situation where we must have the support of the international community, at least some in the international community, and we must have the support of the American people. The President must have our support before there is an incursion into Iraq.

I acknowledge that Saddam Hussein is a bad person. He has gassed his own people. He has killed his own blood. He is a vicious, evil man. I am ready to do whatever is necessary to protect the American people and bring about stability. But we have to wait until those different requirements are met before we do that.

In the meantime, we cannot be Johnny one-note. We have to do what is necessary to be done in Iraq but also understand the American people face a tremendous domestic crisis. The economy continues to struggle. The American people are concerned about losing jobs, investment, retirement savings. America's slumping economy has severely impacted working families and retirees.

Two of the major economic concerns we in Nevada have are that we have to be convinced our pensions are safe and that the cost of health care is debated, including prescription drugs. We passed strong legislation, led by the Senator from Maryland, Mr. SARBANES, regarding corporate accountability. We will soon take up pension protection to provide additional security for American workers and retirees. Earlier this summer the Senate passed the greater access to affordable pharmaceuticals legislation. It didn't do everything I think should be done, but it did take some important first steps.

It didn't do a lot to deal with the Medicare prescription drug program. We should have as a component of Medicare prescription drugs. It is not right that seniors are struggling. It is not right that we, the only superpower in the world, have a medical program for senior citizens that does not include prescription drugs, even though the average senior citizen has 18 prescriptions filled every year. We need to take care of that.

The legislation we did pass, the greater access to affordable pharmaceuticals, would lower prescription drug prices because it would stop pharmaceutical company abuses that prevent generic drug competition. It would allow pharmacists, wholesalers, and consumers to import prescription drugs from Canada at a lower price than they can find in the United States, and it would allow States to extend Medicare rebates and discounts for prescription drugs to residents who don't have drug coverage—not everything, but certainly it is a step in the right direction.

I have previously shared the stories of Nevadans struggling to pay for prescription drugs they need to stay healthy and to live quality, pain-free lives. The legislation the Senate passed will help make lifesaving and life-enhancing medicines more affordable and thus more affordable to Nevadans and all Americans. Unless we enact the Schumer-McCain bill this year, consumers will not get any relief from the skyrocketing cost of drugs. The Senate has passed this important legislation. Now Americans are looking to the House to do likewise. Without this bill, drug prices will continue to drain the budget of everyone—the elderly, the uninsured, State governments, employers, labor unions, and other groups—all because brand-name drug companies have abused loopholes in the law and have profited handsomely.

The average price paid for a prescription for brand-name drugs is three times the prescription price of generics. This means the average consumer pays about $45 more for each brand-name prescription. The savings that this legislation we passed provides will really add up.

According to the Congressional Budget Office, this legislation would save American consumers about $60 billion over the next 10 years. The public has demanded action on the high cost of drugs. They are going up. This is supported by patient groups, employers, and insurance companies alike. They believe it is not the answer but one of the answers to end drug company abuses and close legal loopholes the industry exploits to block competition and keep drug prices artificially high.

Just as we decided to close the accounting loopholes abused by Enron and WorldCom, we need to finish the job and close the loopholes in our drug patent laws exploited by the big pharmaceutical companies.

I believe it is time for the House leadership to join us in ending these abuses that hurt patients every day.

I also told the President on Friday that when he gave a speech last week to a group of labor people in Pennsylvania saying: I am not for the trial

lawyers; I am for the hard hats. I want to pass terrorism insurance, and that way we will create jobs—I told President Bush on Wednesday: If you want that legislation which you have talked about passed, you have to realize that you have to come out and get off this kick of having tort reform in addition to this terrorism insurance.

I said: Your friend, the Republican Governor of Nevada, Kenny Guinn, approached that in the right way. He called a special session of the legislature which ended about a month ago. The purpose of that special session was to do something about the increasing cost of malpractice insurance. The legislature met. They set certain limits on what you could get for pain and suffering. As a result of that, people walked away happy. That is where tort reform should take place, on the State level. Even if those people who believe in more tort reform want to do it, they can't do it on this terrorism insurance. I think it is a game being played; they really don't want terrorism insurance. They want to use tort reform as an excuse. That is one of the issues that is left pending, terrorism insurance.

They fought us every step of the way—they, the minority, fought us every step of the way. If the President really wants that, he needs to deal with the minority and allow this conference to be completed.

We need to do something about the bankruptcy bill. This has been going on for years, as the Presiding Officer, who was the architect of that legislation, knows. All the issues, we were told, had been resolved. This has been held up for about a year because of the people who are not in touch with—I don't mean this as not mentally competent, but not in touch with reality, in that how could you hold up legislation as important as this bankruptcy reform because of a provision we passed over here that said if you are an organization that goes to a clinic and trashes it, put this terrible smelling acid on it so that you have to really tear the place down and rebuild it, those people cannot discharge these acts in bankruptcy. That seems totally fair to me. But they are off on this abortion kick that somehow people who do something bad to these reproductive clinics—whether or not you agree with abortion, people should have to obey the law. You should not have the right to trash a place such as that so that it has to be torn down and totally refurbished and say I can file bankruptcy and just discharge it. No.

We thought it had been resolved a couple weeks ago. Obviously not. All the banks and all the others interested in bankruptcy reform should understand that is the only problem and the only reason we are not getting the bankruptcy legislation passed. That is a shame. The House should let us do that, just as they should let us do the antiterrorism legislation. It doesn't end there.

A lot of legislation is being held up; for example, our appropriations bills. We have 13 appropriations bills we must pass every year. We cannot complete work on those until the House does it because you lose the ability to object because an amendment is not germane. When the bill is brought from the House, they won't pass that. Why? We are under this legislative delusion that suddenly all this financial stuff is going to work out.

We have less than 20 days before this legislative session ends and they are still playing around. They never had a committee meeting on the Labor-HHS bill. It deals with the National Institutes of Health and so many other issues. It is a huge appropriations bill, extremely important for us. But the House is afraid to move on it because the President said he is only going to allow a certain amount of money to be spent there.

If that is exceeded, he will veto it. I say let's call him on that. Let him veto these important programs such as the National Institutes of Health. It is a little hard to do that when he and the administration have single-handedly destroyed the economy. Last year at this time we had a surplus of about $7.4 trillion for the next 10 years. That surplus is gone because of these tax cuts—well, about 25 percent of it is due to the war. The rest of it is due to the tax cuts and the bad economic policies. We have no surplus anymore.

So it seems to me what the President is trying to do is to create the illusion that he is fiscally responsible by not allowing us to pass our appropriations bills. In fact, what he will probably do in the multitrillion-dollar budget is that we will pass the appropriations bills, and he will probably veto a couple to say he is fiscally conservative, and all the problems are because of the prolific spending of the Congress, which is certainly not true. It appears that is what is happening.

The economy is in shambles. We are not having appropriations bills worked upon. It is just too bad. Because of the election that took place 2 years ago in Florida, we needed election reform. Senator DODD worked night and day getting election reform passed in the Senate. It is held up in the House. We cannot complete the conference.

I am very disappointed in what is happening. I think the administration is focused on the wrong things. I should say the wrong thing this time. They have tunnel vision on Iraq. I think everybody in the Senate has an open mind as to what we should do on Iraq. We can also focus on the domestic problems in this country, but we are not doing that. I think it is too bad. It is harmful to this country and it is certainly harmful to our getting work done.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. KYL. Mr. President, I am going to speak in morning business.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator is recognized for up to 10 minutes.

Mr. KYL. I thank the Chair.

CHINA

Mr. KYL. Mr. President, this week, which will be one Americans remember for a long time as the anniversary of the September 11 attacks of last year, a lot of second-guessing has been going on about what we might have done differently. Part of that is based on the fact that there was a lot of evidence that the United States should have been prepared to deal with the kind of attack that occurred, even if not at that precise time and place.

I think history will show, notwithstanding all of the evidence, it would have been very difficult for us to actually defend against those attacks, but it should not dissuade us from acting on similar evidence in the future.

I fear there is another situation developing which, both because we are focused on the war on terror and because it presents us with some unpleasant choices about what to do, is creating a similar situation where there is evidence that we should be paying attention to a problem, but either because we do not want to deal with it or because there is a lack of consensus about how to deal with it, the United States is not taking adequate precautions or taking adequate steps to deal with the situation.

What I have in mind is a concern that has been now discussed in two very recently released Government reports on the threat that is posed by the nation of China against the United States.

The first, produced by the congressionally-mandated United States-China Security Review Commission, offers a sobering analysis of the national security implications of the economic relationship between our two countries. It flatly states that trade alone has failed to bring about serious political change in China.

The second, the Defense Department's annual report on the military power of the People's Republic of China, paints an unsettling picture of China's military buildup, the main objective of which is to prepare that country for a military conflict in the Taiwan Strait, and to counter potential U.S. intervention in the conflict.

Proponents of unconditional engagement with China opine that the Chinese people's access to the Internet, modern telecommunications, and free trade will make that country a more free and open society. They suggest that entrenched vestiges of the Communist system will eventually fade away as new leaders, who are committed to capitalism, take the reins of

power. In other words, economic freedom will invariably translate into political freedom, and democracy will be the clear result.

But, particularly with the release of these two reports, it seems more and more clear that China's willingness to engage in the world economy has not translated into evolution toward democracy. Indeed, the United States-China Security Review Commission concluded that:

> . . . Trade and economic liberalization have not led to the extent of political liberalization much hoped for by U.S. policymakers. The Chinese government has simultaneously increased trade and aggressively resisted openness in politically sensitive areas such as the exercise of religious, human, and worker rights.

Consider, for example, Chinese Government control over the Internet. While many expected that access to the Internet would facilitate the influx of Western ideas and values, the Commission stated that those hopes ''have yet to be realized.'' Indeed, Beijing has passed sweeping regulations in the past two years that prohibit news and commentary on Internet sites in China that is not state-sanctioned. The Commission noted that China has even convinced American companies like Yahoo! to assist in its censorship efforts, and others, like America Online, to leave open the possibility of turning over names, e-mail addresses, or records of political dissidents if the Chinese government demands them.

It is impossible to predict China's future. That country has embarked on an uncertain path, opening its economy while simultaneously attempting to strengthen the Communist Party's political and social control. The consequences, given that Chinese policies run directly counter to U.S. national security interests, are potentially grave. Thus, the Commission established benchmarks against which Beijing's future progress can be measured, including China's proliferation of weapons of mass destruction; its cozy relationships with terrorists states like Iran, Iraq, and North Korea; its bellicose posture toward Taiwan; and its pursuit of asymmetric warfare capabilities to counter U.S. military capabilities.

China's proliferation of technology and components for ballistic missiles and weapons of mass destruction to terrorist-sponsoring states—including North Korea, Iraq, Iran, Syria, Libya, and Sudan—is of serious concern. The Commission found that, despite numerous bilateral and multilateral pledges to halt that proliferation, ''Chinese proliferation and cooperation with [such] states has continued unabated.''

Just in the past year, the administration has sanctioned Chinese entities three times for their proliferation to Iran of equipment and materials used to make chemical and biological weapons. Yet these sanctions are unlikely to curb China's proliferation activities. As the Commission concludes, ''Current U.S. sanctions policies to deter and reform Chinese proliferation practices have failed and need immediate review and overhaul.''

The Commission recommended that the United States expand the use of economic sanctions to apply against entire countries, rather than just individual entities. Suggested sanctions include import and export limitations, restrictions on the access of foreign entities to American capital markets, restrictions on direct foreign investments in an offending country, and restrictions on science and technology cooperation.

I should note that these measures are very similar to those proposed by my distinguished colleague from Tennessee, Senator THOMPSON, in 2000 during the debate on granting China permanent normal trade status. His amendment, which I strongly supported, was rejected by this body.

As to Taiwan, Beijing is deadly serious about pursuing unification—through force, if necessary—with our long-standing, democratic ally. The Chinese military is actively pursuing capabilities and strategies that it would need to accomplish that task, and according to the Commission, it is believed that the military has been directed to have viable options to do so by 2005 to 2007.

Mr. President, let me repeat that: It is believed that the Chinese military has been directed by the Communist leadership to be prepared to move against Taiwan by 2005 to 2007. If there is one sentence in this report that ought to serve as a wake-up call, this is it.

What is so significant about that time-frame is that, during those two years, a number of factors fall in line. First of all, the Defense Department has projected that the balance of power across the Taiwan Strait will shift toward China by 2005. Second, it is estimated that our theater missile defense system, which China fears we will share with Taiwan, will be up and running by 2007. Finally, it is estimated that China's myriad conventional weapons recently purchased from Russia—including submarines, fighter jets, and air-to-air missiles—will become fully operational within that 2-year period.

Indeed, the Defense Department, in its report, concluded that China's ''ambitious military modernization casts a cloud over its declared preference for resolving differences with Taiwan through peaceful means.'' The Pentagon observes that, over the past year, Beijing's military exercises have taken on an increasingly real-world focus aimed not only at Taiwan, but also at increasing the risk to U.S. forces and to the United States itself in any future Taiwan contingency.

The Defense Department warns that China's ''military training exercises increasingly focus on the United States as an adversary.'' Its military modernization concentrates on weapons that could cripple our military strength, including anti-ship missiles to counter our naval fleet and cyber-warfare to disrupt our infrastructure. Beijing is also modernizing its ballistic missile program, improving its missile force across the board both quantitatively and qualitatively. Beijing currently has about 20 inter-continental ballistic missiles, ICBMs, capable of targeting the United States, is projected to add up to 40 longer-range, road-mobile missiles by 2010.

In light of the Pentagon's conclusions, it is more important than ever that the United States provide Taiwan in a timely manner with the equipment and training it needs to defend itself against a potential Chinese attack. That training should include joint operational training, which would facilitate an allied U.S.-Taiwan response to an attack on Taiwan by China. Taiwan is currently outnumbered 10 to 1 in combat aircraft, 2 to 1 in ships, 60 to 4 in submarines, and its air force is beginning to lose its qualitative edge over China.

The United States should also expand and multilateralize its security relationships with Taiwan and other allies in East Asia to deter potential Chinese aggression. No doubt China is a very different country than the former Soviet Union, but there is something to be said for the deterrent factor that comes with a NATO-like coalition. As President Bush stated during his campaign, ''We should work toward a day when the fellowship of free Pacific nations is as strong and united as our Atlantic partnership . . .''

Additionally, the United States needs to develop and deploy missile defenses at the earliest possible date. I am pleased that President Bush recognizes the importance of having such a defensive system, and has made it a top priority among our military objectives.

What is frustrating is that the United States continues to play a facilitating role in China's military buildup and its proliferation of dual-use technologies—technologies that have civilian and military uses—to rogue states. China's buildup and its proliferation both harm U.S. national security. The United States China Security Review commission agreed with the conclusion of the 1998 Rumsfeld Commission that:

> The U.S. has been and is today a major, albeit unintentional, contributor to the proliferation of weapons of mass destruction [through] foreign student training in the U.S., by wide dissemination of technical information, by the illegal acquisition of U.S. designs and equipment, and by the relaxation of U.S. export control policies.

Our progressive relaxation of controls on the export of high performance computers is just one example. These computers can assist China in its efforts to rapidly design modern nuclear weapons and their delivery systems.

Our lax controls over the export of these computers allow China to legally obtain U.S. technology that helps to improve its military capabilities. Indeed, the Commission concluded that,

despite the existence of nominal controls, most high performance computers are no longer licensed and monitored.

Not only is China using U.S. technology to build its own military capabilities, it is transferring this technology to countries that support international terror networks. The China Commission found that:

> Chinese firms have provided dual-use missile-related items, raw materials, and/or assistance to Iran, North Korea, and Libya.

Chinese companies have also exported substantial dual-use telecommunications equipment and technology to countries like Iraq. Media reports indicate that the Chinese firm Huawei Technologies—an important player for many U.S. firms who want to reach the Chinese telecom and data communications market—assisted Iraq with fiber-optics to improve its air-defense system. This was not only a violation of U.N. sactions, it also greatly increased the danger to U.S. and British pilots patrolling the no-fly zones.

Despite the serious concerns of some policymakers, Members of this body, and others about the national security implications of transfers of such technology to China, the Senate, in September 2001, passed S. 149, the Export Administration Act. If enacted, this legislation would significantly relax our export control regulations and make it far easier for China to obtain sensitive U.S. technology. it would decontrol a number of items—including electronic devices used to trigger nuclear weapons and materials used to build missiles and produce nuclear weapons fuel—by giving these items ''mass market status.''

Mr. President, it is my hope that, as the anniversary of September 11 approaches, the administration and Congress recognize the potential danger of allowing business interests to continue to trump our national security needs. I am a strong proponent of free trade and open markets. But our national security should not be sacrificed for potential commercial gain. The federal government's first responsibility is the protection of the American people.

How the United States chooses to manage its relationship with China will have a far-reaching impact on our long-term national security. As that country continues to play a more prominent role on the world stage—no doubt a product of its economic liberalization—it is imperative that U.S. policy appropriately address not only our trade relationship, but also the threat posed by China to U.S. national security. Our actions should be based not on wishes, but on facts—even if they are unpleasant.

I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

PRIORITIZING ISSUES

Mr. THOMAS. Mr. President, I will talk a little about the issue we are currently dealing with in this Chamber, which is the Interior appropriations bill. It is a bill that is very important to those of us from the West. Being from Wyoming, it is a particularly interesting and important issue.

I listened to the assistant majority floor leader talk a little this morning about the importance of moving on with the issues we have before us. He enumerated the very many issues he considers apparently to be of primary importance. We are going to have to move forward, but we are going to have to make some priorities. We obviously do not have a great deal of time.

Many of the issues the Senator from Nevada mentioned are issues that have been around for a long time, without much push from the leadership to do anything about them until now. I hope we do not find ourselves dealing with too many issues and dealing with them insufficiently.

I hope we set priorities for where we are going to spend the rest of our time. My reaction is we need a little less talk and a lot more action.

With regard to Interior, for those of us in the West, one of the issues—especially in the case of Wyoming—is that half of our State is Federal land and managed, to a large extent, by those agencies that are funded in the Interior bill. This is a bill of about $19.5 billion, which is a little more than last year but generally about the same.

It is interesting that these agencies do create some revenues, mostly through royalties and minerals. About $6 billion worth of revenue comes from these activities.

The Bureau of Land Management handles a great deal of the land in our State. It has a great deal to do with multiple use. It has a great deal to do with our opportunity to go ahead and use those lands for the various kinds of activities that are good for the local economy, good for the Nation, and good for energy, for example, and at the same time protect the environment, which is also key to what we are doing.

I will comment further on PILT, payment in lieu of taxes. When a county could have as much as 80 percent of the land controlled and owned by the Federal Government, they have a real problem with tax revenues. Those lands would be earning revenue if they were in Maryland and owned privately. When they are owned by the Federal Government, there is no tax revenue. That is what the Payment in Lieu of Taxes Program is designed to do.

We also have the Wild Horse and Burro Program. We all want to preserve wild horses. They are spread over the country—some in Nevada, some in Wyoming, some in other States. However, we have a problem with overpopulation. It is an issue that exists with most wild critters. No one wants to do anything in particular to hold down the numbers. In the past, the numbers grew until there was not enough food and they starved to death. We do not want to do that. There has to be a particular number of wild horses, or elk, whatever, that can thrive; there is only so much vegetation for a certain number. Beyond that we have to do something. It is not an easy issue but we must deal with it. That is important.

The Forest Service is one of our national treasures. We need to preserve the Forest Service; we need to preserve the forests. We have done a good job. This year has been extremely difficult when it comes to wildfires. We have lost 6 million acres. We are faced with the question of how to better prepare and eliminate some of those fires. There are programs out there. The administration has one now that will be included in an amendment to this bill that allows thinning and allows ways to avoid fires rather than putting our energy into fighting fires.

I grew up next to the national forests in Wyoming. We were halfway between Cody, WY, and Yellowstone Park. It is a beautiful area with a great many trees and occasional threats from fires. There are cabins and buildings. We have a plan, if we could implement it, to hopefully avoid some of the fires.

The National Park System is one of the big activities in the Interior Department. We have 385 national parks in this country. Some are large. In Wyoming, we have Yellowstone, the oldest and largest park in the country. We have had a chronic problem of maintaining the infrastructure of the parks. They have millions of visitors, generally on a seasonal basis, during a relatively short time. The administration has promised to put $4.5 million into infrastructure so we can keep the parks available for people to enjoy and visit. That is our responsibility. The Interior dollars are very important.

Other activities of concern include the Fish and Wildlife Service, mining, as well as some research on energy and fossil technology and clean coal technology. Along with that is the U.S. Bureau of Indian Affairs. We are providing the best service we can to Native Americans. We are providing an opportunity for them to continue to begin to build as strong an economy as possible.

For a moment I will talk about the Payment in Lieu of Taxes Program. The Senate appropriates approximately $220 million for that PILT Program—more than it has ever received. We have not yet reached the appropriation to be equivalent to the authorization. Nevertheless, we have made some progress. This year, 67 of my colleagues joined in a request to increase PILT to help more than 2000 counties and local governments. When there is a county that has anywhere from 50 to 90 percent Federal lands, it is up to the county to provide the services necessary—whether it be law enforcement, fire, whatever. Those are county responsibilities. Therefore, there needs to be some revenues from the land. That is what these payments are about. We are moving toward that. I thank the committee for moving as they have toward

reaching the authorization of the funds available. Certainly that authorization is not totally enough to fill all the needs, but it is an improvement over the past.

This also gives an opportunity for those counties to create their own financial structure, much of which often is tourism, which, again, is costly. I thank the committee for what they have done with respect to payments in lieu of taxes to the counties. I hope we are able to include that. Our allocation is larger than the House and we need to bring that up so we have a satisfactory arrangement.

In the West we have had 3 years of very low rainfall, actual drought. It is very difficult. In Washington, it is normal to have 50 inches of rain a year. In Wyoming, it is more likely to be an average of 16 or 17 inches. It is a low precipitation area at best. Therefore, we irrigate. Irrigation water generally comes from reservoirs, from the runoff of snowfall that is captured in the mountains and let down during the summer. We have had relatively slow snowfall over the last several years and therefore our reservoirs are getting low and have been very low this year. We have had, certainly, a bona fide drought problem—not only in Wyoming but all through the area, including the Dakotas and down. There has been a great deal of discussion about it. On the Agriculture Committee we talked about that a great deal. The Agriculture Committee bill as prepared does not deal with drought. We think they will get support in the area of crops, but it is based primarily on loans after the product is sold. If you did not produce a product, there is nothing there. That is why we need to have disaster assistance. There will be less spending in the Agriculture bill because there will be less crops grown—with a higher price because there are less—but many farmers and ranchers will not produce a crop.

We should offset some of that to the farm bill spending. Whether we offset it or not, the fact is there will be less money spent in that area than could be spent. Therefore, what we spend here could replace what was there. I hope that is the approach we take.

We should have some limitation on how much we have there, but, indeed, it is a big issue and it will be a $5.5 billion issue to be able to deal with the losses that agriculture has suffered.

I hope, too, we do not simply focus on farm crops. Again, in my State, the biggest agricultural area is livestock. Livestock people have suffered as well. What has happened is there is no grass for grazing where the cattle are on private lands. In some cases where there has been grazing allowed, in the forests or BLM, Federal lands, there has not been a sufficient amount of grass. Ranchers have had to sell cattle because they have not had the feed and will not have the feed this winter.

When we do talk about agriculture, the idea often—particularly in some Midwestern States—is that just refers to farmers. I want to tell you it is farmers, but it is also those who raise livestock, cattle, and sheep. People who are in that business need to be recognized as well, in terms of what we do here to help the agricultural industry during the drought. We will be dealing with that. We will come back to it.

I say again I hope we can set some priorities for the relatively limited amount of time left of this Congress. I hope that we select those items that are timely, that need to be done. I understand when we come to the end of a session everybody has ideas of things that they would liked to have happened that did not happen, but we are not going to be able to do all those things. So what we have to do collectively is show some leadership as to which of those issues should be dealt with. Then we can do that.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. LINCOLN). Without objection, it is so ordered.

GRANDPARENTS DAY

Mr. LEAHY. Madam President, first, on a personal basis, earlier, at the opening of the session, it was noted that yesterday was Grandparents Day. I send my best to all those who are grandparents. The Presiding Officer, of course, is far too young to know the joys of that time in our lives. She does have the joy of two of the most beautiful children anybody has seen in the Senate family. But there will be a day when the other will come. The ranking member and I have the joy of being grandparents.

So I wish all grandparents the best and also extend special wishes to one growing, shameless Leahy.

After that outrageous usurpation of the podium, Madam President, probably, if my wife is watching, she is probably beginning to wonder if I took too much time off in August.

UNANIMOUS CONSENT AGREEMENT

Mr. LEAHY. Madam President, I ask unanimous consent regarding the time of the chairman and the ranking member of the Judiciary Committee that was originally set to be half an hour evenly divided, that we still have that half hour evenly divided, and the vote then begin after the expiration of that time.

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF KENNETH A. MARRA, OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA

The PRESIDING OFFICER. Under the previous order, the hour of 1 p.m. having arrived, the Senate will proceed to executive session and proceed with the consideration of Executive Calendar No. 889, which the clerk will report.

The legislative clerk read that nomination of Kenneth A. Marra, of Florida, to be United States District Judge for the Southern District of Florida.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I do believe that Judge Kenneth Marra will be confirmed to the U.S. District Court for the Southern District of Florida. I have heard of no opposition. This is a judge who got strong bipartisan support in the Senate Judiciary Committee, which usually guarantees a confirmation on the floor. When that happens, the Democratic-led Senate will confirm its 74th judicial nomination made by President George W. Bush. This will also be the 25th judicial emergency vacancy that we have filled since I became chairman last summer, and the 18th since the beginning of this year.

The confirmation of Judge Marra will bring additional resources to the U.S. District Court for the Southern District of Florida. Judge Marra was nominated to fill a new position Congress created by statute to address the large caseload, particularly the immigration and criminal cases, facing the Federal court in Florida. He is one of three Federal judicial nominations on the Senate Calendar for action.

I recall during the past administration, the Clinton administration, we all worked very hard in cooperation with Senator GRAHAM and Senator MACK to ensure that the Federal court in Florida had its vacancies filled promptly with consensus nominees. Due to the bipartisan cooperation between one Democrat Senator and one Republican Senator and a Democratic President, the Senate was able to confirm 22 judicial nominees from Florida, including 3 nominees to the Eleventh Circuit. But it is unfortunate that this tradition of cooperation, coordination, and consultation has not continued with the current administration.

By my recollection, it was only the nomination of Judge Rosemary Barkett of the Florida Supreme Court to the Eleventh Circuit that generated any significant controversy or opposition. I do recall that she was strongly

opposed by a number of Republican Senators because they did not agree with her judicial philosophy. Those voting against her included Senators HATCH, GRASSLEY, MCCONNELL, SPECTER, and THURMOND, as well as Senators LOTT, NICKLES, and HUTCHISON of Texas. They have an absolute right to do that, of course. I respect that right. Judge Barkett received the highest rating of the ABA, ''well qualified,'' and yet 36 Republicans voted against her confirmation, even though she had the strong bipartisan support of her home State Senators. Recent claims by some that it is unprecedented to vote against a judicial nominee with a ''well qualified'' rating and to vote against her based on her judicial philosophy thus ring hollow.

Unfortunately, that is not the way the administration has dealt with Senators GRAHAM and NELSON now. But it is a tribute to Senator GRAHAM and Senator NELSON that we have made the progress we have had. They could very easily have exercised their right as Senators and refused to accept the nominees of President Bush. Of course, they would go no further under the blue-slip policy that both Republicans and Democrats strongly support. But they have been more than gracious in their willingness to support these nominees. That is why they have gone through.

This Democratic-led Senate has expeditiously moved President Bush's judicial nominees. We have worked hard to provide bipartisan support for the White House's nominations in spite of an almost unprecedented lack of willingness on the part of the White House to work with us.

In fact, I have been here 26 years: During the terms of President Ford, President Carter, President Reagan, President George Herbert Walker Bush, President Clinton, and now President George W. Bush. This administration is the least willing of any White House during all that time—Republican or Democrat—to work with the Senate on judicial nominations. But even without that cooperation, even with the unprecedented lack of cooperation, we are making progress.

I would like to discuss the progress we have made. This chart shows what has happened in the 15 months the Democrats have controlled the Senate. Contrast that to the Republicans' first 15 months when they controlled the Senate. In less than 15 months of Democratic control of the committee, we have held more hearings for more nominees, voted on more nominees in committee, and confirmed more nominees than the Republicans did in their first 15 months of control of the committee in 1995 and 1996.

We have confirmed more of President George W. Bush's Federal trial court nominees in less than 15 months than were confirmed in the first 2 years of his father's Presidency. In fact, we confirmed more in the first 15 months than the Republicans were willing to confirm in their last 30 months.

I mention this because there seems to be some idea that somehow the Democratic-led Senate is holding up judges. I think most of the Presidents with whom I have served would have been delighted to have had a Senate as cooperative as we have been.

Let me repeat that. In 15 months, Democrats have done more on judicial confirmations than Republicans did in 30 months.

They, on the other side, do not want to compare our record of accomplishment in evaluating judicial nominees with theirs in their prior 6½ years of control. They do not want to own up to their delay and defeat through inaction of scores of judicial nominees during the last administration.

All too often the only defense of their record we hear is the claim that President Clinton ultimately appointed 377 judicial nominees, 5 fewer than President Reagan. This statement overlooks the fact that the Republicans only allowed 245 of President Clinton's judicial nominees to be confirmed. That averages, incidentally, to about 38 confirmations per year during their 6½ years of control. We confirmed 74 judicial nominees in less than 15 months, including 13 to the circuit courts. I believe we have reported 80 out of the Judiciary Committee.

I mention this because of the persistence of the myth of inaction in face of such in the face of such a clear record of progress by Democrats. After a while, if someone keeps distorting the facts, if someone keeps stating things that are not true, people actually come to believe it is true. I am reminded of what Adlai Stevenson once said. I will quote him:

> I have been thinking that I would make a proposition to my Republican friends . . . that if they will stop telling lies about the Democrats, we will stop telling the truth about them.

The truth is, of course, as these charts show, that we have a pretty good record of accomplishment despite the lack of cooperation from the administration.

With today's vote, the Democratic-led Senate will confirm its 74th judge—exceeding the number of circuit and district court nominees confirmed in the last 30 months of Republican control of the Senate. We have done more than Republicans did, and we have done it in less than half the time.

We have confirmed more of this President's nominees, both circuit and district court nominees, in less than 15 months, than were confirmed in the comparable 15 months of the first term of former President Reagan, the first President Bush, and President Clinton.

Let's take a look at what has happened in the first 15 months. With today's vote, the Democratic-led Senate has confirmed 74 of this Republican President's judicial nominees in less than 15 months.

Under President Reagan—and incidently, I might point out, he had a Senate of his own party—there were 54 confirmation in the first 15 months. Under George H. W. Bush, there were 23; for the first 15 months of President Clinton, 45. Incidentally, that is with a Senate under the control of his own party. And now, in 15 months, under President George W. Bush, we have had 74 judicial confirmations—74. By any standard you want, here is a case where a different party than the President has controlled the Senate, and we have done more than was done for President Reagan when his own party controlled the Senate, for President Bush when another party controlled the Senate, for President Clinton when we, the Democrats, controlled the Senate.

It shows we can move and will move, and we have been doing that notwithstanding the fact that there has been less cooperation from the White House than I have seen with either Democratic or Republican Presidents in 26 years in the Senate. It is unfortunate.

President Bush will probably get a record number of his judges through at the current pace of confirmations. But I have to think how much better it could be done with less rancor and with even a modicum of cooperation. We have acted fairly and expeditiously notwithstanding the fact that Democrats have felt very concerned that for year after year after year after year in many of the circuit courts of this country, Republicans refused to even hold hearings for the nominees, even though they had the highest ratings of the American Bar Association. They would not even hold hearings, to say nothing about having a vote.

Then when the Republicans came in, suddenly there was an emergency; they had to fill the vacancies in those circuits. Their obstruction created the problem. But notwithstanding that, in many of those cases where Democrats were not allowed to even have a hearing year after year after year, we have in the last 15 months moved forward with hearings and votes, and positive votes, on the vast majority of his judicial nominees.

I have no idea what political game is being played at the White House. I know the people are very nice. Judge Gonzalez is a very nice, very polite person. He is charming to be with. But the cooperation is not there. The President is very nice, very charming. But the cooperation is not there. We could do far better if they would just pick up the phone and call the last three people from the last three Republican administrations—they do not even have to call a Democratic administration—and see how well this could be done.

As the distinguished ranking member, my good friend from Utah, knows, I went down several times and worked with the Clinton White House so they could have cooperation with, and they did cooperate with, Republican Senators in moving through judges. I would hope that with that precedent in mind, some might do the same.

Democrats have reformed the process for considering judicial nominees to

ensure bipartisan cooperation and greater fairness. For example, we have ended the practice of secretive, anonymous holds that plagued the period of Republican control, when any Republican Senator could hold any nominee from his or her home state, his or her own circuit or any part of the country for any reason, or no reason, without any accountability. We have returned to the Democratic tradition of regularly holding hearings, every few weeks, rather than going for months without a single hearing. In fact, we have held 23 judicial nominations hearings in our first 13 months, an average of almost two per month.

In contrast, during the six and one-half years of Republican control, they went 30 months without holding a single judicial nominations hearing. By holding 23 hearings for 84 of this President's judicial nominees, we have held hearings for more circuit and district court nominees than in 20 of the last 22 years during the Reagan, first Bush, and Clinton Administrations.

As this chart shows, we have held more hearings for President Bush's judicial nominees in less than 15 months than were held in 15 months for any of the past three Presidents. In the first 15 months of the first term of President Reagan, 17 judicial nominations hearings were held. In the first 15 months of President George H.W. Bush's term, 11 hearings were held. And, in the first 15 months of President Clinton's first term, 14 judicial nominations hearings were held. In contrast, we have held 23 hearings in less than 15 months. That is almost as many as were held in the first 15 months of the terms of the first President Bush and President Clinton combined. We have more than exceeded the number of hearings held in the last 30 months of Republican control of the Senate, when they held only 15 hearings.

While some complain that a handful of circuit court nominees have not yet had hearings, they fail to acknowledge that Democrats have held hearings for more of President Bush's circuit court nominees, 18, than in any of the six and one-half years in which the Republicans controlled the Committee before the change in majority last summer. Republicans have utterly failed to acknowledge this fairness and progress under the Democratic majority. The myth of obstruction of judicial nominees fits their political strategy better than the truth.

The years of Republican inaction on a number of circuit court vacancies has made it possible for Democrats to have several ''firsts,'' or astounding accomplishments in addressing judicial vacancies. For example, we held the first hearing for a nominee to the Sixth Circuit in almost five years (that is more than one full presidential term) and confirmed her, even though three of President Clinton's nominees to the Sixth Circuit never received a hearing or a vote. We held the first hearing on a Fifth Circuit nominee in seven years (including the entire period of Republican control of the Senate) and confirmed her last year, while three of President Clinton's Fifth Circuit nominees never received hearings or votes on their nominations. We held the first hearing on a Tenth Circuit nominee in six years, and we have confirmed two of President Bush's nominees to the Tenth Circuit, while two of President Clinton's nominees to that circuit never received hearings or votes. We held the first hearing for a Fourth Circuit nominee in three years, for Judge Roger Gregory, and the first hearing for an African American nominee to that court in United States history, even though Judge Gregory and four other nominees to that circuit (including three other African Americans) never received hearings or votes during Republican control of the Senate. These are just a few examples of the historic accomplishments of the Democratic-led Senate which debunk Republican myths that Democrats caused the vacancy crisis, are delaying judicial appointments or have been retaliating for years of obstruction on circuit court vacancies by Republicans.

There were only 16 circuit court vacancies when Republicans took over the Senate in January 1995. Unfortunately, from January 1995 until Republicans relinquished control and allowed the Judiciary Committee to be reorganized in the summer of 2001, circuit court vacancies more than doubled from 16 to 33. Republicans executed a partisan political strategy to hold vacancies open on the circuits for a Republican president to fill. It would certainly have been easier and less work for Democrats to retaliate for the unfair treatment of the last President's circuit court nominees. We did not. We have been, and will continue to be, more fair than the Republican majority was to President Clinton's judicial nominees.

Here is another chart that shows that more of President Bush's judicial nominees have been given committee votes than the nominees of prior presidents. Unlike my Republican predecessor, I have scheduled hearings and votes on district and circuit court nominees whom I do not support. The Judiciary Committee has voted on 82 judicial nominees and favorably reported 80. In less than 15 months, we have voted on more of President Bush's district and circuit court nominees than were voted on in the first 15 months of any of the past three Presidents. Moreover, we have voted on more nominees in less than 15 months than were voted on in the first 15 months of Presidents Reagan and George H.W. Bush combined, or Presidents George H.W. Bush and Clinton combined. We have even voted on more nominees in less than 15 months than were voted on in the last 30 months of Republican control of the Senate, when 73 nominees were voted on by the Committee.

Because we have moved quickly and responsibly, the number of vacancies is not at the 153 mark it would be had we taken no action. Vacancies have been reduced to 79 and are headed in the right direction. On July 10, 2001, with the reorganization of the Senate, we began with 110 vacancies. When Republican gained control of the Senate in 1995 the federal judicial vacancies numbered 65. The vacancies increased during their six and one-half years to more than 110. Under the Democratic majority, by contrast, the number of vacancies is being significantly reduced. Despite the large number of additional vacancies that have arisen in the past year, with the 61 district court confirmations we have as of today, we have reduced district court vacancies to 50, almost to the level it was at when Republicans took over the Senate in 1995.

In fact, when we adjourned for the August recess we had given hearings to 91 percent of this President's judicial nominees who had completed their paperwork and who had the consent of both of their home-State Senators. That is, 84 of the 92 judicial nominees with completed files had received hearings.

When we held our most recent hearing on August 1, we had given hearings to 66 district court nominees and we had run out of district court nominees with completed paperwork and home-State consent. Only two district court nominees were eligible for that hearing. This is because the White House changed the process of allowing the ABA to begin its evaluation prior to nomination. This change has cost the federal judiciary the chance over the last year to have 12 to 15 more district court nominees on the bench and hearing cases, because now the ABA can only begin its evaluation once the nomination is submitted to the Senate. The ABA also must wait until the Administration provides the Senate with the nominee's public questionnaire, and lately the nominees' documents have been arriving on a delayed basis, as well. Indeed, many of the two dozen nominations most recently received will likely not get hearings before adjournment this year in large measure because the White House unilaterally changed the process for consideration and has built additional delays into it.

In January I had proposed a simple procedural adjustment to allow the ABA evaluation to begin at the same time as the FBI investigation, as was the practice in past Republican and Democratic Administrations over 50 years. Had this proposal been accepted, I am confident there would be more than a dozen fewer vacancies in the federal courts. Instead, our efforts to increase cooperation with the White House have been rebuffed. We continue to get the least cooperation from any White House I can recall during my nearly three decades in the Senate. Yet, even with such lack of cooperation from the White House, the Senate has set an impressive rate of confirming judicial nominees.

Here is another chart that shows how Democrats have dramatically reduced the time between nomination and confirmation of circuit court nominees. Since the Democrats assumed the majority last July, the average time to confirm circuit court nominees has been drastically reduced to 147 days, from a high during the most recent years of Republican control of 374 days. We have reduced the average time from nomination to confirmation to two-and-a-half times less than the average time to confirmation during Republican control during the 106th and 105th Congresses when it took an average of 374 and 314 days, respectively, to confirm President Clinton's circuit court nominees.

The Judiciary Committee has reported two more circuit court nominees favorably to the Senate. We have held hearings on 18 circuit court nominees and the Judiciary Committee has already voted on 17 of those 18 nominees.

In spite of the obstacles the White House has put in the way of their own nominees through their lack of consultation and cooperation, we have been able to have a productive year while restoring fairness to the judicial confirmation process. I regret that the White House has chosen the strident path that it has with respect to judicial nominations, especially to the circuit courts. As several Senators noted last week, the Administration does not have carte blanche to insist on an ideological takeover of the Courts of Appeals with activist ultra-conservative nominees intended to tip the balance in circuits around the country. The total number of district and circuit court confirmations now stands at 74, and there remain a few weeks left in this session. So while we have been working hard and productive, the Judiciary Committee and the Senate have not become a rubber stamp.

I am proud of the efforts of the Senate to restore fairness to the judicial confirmation process over this time. The Senate Judiciary Committee is working hard to schedule hearings and votes on additional judicial nominees, but it takes time to deal with a mess of the magnitude we inherited. I think we have done well by the federal courts and the American people, and we will continue to do our best to ensure that all Americans have access to federal judges who are unbiased, fair-minded individuals with appropriate judicial temperament and who are committed to upholding the Constitution and following precedent.

When the President sends judicial candidates who embody these principles, they will move quickly, but when he sends controversial nominees whose records demonstrate that they lack these qualities and whose records are lacking we will take the time needed to evaluate their merits and to vote them up or down.

I would like to thank the Members of the Judiciary Committee who have labored long and hard to evaluate the records of the individuals chosen by this President for lifetime seats on the federal courts. The decisions we make after reviewing their records will last well beyond the term of this President and will affect the lives of the individuals whose cases will be heard by these judges and maybe millions of others affected by the precedents of these decisions of these judges.

Before anyone takes for granted how fairly Democrats have treated this President's judicial nominees, receiving up or down votes, they should take a look at how poorly judicial nominees were treated during the 6½ years of Republican control of the Senate. In all, several dozen judicial nominees of President Clinton never received a hearing or a vote.

When confronted with this, Republicans often lament that about 50 of the first President Bush's judicial nominees did not get a hearing before the end of the session in Congress in 1992. What they consistently fail to mention about this, however, is quite revealing. That year, the Senate confirmed more of President George H.W. Bush's judicial nominees than in any year of his presidency. He had 66 judicial nominees confirmed that year, but the Senate simply could not get to the other 53 nominees he submitted in response to the creation of dozens of new judgeships. So, even though some of his nominees were returned, the Senate confirmed a substantial number, 66, of his judicial nominees in the 10 months they were in session that year, which was an election year, by the way.

Perhaps coincidentally, 66 is the highest number of judicial confirmations in one year that Republicans ever allowed President Clinton to reach. They averaged 38 judicial confirmations per year. In the last two years of the Clinton Administration, Republicans allowed only 33 and 39 judges to be confirmed, respectively in 1999 and 2000. President George H.W. Bush had 66 confirmations in his last year of office, an election year. In President Clinton's last year in office only 39 judges were confirmed, during Republicans control. In 1996, Republican allowed only 17 judges to be confirmed, none to the circuit courts. In those two election years combined Republicans allowed only 56 confirmations. In 1992, an election year, Chairman BIDEN pushed through 66 confirmations.

Unlike Democrats in 1992, Republicans cannot honestly claim that they moved a substantial number through but could not get to them all. Confirming only 39 judicial nominees in 2000 and returning more than that, 41, in that year alone, simply does not compare with what happened in 1992 when Democrats worked hard to move through 66 of the first President Bush's judicial nominees in the space of 10 months. If 66 was such an easy number to reach, why did Republicans reach that level only once in six years of control? The answer is easy. They did not want to do so. I think Republicans wanted to ensure that they never treated President Clinton better than the best year of former President Bush (his last year) and they wanted to ensure that President Clinton did not beat President Reagan's number of confirmations, as a matter of partisan pride.

Had Republicans kept up the pace of confirmation set by Democrats in the first President Bush's last year and the first two years of the Clinton Administration, President Clinton would have appointed substantially more than the 377 judges who were ultimately confirmed in his two terms as president, and the Democratic-led Senate Judiciary Committee would not have begun last July with 110 vacancies. Ironically, perhaps, Democrats have been so fair to President George W. Bush, despite the past unfairness of Republicans, that if we continue at the current pace of confirmation and vacancies continue to arise at the same rate, then Bush will appoint 227 judges by the end of his term. If he were elected to a second term, at the current pace, he would amass 454 judicial confirmations, dramatically more than President Reagan, who Senator HATCH often calls the all-time champ. This, too, demonstrates how fair Democrats have been. Perhaps some may say we have been foolishly fair, given how Democrats were treated in the past. We have exceeded the pace set in 1992, 1993 and 1994, with 74 confirmations to date in little more than a year.

In fact, when we adjourned for the August recess we had given hearings to 91 percent of this President's judicial nominees who had completed their paperwork and who had the consent of both of their home-State Senators. That is, 84 of the 92 judicial nominees with completed files had received hearings.

Any way you look at the numbers, raw numbers or percentages, comparisons with the prior six years of Republican control or with prior Congresses and Republican presidents, the Democrats have done more in less time. We have been more fair by far. Yet we have been unfairly labeled as obstructionist because we have not been able to have hearings for every single judicial nominee in the short period we have been in the majority. This President still has over two years left in his term.

I withhold the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I rise today to respond to some of the amazing assertions made by my distinguished colleague and friend from Vermont. Of course, I do so with some trepidation because each time we have a back and forth like this one, I help my colleague further the impression that he is out to create and that he has done a good job of creating, especially with the press.

The impression my colleague is seeking to create is that both sides come to

the table with unclean hands in the matter of confirmations. It is a false impression and it provides a smokescreen of the stark reality of the poor performance of the Judiciary Committee this past year and during this session.

Naturally, my friend takes pride in his accomplishments this year, but not all of them. Let me list a few he misses. President Reagan took pride in nominating the first woman to the Supreme Court. My Democrat colleagues have now presided over the ''Borking'' of the first woman in history, and one of the leading women jurists in this country, Priscilla Owen.

My colleague has also set a new record for a Judiciary Committee chairman. He has voted in 1 year against more judicial nominees than any chairman in the 212 years of the Republic. Moreover, most of my Democrat colleagues on the Judiciary Committee have voted against more judicial nominees in this last one year than I have in my 26 years on the Judiciary Committee. I voted against only one Clinton nominee, only one, but as painful as that was, I did it standing straight for all to see in the disinfectant light of the Senate floor, not in the shadows of a committee vote.

Also, in rejecting Justice Owen, my Democrat colleagues rejected for the first time in history a nominee who has received the American Bar Association's unanimous rating, highest rating of well qualified, the rating that earlier this year they announced to be the gold standard for judicial nominees and which, of course, they now criticize because the independent body has rated President Bush's nominees as highly qualified as any we have ever seen.

In other words, Priscilla Owen, who had the support of both home State Senators, which is a requisite for consideration by the Committee, who had the highest rating given by the American Bar Association for a judicial nominee, who is a supreme court justice in Texas, and who, by anybody's measurement who is fair, is in the mainstream of American jurisprudence, was dumped unceremoniously in the committee by a 10-to-9 party vote, a partisan party vote at that, and without giving her nomination the chance of being brought up on the floor of the Senate where I believe she would have passed, if not overwhelmingly, certainly comfortably.

I have heard my colleague from Vermont defend against that by listing the 42 judicial nominees who did not get confirmed by the end of the Clinton administration. He doesn't point out that there were 54 nominees left hanging at the end of the first Bush administration when they were in charge. And he does not explain that most, if not all, of the nominees left hanging at the end of the Clinton administration, however qualified, did not progress because either they were nominated too late or did not have their home state Senators' support or had other problems that we cannot address.

In an attempt to cloud up the rejection of Justice Owen's nomination, I have also heard my colleagues point to the Clinton judges from Texas in particular who never got a hearing. One said at the Owen hearing that I did not give them a hearing. It was a very unfair characterization, and I will respond to it now.

As my friend knows well enough, neither of those nominees had the support of their home state Senators. This prevented me, and would have prevented the distinguished Senator from Vermont, if he were in my shoes, from scheduling a hearing for them. In part, this was because President Clinton ignored the Texas Senators and the Texas nominating commission in making those nominations. The practice of honoring the home State Senators is not one I put in place; it was put in place under Democrat leadership of the committee, and appears agreeable to both parties.

Today, Democrat Senators from the States of North Carolina, California, and Michigan have prevented the Judiciary Committee from holding hearings on six of President Bush's original Circuit Court of Appeals nominees who were nominated a year and a half ago, some of the greatest nominees I have seen in the whole time I have been in the Senate and on the Judiciary Committee, now 26 years.

I know there are those who seem to justify wrong in childlike fashion with the intellectual crutch of, ''They did it, too.'' Let me say that we Republicans have never done what was done to Justice Owen. I can't think of anything in history that compares to that. Some Democrats have attempted to leave the impression that Republicans have unclean hands so as to soften the scrutiny of what was done to Justice Owen. The American people will see through this.

But let me assure you, none of those nominees who did not get hearings would trade places with Charles Pickering of Mississippi or Priscilla Owen of Texas. It is beyond peradventure that they would prefer to be ghosts of nominations past than called racists, unjustly called racists, and have their fine records of public service soiled by the Judiciary Committee.

I am heartened to know that beyond the overwhelming support from her home State of Texas and scores of op-eds written across the country in support of the Owen nomination, Justice Owen's nomination to the Fifth Circuit has received editorial support from over 24 newspapers published across the Nation and across the political spectrum. I have previously submitted these for the RECORD.

Prior to the vote in Committee, only three newspapers, in fact—in New York, Los Angeles, and San Francisco—had come out firmly against the nomination.

I am heartened by this national support not just for the sake of Justice Owen, but because at her hearing I expressed alarm at the efforts of some to introduce ideology into the confirmation process. I am heartened that editorial and op-ed writers across the country reflect not only support for Justice Owen but also the near universal rejection of this misguided effort to make the independent Federal judiciary a mere extension of Congress and less than the independent, coequal branch it was intended to be.

Let me respond further to my good friend from Vermont. He is right that in this session so far the Senate has confirmed 73 judges. There is much eagerness in my friend's voice asserting that this number compares favorably to the last three sessions of Congress during which I was chairman.

Although I am flattered to hear my record used as the benchmark for fairness, I am afraid this does not make for a fair comparison because I was never chairman during any of President Clinton's first 2 years in office.

Let me repeat that. I was never chairman of the Judiciary Committee during any President's first 2 years in office. I am glad to say, therefore, that the proper comparison is not, as they say, about me.

My colleague speaks of the last 15 months when I was chairman, but this compares apples to oranges.

During President Clinton's first Congress, when Senator BIDEN was the chairman of the Judiciary Committee, the Senate confirmed 127 judicial nominees. And Senator BIDEN achieved this record despite not receiving any nominees for the first 6 months—in fact, Senator BIDEN's first hearing was held on July 20 of that year, more than a week later than the first hearing of this session, which occurred on July 11, 2001. Clearly, getting started in July of year one is no barrier to the confirmation of 127 judges by the end of year two. But we have confirmed only 73 nominees in this session.

Senator BIDEN's track record during the first President Bush's first two years also demonstrates how a Democrat-led Senate treated a Republican President. Then-Chairman BIDEN presided over the confirmation of all but 5 of the first President Bush's 75 nominees in that first two-year session. Chairman THURMOND's record is similar. The contrast to the present could hardly be starker.

Mr. President, we are about to close President Bush's first 2 years in office having failed the standards set by Chairmen BIDEN and THURMOND. That is nothing over which to be proud. We still have 80 vacancies on the courts, and 32 emergency vacancies.

Mr. President, one final point about Justice Owen. Much of the opposition against her was driven by interest groups that advocate for the right to abortion. Yet in Justice Owen we had the first nominee we have considered this session who has, as a judge, read those cases, cited them, quoted them, applied them and followed them. She did, however, interpret the new Texas parental notice law and sought in one

particular case to make it rarer to bypass than some of her colleagues on the court, although the Texas Supreme Court agreed in most all other respects.

Of course, the charge that she is a judicial activist was a cynical trick of words from Washington special interest lobbyists who have made their careers taking positions without letting the words of the Constitution stand between them and their political objectives.

Why did they oppose her? Ironically enough, they are doing so because they do not like the Texas statute requiring parental notice in cases of abortions for children. Justice Owen voted to give the statute some meaning. Justice Owen's opponents think a minor should always be able to avoid the Texas Legislature's standards. It is the groups allied against Justice Owen who are the judicial activists, the ones who are looking to achieve in the courts an outcome that is at odds with the law passed by the elected legislators.

Let's be clear that the opposition to Justice Owen was all about abortion. But in Justice Owen's case, it was not that she opposed abortion rights—no decision of hers ever denied that right. I fear that the opposition to Justice Owen is not about abortion rights exactly, but something much more insidious—it was not about abortion rights exactly but about abortion profits.

Simply put, the abortion industry is opposed to parental notice laws because they place a hurdle between them and their clients—not the girls who come to them, but the adult men who pay for the abortions. These adult men, whose average age rises the younger the girl is, are eager not to be disclosed to parents, sometimes living down the street. At $1,000 per abortion and nearly 1 million abortions per year, the abortion industry is as big as any corporate interest that lobbies in Washington. They not only ignore the rights of parents to hide their young daughters' abortions, they also protect sexual offenders and statutory rapists.

And who are the lobbyists for the abortion industry? Exactly the same cast that has launched an attack on Justice Owen. One wonders, as columnist Jeff Jacoby did in the Boston Globe, who are the extremists on this issue, who is out of the mainstream? Not Justice Owen—82 percent of the American people favor consent and notice laws such as Justice Owen interpreted—86 percent in Illinois.

I will say it again, while my colleagues continue in general to apply an abortion litmus test, the assault against Justice Owen was not about abortion rights, it was about abortion profits. It is not about a woman's right to an abortion, it is about assailing parental laws that threaten the men who pay for abortions. It is whether parents should at least know, not even consent to, but just know, when a minor child is having an abortion paid for by an adult.

Let's speak truth to power. Justice Owen was picked to be opposed because she is a friend of President Bush from Texas. She was opposed by an axis of profits. This axis of profits combines the money of trial lawyers and the abortion industry to fund the Washington special interest groups, and spreads its influence to the halls of power in Washington and in State courts across this country.

The Opposition against Justice Owen was intended not only to have a chilling effect for women jurists that will keep them from weighing in on exactly the sorts of cases that most invite their participation and their perspectives as women, but also on all judges in all State courts who rule on cases the trial lawyers want to win and cash in on.

When my colleagues voted against her, they chose to besmirch a model young woman from Texas, who grew up, worked hard and did all the right things—including repeatedly answering the call of public service at sacrifice of personal wealth and family. My Democrat colleagues voted, in effect, against the American promise of fairness.

This is a young woman who gave up a lucrative career to give public service on the Texas Supreme Court, and who deserves to be on the Fifth Circuit Court of Appeals.

Such a vote should have taken place in the light of this Senate floor, but the American people will hear of the result notwithstanding the shadows.

I only hope the American people will repair the damage done to the Constitution when they vote in November.

I have reviewed Mr. Marra's distinguished career and I can say, without hesitation, that he will be an excellent addition to the prestigious Southern District of Florida.

Mr. Marra comes to the federal bench with a unique and extremely useful qualification: Judge Marra is a former Social Studies teacher at Elmont Memorial High School in Elmont, New York. After teaching high school for several years, Judge Marra inexplicably decided to change career paths and went to law school, graduating from Stetson University College of Law in 1977. He then went to work for the United States Department of Justice as part of its honor law graduates program. While at the Department of Justice, he was involved in litigation which sought to protect the land, water and mineral rights of Native Americans from encroachment and to regain such resources that had been wrongfully lost over the years.

After three years with the Department of Justice, Judge Marra joined the law firm of Wender, Murase & White of Washington, D.C., where he was involved in patent and trademark litigation, corporate law and litigation in the area of federal Indian law. In 1984 Judge Marra joined the law firm of Nason, Gildan, Yeager, Gerson & White. He worked at that firm for the next twelve years focusing on commercial litigation and representing clients at both the trial and appellate levels. Judge Marra gained experience in a variety of matters, including antitrust, contracts, construction defects, condominium and homeowner association disputes, and employment and housing discrimination.

In 1996 Judge Marra was appointed to the Fifteenth Judicial Circuit in Palm Beach County, Florida. He has served in the civil, family and criminal divisions.

Judge Marra will make a fine member of the Federal bench.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Madam President, I am sure it was inadvertent that when the distinguished Senator from Utah was talking about the editorials against the nominee, Priscilla Owen, he said there were only three against.

I refer, for example, to the Atlanta Journal-Constitution, and I will quote from it and then put the whole editorial in the RECORD.

I ask unanimous consent that articles in opposition to her be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 4, 2002]

THE WRONG JUDGE

Priscilla Owen, President Bush's latest nominee to the United States Court of Appeals for the Fifth Circuit, has been at times so eager to issue conservative rulings in cases before her on the Texas Supreme Court that she has ignored statutory language and substituted her own views. This criticism comes not from the ''special interest groups'' she has charged with misstating her record, but from Alberto Gonzales, President Bush's own White House counsel. Mr. Gonzales, who served with Justice Owen on the Texas high court, once lambasted her dissent in an abortion case for engaging in ''unconscionable . . . judicial activism.'' Mr. Gonzales says today that he nonetheless supports the elevation of Justice Owen. We do not.

In choosing a nominee for the Fifth Circuit—the powerful federal appeals court for Texas, Mississippi and Louisiana—President Bush has looked to the extreme right wing of the legal profession. Even on Texas' conservative Supreme Court, Justice Owen has distinguished herself as one of the most conservative members. A former lawyer for the oil and gas industry, she reflexively favors manufacturers over consumers, employers over workers and insurers over sick people. In abortion cases Justice Owen has been resourceful about finding reasons that, despite United States Supreme Court holdings and Texas case law, women should be denied the right to choose.

Justice Owen's views are so far from the mainstream that, on those grounds alone, the Senate should be reluctant to confirm her. But what is particularly disturbing about her approach to judging is, as Mr. Gonzales has identified, her willingness to ignore that text and intent of laws that stand in her way. In an important age discrimination case, Justice Owen dissented to argue that the plaintiff should have to meet a higher standard than Texas law requires.

Justice Owen has also shown a disturbing lack of sensitivity to judicial ethics. She has raised large amounts of campaign contributions from corporations and law firms, and

then declined to recuse herself when those contributors have had cases before her. And as a judicial candidate, she publicly endorsed a pro-business political action committee that was raising money to influence the rulings of the Texas Supreme Court.

After the Senate Judiciary Committee rejected Judge Charles Pickering, another far-right choice, for a seat on the Fifth Circuit earlier this year, the Bush administration declared that it would not be intimidated into choosing more centrist nominees. Sadly, the administration has lived up to its threat. In this dispute the Senate is right: the administration should stop trying to use the judiciary to advance a political agenda that is out of step with the views of most Americans.

Justice Owen is a choice that makes sense for Justice Department ideologues who want to turn the courts into a champion of big business, insurance companies and the religious right. But the American people deserve better. Justice Owen's nomination should be rejected.

[From the Los Angeles Times, July 23, 2002]

IDEOLOGUES ALL IN A ROW

Last year President Bush eliminated the American Bar Assn. from the process of vetting potential judicial nominees, a role it performed ably and in a nonpartisan way for the nine presidents before him. Now he relies on the ideological tests of the very conservative Federalist Society.

Not surprisingly, the men and women who pass this rigid test look remarkably alike on the bench. They often side with business in disputes involving employee rights, consumers and the environment. They strongly oppose abortion, and their opinions reveal a strong streak of judicial activism dressed up as traditional principle.

Priscilla Owen is among them. A protege of Bush confident Karl Rove, who engineered her 1994 election to the Texas Supreme Court, Owen is a nominee to a seat on the U.S. 5th Circuit Court of Appeals. She comes before the Senate Judiciary Committee today to defend a record of indifference to the problems of most Americans.

Senators should ask her why, for example, she voted to reverse a jury verdict in favor of a woman who had sued her health insurance company for refusing necessary surgery to remove her spleen and gallbladder. Her colleague on the Texas high court, Alberto Gonzales, now Bush's top legal advisor, dissented, writing that Owen's decision turned the legal standard in that case ''on its head.''

Gonzales, a solid conservative himself, also took issue with Owen in an abortion case that should draw tough questions from Sen. Dianne Feinstein (D–Calif.), chairwoman of today's hearing. Texas law allows pregnant teenagers in some instances to seek permission from a judge to have an abortion without their parents' consent. Owen has staunchly opposed such ''judicial bypasses.'' In one case, Gonzales, wrote, Owen's opinion would have ''create[d] hurdles that simply are not found in the . . . statute'' and would be ''an unconscionable act of judicial activism.'' in other cases, her colleagues have accused her of ''inflammatory rhetoric.''

For all this, Owen's nomination puts Feinstein in a tough spot. She was chairwoman last March when the Judiciary Committee rejected Charles Pickering, another Bush pick for the 5th Circuit. She is anxious to avoid being labeled obstructionist. But given her repeated calls for mainstream nominees, not to mention her long support for abortion rights, Feinstein should vote no, and so should her colleagues.

Although it is now one of the most conservative appellate federal courts, the 5th Circuit has a long and honorable history—defending civil rights during the 1960s and the rights of asbestos workers, systematically deceived and injured by their employers, in the 1970s. Owen would add nothing positive to that legacy.

Americans want independent, commonsensical and capable judges, not those whose political ideology—from either direction—wins them a nomination. As long as Bush continues to exclude the American Bar Assn. from the nomination process, he should not be surprised that his choices draw fire.

[From the San Antonio Express-News, July 21, 2002]

BUSH COURT CHOICE SHOULD BE REJECTED

Once competency is established, the most important qualification for a judge is commitment to following the law as it is written—regardless of personal philosophy.

Justice Priscilla Owen is clearly competent, but her record demonstrates a results-oriented streak that belies supporters' claims that she strictly follows the law.

Because of Owen's record as a member of the Texas Supreme Court, the Senate Judiciary Committee should reject her nomination to sit on the U.S. 5th Circuit Court of Appeals.

Her most infamous opinions involve cases in which minors were seeking a legal bypass allowing them to get an abortion without parental consent.

In those cases, she consistently landed in a small court minority that opposes such bypasses, while a majority of her fellow judges on an all-Republican court upheld the law as legislators wrote it.

Former Justice Al Gonzales clearly pointed that out. In an opinion that countered a dissent she supported, he wrote: ''To construe the Parental Notification Act so narrowly as to eliminate bypasses, or to create hurdles that simply are not to be found in the words of the statute, would be an unconscionable act of judicial activism.''

Now serving as President Bush's White House counsel, Gonzales is defending his former state court colleague. However, opinions she wrote in the parental consent cases show a clear line between strict constructionist judges and activists.

Owen, who remains on the state's high court, is an activist.

In recent years, judicial nomination struggles on Capitol Hill have become a game, played by both parties, or petty obstructionism.

The Senate should not block a judicial nominee simply because he or she is more conservative or more liberal than the Senate's majority party.

It also should not engage in petty personal attacks. But concerns about Owen go to the heart of what makes a good judge.

When a nominee has demonstrated a propensity to spin the law to fit philosophical beliefs, it is the Senate's right—and duty—to reject that nominee.

A hearing on Owen's nomination is set for this week.

Although Owen should be rejected for a lifetime appointment, the Democrat-controlled Senate should have given her a hearing long ago. Bush nominated Owen on May 9, 2001.

Owen and the president were owed better treatment. Even nominees who are destined for rejection deserve timely consideration, and the Democrats should pick up the pace in considering Bush's judicial picks.

During his years as Texas governor, Bush did a masterful job of selecting quality, moderate judges. But his decision to nominate Owen is a disappointment.

We urge Bush to take more care in future nominations and return to his previous policy of nominating judges who believe in the law more than any ideological agenda.

[From the San Francisco Chronicle, July 23, 2002]

FEINSTEIN'S DECISIVE MOMENT

Sen. Dianne Feinstein, D-Calif., faces a momentous decision. Today, the Senate Judiciary Committee will hold hearings on Priscilla Owen, the president's candidate for a lifetime appointment to the United States Court of Appeals for the Fifth Circuit. With the committee divided along party lines, Feinstein could cast the decisive vote.

When George W. Bush became president, he excoriated judicial activism and vowed to nominate justices who interpret the law, instead of trying to rewrite it.

Priscilla Owen simply does not satisfy the president's own criteria for this position. According to a report issued by People For the American Way, a liberal advocacy group, Owen has demonstrated a disturbing pattern of overruling the law when it clashes with her conservative ideology.

In one case, for example, Owen's dissenting decision would have effectively rewritten a key Texas civil rights law by making it more difficult for employees to prove discrimination. Her colleagues on the bench—mostly Bush appointees—wrote that her ruling ''defies the Legislature's clear and express limits on our jurisdiction.''

With respect to reproductive rights, Owen advocated a far more restrictive interpretation of the Texas law that allows a minor to obtain an abortion without parental notification. Her dissent prompted then-Justice Alberto Gonzales, now the White House counsel, to write that her opinion constituted ''an unconscionable act of judicial activism.'' Gonzales, naturally, now expresses the White House party line, hailing Owen's integrity and ability. ''I'm confident she will follow the law as defined by the Supreme Court,'' Gonzales was quoted as saying in the San Antonio Express-News.

But close observers of her Texas record are less confident of her objectivity. Danielle Tierney, a Planned Parenthood spokeswoman from Texas, said Owen has ''a record of active opposition to reproductive and women's rights.''

Owen has also tried to finesse laws that protect public information rights, the environment, and jury findings.

The point is, Owen has created a strong record of ''rewriting'' the law when it does not match her conservative convictions.

This is why it is vital that Feinstein reject this nomination.

[From the Dallas Morning News, July 16, 2002]

JUSTICE OWEN: PERPETRATOR OR VICTIM OF POLITICS?

HER ACTIVISM HAS BEEN EXTREME, EVEN BY TEXAS STANDARDS

(By Craig McDonald)

Texas Supreme Court Justice Priscilla Owen, who faces a Senate Judiciary Committee hearing Thursday on her nomination to the 5th U.S. Circuit Court of Appeals, flunks the stated judicial criteria of both President Bush and the Democratic chairman of the Judiciary Committee.

Although the president nominated Justice Owen, she flunks his own pledge to appoint ''strict constructionists'' who narrowly interpret laws rather than write opinions promoting a political agenda. ''I want people on the bench who don't try to use their position to legislate from the bench,'' Mr. Bush has said. Yet Justice Owen's record on the Texas Supreme Court is one of a judicial activist who seeks to make laws from the bench.

Justice Owen also flunks the criteria of Senate Judiciary Committee Chairman Patrick Leahy, who has pledged to stop any ''ideological court packing.'' Justice Owen's record has established her as an ideological extremist out of the mainstream—even on the all-conservative Texas Supreme Court.

Justice Owen's extreme opinions have mobilized a large coalition of Texas organizations working to stop her appointment. The groups fighting her nomination range from the Texas chapter of the American Association of University Women to the Women's Health and Family Planning Association. They include the AFL–CIO, the National Association for the Advancement of Colored People, Planned Parenthood, the Texas Civil Rights Project, the Texas Abortion Rights Action League and others.

While each of those organizations has its own reasons for opposing Justice Owen, my group—Texas for Public Justice—is particularly troubled by the fact that she has amassed a body of rulings that advance the agendas of the special interests that bankrolled her judicial campaigns. Thirty-seven percent of the $1.4 million that Justice Owen raised for her Supreme Court campaigns came from donors with a direct stake in case in her court.

Letting special interests bankroll judicial campaigns has shattered public confidence in Texas courts. A 1999 Texas Supreme Court poll found that 83 percent of Texans, 79 percent of Texas lawyers and 48 percent of Texas judges say campaign contributions significantly influence judicial decisions. Commenting on the poll, U.S. Supreme Court Justice Anthony Kennedy said, ''The law commands allegiance only if it commands respect. It commands respect only if the public thinks judges are neutral.''

Since Justice Owen joined the high court in 1995, she has written and joined a slew of opinions that favor businesses over consumers, defendants over plaintiffs and judges over lawmakers and juries. A 1999 study by Austin-based Court Watch found that individuals won just 36 present of their cases during Justice Owen's tenure, compared to a win rate of 66 percent for businesses, 70 percent for insurers and 86 percent for medical interests.

While all nine Texas Supreme Court justices are pro-business conservatives, Justice Owen and Nathan Hecht became an isolated bloc of extremist dissent about 1998. Masquerading as ''strict constructionists,'' Justices Owen and Hecht have promoted the interests of big business and the far right with much less restraint than their fellow Texas justices. That ultraconservative activism is all the more disturbing, given that it mirrors the agenda of the top donors to their judicial war chests.

In making lifetime appointments to federal appeals courts, the president and the Senate can—and should—do better. Justice Owen lacks criminal trial experience, has taken more than $500,000 in judicial contributions from interests with cases in her court and has produced a body of activist opinions that are extremist—even by Texas standards.

[From the San Antonio Express-News, July 21, 2002]

JUDGE OWENS FLUNKS BUSH'S OWN ''STRICT CONSTRUCTIONISTS'' TEST

(By Jan Jarboe Russell)

In a perfect world, there wouldn't be ''liberal'' judges or ''conservative'' judges, there would just be good judges. After all, if you ask ordinary people what they want in a federal judge, what they want are judges who are fair, learned and impartial, judges who have the ability to lay aside their own political views and do their public duty.

Why then is it so darn hard to find these kind of plain-and-simple judges? The answer, of course, is the dreaded P word; politics. The ongoing battle in the Senate Judiciary Committee over the nomination of Priscilla Owen to the 5th U.S. Circuit Court of Appeals is a perfect example of how politics is making a certifiable mess of America's judicial system.

In seven years on the Texas Supreme Court, the only way moderate-thinking people in Texas survived Owen's relentless ultra-conservative dissents was to toughen our stomachs and take her many efforts to rewrite our state laws one day at a time. This is a woman who has consistently ruled against consumers, has routinely overturned decisions of juries, has curtailed access to public records, and by anyone's measure is an avid anti-abortion ideologue.

Mind you: the Texas Supreme Court is no bastion of liberalism. The nine members of the court are 100 percent pedigree Republican, but Owen was such a right-wing activist she managed to earn the nickname ''Justice Enron'' for accepting $8,600 in Enron campaign funds in one year—$1,000 of it from Kenneth Lay himself—and turning around the next and writing an opinion that saved Enron $225,000 in school taxes.

As one of only nine states in the nation with the sorry system of electing our judges with expensive campaigns paid for by the very lawyers and businesses that come before these judges for justice, Texas gets exactly the kind of justice we deserve. In the case just mentioned, for example, Enron paid for the privilege of robbing the public school children of Spring, a Houston suburb, of their rightful share of taxes.

I don't expect President Bush to nominate judges to the federal bench with whom I agree politically. But I do expect Bush to nominate people to lifetime positions on the federal bench who meet Bush's own standards of ''strict constructionists,'' judges who will interpret rather than write the law. Owen fails the Bush test.

In no less than a dozen cases in which the Texas Supreme Court was asked to allow a pregnant teenager to bypass the state's parental notification requirement and have an abortion, Owen voted every time to deny the bypass and created hurdles that were not written in the state's law. In one case, when lawyers for a high school senior requested that the court act quickly on the girl's request for permission to bypass the notification requirement, Owen wrote a dissent that asked: ''Why then the rush to judgment?'' The girl was in the 15th week of pregnancy at the time.

Owen's rulings in these abortion notification cases were so strident that Alberto Gonzales, now Bush's White House counsel but then a member of the Texas Supreme Court, wrote in a majority opinion that Owen and two other dissenting justices were thwarting the clear intent of the law. To accept their reasoning, he wrote, ''would be an unconscionable act of judicial activism.''

Gonzales finds himself in the role of reluctant cheerleader for Owen. In a telephone interview from his office in the West Wing the other day, Gonzales claimed that he never accused Owen of judicial activism and believes she would be an excellent judge. His opinion has written in black-and-white only two years ago—he clearly called her dissent an ''unconscionable act of judicial activism''—but maybe in his struggle to find the gray, Gonzales meant that he thought all of three of the judges were unconscionable. Who knows? Politics makes people parse words very carefully.

Owen's political credentials are indeed impressive. She is a protege of Karl Rove, the president's political adviser, and it is Rove who is pushing her judicial nomination. But politics should not be the primary measure of a judge's ability to administer justice.

As much as it pains me to say it, Justice Enron should stay put in Texas.

[From the Houston Chronicle, July 31, 2002]

DIFI, OWEN WOULD BE VERY ODD COUPLE

(By Cragg Hines)

Sen. Dianne Feinstein, a wonderfully calm, cool Californian, loves to be the swing vote. It increases the sense that she is unbought and unbossed, and it makes her political currency slightly more valuable than that of colleagues who fall predictably one way or another on an issue.

Part of this is political tromp l'oeil, an illusion so strong that it's difficult to tell it's not genuine. For, when the roll is called, only rarely is Feinstein not reliably found where she sought to be—in her regular center-left Democratic pew.

Which brings us to the nomination of Justice Priscilla Owen of the Texas Supreme Court to be a judge on the 5th U.S. Circuit Court of Appeals, a place where the conservative judicial activist, corporate suck-up and made member (blood oath?) of the Federalist Society has no earthly place being.

Feinstein ran last week's hearing by the Senate Judiciary Committee on Owen's nomination and said she was ''keeping an open mind'' regarding President Bush's determination to give Owen lifetime employment. (For the forgetful: Bush and Owen both got their start in statewide politics as clients of the White House political high priest, Karl Rove.)

Feinstein's self-advertised ''open mind'' is about the only hope for supporters of Owen. The Judiciary Committee's nine Republicans need one of the panel's 10 Democrats to vote with them to get the nomination to the floor.

If the nomination is not cleared by the committee, it's dead. None of this sending it to the floor without a recommendation in a Senate with a one-vote Democratic margin and run by Majority Leader Tom Daschle, D–S.D.

(Owen opponents would still like to hear something definitive from two other Demoracts—Sen. Joseph R. Biden, Jr. of Delaware, who did not show up for last week's hearing, and the enigmatic gentleman from Wisconsin, Sen. Russell D. Feingold—but the focus is on Feinstein.)

Owen's opponents believe that Feinstein will eventually vote against the Texas jurist, but they cannot be absolutely certain. Feinstein is not about to help them divine the oracle at the moment.

''I've been giving it a great deal of thought,'' Feinstein said this week as the Senate headed toward summer recess. ''I'm not going to let my decision be known, but at an appropriate time, I will.

''What I've said, and I've taken this position, I think, rather scrupulously, is that I don't make up my mind until after the hearing.''

There was little in the hearing that should lead Feinstein, or any senator, to believe that Owen is anything but the very bright, very ideological, very driven hard-right jurist revealed in her work over the last seven years on Texas' highest civil court.

Finally, Sen. Richard J. Durbin, D-Ill, asked Owen directly about her position on abortion.

''My position is that Roe v. Wade has been the law of the land for many, many years . . . ,'' Owen said, noting that decision had been modified (and made more restrictive by subsequent rulings). ''None of my personal beliefs would get in the way of me applying that law or any other law.''

But Owen's record, in a series of recent abortion-related cases, suggests otherwise. In all but one of the cases, Owen sought to tweak and torture the Texas law to something not intended by the Legislature.

Feinstein was listening to all of this and, one assumes, took it on board. In case she didn't, an editorial in The Los Angeles Times the morning of the hearing should have helped: The work of Owen and similarly situated conservative jurists ''reveal(s) a strong streak of judicial activism dressed up as traditional principle.''

The home state newspaper parsed Feinstein's situation: She also chaired the hearings earlier this year in which the Judiciary Committee rejected Bush's nomination of Charles Pickering of Mississippi for a seat on the 5th Circuit Court.

''She is anxious to avoid being labeled obstructionist,'' The Times said of Feinstein. ''But given the repeated calls for mainstream nominees, not to mention her long support of abortion rights, Feinstein should vote no, and so should her colleagues.'' Feinstein said she weighs such opinion but that it is not dispositive.

One piece of baggage Feinstein would like to discard in the Owen matter is that her vote will have anything to do with a business relationship that the senator's husband, Richard C. Blum, has with Dr. James Leininger of San Antonio, a generous supporter of Owen's judicial campaign.

''I've never met (Leininger), talked with him, seen him, heard from him—and that's that,'' Feinstein said. Nor, she said, ''have I ever talked to my husband about this, nor has he ever talked to me about it.''

So Feinstein should be able to vote against Owen with a clear conscience.

Mr. LEAHY. In part, this article says:

Senate Judiciary Committee Chairman Patrick Leahy has held hearings on 82 Bush judicial nominations, 80 of which have been approved by the committee. Most of those nominees have been pro-life conservatives whose performance on the bench the committee still judged to be fair and professional. For example, last week the committee unanimously reported on President Bush's choice of Federal District Judge Reena Raggi of New York for the U.S. Circuit Court of Appeals for the Second Circuit.

Parenthetically, I might add that Judge Raggi was originally appointed by President Ronald Reagan, a conservative Republican who promised to appoint only judges who satisfied his litmus test.

The American people appreciate balanced judging, and thanks to the Senate Judiciary Committee, they're getting it.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Through constant repetition, conservatives have managed to make a code phrase out of ''judicial activism,'' applying it to rulings that in their mind go beyond the words in legislation or the U.S. Constitution. But conservatives themselves are hardly immune from the problem.

Case in point: Texas Supreme Court Justice Priscilla Owen, rejected last week for the 5th U.S. Circuit Court of Appeals by the Senate Judiciary Committee because of her record of making law from the bench. The committee made the right decision for the American people.

Owen's activist judging has gone so far beyond the statutes enacted by the Texas Legislature that she was even criticized by fellow conservatives on the state Supreme Court, including Alberto Gonzales, who is now Bush's White House counsel.

On abortion, age and employment discrimination, insurance and tax matters, the former corporate oil lawyer repeatedly embellished the plain language of the law to rewrite it to conform with her own ideological views. She also found ways to side consistently with corporations, including Enron, which contributed generously to her Supreme Court election campaign.

President Bush has accused the Senate Judiciary Committee of blind partisanship, but the facts don't bear that out. In less than two years, the Democratic-controlled committee has approved more Bush nominees for the federal bench than the Republican-controlled Senate Committee did in six years with President Clinton.

Senate Judiciary Chairman Patrick Leahy (D-Vt.) has held hearings on 82 Bush judicial nominations, 80 of which have been approved by the committee. Most of those nominees have been pro-life conservatives whose performance on the bench the committee still judged to be fair and professional. For example, last week the committee unanimously confirmed Bush's choice of Federal District Judge Reena Raggi of New York for the 2nd U.S. Circuit Court of Appeals.

Nevertheless, Bush lashed out angrily at the Owen defeat: ''I don't appreciate it one bit, and neither do the American people.''

Quite the contrary, Mr. President. The American people appreciate balanced judging, and thanks to the Senate Judiciary Committee, they're getting it.

Mr. LEAHY. Madam President, I ask unanimous consent for 1 more minute, with another minute to be given to the Senator from Utah.

Mr. REID. Will the Senator yield?

Mr. LEAHY. Yes.

Mr. REID. I was going to go into a quorum call for 5 or 6 minutes anyway. If the Senators would like 3 more minutes each or something, that is fine. Otherwise, I will go into a quorum call.

Mr. LEAHY. Madam President, I ask unanimous consent for that time.

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

Mr. LEAHY. Madam President, there was a suggestion made—I am sure inadvertent—by the distinguished Senator from Utah that it was unprecedented to see a nominee with a well-qualified rating be voted against. Actually, the Senator from Utah has voted against such a person, like Judge Rosemary Barkett of Florida, as have a number of others. But then there were a whole lot of others who we can say were not voted against? Why? Because they were never allowed to have a vote during Republican control of the Senate.

This is a partial list of nominees who never had a vote, but they had the highest rating possible: H. Alston Johnson from the Fifth Circuit was never given a hearing by the Republicans; James Duffy from the Ninth Circuit was never given a hearing; Kathleen McCree Lewis from the Sixth Circuit was never given a hearing or a vote; Judge James Lyons, from the Tenth Circuit, was never given a vote or a hearing; Allen Snyder, from DC, had a hearing but no vote; Judge Robert Cindrich, from the Third Circuit, was never given a hearing or a vote; Judge Stephen Orlofsky, from the Third Circuit, was never given a hearing or a vote; Judge Andre Davis, from the Fourth Circuit, was never given a hearing or a vote; and Enrique Moreno, of the Fifth Circuit, was never given a hearing and never given a vote.

These are people with the highest possible rating from the ABA. Republicans can say they never voted against them. Why? Because they were never brought up and never given a vote. If they had been given a vote, they would have known where they stood.

My good friend from Utah, perhaps inadvertently, thought I was comparing a time when he was not chairman. I do compare a time when he was chairman. I will take the first 15 months that he was chairman with a Democratic President.

The Democratic President nominees got 14 hearings in 15 months; the Republican President nominees, under my chairmanship, got 23 hearings.

Nominees who received hearings under Republicans were 67; under the Democrats with a Republican President, 84.

Nominees confirmed, 56; in the same period of time, it was 74 with us.

Nominees voted on in committee: They allowed 61 during that 15 months. We have had votes on 82 of this President's judicial nominees.

It is nice to say nominations are not being handled fairly. The fact is, if we used the Republican precedent as a mark of fairness, we would not have to do anything else for the rest of the year because we are way beyond what they did.

I reserve the remainder of my time.

Mr. HATCH. Madam President, how much time remains on each side?

The PRESIDING OFFICER. The Senator from Utah has 4 minutes 5 seconds.

Mr. HATCH. How much on each side?

The PRESIDING OFFICER. The Senator from Vermont has 7 seconds.

Mr. HATCH. Madam President, again, the Senator from Vermont and I are friends, but I totally disagree with what he has been saying. It is a smoke screen.

Allow me to address the fate of nominees first sent up by the first President Bush. In fact, some pending today without a hearing who were nominated by the first President Bush nearly 10 years ago. These are nominees still on the list after 10 years that the Democrats have not allowed to come up: Terrence Boyle for the Fourth Circuit and John Roberts for the DC Circuit, considered one of the two or three greatest appellate lawyers in the country before the Supreme Court; Henry Saad for the Sixth Circuit; Ronald Leighton for the Western District of Washington; and Richard Dorr for the Western District of Missouri. All five of these nominees were nominated by the first President Bush, better than 10 years ago, but never received committee action at that time. I hope they, too, will soon

receive their long-awaited hearings and confirmation votes.

By the way, there were 42 left over at the end of the Clinton administration. Nine of them were put up so late, there was no way anybody could have gotten them through. That brings us down to 33, and of the 33, there were others who did not have the support of both home-State Senators. There were those who, for one reason or another, could not make it.

Contrast that when Bush 1 left office and the Democrats were in control. There were 54 left over. That is 11 more than were left when President Clinton left office.

If you want to talk statistics, I can talk them all day long, and I can tell you we have been much more fair than what we have seen in the first 2 years of the Bush 2 administration.

I suggest that instead of spending our time talking about the same small handful of Clinton nominees, we should focus on the ones pending before us today who never saw the light of day the last time the Democrats controlled the Senate.

Justice Owen, for instance—and this is an important point—is literally the first one in history who had the support of both-home State Senators, the highest rating of the American Bar Association, and was voted down in committee and not even given a chance to have a vote on the Senate floor.

Currently, there are 80 empty seats on the Federal judiciary. That is a 9.3-percent vacancy rate, one of the highest in modern times. This means that 9.3 percent of all Federal courtrooms are presided over by an empty chair.

There are currently 21 nominees who are slated to fill positions which have been declared judicial emergencies by the Administrative Office of the Courts. Of those, 11 are Circuit Court of Appeals nominees.

Only 5 of President Bush's first 11 circuit court nominees nominated on May 9, 2001—a year and a half ago almost—have had hearings. In other words, the Judiciary Committee has taken no action whatsoever on nearly half of the circuit court nominations that have been pending for over 16 months.

There is no reason for this other than stall tactics. All of these nominees received qualified or well-qualified ratings from the American Bar Association.

There were 31 vacancies in the Federal courts of appeals on May 9, 2001, and there are 28 today. The Senate Democrats are trying to create an illusion of movement by creating great media attention and controversy concerning a small handful of nominees in order to make it look like progress. But we are not making any progress in filling circuit vacancies.

President Bush has responded to the vacancy crisis in the appellate courts by nominating a total of 32 top-notch men and women to these posts—but the Senate is simply stalling them. Over the past year, the Senate has confirmed only 13. There are still 19 Circuit Court nominees pending in Committee. By comparison, at the end of President Clinton's second year in office, we had confirmed 19 circuit judges and had 15 circuit court vacancies.

There were only two Circuit Court nominees left pending in committee at the end of President Clinton's first year in office. In contrast, there were 23 of President Bush's Circuit Court nominees pending in Committee at the end of last year.

Some try to blame the Republicans for the vacancy crisis, but that is bunk. At the end of the 106th Congress when I was chairman, we had 67 vacancies in the Federal judiciary. During the past 9 months, the vacancy rate has been hovering right around 100. Today is at 80.

Some think that the point of ''advise and consent'' is to match statistics from previous years. This rear-view-mirror driving is nonsense. The Senate has a duty to exercise its advice and consent, and it has done so on only 40 percent of President Bush's appellate court nominations so far this Congress. The question is not: How many judges should we let President Bush have? The question is: Is the Senate getting its work done?

The Sixth Circuit Court of Appeals, which encompasses the states of Michigan, Ohio, Kentucky and Tennessee, has only 8 of 16 seats filled, leaving that court half-empty. The President has nominated 8 individuals to fill these vacancies, but only two have received a hearing, despite the fact that two of these nominees have been pending since May 9, 2001.

The U.S. Court of Appeals for the District of Columbia is also functioning far below its normal capacity, with 4 out of 12 authorized judgeships currently vacant. Although the President nominated Miguel Estrada and John Roberts on May 9, 2001, to fill seats on this Court, they have not yet been given a hearing.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LEAHY. Madam President, last year when the Republicans controlled the Senate Judiciary Committee, they did not hold one hearing on President Bush's nominees. We have done 82.

Mr. GRAHAM. Mr. President, I would like to thank the Judiciary Committee for recognizing the needs of Florida and favorably reporting the nomination of Judge Kenneth A. Marra.

Ken Marra, a skilled and respected Judge in Florida's Fifteenth Circuit, has been nominated to serve as a Federal judge in the busy Southern District of Florida. If confirmed, he will fill a newly created and much needed judgeship position.

Judge Marra's solid qualifications make him an ideal candidate for service on the Federal bench. A circuit judge since 1996, he currently serves in the Palm Beach County Court's civil, family and criminal divisions. Before his tenure as a circuit judge, Judge Marra spent 16 years practicing commercial litigation in Palm Beach County and Washington, DC. He also served as a trial attorney with the United States Department of Justice.

Judge Marra is a graduate of the State University of New York at Stony Brook and earned his law degree from the Stetson University College of Law in 1977. Before attending law school, the judge taught social studies to high school students in New York.

The strength of Judge Marra's nomination is evident from the strong support that he has earned from his local bar. When asked to comment on his nomination for a January 4 Palm Beach Post article, Amy Smith, president of the Palm Beach County Bar Association, said, ''He is an absolutely perfect choice: impeccable background, extremely intelligent, consistently one of the highest rated judges in the judicial evaluations done here.'' Ms. Smith said Marra's judicial demeanor ''is gracious and humble. The President couldn't have made a better choice.''

When the Palm Beach County Bar Association released its biennial survey of circuit and county judges earlier this spring, Judge Marra ranked the highest in the neutrality and fairness category, with 63 percent of the attorneys rating him as ''outstanding.''

In Florida, Judge Marra submitted his application to a judicial nominating committee comprised of a diverse group of Floridians, who in turn recommended three candidates to the President for consideration. Senator BILL NELSON and I interviewed these candidates.

In summary, Mr. Marra is an intelligent, well-respected, and qualified candidate for the Federal bench.

I appreciate the Senate's consideration of Judge Marra's nomination and look forward to working with my colleagues to confirm additional nominees to Florida's Southern and Middle Districts, two of the largest and busiest judicial districts in the country.

The PRESIDING OFFICER. All time has expired.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Kenneth A. Marra, of Florida, to be United States District Judge for the Southern District of Florida? The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Illinois (Mr. DURBIN), the Senator from Iowa (Mr. HARKIN), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Maryland (Ms. MIKULSKI), the Senator from Washington (Mrs. MURRAY), are necessarily absent.

Mr. NICKLES. I announce that the Senator from Colorado (Mr. ALLARD), the Senator from Missouri (Mr. BOND), the Senator from Kentucky (Mr. BUNNING), the Senator from Colorado

(Mr. CAMPBELL), the Senator from New Hampshire (Mr. GREGG), the Senator from North Carolina (Mr. HELMS), the Senator from Arkansas (Mr. HUTCHINSON), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Alabama (Mr. SESSIONS), the Senator from Alabama (Mr. SHELBY), the Senator from New Hampshire (Mr. SMITH), the Senator from Pennsylvania (Mr. SPECTER), are necessarily absent.

The PRESIDING OFFICER (Mr. NELSON of Florida). Are there any other Senators in the chamber desiring to vote?

The result was announced—yeas 82, nays 0, as follows:

[Rollcall Vote No. 211 Ex.]

YEAS—82

Allen	Dorgan	Lugar
Baucus	Edwards	McCain
Bayh	Ensign	McConnell
Bennett	Enzi	Miller
Biden	Feingold	Murkowski
Bingaman	Feinstein	Nelson (FL)
Boxer	Fitzgerald	Nelson (NE)
Breaux	Frist	Nickles
Brownback	Graham	Reed
Burns	Gramm	Reid
Byrd	Grassley	Roberts
Cantwell	Hagel	Rockefeller
Carnahan	Hatch	Sarbanes
Carper	Hollings	Schumer
Chafee	Hutchison	Smith (OR)
Cleland	Inhofe	Snowe
Clinton	Inouye	Stabenow
Cochran	Jeffords	Stevens
Collins	Johnson	Thomas
Conrad	Kennedy	Thompson
Corzine	Kerry	Thurmond
Craig	Kohl	Torricelli
Crapo	Kyl	Voinovich
Daschle	Landrieu	Warner
Dayton	Leahy	Wellstone
DeWine	Levin	Wyden
Dodd	Lincoln	
Domenici	Lott	

NOT VOTING—18

Akaka	Gregg	Murray
Allard	Harkin	Santorum
Bond	Helms	Sessions
Bunning	Hutchinson	Shelby
Campbell	Lieberman	Smith (NH)
Durbin	Mikulski	Specter

The nomination was confirmed.

Mr. REID. I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the President will be notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

HOMELAND SECURITY ACT OF 2002

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 5005, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5005) to establish the Department of Homeland Security, and for other purposes.

Pending:

Lieberman amendment No. 4471, in the nature of a substitute.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Mr. President, I yield myself such time as I may consume under the leader's time.

The PRESIDING OFFICER. The leader has that right.

JUDICIAL NOMINATIONS

Mr. LOTT. Mr. President, I do not want to take an extended period of time because I know the managers of the legislation are here and ready to go forward with the very important consideration of and amendments to the Homeland Security Department, but I must comment on action last week of the Senate Judiciary Committee.

Once again, Mr. President, there has been a tremendous miscarriage of justice by the Judiciary Committee. By a vote of 10 to 9, a unanimous, partisan block of Democrats—10 Democrats—voted against the nomination of Priscilla Owen, who had been nominated by the President to a seat on the Fifth Circuit Court of Appeals.

The way this nomination was handled is a cause for great concern as well as the fact that, once again, the Senate will not have a chance to vote on a eminently qualified and experienced nominee to serve on the Fifth Circuit Court of Appeals. I am convinced that had her nomination been permitted to make it to the floor—as the Republican Majority in the past allowed numerous controversial Democrat nominees to get to the floor—Judge Owen would be approved by the full Senate and she would be confirmed.

We always hear the arguments of those who say that there have been actions in the past where nominees who were qualified were not given votes. However, during the time when I was majority leader I remember numerous cases where despite the belief of many Senators on our side that the nominees' views were far, far outside the mainstream, we still permitted their nominations to come to the floor. We did that because while we disagreed with their political and ideological views, it was still hard to argue that they were not professionally qualified.

Mr. President, I specifically remember the nominations of Marsha Berzon, Richard Paez and Rosemary Barkett. Certainly, these nominees, while they were qualified, were in my opinion not near as qualified in the legal profession as Priscilla Owen.

Berzon had had no judicial experience whatsoever. And a minority of the ABA evaluation committee gave Berzon and Paez only a ''qualified'' rating whereas the ABA committee unanimously—unanimously—gave Priscilla Owen its highest rating of ''well qualified.''

Beyond professional qualifications, numerous Senators on this side of the aisle also had severe concerns that Berzon, Paez, and Barkett were very far out of the mainstream in light of their records which raised questions for many Senators as to whether they should be confirmed.

Marsha Berzon had been a prominent ACLU and Labor Union lawyer who opposed parental consent laws for minors' to have abortions and had worked against the rights of individual workers in favor of the rights of unions. She was also a prominent and active member of the Brennan Center for Justice that cranked out initiatives it characterized as ''stand[ing] up to right-wing attacks on the judiciary.''

Richard Paez had written publicly of his belief that whenever judges feel legislatures have failed to act, ''there's no choice but for the courts to resolve the question that perhaps ideally and preferably should be resolved through the legislative process.'' That is exactly the kind of judicial activism that Priscilla Owen's critics have falsely accused her of in order to give themselves an excuse for voting against her. Paez had also ruled as a district judge—prior to his confirmation to the appeals court—that States and cities could not outlaw was aggressive and intimidating panhandling by the homeless because it would infringe on a panhandler's free speech rights.

Rosemary Barkett, while a Florida Supreme Court Justice, had argued for overturning the death penalty of a man who had brutally murdered a youth in Jacksonville and then sent a tape to the victim's mother describing the horrible details of the killing. An opinion signed by Barkett opposed the death arguing that the killing was ''a social awareness case . . . effectuated to focus attention on . . . racial discrimination.''

Nevertheless, despite the misgivings and question marks from an ideology standpoint as to whether or not they should be confirmed, the Republican majority permitted all three of these nominations to come to the floor and be voted on by the full Senate and all three were confirmed.

Now, in contrast to these three far left nominees, let me speak to Priscilla Owen's qualifications.

First of all, I am not one who thinks it is particularly important whether the American Bar Association rates a nominee qualified or not. But, of course, the ABA's judgment has been described by a number of leading Democrats as the gold standard in terms of evaluating a nominee's qualifications to serve in the Federal judiciary. Senator LEAHY and senator SCHUMER described it that way in a March 16, 2001 letter to the President insisting that the ABA's role in the judicial confirmation process had to be maintained.

However, that did not prevent them from voting against Priscilla Owen after she received a ''well qualified'' rating from the American Bar Association—the highest possible rating they could give and they gave it to her unanimously. This is also the first instance, I believe, that we have had of a nominee rated ''well qualified'' by the American Bar Association being defeated in the Judiciary Committee and

the Senate. So, from the standpoint of the American Bar Association, this nominee certainly more than qualified.

Also, Mr. President, when you look at Judge Owen's record, it is clear that she has a long record of being outstanding not only academically and intellectually, but also from the standpoint of character, experience, and professionalism as well.

This is a nominee who has had a stellar legal career. She graduated with honors from Baylor Law School and its undergraduate program and made the highest score on the Texas bar exam the year she took it. She then had a highly regarded legal practice with a leading law firm in Texas for 17 years. She then gave up her lucrative private sector practice to serve with distinction for the past eight years on the Texas State Supreme Court.

She was elected, in a contested race, as I understand it, and then reelected unopposed with over 80 percent of the vote. She still enjoys overwhelming community support. She has been publicly endorsed and supported by Democrats and Republicans, including 15 former presidents of the Texas Bar Association. Every major newspaper in the state also supports her.

Mr. President, there is no question this nominee is qualified by experience, by education, and by the time that she spent in the Texas Supreme Court, where she has built up a very fine record of being a fair judge who has worked very hard in understanding the issues that have been before her and in casting her votes on the supreme court.

Yet, last week, I was shocked to hear her described by Senator DASCHLE as not qualified. These are exact quotes: ''We will confirm qualified judges.'' ''Don't send us unqualified people.''

Whatever you may be able to say about might be wrong with this nominee—because maybe she is too conservative, or maybe on she did not meet some litmus test from the liberal outside interest groups or because she didn't meet the test of a particular Senator—in no way could you describe this nominee as not being qualified or as being unqualified.

I am very worried when we see this sort of pattern developing. There have probably been very few nominees in the past to serve on the Fifth Circuit Court of Appeals more qualified than this nominee by every category you might bring to bear.

Let me remind my colleagues on this point what the their gold standard ABA's actual standards are. Let me quote what the ABA itself says it looks at when it rates nominees.

> The [ABA] Committee's evaluation criteria for federal judicial nominations is directed solely to professional qualifications: integrity, professional competence and judicial temperament . . .
>
> Integrity is self-defining. The nominee's character and general reputation in the legal community are investigated, as are his or her industry and diligence . . .
>
> Professional competence encompasses such qualities as intellectual capacity, judgment, writing and analytical ability, knowledge of the law and breadth of professional experience . . .
>
> In investigating judicial temperament, the Committee considers the nominee's compassion, decisiveness, open-mindedness, courtesy, patience, freedom from bias and commitment to equal justice under the law . . .

The ABA itself also notes that its standards are even higher for Appellate Court Nominees.

> [T]he Committee believes that appellate court nominees should possess an especially high degree of scholarship and academic talent and an unusual degree of overall excellence.

Again, Mr. President, when the ABA applied these standards to Priscilla Owen they unanimously rated her ''well qualified.''

> To merit a rating of ''Well Qualified'' the nominee must be at the top of the legal profession in his or her legal community, have outstanding legal ability, breadth of experience, the highest reputation for integrity and either have demonstrated, or exhibited the capacity for, judicial temperament.

So it is a shame to characterize this nominee as somehow being professionally unqualified and it is a shame that the full Senate was denied an opportunity to vote on her because of a partisan, straight party-line vote of 10–9 with all Democrats voting against her.

Again, in my opinion, it reflects very poorly on the Senate, and I fear it will make it even more difficult for us to complete our work when we see these types of allegations leveled against such a fine nominee. It also puts even further into question the utility and necessity of bothering to have the ABA evaluate judicial nominations when the Democrats on the Judiciary Committee are going to put ideology first and a nominee's professional qualifications and ABA rating a far second.

Mr. President, I could not let that partisan and unwarranted vote in the Judiciary Committee go unnoticed by the leader of the Republicans, and correct the public record regarding a nominee with such outstanding legal credentials as Judge Owen. She is clearly qualified.

I would note in closing that the Washington Post in an editorial published this past July 24 agreed with the President and Republicans when it said that:

> Justice Owen is indisputably well qualified, having served on a state supreme court for seven years and, prior to her election, having had a well-regarded law practice.

I hope we will ultimately find a way for this nominee to be confirmed before all is said and done.

Mr. President, I yield to the Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I want to add to what the distinguished Republican leader has said. I have been in the Senate 18 years. This is the best witness I have ever heard, not just for a judicial nomination but for anything—an absolutely brilliant judge. She would have been confirmed had she been reported to the Senate, even without a positive recommendation.

I say to my friend, the leader, I worry about where we are, as well. I think we have crossed some kind of threshold here from which it is going to be very difficult to retreat from in the coming years.

I say to my friends on the other side of the aisle, we are not going to always be in the minority, and they may have a President again, as regretful as that might be to some of us, and the shoe could be on the other foot. Do we really want to establish this kind of standard, that we are prepared to vote down extraordinarily well qualified judges, who may be liberal or conservative, simply because we are of the other persuasion?

I think it is a low point in the recent history of the Senate. And I am not sure where we go from here. But I do not believe I will ever view these nominations quite the same way as I did in the past.

I can say this: I would like to have a lot of my votes back, going back over the last 8 years—Ginsburg, Breyer—scores of nominees for the circuit and district benches who I knew were far to the left of me, but I believed it was the President's prerogative. The Democrats won the election. It was the President's prerogative. And short of some kind of egregious failure to meet up to professional standards, it was not my place to impose my view on the nominee.

So I think it was a sad day in the history of the Senate. I agree with everything the Republican leader has had to say about this most unfortunate episode. I hope the President will not withdraw this nomination and will send it up again next year, and hopefully we will have a Senate with a little more of an open mind to this truly outstanding nominee.

Mr. LOTT. Mr. President, let me just conclude my remarks with this, a quote from Senator BIDEN, a member of the Judiciary Committee for a long time. Unfortunately, he was also recorded last week as voting against Judge Owen despite her excellent record and the ABA's highest rating. But when he was chairman of the Judiciary Committee, I am convinced he worked hard at trying to be fair in the way the nominees were considered under the previous President Bush.

But while on Judiciary Committee back in 1986 on the issue of judicial nominations he was quoted to this effect:

> [Judicial confirmation] is not about pro-life or pro-choice, conservative or liberal. It is not about Democrat or Republican. It is about the intellectual and professional competence to serve as a member of the third co-equal branch of the Government.

I agree. Priscilla Owen met that criterion. She should have been confirmed.

I yield the floor.

HOMELAND SECURITY ACT OF 2002—Continued

AMENDMENT NO. 4513

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, on behalf of myself and Senator WARNER, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON], for himself and Mr. WARNER, proposes an amendment numbered 4513.

Mr. THOMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 8, strike lines 1 through 3.

On page 9, strike lines 13 through 15.

On page 12, line 15, strike ", with the Director,".

On page 12, strike lines 18 through 26 and insert the following:

(4) To make budget recommendations relating to the Strategy, border and transportation security, infrastructure protection, emergency preparedness and response, science and technology promotion related to homeland security, and Federal support for State and local activities.

On page 77, lines 22 and 23, strike ", the Office," after "OSTP".

On page 103, line 5, strike "amended—" and all that follows through line 12 and insert the following: "amended in section 204(b)(1) (42 U.S.C. 6613(b)(1)), by inserting 'homeland security' after 'national security,'.".

On page 156, lines 15 and 16, strike ", the Office,".

On page 158, line 9, strike ", the Office,".

On page 162, line 11, strike "and the Director".

On page 162, line 17, strike "and Office".

On page 173, strike line 15 and all that follows through page 197, line 19.

Mr. THOMPSON. Mr. President, the purpose of this amendment is to strike title II and title III and make conforming amendments.

Title II would create an office in the White House that would coordinate the homeland security activities of the Federal Government. Title III would require the new office and the Secretary of Homeland Security to jointly produce a national strategy.

The administration opposes the creation of an office in the White House that would have a Senate-confirmed director with specific responsibilities and authorities. The White House believes that such an office would blur the lines of accountability and diffuse responsibility, particularly since the White House already has an office, the Office of Homeland Security, that is responsible for coordinating the Federal Government's homeland security efforts.

The committee's proposed structure will also create confusion because similar functions will be performed by the Secretary of Homeland Security, the Director of the Office of Homeland Security, and the Director of the Office of Combating Terrorism, which is the National Security Council. With all these different offices, it will be extremely difficult to determine who is responsible. When a homeland security issue arises, which official does the Congress hold accountable, the Secretary for Homeland Security or the proposed Director of the Office for Combating Terrorism?

We should also recognize that statutorily creating an office in the White House impairs the President's flexibility and authority to structure the Executive Office of the President to best meet his and the Nation's needs. The President traditionally has had broad authority to structure the Executive Office as he sees fit. This proposal is an infringement on that authority.

There certainly have been times when it has been necessary to create an interagency coordinating body in the White House. The creation of the National Security Council is an excellent example of this.

However, this proposal goes too far. It gives the proposed office specific responsibilities and authorities that tie the President's hands and limit his ability to mold the office to serve the needs of the American public.

Another disconcerting aspect of this proposal is that it would require the director to be Senate confirmed. For the last year, the President has made it clear that he desires a confidential homeland security adviser who would advise him on domestic security issues. He doesn't want or need another Senate-confirmed official who would be required to testify before a congressional committee. We have such an individual in the new Secretary that has been created. The President must have his own advisers who work for him. I think he is entitled to that.

Senator WARNER, the ranking member of the Senate Armed Services Committee, also expressed concern in a letter to the Senate Governmental Affairs Committee, where he wrote:

The structure proposed by the Chairman would be redundant of the structure that is already in place.

He further said that:

The budget review and certification authorities would undercut the ability of several cabinet members, including the Secretary of Defense, the Attorney General, and the Director for the Central Intelligence, to carry out their responsibilities. In the case of the Secretary of Defense, in particular, the proposal would give the director of this new office the ability to decertify; in essence, to veto the defense budget. It would be unwise to give this authority to an official who does not have to balance the many competing needs of the Department of Defense.

Finally he said:

The drafting of a new comprehensive strategy for homeland security is unnecessary. Legislating anything other than a periodic review and update of this strategy would be burdensome and would divert attention and resources away from the administration's focus on homeland security.

Prior to the President's June 6 decision to support a Department of Homeland Security, I spoke in favor of a Senate-confirmed official that the Congress could hold accountable. We now have that with the new Secretary, or soon will have with the new Secretary of Homeland Security.

I see little value in creating this new office when such an office already exists. Simply put, another office in the White House is redundant and unnecessary. Moreover, probably more importantly, there appears to be several negative consequences, potentially creating confusion as to accountability, as to budget authority, and the creation of a new homeland security strategy.

Therefore, I urge adoption of the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, at the request of our colleague, Senator LIEBERMAN, I will be managing the debate on this particular amendment, an amendment for which I feel a strong parental relationship.

Shortly after the tragic events of September 11, with Senator FEINSTEIN, I introduced legislation to establish such an office of terrorism within the White House in order to create a focal point for decisionmaking and informing the President and the Congress of a national strategy on how to combat what clearly was emerging as the major challenge to America's national security.

My good friend, Senator THOMPSON, has just suggested that events that have occurred since that time, particularly the event of the President deciding, after a long period of consideration, to support a statutorily created Department of Homeland Security, had rendered irrelevant or, maybe even worse, redundant the idea of an office to combat terrorism within the Presidency.

I disagree with that analysis and look forward to the debate which will lay out the case of why these two agencies—a Department of Homeland Security and an office within the Office of the President—are, in fact, reinforcing in the same way that, in 1947, Congress found it appropriate to reorganize the previously distributed military, distributed by the various services, Army, Navy, a newly emerging Air Force, into a single Department of Defense. But at the same time they did that, in fact in the same legislation, they created the Office of National Security Council. They found those two actions to be reinforcing, cohesive, and both contributing to the Nation's security.

I will attempt to make the case that the same is true for the action suggested in the legislation before us.

I strongly support the creation of the Department of Homeland Security and the legislation before us today to do so. I wish to commend our colleagues, Senator LIEBERMAN and Senator THOMPSON, Senator LEVIN, Senator COCHRAN,

as well as Senator SHELBY, who serves with me on the Senate Committee on Intelligence, for their leadership on this issue and for the wisdom which they have shown in the development of this specific legislation.

The establishment of a Department entrusted with the security of our homeland, in my judgment, is a critical step to making our Nation safer. The vicious terrorists who struck out on September 11 may have succeeded in executing their plot, but they failed in achieving their mission.

America is sad; America is not afraid. We are alert, not panicked. We are firm in our resolve to orient ourselves to protect against future attacks; without altering the fundamental aspects of our life, we are committed to a strategy that will both protect us against our vulnerabilities here at home, while we take the war aggressively and successfully to our enemies, wherever they might live.

The Department of National Homeland Security Act of 2002 makes necessary changes in our governmental structure. It does so in a reasoned, careful way, preserving our constitutional liberties while increasing the effectiveness of our security organization.

This legislation is consistent with our history where periodically we have reexamined what our national priorities are and how the Federal Government should be organized to achieve those national priorities. A perfect example of this is the agency most affected by this legislation—the U.S. Coast Guard, which will represent about 25 percent of all the personnel in the new Department.

The Coast Guard began in 1789, the same year that George Washington was sworn in as President of the United States. At that time, it was known as the United States Light House Service, and its primary function, as its name implies, was seeing that lighthouses were operational. The agency eventually merged with four others and assumed a new role, and that was enforcing our customs laws, collecting tariffs. At that point, it was moved into the Department of the Treasury. Other than twice during World War I and again during World War II, when the Coast Guard was transferred by Executive order to the Navy, it stayed in the Department of the Treasury until 1967, when its role evolved yet again and it became seen as a maritime safety and security agency.

The Coast Guard was transferred to the newly formed Department of Transportation. It has stayed in that Department since 1967. Today, the Coast Guard is recognized as a primary component of our Nation's homeland security force. Thus, the recommendation in this legislation is that the Coast Guard in toto be transferred to the Department of Homeland Security.

I focus my remarks today on that portion of the bill which is the subject of the amendment that has just been offered by Senator THOMPSON, the amendment to delete from this legislation title II and title III, which would establish within the White House a national office for combating terrorism. The need for a coordinator within the White House has been recognized by a number of blue ribbon commissions in the last several years. Here are recommendations from three of the most prominent of those commissions.

The Gilmore Commission, chaired by the former Governor of Virginia, stated:

> Recommendation No. 2: The next President should establish a National Office for Combating Terrorism in the Executive Office of the President, and should seek a statutory basis for this office.

The Hart-Rudman Commission, chaired by two of our former colleagues, said this:

> Strategic planning is largely absent within the United States Government. . . . Across the Government, [a coordinator] should be given a stronger hand in the budget process. . . . Congress should develop mechanisms for a comprehensive review of the President's counterterrorism policy and budget.

The Bremer Commission, chaired by the distinguished Ambassador Bremer, stated:

> The President and the Congress should reform the system for reviewing and funding departmental counterterrorism programs to ensure that the activities and programs of various agencies are part of a comprehensive plan.

In a recently released—in July of this year—Brookings Institution report on the events since September 11, it was stated:

> Whether Congress establishes the broad-ranging department the Bush administration proposes or the more focused Department we advocate, there will remain a need for White House coordination. . . . By the administration's own reckoning, more than 100 U.S. Government agencies are involved in the homeland security effort. . . .

Continuing, the Brookings Institution report states:

> There is a critical need to coordinate their actions with those of [the Department of Homeland Security] and to develop and implement a government-wide homeland security strategy.

As I indicated earlier, this concept of an office within the White House with the responsibility for coordinating efforts to combat terrorism was originally embodied in legislation I introduced with Senator FEINSTEIN last fall and is based on the lack of any central coordinating figure within our Government with a singular focus on terrorism.

We believed then—and with the creation of the new department, we believe now—that it is essential the sometimes-discordant group of departments and agencies with counterterrorism responsibilities must be brought into harmony.

The creation of the Department of National Homeland Security does not change that fact. While this new Department will subsume some of the existing agencies, there will be many others which remain outside the authority of the Secretary of Homeland Security but will still be performing vital missions related to our efforts to combat terrorism.

As an example, the intelligence community itself is not going to be brought into the Department of Homeland Security. Clearly, it will play a very significant role if we are going to anticipate and be able to respond to terrorist attacks before they are launched.

The Department of Defense has recently created a new central command called Northern Command. That command will have increased responsibility for the military's role in protecting the security of our homeland. The departments of the Treasury will still be responsible for coordinating economic measures to reduce the opportunities of terrorists who finance their activities through U.S. sources or international sources. The departments of State and the Department of Energy, which has a major role in our nuclear policy and will have a major role in the Department of Homeland Security's efforts to develop new technologies that will help us better confront terrorism—they will all play a role in our national efforts to combat terrorism.

The Director of the National Office of Combating Terrorism will have three missions. First, the Director will be able to provide that coordination on counterterrorism for all of the agencies—not only the Department of Homeland Security but the intelligence community, Department of Defense, Department of the Treasury, Department of State, Department of Energy, just to list some of the other agencies that will be most directly involved in homeland security.

He will be able to do this with his power to certify budgets, that they are consistent with the comprehensive plan for combating terrorism. The model for this is twofold. I mentioned earlier the 1947 National Security Act, created by statute for a National Security Council and a National Security Adviser to the President.

In more recent years, we have created an office of drug policy. That office has been increased in authority over the years as we have seen that greater authority was needed in order to bring the Federal Government more effectively into a common army to combat the enemy of drug traffickers. That legislation now provides that the head of that office is appointed by the President, subject to Senate confirmation, and has the power to decertify budgets that are not consistent with the President's antidrug plan.

Those two models—the National Security Council and the National Office for Drug Policy—are the models for the office that we are proposing to create today.

This office and these powers, particularly the power to certify budgets, are what are necessary for the Director to

effectively coordinate the counterterrorism efforts of the important agencies that will not be part of the Department of Homeland Security.

The second responsibility of the Director will be to assure that his status and his effectiveness derives from law, not just the personal relationship with the President. Like the Office of Drug Policy, this is an agency that serves not only the interest of the President but also the interest of all of the American people and their representatives in the Congress. So it is important there be a level of shared responsibility and confidence in the individual who occupies that position.

Third, the Director will be subject to the explicit oversight of Congress. This is important so that Congress is a full partner; that Congress is there at the launch of our comprehensive strategy to combat terrorism so that Congress will be there during the good days and the bad days, and there will be some of both as we move forward in this effort to protect the homeland.

Fourth, this Director will have the confidence of both the executive branch and the Congress and will play the critical role of assuring that the agencies most involved in the war on terrorism will make the necessary institutional adjustments to move toward the era of terrorism and away from many of the concepts which have dominated us during the cold war.

One of the concerns I have developed, as our Intelligence Committee has reviewed the events leading up to September 11, is the question of why was the intelligence community slow to recognize that the world changed in a very fundamental way in terms of its mission with the end of the cold war? It was not surprising that the intelligence agencies were very influenced by the history of the cold war because they were a product of the cold war.

The United States had not had an organized intelligence service until World War II. During the war, a special security agency was established to develop and analyze intelligence for a military purpose. As soon as the war ended, so did that agency.

Two years later, President Truman recognized that as the Soviet Union changed from being a wartime ally to now an adversary, we needed to know more about the Soviet Union, about its capabilities, about its intentions, and in order to do so, we needed to have a permanent and a mixed civilian and military set of intelligence agencies.

Out of that decision came the 1947 National Security Act and the creation, in addition to the Department of Defense and the National Security Council, of also the intelligence community more or less as we know it today.

The intelligence community grew up dealing with the peculiarities of the Soviet Union. We knew a tremendous amount about the Soviet Union. We probably, without question, had more information about issues of warfare in the Arctic Ocean than any other place in the world, including the Soviet Union itself because it was very much in our interest to understand that particular water body.

As we were acquiring this tremendous depth of knowledge about the Soviet Union, we were doing it at the expense of not learning more about much of the rest of the world. Our intelligence agencies became focused narrowly—culturally, and linguistically—particularly on the Soviet Union. We were not acquiring competencies in other parts of the world.

Second, we became very dependent on technology as a means of collecting intelligence. The Soviet Union was a hard place to get spies into and to support and to sustain them once they were there. Particularly our satellite-based technologies gave us the means of acquiring most of the information we wanted to learn about the Soviet Union without the risk and difficulty of putting human beings into a position to collect that intelligence.

Finally, there was a criticism, which is subject to debate, that our intelligence communities became risk adverse; that we were reluctant to engage in operations that might fail and be embarrassing; it might fail and cost lives. All three of these characteristics, real or alleged, have disserved us in the post-cold-war era. Instead of being narrowly focused, we now must be broadly focused. We must understand the cultures and languages of countries that did not exist at the time the cold war started.

We no longer can depend on our technology, although it continues to be a very significant part of our intelligence collection, but if you are going to understand the mind of Osama bin Laden, you cannot do so by taking a picture or even listening to a conversation. The fact is, modern international terrorists rarely use the kind of communication that we have the greatest capability to intercept. Rather, we must have an intelligence capability which is extremely diverse, that understands many cultures, understands many languages, and is able to function in alliances with the intelligence services from many other nations.

Finally, this is going to be a riskier war than was the cold war. While the cold war posed the ultimate risk—nuclear annihilation—this is going to require human beings operating in very close contact with our adversaries and exposing themselves to the risk of that close encounter.

The reason I use this example of the intelligence community and its necessity, but slowness, to make the conversion from its cold-war orientation to the orientation of the new era on terrorism is that these same challenges will be faced by the agencies which are now being given responsibility for homeland security.

I can state with virtual certainty of correctness that over the next 10 to 20 years the nature of our enemy at home, the tactics that are used, will be substantially different than those that were used on September 11, 2001, and we must have a homeland capability which recognizes those changes and is prepared to adapt to the new challenges, the new threats that it will face.

I believe one of the things that was missing in the intelligence community was having an office which could be constantly challenging the intelligence leadership: Are you relevant to the challenge we are facing today? Are you looking over the horizon at the kinds of capabilities you will need in the tomorrows in order to prepare against this emerging threat?

In my judgment, the most important function of this office to combat terrorism will be its role as the constant challenger of all of the main line departments, from the new Department of Homeland Security to the Department of Defense to the Department of Energy, challenging them: Are you relevant to the current face of evil that we are continuing against?

What are you doing to prepare for future emerging threats? What are you doing to identify those threats? What are you doing to recruit and train and provide professional advancement to your key personnel so they will be personally responsive to the new challenges? Those are some of the issues. Those are some of the challenges. Those are the fundamental rationales why the committee, under the leadership of Senator LIEBERMAN, included title II and title III in providing for the Office for Combating Terrorism within the Office of the President.

These four missions together will assure the Director has both authority and legitimacy, authority with respect to his colleagues who lead other Governmental agencies, and legitimacy with respect to the important role the legislative branch will play in the achievement of his goals.

This position, as I indicated earlier, parallels the job being done today by the Director of the President's National Security Council. It does for domestic security many of the things that Dr. Condoleezza Rice does for foreign policy. It also parallels in many ways the emerging Office of Drug Policy and its challenge to have a coherent plan of action, and then assure all the Federal agencies that are responsible for that play their appropriate role.

We are about very serious business. It is not just business that will fade after the sorrow and shock of September 11. It goes further into history. In my judgment, for our lifetime, as it is today, the issue of terrorism will be the single most significant security threat faced by the United States of America. So we must prepare for the long haul, the sustained commitment.

There has been some criticism that Congress played a role in this failure of the intelligence community and other aspects of our National Government to

make the transition from the cold war to prepare for the challenges of the new era of terrorism. Some of those criticisms are no doubt deserved. This is an opportunity for Congress to take action which will help prepare us to avoid the unstated criticism. I do not want to have our predecessors in the Senate ask the question 25 years from now: Why did we create, in the year 2002, agencies that would become the dinosaurs of 2022 because they were unable to make the transition as the rapidly evolving but not fully understood threat of terrorism confronted our people?

This office, in my judgment, will reduce the likelihood of that criticism because, if this office functions as the architects intend, it will be the agency for continuing renewal within all of our Departments which have a responsibility for protecting the American people in our homeland.

For those reasons, I respectfully resist the amendment offered by Senator THOMPSON, urge its defeat, and the continuation within this legislation of the important concepts contained in title II of the Office for Combating Terrorism.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I appreciate the well-thought-out statement of my colleague from Florida with regard to his opposition to this amendment. I think the groundwork has been laid now for a good discussion of the pros and the cons.

The points my good friend made are not valid and are certainly not sufficient to defeat this amendment. I support this amendment basically for the following reasons, in addition to what I said earlier: It seems the opponents of this amendment—those who would create the new national Office for Combating Terrorism—take the position we need a coordinator to develop a strategy. But since this idea was first proposed, lots of things have happened. One is we are now on to the consideration of a large, new Department containing 22 agencies. Secondly, we have a strategy. In July, the President came forth with a national strategy.

Now we have under consideration a large new Department taking in most of the agencies that will have a homeland security function, and we have a strategy that this new Department will be following in trying to implement the safety measures that we all know are needed.

In addition, we still have a coordinator. We have someone to coordinate this new Department and those agencies which cannot be brought into the new Department, such as the Department of Defense and the FBI and other agencies. That is the Office of Homeland Security, under the leadership of Mr. Ridge. We also have the Office for Combating Terrorism under the NSC. Those offices are already there. We have those two offices in the White House serving a coordination function.

Plus, we will have a new Department with a new Secretary and all of his responsibilities. So we have a strategy.

I have not heard criticism that the strategy is not a good one or that we should go in a different direction or that there is some reason we should set up a whole new mechanism and bureaucracy to come up with a new strategy. So we have those components which the opponents of this amendment say we need. I agree we need them. We have them. We have them in a different way than what our friends on the other side would suggest.

It is suggested that the National Security Council is an analogous entity or one after which this provision in the Senate bill has been patterned. There has been a comparison between the NSC and this proposed office, but the National Security Act of 1947 created the National Security Council, and this legislation gave the NSC broad responsibilities and limited authority.

The head of the NSC, of course, is not confirmed by the Senate. There is no advice and consent with regard to the NSC. There is no Senate-confirmed official. The NSC has no budget authority, which is another big distinction between the NSC and the proposed Director in this bill. It was also designed for the sole purpose of coordinating policy.

In contrast, the proposed White House office would have specific statutory responsibilities and functions; would have a Senate-confirmed Director; would have considerable budget review authority; and would, I submit, interfere with the executive branch's current budget process.

I will dwell on that particular aspect of the bill because I think it is significant. That has to do with the budget authority. It is substantial. In title II, section 201, it states the new Director is:

> To coordinate, with the advice of the Secretary, the development of a comprehensive annual budget for the programs and activities under the Strategy, including the budgets of the military departments and agencies within the National Foreign Intelligence Program relating to international terrorism, but excluding military programs, projects or activities relating to force protection.

It goes on to say:

> To have the lead responsibility for budget recommendations relating to military, intelligence, law enforcement [et cetera]. . . .
>
> To serve as an advisor to the National Security Council.

It goes on in section 202 and says with regard to the submittal of proposed budgets to the Director:

> The head of each Federal terrorism prevention response agency shall submit to the Director each year the proposed budget of that agency for the fiscal year beginning in that year for programs and activities of that agency. . . .

The proposed budget of an agency shall be submitted to the Director before that information is submitted to the Director of the OMB.

It goes on to say:

> If the Director determines that under paragraph (1) that the proposed budget of an agency for a fiscal year . . . is inadequate, in whole or in part . . . the Director shall submit to the agency . . . a notice and a statement.

It goes on to state:

> The head of the Federal terrorism prevention response agency that receives a notice [as described] shall incorporate the proposed funding . . . set forth in the statement accompanying the notice in the information submitted to the Office of Management and Budget. . . .

So as I read that he pretty much had to do what the Director says even though the agency has the primary responsibility for dealing with the problem under their jurisdiction.

It goes on under the section having to do with review and decertification, the Director:

> Shall review each budget submitted under paragraph (1);
>
> And may decertify the proposed budget.

So, in effect, this Director has a veto over the budget.

National Terrorism Prevention and Response Program budget in general:

> For each year, following the submittal of proposed budgets for the Director under subsection (b), the Director shall, in consultation with the head of each terrorism prevention agency concerned—
>
> (A) develop a consolidated proposed budget for each fiscal year for all programs and activities under the Strategy . . .

And submit it to the President and Congress.

> The head of the Federal terrorism prevention and response agency may not submit to Congress a request for a reprogramming or transfer of any funding specified in the National Terrorism Prevention and Response Program Budget for programs or activities of the agency under the Strategy for a fiscal year in excess of $5,000,000 without the approval of the Director.

So, obviously, there is substantial budgetary authority—even though we have created a new Secretary with vast responsibilities, including the normal budgetary responsibilities—that the head of this Department would have. We still have the OMB and the regular process. Yet we would have a new Director who may not have the entire view of the Government that OMB has.

Certainly it has an important function, an important role to play. Certainly it can have some input, but the ability to unilaterally make those kinds of budgetary decisions when we have this process, at a time when we are creating a new Department and a new Secretary, and to kind of take that away from the OMB, which has responsibility for a bigger picture, shall we say, I submit is not a good idea and it is unnecessary.

It is not necessarily accurate to say that more is better when creating this Department. We can make it so large, so huge, there are so many moving parts—and we already have more directorates in the Senate bill than the President would submit—that it becomes unworkable or much more difficult to handle and to manage than is necessary.

Also, it takes away from ease of accountability. One of the most difficult

things we have seen in the Governmental Affairs Committee with regard to the overall operation of the Government in looking at so many of the efficiencies that many of the Departments have and that we fear we may be incorporating into this new Department is lack of accountability, who is in charge. If the administration has it their way—and I submit on a close call you ought to give an administration, and the President, and a new Secretary, a fighting chance to take the approach they want to take and then have the accountability of making it work than otherwise—if we adopted the President's suggestion, we would have the Office of Homeland Security, Mr. Ridge, which he says he will retain under any circumstances. So we have to assume he will.

The Office of Combating Terrorism, under the NSC, which we have, and a new Department with a new Secretary with a big umbrella covering 22 agencies, I submit that will be complicated enough. We do not need a new directorate duplicating the budget process, duplicating the strategy process, when we already have one, and doing all those things that the administration is saying we don't want to do, we don't need to do. There has not been any good reason to say that is an incorrect position or that we need it. I don't think anyone has ever recommended exactly what we are considering today.

The Gilmore Commission suggested a statutory White House position. That is true. But they did not also suggest a new Department. That was before we had the new Department under consideration, as we have today.

Hart-Rudman recommended a new Department, but they did not recommend a statutory White House position. They recommended a coordinator, as I recall. I think I am accurate in saying that no Commission, no entity, anywhere, has ever recommended we have both a statutory, confirmable White House entity in addition to a new Department with a new Secretary which would be confirmable.

I submit it is a reasonable and prudent thing to prune this huge—some have called it—monstrosity. Maybe I have in times past. It is so big and potentially so unwieldy. I hope it does not turn out to be a monstrosity. I am talking about the new Department with all of the different agencies and 170,000 people, coming together and all of that. Surely, on something that is clearly as duplicative as this, we can pare it down a bit, use those offices and people we already have in place in all these key positions, and give the administration the ability to start this extremely important operation on a level playing field and one with which they feel comfortable. It does nothing for homeland security. It does not do anything to make this Nation safe by just adding on new agencies or any offices and new Directors and new responsibilities.

Let this entity also do what this other entity is already doing and establish someone else in play with regard to that. That does not do a thing to enhance homeland security.

I submit that it diminishes homeland security. None of us want to do that. So I submit the amendment is founded on sound principles and deserves serious consideration.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise in opposition to the amendment offered by my friend and colleague from Tennessee, which would strike title II and title III, two very important pieces of our legislation; that is, the amendment that was passed out of the Governmental Affairs Committee.

I thank my friend and colleague from Florida, Senator GRAHAM, not only for his eloquent statement in response to the introduction of the amendment by Senator THOMPSON, but for the considerable work he has done on this proposal for almost a year now building on work, as he said in his statement, that was done by other groups calling for such an office. It was bipartisan work, incidentally—including members of the other party here in the Senate. This work greatly influenced the Senate Governmental Affairs Committee as we put together the amendment that we bring before you. So I thank the Senator from Florida for his thoughtful leadership on this matter.

This is not an amendment that strikes at the margins of our committee proposal. This is an amendment that really goes to one of the fundamental parts of the amendment that the Governmental Affairs Committee reported out in a bipartisan vote of 12 to 5. Look at the title of the amendment, the proposed bill: The National Homeland Security and Combating Terrorism Act of 2002. It clearly is the intention of our committee not just to create a Department of Homeland Security, which is, of course critical, but to combat terrorism. Terrorism goes beyond homeland security. It goes beyond the Department of Homeland Security. We feel very strongly that it requires the kind of strong coordination that the National Office for Combating Terrorism would provide. We wrote these two titles, title II and title III that Senator THOMPSON's amendment would strike, into our bill because while the new Department of Homeland Security would be a critical advance in our efforts to combat terrorism by raising our guard, by defending ourselves, the American people here at home, it is obviously not all that is needed to rise to the challenge that our terrorist enemies have put before us.

More than half the Members of the Senate were in New York Friday with more than half the Members of the House to meet in an unusual joint session to express our solidarity and respect and admiration to the people of New York, to honor those who were heroes that day, to mourn those who died that day, and to support their survivors. But also, I think, to rededicate ourselves to the war on terrorism so, as much as it is humanly possible, we believe that we have done everything we can to prevent another September 11 type of attack from occurring.

I strongly believe for that to be so we need not only the Department of Homeland Security, but the office that this proposal would require because even after the Department is up and running, there are going to be many agencies and programs with key roles in the war on terrorism that would be outside the purview of the new Department. That is why we created this national office in the White House.

The Director of the office, in my view, and I believe in the view of the majority on the committee, would be the primary architect of an antiterrorism multi-agency strategy working, of course, for the President because the Director is the appointee of the President. That strategy would include a host of components beyond homeland security—some diplomatic, some financial, some military, some intelligence, some law enforcement. I think Senator GRAHAM has listed the possibilities and the realities quite effectively.

What we are saying is, what we need to prevent another September 11 from ever happening again is not just a new department to oversee the most critical aspects of homeland security, but a coordinator, a director working directly for the President, who has the real power and positioning to see the larger picture of the war against terrorism and to coordinate it in a very aggressive way for the President.

We heard testimony at one of our Governmental Affairs Committee hearings—one of 18 we have held since September 11, 2001, from Ashton Carter, who was an Assistant Secretary of Defense in the Clinton administration. I want to quote from him. Ash said:

The announcement of an intention to create a cabinet-level Department of Homeland Security should in no way obscure the paramount need for a strong White House hand over all aspects of homeland security . . . The nation's capabilities for homeland security, even optimally coordinated, are simply not adequate to cope with 21st century terrorism. What is needed is far less a coordinator of what exists than an architect of the capabilities we need to build.

I want to read from a few others who have both supported the creation of a new Department and a strong White House office.

In July, the Brookings Institute issued a report called, ''Assessing the Department of Homeland Security.'' They say in that report:

Whether Congress establishes the broad ranging department the Bush administration proposes or the more focused department we advocate—

That is the nonpartisan experts on this task force at Brookings—

there will remain a need for White-House coordination. By the administration's own

reckoning, more than 100 U.S. government agencies are involved in the homeland security effort . . . There is a critical need to coordinate their actions with those of DHS and to develop and implement a government-wide homeland security strategy.

Indeed [Brookings continued] it would be advisable to broaden the scope of the Office of Homeland Security to include overseeing the intersection between the U.S., domestic and overseas counter-terrorism activities. Under this arrangement, the Office of Homeland Security will likely only be able to perform its vital coordinating functions if Congress steps in and provides the homeland security office, council and director status in law.

Which, parenthetically, I say, is exactly what our proposal would do. Going back to Brookings:

Moreover, if the Office of Homeland Security and its director are to continue to have a major role in drawing up an integrated homeland security budget—

As was the case for Governor Ridge for the 2003 fiscal year request—

it is absolutely critical that the director not only have statutory authority but be accountable and answerable to Congress.

I will read one more quote of GEN Barry McCaffrey, who testified before our committee on October 12 of 2001. Of course, General McCaffrey had been the Director of the Office of National Drug Control Policy. He talked about the importance of the authority to review and certify budgets if we are going to have and implement a national strategy for combating terrorism. General McCaffrey said:

A strategy without the resources is not worth the paper it is written on. The director of the Homeland Security Office needs the authority to independently decertify any agency budget that does not provide the resources needed to combat the threat of terrorism.

He added:

Not only are budget certification powers required to ensure sufficient resources, they also play a critical role in policy-making. The ability to decertify an agency's budget is the nuclear weapon of policymaking—it isn't something you can use often, but the mere fact that it is in your arsenal guarantees you are taken seriously. If you want to see another agency get with the program fast, just articulate the possible decertification of its budget.

End of quote from General McCaffrey. It is a very important point. The reality is that President Bush has acknowledged the need for an ongoing White House coordinating office on homeland security and terrorism, saying he would retain the current office he established last October once the new Department is established. That is what the Thompson amendment seeks to achieve, preserving the status quo with respect to the powers of the Office of Homeland Security.

But with all due respect, that would give us less than we need. We need an office that, of course, is accountable to the President, the President's appointee, but nonetheless can be an advocate within the councils of our Government to make antiterrorism a priority and, also, as General McCaffrey's words suggest, to create an incentive, because of the potential use of the power of decertification, for agencies not to slip back and underfund our antiterrorism effort, not to allow us to fall back into a slumber and make counterterrorism and antiterrorism a secondary or tertiary matter.

This office, with the authority our bill gives it, through both budgetary authority and Senate confirmation, will have the power to be what we all need it to be. The President basically acknowledges the utility of continuing the office. The question is, Will it be a strong office or a weak office?

I think the very reasons that convinced President Bush, contrary to his original position on this—and, of course, I am grateful for the change he made and I appreciate and admire him for making it—make the case for a strong White House office. He concluded that the original Office of Homeland Security was not enough to do the job that he wanted, as President, to have done because it did not have the power to do the job.

Also, there are war stories you can hear from inside the councils of Government about various attempts Governor Ridge made to try to bring some coordination to the disparate agencies involved in homeland defense. For instance, there was a proposal on coordinating the border agencies, and it was knocked down from within the agencies themselves.

Part of why, probably, those four men to whom Senator BYRD refers often, who gathered secretly to put together the administration's position or recommendation on the Department of Homeland Security, did so is that I think they—wisely, in this case—did not want to enter into a process preliminarily that would have allowed the bureaucracy to fight change, which was what Governor Ridge was facing.

So I think the fact that the Governor hit a lot of roadblocks and speed bumps rather than paved stretches of road should convince us that a Senate-confirmed director of the White House office, exercising statutory powers, would have the clout he or she needs to accomplish what the President wants him or her to accomplish.

Some argue, I know, that once we create the new Department, it will not really matter if the White House position is statutory and Senate confirmed. Certainly, I agree that even without a statutory and Senate-confirmed director of the White House office—which, again, we know will exist, in any case—the new Department of Homeland Security would be a vast improvement over what we have today. But it is still risky.

It is inadequate to assume that, even with the new Department, we can afford to have anything less than the strong antiterrorism coordinating office in the White House that was conceived by Senator GRAHAM and his cosponsors and adopted by our committee. As he has said, critical pieces of the antiterrorism effort cut across the Government and will not and cannot and should not be folded into the new Department even if it is well organized. Somebody needs to be looking at the big picture with a comprehensive sense of how every piece and element of the fight supports every other element, and then directly advising the President as to how the entire effort can be strategically integrated and implemented.

The White House office can be a crucial complement to a line agency. It is not unprecedented for Congress to create such positions within the White House, as Senator GRAHAM has said. Such legislatively created offices include the National Security Council; the U.S. Trade Representative, subject to confirmation; the Office of Drug Control Policy, of course, subject to confirmation by the Senate; and the Director of OMB, naturally subject to confirmation by the Senate.

The complexity of orchestrating the fight against terrorism makes this mission, which will be central to our security for a good part of the years ahead of us, every bit as worthy of statutory status within the White House as those other missions fighting drugs, expanding and providing for fair trade, and coordinating management and budgeting.

The White House office our legislation envisions would not be charged with homeland security per se, I want to make clear. Homeland security is the responsibility of the new Department. The White House office's job is to orchestrate and advise the President more broadly on the fight against terrorism. For instance, central questions that this office would consider, that will not come before the Department of Homeland Security or the Secretary, are: Are we doing enough to cut off the money supply of al-Qaida? And where might a new funding stream come from? Are our public diplomacy efforts, which are run through the State Department, complementing the other pieces, the military pieces, of the wider war against terrorism? How should our trade policies or our foreign aid policies be structured to be maximally effective in the fight against terrorism? Are there efforts that are duplicative or are there gaps between the various Departments beyond homeland security that need to be addressed? Those are central questions in the war against terrorism which will not come before or be decided by the Secretary of Homeland Security or all the agencies working under him or her.

A lot of our antiterrorism effort was not well coordinated before September 11. That is a sad fact. As we approach the first September 11 since the dark day of September 11, 2001, it is critically important that we make sure our antiterrorism effort has learned all the painful lessons of last September 11. It is just unrealistic to think that a new Department alone will achieve that goal. We must still press for the most effective coordination and leadership we can achieve.

I must say, we must do that for the longer term. I understand the President has strong feelings about this, but Congress has a responsibility to legislate for the longer term. As we all have agreed, the battle against terrorism is going to go on for the longer term, not just through this administration. And that really argues strongly for a statutory, Senate-confirmed position such as this bill would provide.

I want to quote David Walker, the Comptroller General, who made this point when he testified before our committee in April. On that occasion, he called for support of a statutory, Senate-confirmed official to coordinate antiterrorism policy Government-wide. Comptroller General Walker stated:

> Bottom line, there is a clear correlation that to the extent that there is a significant responsibility that spans administrations and years, that involve significant sums of money, . . . Congress has historically sought to address those with a statutory basis and to head those offices or operations with a Presidential appointee subject to Senate confirmation. History has shown that those lead to . . . more effective and accountable activity.

That is a critically important statement. We are legislating here for the long term. David Walker explains why the long-term interests of the security of the American people argue for this office as we have conceived it.

Brookings Institution scholar Paul Light added at one of our hearings:

> Congress should establish a statutory foundation for the White House Office of Homeland Security. Such a foundation is essential for the strategy, authority, and, perhaps most importantly, accountability.

Again, an important office. There is no sense in maintaining this office, as the President wants to do, unless it has an important role. If it has an important role, it ought to be subject to Senate confirmation and, therefore, accountable to the Congress as representatives of the people.

Title III of the legislation calls for a comprehensive national strategy to combat terrorism to be developed collaboratively by the new Secretary of Homeland Security and the Director of the White House Office for Combating Terrorism. The Secretary will have the lead role in issues of border security, critical infrastructure protection, emergency preparation and response, and integration with State and local efforts. Those are the elements within the Department. But the Director will have overall responsibility for preparing the strategy and will take the lead on strategic planning concerning intelligence and military assets, for instance, law enforcement, and diplomacy.

The idea is, the Director, working with the Secretary, will ensure the coordination of critical counterterrorism areas of Government outside the Secretary's direct control. And the legislation establishes an interagency council to be cochaired by the Secretary and Director to assist with preparation and implementation of the strategy.

It very progressively establishes a nonpartisan nine-member panel of outside experts to provide an assessment of the terrorism strategy. This is similar to the national defense panel created in legislation that came out of the Senate Armed Services Committee, of which I am privileged to be a member, that, in 1999, assessed the first Department of Defense Quadrennial Defense Review for military planning, and did so with very productive results.

In the area of antiterrorism, complacency has to be our constant concern. This panel our legislation creates will help assure an outsider-based, so-called red team critique of the strategy on a periodic basis.

Under our legislation, this antiterrorism strategy would be updated on a regular basis. The President's recently completed and released homeland security strategy is a good, constructive beginning, but of course it does not obviate the need for more detailed and updated strategies in the years to come.

I don't know if it is fair to quote a distinguished citizen from Tennessee when arguing against an amendment offered by the Senators from Tennessee, but I remember Fred Smith of FedEx said in a speech years ago, speaking to his employees—I paraphrase; I may not have it exactly—the journey to higher quality services has no final destination point.

That is a good point because the journey goes on and on. We are constantly trying to improve. In that same sense, the need for constant review and revision of our antiterrorism efforts will have no end. We have to keep reviewing and being a step ahead of our enemies.

I hope in the years to come and in future administrations, obviously, that terrorism is much less fresh in the minds and hearts and souls of the American people than it is less than a year after September 11. When it is, we need to ensure that, nonetheless, antiterrorism does not fall from the top of our concerns because these enemies of ours will still be out there in the shadows.

This statutory proposal of ours seems to me to be one of the best ways we can guarantee steadfast attention to the terrorism threat from administration to administration, from generation to generation, as we go forward in this century. We have never before had to organize and implement both a concerted assault against terrorists and to mount a defense of our people here at home at the same time, following an attack of this kind against civilians, innocents, on our territory. It is unprecedented.

Meeting the challenge means not only consolidating and organizing the dozens of agencies responsible for homeland security into a single unified chain of command, as we did in the first title of our bill, but it also means ensuring that the agencies and offices that remain outside the Department do not slip to the fringes of the fight against terrorism. That is what is achieved in titles II and III of the bill which Senator THOMPSON's amendment would strike.

We need every gear of government turning in the right direction, supporting every other as far ahead as we can see, to maximize our antiterrorism strategy, to advance the President's vision and policies, and to provide, in this painfully new context, for the common defense.

Therefore, I strongly oppose the Senator's amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I thank my good friend from Connecticut for eloquently laying out his case against this amendment. It makes for a good debate.

As I sit and listen and think about what we are about here, it occurs to me that never before in the history of this country have we ever set up an organizational framework at this level of government. That is a pretty strong statement. I stand to be corrected if I can be.

We are setting up something here that we have never tried before. We are experimenting in a way in which we should not be experimenting. Why do I say that? I say that because we have never had a situation in the highest levels of government where we had a department with clearly defined responsibilities for an area of government and a White House entity that is Senate confirmed with decertification authority over the budget that pertains to that Secretary.

If there is another situation like that in the history of the Government, I will acknowledge it and stand corrected.

Reference has been made to the drug czar. He is Senate confirmed. He has decertification authority. But there wasn't a department such as the one we are in the process of creating. He, by his nature, by the nature of his job, had to coordinate legions of different entities and agencies and departments' budgets under the framework they had then. There was no one drug department or drug-fighting department other than him. He was it.

He had to deal with budgets of the Department of Agriculture, the Corporation for National and Community Service, the DC court services and offender protection, the Department of Defense, the intelligence community management account, the Department of Education, the Department of Health and Human Services, the Department of Housing and Urban Development, the Department of the Interior, the judiciary, the Department of Justice—I am not listing all the divisions and agencies within these Departments—the Department of Labor, the OMBCP, the Small Business Administration, the Department of State, the Department of Transportation, and the

Department of the Treasury. He was a coordinator in the truest sense of the word—not analogous at all to the situation we have here.

Reference has been made again to the NSC. We all know that the NSC not only does not have decertification authority; the NSC has no budget authority. The NSC is not confirmed by the Senate. Reference was made some way to our Trade Representative. He is confirmed by the Senate. He is the Trade Representative. I guess you could make some analogy to the Department of Commerce in terms of there being a Department that somehow has a responsibility in that area, but he is the person there, plus the fact that he has no decertification authority with regard to the Department of Commerce or anybody else.

So, again, I cannot think of another situation where we have had a large Department that we are getting ready to create, with 22 agencies, 170,000 people, and all the responsibilities, and we are going to be looking to that new Secretary. Everybody agrees there needs to be a coordinator there. I don't hear any reference to Mr. Ridge not doing a good job or the present circumstance not working out.

As the Office of Homeland Security is now constituted, we have a coordinator. But a new Department, a coordinator, who has decertification authority—think about how that would work. It is a recipe for conflict and turmoil within any administration. I don't know that there is a comparable in the history of our Government. It stands to reason that there would not be. What we seemingly have done is taken a lot of good ideas from a lot of people and added them together and not eliminated much of anything.

I don't know of any proposal that we do that is truly analogous. Perhaps Brookings comes the closest, but they were thinking about a much narrower Department. They were thinking about a border security department more than anything else.

So I suggest that we really think this through. More is not necessarily better. Do we really want a new coordinator who apparently is going to work down the hall from Mr. Ridge? I don't know if we are assuming—the President tells us he deserves to have his own person there. Are we assuming that he is going to back off? Is the new person—new Director—going to work down the hall from Mr. Ridge? Are we going to insist that the President get rid of Mr. Ridge's position because one is not confirmed and the other one is to be confirmed? It cannot be the same person serving both functions. I don't know what we are assuming.

Do we really want to set up a person there who has decertification of the budget—even over the military, apparently, according to Senator WARNER, who can speak for himself, and I understand he will—inside the White House? It is to be submitted to the budget and to him before it even goes to OMB, when you have a Secretary there with all of the responsibilities, budgetary and otherwise, that Secretaries normally have? Do we really want to do that? Is that really going to improve the operation of Government?

Like I say, there have been different ideas at different times, at different stages of this process. Many of them are good ideas, but many of them came before the President proposed his ideas for a Department and before he submitted his national strategy in July. To a great extent, unfortunately, what we have done is taken all these proposals and kind of added them together and said if a Senate-confirmed new Secretary for a Department is good, then a Senate-confirmed new Office of Homeland Security would be even better. And if the responsibility of the new Secretary for his budget is a good idea, let's have somebody over in the White House who can decertify his budget.

As I say, I think it is a recipe for turmoil within any administration. It is a recipe for conflict. I know that is not what is intended. As I sit here and think about how this would work, I think that would happen in any administration.

I think Mr. McCaffrey used his authority one time to great consternation with regard to everybody, but it would not be anything—perhaps he used it wisely, and I assume he did, but it would not be anything like a new Secretary with the responsibilities that a new Secretary would have, and the responsibility that OMB has.

We are going from a budget surplus to a budget deficit. We have no idea, in my humble opinion, as to how much this is going to cost us. We don't know how much it is going to cost the private sector and the State and local governments. I think it is going to be a lot if we do what we need to do to protect our infrastructure and the other things that constitute homeland security. It is certainly going to cost the Federal Government an awful lot of money.

We cannot shut this Nation down. We cannot spend all of our money on homeland security. We cannot have someone—I suggest it would not be wise—in the White House who only has responsibility for homeland security dictating what the entire Federal budget ought to look like. Somebody has to balance those, goodness knows, legitimate and, I would even say, primary concerns. But they are not exclusive concerns. We don't have an unlimited amount of money. We are apparently not willing to make tradeoffs.

We are spending money like there is no war against terrorism. We are adding new entitlement programs—the Congress is—as we speak. We have done some and are in the process of doing others. So what are we going to do, send somebody up in the White House to say, stop, don't let us kill again; is that the idea?

I think it has to do more with the will of Congress. We are going to have to do the right thing as a Congress. The Secretary is going to have to make proposals. The President and the head of OMB are going to have to say how much money we have to spend, and then take it to Congress and see what we think about it.

There will be plenty of ways for Congress to exert its will—properly so. We are not going to be cut out and should not be. That is the normal process. Do we really need another entity, which I think would be unprecedented, in the midst of all this confusion and difficulty that we are going through? People talk about maybe we ought to look at this thing in stages. Maybe that is one of the things we ought to look at in stages.

If it turns out that the strategy does not pan out, it is not satisfactory, that the budgetary situation is not working, it might be something we can revisit at another time. But with all these difficulties, is this really something we want to interject in the middle of this very difficult process? I submit to you that it is not.

I yield the floor.

The PRESIDING OFFICER (Mr. CORZINE). The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, just to respond to some of the comments of my friend and colleague from Tennessee, it seems to me, as this debate has gone on for the last couple of hours, that we have sort of narrowed the focus. One question is: Does America need—assuming that there will be created an Office for Homeland Security—an office in the Presidency for the specific purpose of coordinating our efforts to combat terrorism?

I think the Senator from Tennessee just said he agreed—or he thought the President agreed—that some sort of office like that was going to be necessary. Basically, it is the office that Governor Ridge has been occupying now for approximately 10 months. So we agree there is a sufficient potential disorder, with the number of agencies that are going to have a role in our efforts to combat terrorism, and that is the specific and sole focus of this office in the White House; that it justifies somebody to attempt to bring order out of disorder.

As I was reviewing the legislation, I found some agencies that, frankly, I had not originally thought were going to be part of the fight to combat terrorism which I did not mention in my earlier remarks. One of those is the Environmental Protection Agency. One might say: How in the world is the Environmental Protection Agency going to be a part of the effort of homeland security against terrorism?

The answer is, if you list our vulnerabilities to terrorists, clearly one of the most significant of those vulnerabilities is our infrastructure, our basic water systems. If you were a creative terrorist and wanted to quickly disrupt America, identifying and targeting your efforts against our

water supply would be one of the ways that you might consider doing so.

Obviously, if that is going to be a vulnerability, then the agency of the Federal Government which has the primary responsibility, particularly for protecting the quality of our water—the Environmental Protection Agency—becomes an agency that has a role to play in deterring terrorists from access to that part of America's infrastructure.

The list of agencies you can consider today, much less what we might be dealing with 10 or 20 years from now when the imagination of the terrorists in our own sense of vulnerabilities have become more mature, could be very numerous. So we agree there is a need for there to be an agency in the White House for purposes of focusing on the specific issue of terrorism.

The second question then becomes: If so, how should that office be organized? Should it be called ''a meeting and hope people will come and, if they come, that they will cooperate'' type of agency, or should they have some agency with teeth that can sink in, if that is necessary, in order to accomplish the result?

We have had some experience with the former type of agency in the original version of the National Office of Drug Control. That office had relatively little real teeth and, therefore, had little effectiveness on chewing on the difficult problems of getting the variety of Federal agencies that have a role in our drug policy to collaborate.

We already are aware of some of the difficulties we are going to have in the area of homeland security because we are identifying areas in which various agencies, for reasons of their cultural attitudes or traditions, their isolation, their desire to not share the potential glory of success with other agencies, have been insular and the American people have paid the price because the agencies that should have known important pieces of information were denied that information and, therefore, their ability to be as effective on behalf of the American people in giving us security against terrorists was frustrated.

We know that this office within the White House has to have enough power to be taken seriously. I believe it is the evolution of the Office of Drug Policy that is the most informing recent experience in American Government as to what kind of agency this needs to be and that we do not have the luxury of waiting 10 years for it to get there; that this office within the White House needs to have some ability to oversee and control the budget as it is being developed to assure that it is consistent with the strategy for combating terrorism that has been agreed to and that, in the implementation of budgets, agencies will devote the required funds necessary to carry out that strategy.

I believe if we are serious about a war on terror—and the American people are very serious about an effective war on terror—they need to have what, in this beginning of the season, we might refer to as a head coach who can oversee all of the assistant coaches who have responsibility for individual components of the team to assure that the team in totality is focused on victory against its opponent.

There is the third question, and that is: How do we prepare for the future? It was said that we do not need title III which calls for the development of a strategic comprehensive plan to combat terrorism because we already have a plan. It was the plan the President submitted a few weeks ago.

Without commenting about the current plan that the President submitted, I can tell you—and I do not believe there would be anyone here who would speak to the contrary—but that is not the plan we are going to have 10 years from now. We are not so lame-headed as to be unable to learn from the experience that we are going to have over the next decade and to then incorporate that experience into what we think is the effective strategy to protect Americans against terrorism.

Unfortunately, there is a tendency to want to revere the status quo and to resist change. In my earlier remarks I talked about some of the history of the American intelligence agencies, going back to their inception in 1947 and how they became so committed to fighting the cold war against the one big enemy, the Soviet Union, that when the cold war was over and we suddenly had a much different environment of enemies, that they found it difficult to make the transitions that were necessary to respond to the new set of enemies.

The same thing is going to happen in our domestic war to secure Americans here in our homeland, but we have already demonstrated some of the slowness to respond.

One of my critiques of the current effort at homeland security is that we have tended to focus our efforts on those vulnerabilities that have been attacked. Just think of all the things we have done to change the character of American airports and American commercial airlines, with many more changes still to be fully implemented. Contrast that to what we have done to substantially increase the security in areas that, in my judgment, are equal in their vulnerability and threat to the people of the United States, such as the water systems to which I referred earlier.

What have we done to increase the security of our seaports and those thousands of containers which enter America every day? In my own judgment, they represent one of the greatest threats for a terrorist wishing to bring a weapon of mass destruction into the United States.

We have almost a genetic tendency to support the status quo and a genetic tendency to respond when we have been hit where we have been hit. Hopefully, this agency, at its best, will be an agency that will challenge us to think creatively about what our vulnerabilities might be, and then to assess: Are we taking those steps that are reasonable and appropriate to protect us against an attack, against a vulnerability that has not yet been exploited?

I believe an agency that has that kind of an orientation, mission, and responsibility will also then need the authority this legislation provides to see that, in fact, we act against that.

It is easy to get Americans energized to deal with commercial airline safety when commercial airliners have been flown into some of the symbols of America's greatness, but it is more difficult to get Americans to respond to dealing with the potential threats at a seaport, or a metal container rolling down the highway when we have not yet been attacked at that point of vulnerability.

This agency will have the opportunity, within the White House, with the power of the Presidency and the power of the Congress, through confirmation, and with the power that this legislation would provide, to be that creative watchdog to ensure that we are responding to the threat profile as it changes and that we do not require that we be attacked in a particular point of vulnerability before we take steps to secure that vulnerability.

So I think those are the basic issues in this debate.

Does America need such an office? I believe there is unanimity, yes. Once established, does the office need to have the capability, the authority, and the clout to assure that it can conduct a difficult job? I think the answer to that question is yes because it then answers the third question: Are we going to look to this agency to be, yes, a coordinative agency; yes, an agency that will help advise us as to the wisest strategy to combat terrorism, but, maybe most importantly, to be the agency that will be responsible for our creative inquiry as to what is the nature of the threat today, what is it likely to be tomorrow, and how do we prepare to give to the American people what they deserve and what they look to us to provide, the most effective security in the homeland of America?

The PRESIDING OFFICER. Who yields time?

The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I agree we do have some points of agreement. One is the fact that we do need a person in the White House in this coordination function. I agree with the second point also that we need a person with some clout. I submit Condoleezza Rice has clout and Tom Ridge has clout to do their jobs. Neither is confirmed by the Senate.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Connecticut.

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

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

The Senator from West Virginia.

Mr. BYRD. Mr. President, if I may just momentarily desist and continue to hold the floor?

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

Mr. BYRD. Mr. President, throughout this debate—and there really hasn't been a lot of debate—there was talk about rushing this bill through and putting it on the President's desk before the August recess. Then there was kind of a fallback position in which it would be rushed through but it would be on the President's desk by 9/11, September 11. Neither of these efforts, as they appeared to be explained in the newspaper, was a very wise approach to dealing with such a very, very difficult, important—and I will use the word complex, which encompasses difficult as well, but I will add it to the sentence—piece of legislation.

How many Senators are paying attention to what is being said on this very important legislation? We have on the floor the distinguished manager of the bill, the chairman of the committee which had jurisdiction over this legislation, and we have the ranking member. These two Senators are here at their posts of duty. How many other Senators are there? I see the distinguished Senator from New Jersey, Mr. CORZINE, in the Chair. And here is this middling upstart from West Virginia at this desk.

So the deadline for completing this legislation by the beginning of the recess came and went, and the deadline of September 11 is going to come and go, but who is paying attention? My thought was that if Senators had the August recess, many of them would read this bill. What I mean by ''this bill,'' this bill is a House bill which was passed by the House after 2 days of floor debate—imagine that. Two days of floor debate. Why, it would take longer than that to get a sewer permit approved by the city council in many towns. And here we are passing a bill of this magnitude in 2 days by the other body and great pressure on this body, now, to act on this mammoth proposition, great pressure from the President, who is going up and down the country saying: Pass my bill. Pass my bill. Pass my bill. Then there are others from both sides who are willing to go along and really want to hurry through this legislation.

But let me say in all candor that if we do not pass this bill until next year, this country is not going to go undefended at its borders, at its ports, at its airports. No. The same people who will be working in the agencies within the new Department, when it is created, are already out there right now. They are out there on the borders today. They were out there last night when you and I were sleeping. I take it that you slept a little bit. I got a fair amount of sleep. But they were out there protecting us. They are at the airports. We are not satisfied with the protection we are getting at the airports, but I don't know that this bill is going to improve that.

But, in any event, what I am saying is that the very people who are going to be protecting the ports of entry, protecting the long borders to the north and to the south, protecting the seaports and the river ports, they are out there now. These are experienced people. These are those terrible Federal employees whose rights are about to be swept away under the administration's proposal. But under this bill they are being protected.

That is not exactly the point I am making. The point I am trying to make is why the hurry? On the other hand, in looking about this Senate one would say: Why not? There is no interest in this bill. Senators are not at their desks. Look on that side: One Senator. Look on this side: Two Senators, and one in the Chair. I am not saying that in derogation of Senators. They are busy, very busy. Senators are on committees, they have people back home who are No. 1. This is the people's branch. They are busy.

But how many Senators have read this bill? That is the key. If more Senators had read this bill than obviously have read it, I think we would have more Senators on both sides on the floor.

The chairman and ranking member have given plenty of attention to this bill. They worked for days. Their staffs worked for days and far into the nights in developing this piece of legislation. So we have several Senators on both sides of the aisle who have read the bill and worked over it and they have far more expertise so far as this bill is concerned than I have.

I am not on the committee that has jurisdiction over their legislation; what business do I have here?

Well, I have the same business here that every other Senator on both sides of the aisle has, and I have been concerned about this legislation. I have read the House bill. I have read the Lieberman substitute. And I have read them both more than once—twice is more than once, so I read them at least twice, you can say—you can draw from that statement. But I read this bill. When I say ''this bill,'' I am talking about the House bill and the Lieberman substitute. The House bill is the underlying bill here—we all know that—and it can be amended, too.

But the Thompson amendment is the amendment before the Senate right now, and it would strike title II and I believe it would strike title III as well; am I right?

Mr. LIEBERMAN. That is true.

Mr. BYRD. Mr. President, the Thompson amendment touches the bill in more than one place. It touches the bill in several places so it is open to a point of order to strike, a point of order against this amendment because it touches the bill in several places—more than one place, certainly. Also, it certainly is open to division. I am not sure at this point in time that I intend to pursue either of these two courses: make a point of order or ask for divisions. I am not sure of that at all.

I want to proceed right now with my statement. But I want to call attention to the fact that neither the Senate, apparently, judging from the attendance on the floor, nor the press is greatly concerned about this bill. Maybe Members and the media are just taking it for granted that this bill will pass, and it is a good bill, and the President wants it, and there it is; that is all there is to it. It is going to pass, so why fool around with it? Let's get on with something else. We have many other issues to occupy our attention.

I cannot fathom the reasons, except that I do not believe Senators have read this bill. I just do not believe it. If Senators read this bill, I think many more Senators would express concerns about it. Several Senators have expressed concerns about it. I am very concerned about it. It is a complex bill, and I think we are about to pass legislation here, if we are not very careful, that we will come to rue, that there will be many, many problems in connection with this bill that Senators have not thought through and will look back and say: My, how could that have happened? I didn't know that was in the bill.

So, in a way, I can understand Mr. THOMPSON's desire to strike titles II and III of the bill. I can understand that. I am not all together happy with either of those titles. But I think that the Senate will err in adopting the amendment by Mr. THOMPSON.

Throughout this debate, such debate as we have had, I have made clear my respect for the efforts of Senator THOMPSON in his work with Chairman LIEBERMAN on the homeland security bill. First of all, I think the Senator from Tennessee, Mr. THOMPSON, has a head full of common sense. You can find a good bit of that in those Tennessee hills and throughout most of Appalachia. I can say that because I am likewise from Appalachia. There are several States in Appalachia. But this Senator from Tennessee is one of the Senators representing a State in Appalachia where the common people, the common folk live. There are a lot of them down there, just ordinary people who live on my side of the tracks, the side of the tracks where I grew up.

I have also made clear my intention to oppose any effort that I believe jeopardizes the rights and liberties of the American people. I, therefore, must oppose Senator THOMPSON's amendment because, as I see it, it would contribute to the undermining of our constitutional system of checks and balances between the executive and legislative branches.

Now, to begin with, let me say that the administration's proposal does exactly that in several ways. I will not go into all the ways today. But if Senators will take the time to read the House bill, which reflects, in great measure, the administration's position on homeland security, they will find many instances in the House bill reflecting the administration's position which do just that—that get between the Constitution and the people, that put the Constitution and the people off to one side—and while this piece of legislation goes like a steamroller over that constitutional system of checks and balances, the separation of powers.

So the Thompson amendment would strike titles II and III of the Lieberman substitute. Title II is a title that provides a National Office for Combating Terrorism be established within the Executive Office of the President, presumably to replace the current White House Office of Homeland Security.

So we already have, in essence, just such an office as the one we are talking about in title II; namely, a National Office for Combating Terrorism. There is already one in the White House. There is already one established within the Executive Office of the President. It has not been established by law, but it has been established by Executive order. I do not have much use for Executive orders, whether they are issued under a Republican President or a Democratic President. But this legislation would replace, in my judgment, the current White House Office of Homeland Security.

In the legislation we are talking about here, in title II of the underlying legislation, such an office would be headed by a Director, who would be subject to Senate confirmation and made accountable to the Congress. Get that.

We already have such a Director down at the White House now working within the office of the White House, and that person is Tom Ridge, a former Governor of Pennsylvania. He has been there quite a while. He has been given a great deal of authority by the administration, by this President. He is an individual who is not subject to Senate confirmation and, therefore, is not made accountable to the Congress.

This legislation would make him subject to confirmation and accountable to the Congress. Why shouldn't that be the case?

Mr. President, the White House Office of Homeland Security was created to respond to an immediate need for an Executive Office that would oversee our Nation's homeland security efforts. Since its creation, however, it has become clear that that office, which has taken on such an important role in protecting our homeland, was also designed to be insulated from the American people, to operate from within the White House without congressional oversight and outside our constitutional system of Government, without, as I say, congressional oversight.

Now, Senator STEVENS and I, as all Senators know, tried repeatedly to have Mr. Ridge come before the Senate Appropriations Committee and testify on the budget for homeland security. The Director of the Office of Homeland Security has repeatedly refused.

I say with respect to Mr. Ridge, he is a former Governor. He is a very able, likable man, who once served in the Congress of the United States. He repeatedly refused to testify before the Congress. The administration arrogantly, in my opinion—arrogantly—maintained that he is accountable to the President only and not to the people's Representatives.

Now, I have some sympathy for the argument that a President ought to be able to have advisers from whom he can receive confidential guidance.

I am not saying that every Tom, Dick, and Harry, every clerk high and low at the White House, should have to come up and testify before the Congress if it invites him or her up to the Hill. I have sympathy for that idea as a concept.

But in the Director of Homeland Security, we have something that goes far beyond a mere staff person, far beyond a mere adviser to the President.

The Bush administration designed the Office of Homeland Security to be the Federal Government's point man on homeland security. There is the man. He is the man in whom the President of the United States has reposed great confidence and authority. Authority? Well, there was an Executive order.

The Office of Homeland Security was intimately involved in crafting the President's proposal to create a new Department of Homeland Security. I have said many times, I have almost spoken ad nauseam about the way this idea was initiated in the bowels of the White House and brought to life, much like Aphrodite, who sprang to life from the ocean foam and later appeared before the gods on Mount Olympus, and they all were much taken with Aphrodite; or much like Minerva who sprang from the forehead of Jove, fully armed, fully clothed, fully grown. And here it is, Minerva.

Well, that is the way this thing kind of came up. It came right out of the White House like an ocean foam. There it is, bango. You got it. We have something here that was created, lock, stock, and barrel, from an embryo of a tiny imagination. It was not quite the committee that created the Declaration of Independence, not quite of that caliber, but it was a committee of respectable men. There were four of them.

It was all done in secret, you know, down there in the subterranean caverns where there was not even a candlelight whose rays might illuminate just what was being talked about. But here it came.

Do you know why it came? In large measure, I say to my friend, Senator THOMPSON, I think one of the compelling factors in this idea that sprang from the White House foam might have been that legislation, that appropriations bill which was fast approaching and which had in it the language that Senator STEVENS and I put in it to require Mr. Ridge to be confirmed by the Senate of the United States.

That was in the appropriations bill. That appropriations bill passed the Senate in the seventies for it. Nobody took on provision. Nobody attacked that provision when it was before the Senate. Nobody tried to strike it. But there was a provision in that appropriations bill that said the Director of Homeland Security should be confirmed by the Senate of the United States.

Well, the administration saw that coming. They saw it coming like a train down the track. And it passed the Senate. Nobody raised any questions about it. It was headed for conference. And it went to conference.

So the administration, I think, thought: Wait a minute here. We had better get on board. Let's not get on board. Let's get ahead of that train. That is a fast train coming down the track. Let's get ahead of it. And so here came this thing out of the dungeon, out of the dark bowels of the Earth, beneath the White House.

So the administration had to do something fast to get ahead of this train so that the administration could claim, of course, credit for it. So here they came with this big idea of having a Department of Homeland Security. I am not sure they would have done that had TED STEVENS and I and the other members of the Appropriations Committee not included that provision in our appropriations bill which passed the Senate with nobody raising a finger against that provision. The administration saw that train coming.

The Office of Homeland Security was intimately involved in crafting the President's proposal to create a new Department of Homeland Security. Its Director has represented our Nation in forging international agreements related to our homeland security. You see, Governor Ridge could go to Mexico, he could go to Canada, but he couldn't come here before the Senate Appropriations Committee. ''No. No. No, don't throw me into that briar patch.'' He didn't want to come here. I think probably it was the President who didn't want him to come here.

Further, the President has vested in the Director of Homeland Security budgetary powers that led our colleague, Senator SPECTER, to say in testimony before the Governmental Affairs Committee in April:

> Some have compared Governor Ridge's position to that of Dr. Condoleezza Rice, the National Security Adviser. However, Governor Ridge's authority over such a large piece of the budget clearly distinguishes his position from that of the National Security Adviser. When an adviser such as Governor Ridge has significant responsibility for budgetary matters, he should be subject to congressional oversight.

That was Senator SPECTER. He went on to say:

We need to ''codify'' Governor Ridge's position.

The Office of Homeland Security is perhaps the clearest example of the administration's contempt, utter contempt, for Congress, a contempt that drives the White House to operate in a cloud of secrecy, beyond the boundaries of our constitutional system of government.

I recall—I am sure my distinguished friend from Tennessee recalls because he was here, as I was, and he was right in the middle of the news of that day and time—the Nixon administration attempting to create an entire executive system to bypass Congress. It has been called a ''personalized presidency.'' It has been called an ''administrative presidency.'' But whatever we call it, President Nixon wanted an administration in which the Federal Government would be run out of the White House, while the executive departments, those agencies and offices that are subjected to the oversight of Congress—I am talking about the people's branch—were, for all practical purposes, stripped of policymaking powers.

I do remember that period quite well. I was the Senate Democratic whip at the time. Senator THOMPSON must remember that period, too. He was minority counsel to the Senate Select Committee on Presidential Campaign Activities—in other words, the Watergate committee. He did a very competent job because he is a very competent man and a very knowledgeable person, as I said, and has a lot of the sense of the American people who read this thing and who are far ahead of any of us most of the time.

I remember not only the Watergate scandal, but I also remember the atmosphere and the culture that created it. As President Nixon's counsel, John Dean, later pointed out, Watergate was ''an inevitable outgrowth of a climate'' that had developed over the previous years of the administration.

Foreign and military policy at the time was being run not by the State Department so much or the Defense Department but largely out of the White House by the National Security Council, with National Security Adviser Henry Kissinger in command. There existed at the White House a layer of Government between the President and his Cabinet departments, with their congressionally confirmed Cabinet secretaries.

To run domestic policy, the Nixon administration created a White House Domestic Council, which was patterned after Kissinger's version of the National Security Council. According to former Nixon administration official Richard Nathan, in his book, ''The Plot That Failed: Nixon and the Administrative Presidency,'' Nixon's intent was ''to achieve policy aims through administrative action as opposed to legislative change.'' I repeat, ''through administration action as opposed to legislative change''—by the White House rather than the Congress, where the people have their say.

I recall the Nixon administration's defiance of Congress and the constitutional process. This included Nixon administration officials refusing to appear before Congress. It included the Nixon administration's efforts to ''stonewall'' Congress by denying information to congressional committees. It included the Nixon administration's efforts to belittle Congress and its constitutional responsibilities. It included the impoundment of funds appropriated by Congress by Mr. Nixon.

''Quite clearly,'' I wrote in my own history of the Senate, ''President Nixon set out to circumvent Congress.''

''Had Nixon succeeded,'' wrote Arthur Schlesinger, ''he would have effectively ended Congress as a serious partner in the Constitutional order''—a stunning thought that, through such brazen power grabs by the administration, in fact, one man could so dramatically shift the balance of power that safeguards the people's liberties. It should worry us all. It should worry us, as the people's elected representatives. It should worry the media, as the fourth estate that is to enlighten the people—our people. It should worry us all just how easily that shift can be accomplished.

Cloaked in secrecy and shrouded in arrogance, the Nixon administration became one in which the President and his aides believed that they operated outside the constitutional process and beyond congressional oversight. ''Even before Watergate,'' wrote Nathan, ''Nixon's management strategy was criticized as dictatorial, illegal and impolite.''

My point is that Watergate didn't just happen. Years of Executive secrecy and arrogance and contempt for Congress created it. As John Dean said, it was an ''inevitable outgrowth.''

When I think of these preconditions that led to Watergate, I keep thinking—I cannot help but think of the current administration. I am concerned—no, let me say I am not just concerned, I am alarmed that in this administration we are witnessing another Nixonian approach to Government; that is, holding the Congress at bay, saying to congressional committees, no, this man won't come; he is not coming up there—holding the Congress at bay using Senate-confirmed department and agency heads, while the real policy decisions are being made by advisers to the President behind the protected walls of the White House. That is where the real decisions are being made.

The Assistant to the President for National Security, Condoleezza Rice, plays a major role in crafting foreign policy for the Bush administration. That position, however, unlike that of Secretary of State, is not subject to Senate confirmation. While the Secretary of State testifies regularly before the Congress and is accountable for the Bush administration's foreign policy, the President's National Security Adviser operates secretly, inside the White House, and is largely unaccountable to the American public.

The same can be said for the Assistant to the President for Economic Policy, Larry Lindsey. The President's economic adviser is not subject to Senate confirmation and, while he crafts economic policy for the administration, he is not accountable for that policy to the Congress. The Treasury Secretary, who is confirmed by the Senate, has to justify his decisions and actions to Congress and to the public. The President's economic adviser, however, has no such obligation.

These are policymakers inside the White House who operate outside the constitutional system of checks and balances.

With the creation of this new Department of Homeland Security, my concern—indeed, what should be the concern of every Member of this body—is that the Department and its Secretary will be used as decoys to divert the attention of the American public away from the White House's Office of Homeland Security and its Director, Tom Ridge.

I speak with great respect for Tom Ridge, who happens to be the person in that position at this point. It could be ''Jack in the Beanstalk,'' or John, or Henry, or Robert—whatever. The White House has tried to shield that office. I know. TED STEVENS knows that. I know the White House has tried to shield that office from the Congress and the American public ever since its creation last year. Oh, they are willing to come up, yes. I heard from Tom Ridge. He was willing to come up and brief the members of the Appropriations Committee.

Well, now, that is a way of getting around what the people desire. The people deserve something better. The people deserve to see these hearings. The Appropriations Committee has been created now since 1867. So for these 135 years, since its creation, that is the way it has been done. I know the other body apparently settled for that kind of thing but not our side; we are not going to settle for that. We will do it the way it has always been done—out there within public view, with the record being written, questions being asked, and the American people watching.

The American people want answers to these questions, not just members of the Appropriations Committee. So it is the way it has been done for 135 years, and as long as I am chairman, that is the way it is going to be done. We are not going to settle for merely briefings. We can get that from lots of people.

But title II of the Lieberman bill seeks to make the actions of a Homeland Security Office inside the White House more accessible and more accountable to the public. What we must strive to avoid is a White House Homeland Security Office—be it the Ridge

office or John Doe's office or the one envisioned by the Lieberman substitute—that would act as a puppetmaster for Homeland Security, pulling the strings of the new Department and its Secretary from behind a curtain of secrecy.

That is why it is so important that the White House office, whatever its form, whoever its Director may be, be held accountable to the Congress and the American people. The head of that office must be a confirmable position, no matter what the President—any President—may say. After all, we hear that this battle, this war on terrorism, is going to go on for a long time. So I take ''a long time'' to mean beyond this year, beyond next year, beyond the next election, beyond the next 2 years. And who knows, we may have a different President in 2 years; we may have a Democratic President.

Will I feel any differently? No, not one whit. No. The head of that office must be a confirmable position. If the war is going on for a long time, that position is going to be there a long time. That office will be there a long time, and it should be a confirmable position.

If there is a Democratic President in office 2 years from now—and who knows. I do not know if I will be around or not. Only the Good Lord knows that. But whether I am around or not, that position, under a Democratic President or under a Republican President, should be confirmed by the United States Senate. He should be accountable to the American people, the people out there who are looking through those electronic lenses right up there, right now. He should be accountable to them.

Mr. President, the men who drafted our Constitution carefully laid out a system of government that has worked remarkably well for more than two centuries. It began in 1789. The First Congress in 1789 was probably the most important Congress of any of the 107 Congresses we have had. There was no Congress before it to tackle those problems. That Congress took on great problems, and the Senate especially is to be credited with the formulation of the Judiciary Act, creating the judiciary.

There we are, 1789. What would those signers of that Constitution think about the way we are running our Government today? Would they say to ROBERT BYRD: Senator BYRD, you should take your seat; there is no reason for that person to be confirmed; he should not be confirmed; we should accept at face value whatever President is in office, whether he is a Democrat or Republican. They would say: We did not have any political parties in our time, but you have them. You ought to just sit down and not worry. Leave it all to the President. If he is a Democratic President, leave it all to him. If he is a Republican President, leave it all to him. Leave it up to him. Trust him. Don't require that person to be confirmed.

How many Senators would believe those men who signed that Constitution of the United States would say that? They would turn over in their graves, as we hear an expression often in our part of the woods. They would turn over in their graves to even contemplate such a thing.

A major reason our Government has been so successful is that our Founding Fathers were wise and cautious people who had no naive expectations about human behavior. They understood human behavior. It has never changed. It is just like it was when Adam and Eve were in the garden, just as it was when Cain slew Abel. It does not change. That is why we have Saddam Hussein because human nature has not changed.

Everybody loves power, and sometimes we get intoxicated with the power we have. That intoxication feeds on intoxication and power feeds on power. I would much rather believe that the American people were in the mix. I should think any President would want that to be the way: I have nothing to hide; let the American people see it.

James Madison, the Father of our Constitution, had a shrewd view of human nature. He knew that those who achieved power too often tried to amass more power or, in other ways, misuse their power. ''If men were angels,'' he observed in Federalist 51, ''no government would be necessary.''

According to Madison, history showed that those in power often overreach; they want more. It is like that song: Give me more, more, more of your kisses. They want more, more, more power.

According to Madison, history showed that those in power often overreach and, as a result, power too often can become located in a single person or a single branch of government, either of which is dangerous to liberty. That is what we are talking about, the liberty of the American people. We are not talking about the prerogatives of the Senate per se. They are prerogatives of the Senate by the Constitution, but it goes deeper than that.

We are talking about the people's liberties. ''The accumulation of all powers, legislative, executive, and judiciary, in the same hands,'' wrote Madison, ''may justly be pronounced the very definition of tyranny.''

This very point was emphasized by none other than the Vice President of the United States, RICHARD CHENEY, when as a Member of the House of Representatives, during a hearing by the Iran-Contra committee, he, RICHARD CHENEY, lectured Oliver North saying, and I quote the now-Vice President:

> There is a long tradition in the Presidency of presidents and their staffs, becoming frustrated with the bureaucratic organizations they are required to deal with, to increasingly pull difficult positions or problems into the White House to be managed because there is oftentimes no sense of urgency at State or at Defense or any of the other departments that have to be worked with. . . . [P]roblems . . . that automatically lead presidents sooner or later to move in the direction of deciding that the only way to get anything done, to cut through the red tape, to be able to move aggressively, is to have it done, in effect, inside the boundary of the White House.

That was now-Vice President CHENEY back then.

Is that what is going on now? I remember the concerns and issues raised by Members on the other side of the aisle when the Clinton administration's health care task force was forming its policies in secrecy. One Republican Senator, who is here today—not on the floor right at this time—denounced the Clinton administration for operating—and I quote the Senator—a ''shadow government, without accountability to the American people.''

That Senator went on to say that:

> All Americans should know what their Government is doing and how it is spending public funds. That is just the way we ought to do things in a democracy.''

While I do not agree this is a democracy—Senators know we do not pledge allegiance to the Flag of the United States and to the democracy for which it stands. This is a republic. But that is neither here nor there.

This Senator said that is just the way we ought to do things in a democracy. Well, I think that Senator was right. He was a Republican Senator from Iowa, Senator GRASSLEY.

Another Republican Senator at that time, Senator Simpson, charged:

> The secrecy on the ongoing negotiations within the confines of the White House is a major concern of mine. . . . Health care is too important an issue to the American public to deliberate behind secretive walls of the White House.

Well, Senator Simpson was right, too. I do not dispute those comments, but I do ask this: If health care is too important an issue to the American public to deliberate behind the secretive walls of the White House, then what about the challenges of protecting our Nation in this frightful new age of terrorism, and what of a White House that seeks broad new authorities without respect to the harm they may do to the people's liberties or to our system of government? What about an officer who has his hand in intelligence, health care, law enforcement, commerce, environmental protection, transportation, agriculture, all matters that fall under the broad rubric of homeland security? What of a White House officer who would be granted never-before-seen authorities to involve the U.S. military?

Now get this, Mr. President, as you sit up there in that chair presiding over this august body. It is probably not very difficult to preside over when there are only three Senators in the Chamber. What of a White House officer who would be granted never-before-seen authorities to involve the U.S. military in any domestic matter that can be labeled ''homeland security''? What about that?

Let me read that again. What of a White House officer who would be

granted never-before-seen authorities to involve the U.S. military in any domestic matter that can be labeled ''homeland security''?

That is enough to choke on, is it not? Give me a glass of water. My gosh, that is enough to choke on. That is more than a bone. We will find that more than a bone in one's throat.

The White House is clearly seeking new and expanded roles for the military within our own borders. It has articulated as much in the homeland security plan the President released last July.

The White House aims to provide broad authorities to the military as part of its national antiterrorism homeland security plan. That should give us all pause.

I am certainly not to be equated in any sense with George Washington, but I think of George Washington who said, I have grown old and gray in my country's service; now I am growing blind. So in that sense I am a bit like George Washington.

Now, when we are talking about the military, I am reading from the national strategy for homeland security. This is what it says, in part—these are major Federal initiatives. I will just pick out this one. It jumps out at me.

> Review authority for military assistance in domestic security. Federal law prohibits military personnel from enforcing the law within the United States except as expressly authorized by the Constitution . . .

Oh, that word. How many of us have heard that word on television recently, the word ''constitution''? Let me read that again.

> Federal law prohibits military personnel from enforcing the law within the United States except as expressly authorized by the Constitution or an act of Congress. The threat of catastrophic terrorism requires a thorough review of the laws permitting the military to act within the United States in order to determine whether domestic preparedness and response efforts would benefit from greater involvement of military personnel and, if so, how.

All right, Senators, see if you can swallow that one. Apparently, there is some thinking going on in certain circles, because this says so, that the threat—I will read this portion again:

> The threat of catastrophic terrorism requires a thorough review of the laws permitting the military to act within the United States in order to determine whether domestic preparedness and response efforts would benefit from greater involvement of military personnel and, if so, how.

I say to Senators, beware.

The Lieberman substitute includes language requiring the Director of the new National Office for Combating Terrorism, in consultation with the new Homeland Security Secretary, to develop a national strategy that would include ''plans for integrating the capabilities and assets of the United States military into all aspects of the Strategy.''

Let me read that to Senators. I read from the substitute by Mr. LIEBERMAN. I read title III, section 301, the section entitled ''development,'' which says:

> The Secretary and the Director shall develop the National Strategy for Combating Terrorism and Homeland Security Response.

Then it goes on and tells the responsibilities of the Secretary, and among those responsibilities I go down to the word ''contents,'' and then I go down to the fourth paragraph which reads as follows:

> Plans for integrating the capabilities and assets of the United States military into all aspects of the Strategy.

Title III of the Lieberman bill talks about the Strategy. And so the Director and the Secretary together will develop the National Strategy for Combating Terrorism and Homeland Security Response. That is being done now in the White House by the Director, Tom Ridge, I would say undoubtedly.

Senator LIEBERMAN is trying to put—I have a little dog. I used to have a dog named Billy. I have a little dog now whose name is Trouble. My wife named him Trouble. She may have been looking at me when she named the dog. We put a little collar on that dog, and then I have a nice little chain that goes into the collar. That little dog might go astray if we did not have that collar on that sweet little dog. She has my wife and I around her two front paws. So when I take her out for a walk, she then would not run out on the street and get run over by a car.

Senator LIEBERMAN is seeking to put a collar on this office. He is seeking to put a chain on it, and for good reason. So Lieberman's substitute includes language requiring the Director—this is the chain in the collar—requiring the Director of the new national Office for Combating Terrorism, in consultation with the Homeland Security Secretary, to develop a national strategy that would include plans for integrating the capabilities and assets of the U.S. military and to all aspects of the strategy. The White House Homeland Security Director, Mr. Ridge, is under similar orders from the President. But at least, as I say, under the Lieberman plan, the Government official responsible for developing plans to mobilize U.S. troops within our own borders, if it comes to that, would be held accountable—and I hope it does not come to that—to the American public and the Congress. That is a critical difference.

Certainly the American people should feel uncomfortable with the thought of government officials, hidden away inside of the White House, drawing up plans on how to insert the military into the homeland security efforts of our communities. Ours is a nation in which the streets of our small towns and large cities are patrolled by civil forces, not tanks and black hawk helicopters. Our policemen are accountable to locally elected leaders, not four-star generals in distant command centers. Our citizens are tried in courts of law, not secret military tribunals. We may, in an abstract sense, recognize the danger of a growing involvement of the military in civil affairs, but we do not seem to recognize that the wall between civil and military government may be eroding as we speak. It is imperative, therefore, to ensure that any White House officer who would be granted such broad powers—as, say, Mr. Ridge would be—to insert the military into ''all aspects'' of the homeland security strategy should also be made accountable to the people's representatives.

I recognize the value of an Executive Office to coordinate homeland security efforts across the Federal Government. But there is also a need to ensure that any office with such long arms, so able to reach into the affairs of so many agencies, and with powers so sweeping that it can trim the liberties of the American people is, ultimately secured under the control of the people. Title II of the Lieberman bill attempts to respond to that need.

The mere fact that White House advisors have quietly accumulated broad powers in the past is certainly no reason to allow a White House office with influence of this magnitude and without congressional oversight to go forward.

We stand today in the swirl of unanswered questions about this administration's intent with regard to an unprovoked, preemptive attack against the sovereign nation of Iraq, the reasons for which have not yet been explained to Congress or the American people. Perhaps the White House has the answers to the questions that people are asking about why we may soon send our sons and daughters to fight, and perhaps die, in the sands of the Middle East, but thus far, we have encountered only a wall of secrecy at the other end of Pennsylvania Avenue—a wall built on the pillars of Executive privilege.

On the issue of homeland security, however, the lives at risk are not only of those who have chosen to serve our country in uniform. Homeland security is about protecting the lives of innocent civilians—men and women, children and grandparents—from terrorist attacks. The current administration is quite evidently eager to avail itself of every past precedent and every current day opening to hide its affairs from the public eye. If anything, we, the people's representatives, should be alarmed.

If I were Paul Revere and had the lungs, brass lungs, if I could speak as thunder from the cloud in a storm, I would insist that any such powerful White House Homeland Security Office not be allowed to operate outside the reach of the American people.

So I urge the Senate to refuse to be a party to erecting such a dangerous wall of secrecy between the people and their government. I urge the Senate to refuse to be a party to erecting such a dangerous wall of secrecy between the American people and the American Government, their Government. I urge my colleagues to vote against the Thompson amendment.

So, Mr. President, here we are. We are talking—I am not sure we are debating it, but we are talking—about this massive piece of legislation that would constitute the greatest reorganization of the American Government since 1789—not since the Department of Defense was created, not since the National Security Act, but I think the greatest reorganization of Government and, it is certainly arguable, since 1787, when our constitutional forebears met in Philadelphia to create a new Constitution, a new Government under a new Constitution, while those men at Philadelphia were serving under the Constitution that then guided them, and that then obtained the Constitution under the Articles of Federation. That was the first Constitution, that was the first American Constitution. There were State constitutions, State constitutions in 13 States before that time. They reconstituted this Government. Not all of the delegates from the 13 States attended; Rhode Island did not think too much of the idea. But under that Constitution, and the new Constitution, the support and ratification by nine States would constitute enough, a sufficient number to adopt this new Constitution and create a new order of—a new order of the ages. ''Novus ordo seclorum,'' a new order of the ages. There it is, up there on the wall. They created it.

''Annuit coeptis.'' He has favored our undertakings. God.

So they set forth a new order for the ages. They created anew, they reorganized this Government. That was the greatest reorganization ever. And there was the reorganization of the military that we have already talked about. And now we come along with this reorganization. But this is a far-reaching reorganization and this is a new Department.

Senators will remember the first three Departments were the Department of State or foreign affairs, the Department of War, and the Department of the Treasury. And the first committees, the real committees of the Congress, were created in 1816—the permanent committees. And the Appropriations Committee, as I say, was created in 1867. But here we are. We are creating a new Department of Government.

I have been here when several new Departments have been created. This will not be my first one, but this is the one which gives me greatest pause, the creation of this Department.

I will not proceed to make a point of order against this amendment at this time. I am not the manager of this bill. I am not even on the committee that created it. But I still have the rights of any Senator, so I can make a point of order. But out of courtesy to the distinguished chairman of the committee and the distinguished ranking member, who certainly has listened to me and my concerns—and TED STEVENS and his concerns, our concerns with respect to the power of the purse—they have listened and they have given great consideration to our concerns in those regards—I will not make the point of order, as I indicated was available to me and I could have made, but I am not going to do that out of respect for them. They are managers of the bill, not I. But I must say I am very concerned, extremely concerned about this whole matter.

I think the language that has been brought to the floor by Mr. LIEBERMAN and Mr. THOMPSON is—I wouldn't say light years ahead, but it is certainly way ahead of the House bill. I only hope Senators will read the House bill so that they can see the legislation that pretty accurately reflects the administration's position with respect to this new Department. I am telling you, it will make your hair curl if you pay close attention to that language.

I have some problems with this substitute, I have to say. But I will have opportunities as time goes on. I have an amendment which I will offer. I have more amendments than one, but I do have one I am going to offer within the next few days.

I hope, may I say to the chairman and ranking member, that other Senators will come to the floor and discuss this amendment. I hope they will come to the floor and discuss this amendment. I hope they will read in the RECORD tomorrow morning what was said today and that they, too, will come to the floor. The people will profit by vigorous debate.

I thank both Senators for their courtesies to me. I have great respect for them.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank the distinguished Senator from West Virginia for a characteristically learned statement, and also for the passion with which he has delivered it. He always informs this Senator and illuminates and informs the debate generally. I am very grateful to him.

I share his wish that Senators will come to the floor and debate this amendment. This amendment really does, as I indicated earlier today, go to one of the pillars of the bill. It is not just a bill to create a Department of Homeland Security. It is a bill to create a Department of Homeland Security and Combat Terrorism. The strength and structure and authority and accountability of this White House office really will determine, in my view, how effectively we will be able to combat terrorism.

Senators were here for a vote earlier today. As the Senator from West Virginia said, I know and respect the difficult schedules of Senators, but this is a very important amendment and I hope more Senators will come to the floor tomorrow. I believe it is the intention of the leadership to move to a vote on this amendment sometime tomorrow afternoon. There are many amendments filed by other Senators. This is the beginning of the second week on which we have been on this bill, though last week was a shortened week because of Labor Day at the beginning and our joint meeting in New York at the end.

This bill deserves the involvement for which the Senator from West Virginia has called. I thank him for it. I echo it. We are going to keep moving forward.

I thank Senator THOMPSON for putting forward a very consequential amendment which deserves the attention of all Members of the Senate.

I appreciate what the Senator from West Virginia has said. There is a point of order that is appropriate here. He reserves the right, of course, to make that point, as others of us do, and I would like to counsel with him on this tomorrow as we go forward and also to engage the Senator from Florida, Mr. GRAHAM, who was a major contributor and drafter of this particular part of the amendment we have put before the Senate.

The bottom line is I want to thank the Senator for West Virginia for his commitment, his understanding of how significant this piece of legislation is, and the extent to which he has devoted his valuable time to studying the various proposals and then his valuable time to preparing the learned statements—I go back to that adjective—learned statements that he has already made in the 3 or 4 days we have been on the bill, on different parts of the bill. He sets a standard for the rest of us. I must say even when, as occasionally happens, I do not agree with him, I always benefit from his involvement and appreciate very much his extraordinary public service.

I yield the floor.

Mr. WARNER. Mr. President, on June 6 of this year, President Bush proposed the establishment of a Department of Homeland Security and, arguably, the most fundamental reorganization of the United States Government since the passage of the National Security Act of 1947.

This proposal by our President is the logical culmination of a very deliberate process that started when then-Governor George W. Bush established homeland security as his highest priority during a speech at the Citadel in September 1999, when he stated, ''Once a strategic afterthought defense has become an urgent duty.''

While I support the overall intent of the legislation and strongly agree with the need to better organize our Government to protect our homeland, I do not support all provisions of this bill as drafted. Two such provisions are addressed by the pending Thompson amendment—which I support—which would strike titles II, and III of the underlying legislation.

Title II mandates the establishment of a National Office for Combating Terrorism and title III mandates the development of a national strategy for terrorism and homeland security response. I would like to note that the

administration is strongly opposed to both of these titles.

On October 8, 2001, following the tragic events of September 11, President Bush formed the Office of Homeland Security in the Executive Office of the White House to oversee immediate homeland security concerns and to propose long-term solutions. Governor Ridge and others have worked hard under the President's guidance to produce a comprehensive plan that now deserves our serious consideration and support.

To now mandate the establishment of a national Office for Combating Terrorism within the Executive Office of the President would be redundant to the structure currently in place, particularly since the President has already stated his intention to retain the position of Assistant to the President for Homeland Security.

Additionally, I have serious concerns about the budget review and certification authority provided by this legislation to the proposed Director of the National Office for Combating Terrorism. In my view, such authorities would undercut the ability of several Cabinet-level officials, including the Secretary of Defense, the Secretary of State, the Attorney General and the Director of Central Intelligence, as well as the new Secretary of Homeland Security, to carry out their primary responsibilities.

In the case of the Department of Defense, the Secretary of Defense has wide-ranging responsibilities to protect vital U.S. interests and to prevent threats from reaching our shores. The Department, under the leadership of Secretary Rumsfeld, is currently engaged in an all-out global war against terrorism—designed to bring to justice those responsible for the September 11 attacks on our Nation and to deter would-be terrorists and those who harbor them from further attacks.

The Secretary of Defense must ensure that the Department is adequately and properly funded to carry out its many missions. It would be unwise to subject portions of the budget carefully prepared by the Secretary of Defense to a ''decertification''—in essence, a veto—by an official who does not have to balance the many competing needs of the Department of Defense and the men and women of the Armed Forces.

Title III of the pending legislation requires the development of a national strategy for combating terrorism and the homeland security response. When the President established the Office of Homeland Security, he directed Governor Ridge to develop a comprehensive strategy to protect the United States from terrorist attacks.

In July of this year, President Bush unveiled his Homeland Security Strategy, precluding the need for Title III of the pending legislation. Legislating anything other than a periodic review and update of this strategy in conjunction with normal updates of our overall national security strategy would be burdensome and would divert attention and resources away from the administration's focus on homeland defense and the global war on terrorism.

As the President stated in releasing the homeland security strategy on July 16, ''The U.S. Government has no more important mission than protecting the homeland from future terrorist attacks.'' We in the Congress should do all we can to help our President achieve this goal.

I urge my colleagues to support the Thompson amendment.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that the Senate now proceed to a period for morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER (Ms. CANTWELL). Without objection, it is so ordered.

TRIBUTE TO MR. PAUL SCHNEIDER

Mr. LOTT. Madam President, I would like to recognize the professional dedication, vision, and public service of Mr. Paul Schneider, who is leaving his position as the Principal Deputy Assistant Secretary of the Navy for Research, Development and Acquisition. It is an honor for me to recognize the many outstanding achievements he has provided to the Assistant Secretary of the Navy for Research, Development and Acquisition, the Navy, and our great Nation.

Mr. Schneider has spent almost four decades ensuring our Nation and its naval forces are equipped with the technological supremacy to ensure victory over America's enemies. As our Nation enters the 21st century and faces new and unsettling changes, the leadership and technological achievements Mr. Schneider has nurtured will continue to ensure our strength and freedom.

Mr. Schneider began his public service career over 37 years ago at the Portsmouth Naval Shipyard as a project engineer to the Submarine Propulsion and Auxiliary Machinery Branch and Waterfront Design Liaison Office. Throughout the 1970s Mr. Schneider was a key member of the Navy's Trident submarine program, where he provided leadership, expertise, and vision in design, engineering, program management, and advanced technology development.

The Navy, recognizing Mr. Schneider's leadership and engineering expertise, brought him to the Naval Sea Systems Command in 1981 to be a Deputy Director in the Engineering Directorate where he was responsible for design and engineering of ship and submarine mechanical and electrical support systems and auxiliary machinery. In his next assignment, Mr. Schneider became executive director of the Amphibious, Auxiliary, Mine and Sealift Ships Directorate.

Throughout the 1990s, Mr. Schneider continued to be one of the Navy's leading engineers, becoming Executive Director of the Surface Ship Directorate. In October 1994, he became Executive Director and Senior Civilian of the Naval Sea Systems Command where he led efforts to revamp the Navy business process by adopting commercial cost processes and practices in the acquisition of major systems. He also implemented training and education programs to retool the Navy's acquisition workforce for the 21st century. In 1998, Mr. Schneider became Principal Deputy Assistant Secretary of the Navy for Research, Development and Acquisition.

Mr. Schneider has earned numerous awards, including the Department of Defense Distinguished Civilian Service Award, the Department of the Navy Distinguished and Superior Civilian Service Awards, and Presidential Distinguished and Meritorious Executive Rank Awards.

I could go on and on about the many significant contributions made by Paul Schneider throughout his long and distinguished career. There are almost too many to recount. Despite his many professional, technical, and engineering achievements, perhaps his most noteworthy trait is his genuine concern for those around him. He regards as his family the entire community of military personnel, civilian employees, contractors, and industry who faithfully serve the Navy throughout the world. His memberships in the American Society of Naval Engineers, Society of Naval Architects and Marine Engineers, Association of Scientists and Engineers, Navy League and the Naval Institute attest to his dedication to be a friend, counselor, and mentor to many hundreds of junior personnel who have had the pleasure to serve under him during his tenure.

I ask my colleagues to join me today as I wish Mr. Paul Schneider all the best in his future as he continues his successful career as Senior Acquisition Executive for the National Security Agency. On behalf of my colleagues on both sides of the aisle, I wish Paul and his loving wife Leslie fair winds and following seas.

REMEMBERING ALAN BEAVEN

Mrs. FEINSTEIN. Madam President, I come to the floor today to honor the heroism of Alan Beaven—a Californian aboard Flight 93 who helped prevent the terrorists from crashing another airplane into its intended target on September 11, 2001.

As we approach the one-year anniversary of that horrible day, our thoughts turn to the heroes like Alan who gave their lives to save others.

To honor the courageous passengers of Flight 93, I joined Senator SPECTER to co-sponsor the ''Flight 93 National Memorial Act,'' which I believe the Senate will pass today to establish a

memorial at the crash site in Pennsylvania. This legislation will also establish a Flight 93 Advisory Commission to recommend planning, design, construction, and long-term management of the memorial.

I believe it is important to pass this legislation before the anniversary of September 11 to appropriately recognize the heroism of Alan Beaven and the other Flight 93 passengers.

I would like to take a few moments to tell the world about Alan and his family.

Alan Beaven wasn't supposed to be on Flight 93 that tragic day. On Monday, September 10, Alan and his wife Kimberly were in New York planning for a year long sabbatical in India to work for a humanitarian foundation. Alan was a top environmental lawyer in San Francisco who planned to volunteer his services in India.

Alan was headed east, not west, but there was one last case involving pollution in the American River near Sacramento and settlement talks had broken down that Monday. Alan had to head back.

Tuesday morning Alan drove to Newark, New Jersey to catch a flight to the West Coast. Flight 93 was 40 minutes late that day—giving passengers onboard time to learn about the planes that had crashed into the World Trade Center and the Pentagon. A few called home on cell phones to express their love and say that a group of passengers were determined to fight back against the hijackers—Alan Beaven was one of those brave men.

No one knows for sure what happened aboard that airplane, but we do know countless lives were saved when that plane was diverted from its intended target.

Even though Alan's seat was in the back of the airplane, his remains were found in the cockpit at the crash site in Pennsylvania. The Beaven family has also heard Alan on the cockpit voice recorder, so it is clear that Alan, standing 6 feet 3 inches tall and weighing over 200 pounds, fought with the hijackers.

I will enter two letters I have received from the Beaven family into the RECORD. Alan's wife, Kimberly, and his son, Chris, wrote to me about what they heard on the cockpit voice recorder in April when the families of the passengers of Flight 93 were allowed to listen to the struggle aboard the aircraft.

My heart goes out to Alan's wife, Kimberly, and his three children John, Chris, and Sonali. John earned a biology degree at UC San Diego where he was captain of the baseball team and an Olympic torch bearer when the torch went through Sacramento on its way to Salt Lake City this past winter. John's brother Chris attends Loyola Marymount University and sister Sonali is 5-years-old.

Alan's great joy was his family. He spent hours reading to Sonali, scuba diving with Chris, and playing catch with John.

In fact, John's early memories of his father were of the two of them playing catch for hours on end. When John was 5, the family moved from London to New York and before they could drop off their luggage, young John made Alan play catch in Central Park.

In a tribute to Alan, the Beaven family decided not to have a funeral, but instead a ''Thanksgiving for the life of Alan Anthony Beaven.''

And what a life it was.

Alan was born in New Zealand on October 15, 1952. He worked as an attorney in New Zealand, England, New York, and California. As a top environmental lawyer, Alan worked on over 100 clean water cases in just 10 years in California.

Friends and family of Alan say they are not surprised that Alan risked his own life so selflessly to save others.

The day after the terrorist attacks on our nation, Alan's secretary went into his office and found a single piece of paper tacked up at eye level on the wall in front of his desk. It was a quote he heard that week which summed up how he lived his life, and how he ended it when he joined others to fight back against the terrorists. Alan wrote, ''Fear, who cares?'' And these words adequately describe his actions aboard Flight 93.

I did not know Alan Beaven, but this quote tells me all I need to know about him—that he was a fearless, loving, and devoted man.

One year later, it is clear that our Nation has lost a superstar environmental lawyer, a loving father and husband, and a true hero—Alan Beaven.

I ask unanimous consent to print the two letters to which I referred in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AUGUST 9, 2002.

Hon. DIANNE FEINSTEIN,
U.S. Senator, Hart Senate Office Building, Washington, DC.

DEAR SENATOR FEINSTEIN: My father, Alan Beaven, was among those 33 passengers of United Airlines Flight 93. Their hurried steps toward the cockpit were the first in an international campaign against the threat of fanatical hostility. For this they should be celebrated.

My dad played a central role in the deposing of his flight's assailants. Not only did he cooperate in an organized effort but he commanded it as well. for this effort he should be particularly acknowledged.

The cockpit recorder (C.V.R.) substantiates my claim of his exceptional heroism. At a private listening in Princeton, New Jersey I twice heard his accented words. His final phrase, ''Turn up!'' was shouted at 10:02:17.3 on the official C.V.R transcript. Given the range of sensitivity of the cockpit microphones and my father's seating placement in the rear of the plane I reasonably believe that these findings indicate my dad's extraordinary actions.

Secondly, my father's remains were recovered in the front of the aircraft. Authorities confirmed that D.N.A. testing placed him in the cockpit at the time of impact. Again, given his seating placement, this evidence undoubtedly proves his centrality in the effort to regain custody of United's Flight 93.

Though my father did not place a telephone call in his final hour, other such correspondences indicate his exceptional involvement. Reports were made of great men well above the height of six feet leading the passengers toward the captured cockpit. My dad, 6′3″ and 215 lbs., was one of few men who met this description.

Finally, the assumption of his extraordinary bravery in death is founded on the thematic valiance of his life. Whether in his professional or personal activities he met opposition with strength and spirit. It is understood by all who knew him that he continued this trend in passing.

In conclusion, I concede that assumptions based on the thematic valiance of his life do not warrant superlative public recognition. However, his stature and his physical placement at impact beg it. Finally, the cockpit voice recording demands it. I ask you to do all in your power to issue due credit to my father. He led a group that led a nation that led an international campaign against the threat of fanatical hostility. My father is a hero.

Sincerely,

CHRIS BEAVEN.

AUGUST 1, 2002.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR FEINSTEIN: On April 18, 2002 in Princeton, NJ, I heard the voice of my husband, Alan Beaven, on the cockpit voice recorder of United Airlines Flight 93 that crashed in Shanksville, Pennsylvania on September 11, 2001.

I know without a doubt that I heard Alan's voice shout ''Turn up!'' at the time on the tape's clock of 10:02:17.3. My stepson, Chris Beaven, who was listening to the VCR at the same time, independently made note of the exact same words and time.

There are at least two other occasions that I am very confident that Alan's voice was recorded. These additional times were of shouting and ''aargh'' noises, familiar to us as Alan often ''wrestled'' playfully with his sons. The distinct sounds were very similar. The times I noted for these sounds were 9:38:36.3 and 9:40:17.7.

As you know, Alan's physical remains were found in the cockpit area of the plane. Alan was a 6 foot 3 inch, 205 lb powerful man. A brilliant litigator who made his life's work fighting for justice. I, and all who knew Alan, know he was an active participant that fateful day.

Please ensure that Alan Beaven and all the passengers of Flight 93 are duly honored for their heroic actions in preventing the terrorists from destroying their intended target in Washington, D.C.

Sincerely,

MRS. KIMBERLY BEAVEN.

JOHN E. COLLINGWOOD OF THE FEDERAL BUREAU OF INVESTIGATION

Mr. THURMOND. Madam President, I rise today to recognize the service of my good friend John E. Collingwood, upon his retirement as the Assistant Director for the Office of Congressional and Public Affairs for the Federal Bureau of Investigation. Mr. Collingwood will retire after 27 years of exemplary service as a Special Agent of the FBI. As Mr. Collingwood enters the private sector, he leaves behind an irreplaceable legacy of dedication, integrity, and success.

John Collingwood was raised in Findlay, OH, and graduated from Bowling Green University in Ohio in 1970. Mr. Collingwood then worked in the family business and went on to graduate from the University of Toledo Law School in 1975. Upon graduation, he began his career with the FBI as a Special Agent in Detroit, MI.

During the following three decades, John Collingwood served the FBI in many capacities. After attending the Defense Language Institute in California, he became a Special Agent in Portland, OR. His first position at FBI Headquarters was in the Legal Research Unit of the Legal Counsel Division. He then became the Unit Chief of the Civil Litigation Program. In 1992, Mr. Collingwood was named to head the Office of Public and Congressional Affairs and became the Assistant Director in 1997.

During the past three decades, Mr. Collingwood has made countless contributions to the Federal Bureau of Investigation. He can take pride in all of his accomplishments during his tenure. Mr. Collingwood is to be commended for working diligently to keep Congress informed about issues related to the FBI. Under his leadership, the Office of Public and Congressional Affairs assumed responsibilities of the Freedom of Information and Privacy Act and implemented initiatives to increase the FBI's responsiveness to the public. I would also like to congratulate him for his continuing efforts to help reshape the structure of the FBI as our Nation deals with the tragedies of September 11,

The positive impact Mr. Collingwood has made on the FBI and our great Nation runs deep, and I applaud him for his leadership. During the past three decades, he has worked tirelessly to make positive changes within the agency. It is because of individuals like him, that our Nation is the greatest in the world.

It has been an honor getting to work with such an outstanding leader, and I wish Mr. Collingwood, his wife Mary Ann, and his children, Stephanie and Mark, the best of luck in future endeavors. For three decades, Mr. John E. Collingwood served the Federal Government distinguishing himself as one of the hardest working leaders of our time. His professional and friendly manner will be missed by all those who have had the pleasure to work with Mr. Collingwood, but I am certain that he will continue to set a fine example for others to follow.

POULTRY EXPORTS

Mr. CLELAND. Madam President, I want to express my relief that the long standoff with the Russian Government over American poultry exports has finally been resolved. On March 1, 2002, the Russian Government instituted a ban on American poultry imports and cited safety concerns about U.S. processing procedures. Although the U.S. Department of Agriculture responded to those concerns point-by-point, the ban continued until August 23.

Russia is the largest market for U.S. chickens, with annual sales of about one million tons valued at $600 million. This trade dispute had cost Georgia poultry producers, the most productive in the country, approximately $100 million a year.

After many efforts to resolve this embargo, American poultry producers may resume selling chickens in Russia. I had joined with many of my colleagues on multiple occasions in contacting members of the administration about this unfair trade practice. For example, I cosigned a letter to U.S. Trade Representative Zoellick with 16 other Senators on March 4. Soon after, on March 14, I personally wrote to the President on behalf of Georgia poultry producers. On March 22, I cosigned a letter to the President with nine of my Senate colleagues. On May 9, I personally wrote Trade Representative Zoellick on behalf of Georgia's poultry producers. Again, on May 17, I cosigned a letter to the President with 51 of my Senate colleagues. Finally, on July 2, I cosigned a letter to the President with 30 other Senators about the serious economic damage that the Russian trade block was having on the American economy.

I believe that the continued focus by members of Congress, as well as the diligence of the administration, helped bring about the successful resolution of this ban. At a time of economic uncertainty, the poultry producers of my State will certainly appreciate the reopening of this important market.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred September 2, 2002 in West Hollywood, CA. Two gay men, Treve Broudy, 33, and Edward Lett, 22, were brutally beaten while walking home after dinner. As the victims were walking, a car pulled up beside them. The two assailants, one of whom wielded a bat, jumped out of the car and attacked the victims. Mr. Lett received minor injuries, but Mr. Broudy was critically wounded, having been kicked and punched and struck violently in the back of the head with the baseball bat. No one has been arrested in connection with the incident, which police are investigating as a hate crime.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

STOPPING THE LITIGATION LOTTERY

Mr. FRIST. Madam President, the only level one trauma center in Las Vegas shuts its doors. Twelve orthopedic surgeons at facilities near Philadelphia resign their practice. Two-thirds of doctors in a small Mississippi city consider leaving for Louisiana. What is forcing our medical community to take such drastic measures? The ''litigation lottery,'' trial lawyers filing too many lawsuits with the hope of winning excessive awards.

Medical malpractice litigation, when an injured patient sues a doctor over a medical error, has exploded in the United States. Between 1995 and 2000, the average amount a jury awards a patient rose more than 70 percent to $3.5 million per claim. And more than half of awards now exceed $1 million. Trial lawyers, who are fueling this surge by hand-picking patients whom they believe will win large awards, typically take 30 to 40 percent of the proceeds.

Doctors purchase insurance to protect themselves from malpractice lawsuits, but excessive awards have pushed the cost of insurance to unaffordable levels. In 2001, insurance premiums rose 30 percent or more in some States. And for doctors who perform high-risk procedures or practice where trial lawyers have won excessive awards, premiums have risen by as much as 300 percent per year. Many doctors can no longer afford to do the jobs they love.

But even more disturbing to doctors, because we swear a sacred and ancient oath to do no harm, is the impact of excessive awards on patient care. High insurance premiums are forcing doctors to move their practices to other States, adjust how they practice medicine, or quit practicing medicine altogether. Trial lawyers may be winning the litigation lottery, but patients are suffering a health care crisis.

First, excessive malpractice awards hurt access to health care. When a trauma center closes or specialists resign from a hospital or rural doctors can't deliver babies, patients must travel longer distances to get the care they need. They must also select from a smaller pool of physicians. When minutes, and a doctor's experience, can mean the difference between life and death, access to health care matters.

Second, excessive malpractice awards increase the cost of health care. Many doctors are forced to practice defensive medicine. They must order more tests, write more prescriptions, and refer more patients to specialists to protect themselves against lawsuits. A recent Federal report found evidence that reasonable limits on malpractice awards would reduce health care costs by as much as 5 to 9 percent per year.

Third, excessive malpractice awards are the single largest barrier to improving patient safety in our country. Doctors and hospitals want desperately to improve patient safety by sharing, analyzing, and learning from medical errors. I have proposed a bill that would let them do that without the fear of being sued for trying to improve patient care. But even the most limited restrictions on lawsuits are unacceptable to some of my Democrat colleagues. They believe trial lawyers should have open access to any medical error reporting system, which would render such a system useless because few doctors or hospitals would participate.

We can turn back this growing health care crisis by reforming medical malpractice litigation. Some States have already taken the responsible step of capping awards for noneconomic damages, which are highly subjective, intangible and the major source of mischief for trial lawyers. Rightfully, these States have also preserved awards for economic damages, such as lost wages and medical costs.

But most States have done nothing or not enough to fix the problem. The American Medical Association lists 12 States that are now in a health care crisis because of excessive malpractice awards. And 30 more States are nearing crisis, including Tennessee. This is a national problem that will worsen without a national solution.

Just prior to the August recess, the Senate debated medical malpractice litigation reform that would have capped trial lawyers' fees. Though I support bolder action that includes limiting awards for noneconomic damages, this bill would have been a good first step. It would have allowed injured patients to keep a greater share of their rightful compensation while reducing the incentive for trial lawyers to pursue excessive awards. Unfortunately, all of my Democrat colleagues voted against this patient-friendly bill, keeping the litigation lottery alive and well.

Injured patients have the right to sue for medical malpractice, but trial lawyers do not have the right to force innocent doctors from their livelihoods and throw our health care system into crisis. With millions of uninsured families, increasing health care costs, too many deaths from medical errors, and no prescription drug benefit for seniors, the Senate must show its commitment to turning back the growing health care crisis in our country. Limiting excessive malpractice awards is one solution that concerned public servants, providers, and, most importantly, patients can and should support.

Mr. DURBIN. Madam President, I rise today to discuss an issue that affects a broad coalition of health care providers and the Medicare beneficiaries they serve. I have become increasingly concerned that the current method for updating Medicare payments to physicians and other health care providers does not accurately reflect the costs associated with delivering high-quality patient care. Reimbursement levels for providers participating the Medicare Program this year will decline by 5.4 percent. There is little to suggest that the cost of providing care has declined. In fact, costs to various providers have actually increased over the past year.

These payment reductions could have strong repercussions on access to essential health services. A flawed payment update system potentially jeopardizes access to medically necessary services for millions of seniors and disabled Americans who rely on Medicare for their health care. In addition, a flawed payment system makes practicing medicine, particularly in underserved areas, all the more difficult, if not impossible for providers participating in the Medicare Program.

Reductions in Medicare physician reimbursement forced Ronald Johnson, M.D., an Illinois physician, to borrow money to keep his practice operating. All told, the loan necessary to sustain his practice for an additional year was equivalent to two-thirds the value of his family farm.

I share the view of many health care analysts, including MedPAC, that the methodology used to update physicians payments is flawed. Although this system was designed to accurately compensate providers for the care they provide while controlling overall program spending on physician and other providers services, it has become apparent that the current system struggles to meet each of these goals. The volatility of physician payments is also a persistent problem for those providers attempting to gauge expected revenue from one year to the next.

Until 1989, Medicare physician payments were based on a reasonable charge payment system. This system was thought to be responsible for escalating program costs, and the Medicare physician fee schedule was adopted in response to these concerns.

The current method for updating Medicare physician payments is unique because the annual increase or decrease in physician payments does not simply reflect changes in the cost of medical goods and services. Unlike other payment systems, an expenditure target for physician services, know, as the sustainable growth rate, (SGR), is calculated each year. Annual payment updates for physician services, that reflect the changes in the costs of medical goods and services, are then increased or reduced to meet targeted expenditures for the program. In other words, physician payment updates only reflect actual changes in the cost of medical goods and services when actual costs equal the target growth rate in physician payments.

Setting target expenditures, or the SGR, for physician payments that do not depart from the actual costs associated with delivering patient care has proven difficult. Methods for calculating the SGR have contributed to this divergence. The SGR is calculated using estimated changes in spending due to fee increases, changes in Medicare fee-for-service enrollent, gross domestic product GDP per capita and the cost of new laws and regulations. Moreover, many of the factors that strongly influence the overall cost of services are difficult to measure including patient preference, technological advances, and changing demographics.

In particular, the inclusion of the GDP in SGR calculations is problematic. Economic downturn may lead to sharp reductions in GDP that are far more dramatic than changes in Medicare beneficiary need. This volatility can have devastating effects on the program and threaten beneficiary access to critical health care services. At a time when beneficiary need is growing due to an aging U.S. population, providing physicians and other health care professionals with adequate reimbursement levels is an the more important.

Also, erroneous CMS enrollment and spending data collected in previous years has exacerbated and already difficult financial situation. Although the necessary corrections were made, the changes have a disproportionately negative financial impact over the coming year.

Efforts to control Medicare spending should not jeopardize the integrity of the health care system. Designing a physician reimbursement system that is less volatile and reflects the actual cost of delivering high-quality patient care is absolutely necessary. Now is the time to take a closer look at the way Medicare payments affect those serving some of our Nation's most vulnerable citizens. Further delay could make it financially untenable for doctors such as Ronald Johnson to practice in areas like Pittsfield, IL.

I ask that the article from FPReport be printed in the RECORD.

[From FPReport, May 2002]

LOWER PAYMENTS FORCE FPS TO RISK PERSONAL LOSS FOR THEIR PATIENTS, PRACTICES

(By Jody Gloor)

For a growing number of family physicians, Medicare payment cuts ultimately could break up the ''families'' dependent on them—families composed of patients, employees and entire communities.

While some FPs have stopped accepting new Medicare patients, others are putting personal loss on the line to keep their ''families'' intact.

One rural doctor in Illinois who borrowed money to meet his payroll is now borrowing against his dream farm to repay those loans and protect his practice from financial failure.

Medicare patients make up one-third of the Pittsfield practice of Ronald Johnson, M.D., and the area's only hospital claims nearly 80 percent of its patients use Medicare. With an average age of 58 in the two counties Johnson serves, ''we don't have the choice of not taking Medicare patients. That's our life here,'' he said in a recent telephone interview. ''They are our neighbors; they are our friends. We have to take care of each other.''

When he added the losses from Medicare reimbursements and accounts receivables that have doubled in the past six months, Johnson realized he needed to borrow an amount that nearly equaled the value of his farm.

''I got lucky,'' he said, ''because the farm has been taking care of itself financially. Now, it's going to take care of us and our patients.''

Johnson is finalizing a loan for two-thirds of his farm's value. It's an amount that realistically, he said, can sustain his practice for another year—two at the most—depending on factors including future Medicare reimbursement rates, the local economy and land values.

''I'd never thought I would spend this much of my time being a businessman,'' he said. ''It's such a joy to sit down and see a patient. I thought that was what I was training for.''

AAFP Director Arlene Brown, M.D., of Ruidoso, NM., said she and her staff ''saw the writing on the wall'' when Medicare physician payments dropped and accounts receivables increased. Something had to happen to keep her ''frontier medicine'' practice open.

Brown serves 8,000 patients, some of whom must drive 50 miles on a dirt road to reach a paved road—then must drive another 100 miles to her office. At least 30 percent rely on Medicare, she said, ''and we can't stop accepting these patients.''

So Brown took a pay cut and turned to her staff for help. The employees—a close-knit ''family''—didn't want to see anyone lose his or her job, she said. Instead of eliminating a position and/or cutting patient services, all staff members agreed to cut their hours and pay by 15 to 18 percent.

''We must stay open,'' Brown said. ''We now if my patients have to get their primary care 200 miles away from home, they won't go get it. They depend on me, and on us.''

How long can her practice hold out for a permanent financial solution? Not long, Brown said. She's hoping efforts to get the federal government to rethink Medicare and correct the physician payment formula will succeed soon.

''If not, we'll be cutting some services we don't have to provide,'' she said. ''The first to go will be flu shots.'' Next to go will be the free assistance older and low-income patients get when they need help to buy prescription drugs.

''It all makes for bad medicine,'' Brown said, ''but it could help keep our doors open.''

If her practice closes, the entire community—her community—could collapse, she said. ''A majority of Americans eat, live, sleep and die in small communities. If we shut down the very things that help small communities survive, like medicine, then those communities will die.''

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

ADDITIONAL STATEMENTS

CONGRATULATING AUSTIN AND LYDIA WARDER

• Ms. MIKULSKI. Madam President, today I bring your attention to Austin and Lydia Warder. On August 12, 2002, they celebrated their 60th wedding anniversary, and I ask you to join me, their family and friends in congratulating them.

The Warders have devoted 60 years to each other, to their family, to their community of Indian Head, MD, and to the service of their country through the United States Navy. Our country could not ask for two more dedicated citizens.

Austin Warder was born in Marbury, MD in 1922, just a few miles away from his future bride, Lydia Eastburn, born in 1924. The two met and soon married on August 12, 1942, in Austin's hometown, just before he shipped out for World War II. Austin served his country as a United States Navy Seabee in the South Pacific from 1942 until the war ended in 1945. During that time, Lydia joined the war effort and began working at the Naval Ordinance Station in her hometown of Indian Head, MD.

After the war, the Warders settled down in Indian Head. Austin continued his service with the U.S. Navy, joining Lydia at the Naval Ordinance Station where she worked as a housing project manager. Austin began his career there as Director of the Public Works Department, Maintenance Division. Both received numerous letters of commendation and many outstanding performance ratings over their long careers. They worked together over the years. They finally decided to retire, together, in January of 1977. Lydia was retiring after 35 years and Austin after 32 years.

The Warders have left an important legacy with the Federal Government. Together, they have 70 years of service, and I am sure the Navy joins me in congratulating them. But their most important legacy, and I know their favorite, is their family. Austin and Lydia have been blessed with a large and loving family. They have one daughter, Sandra Benson, two grandchildren, five great grandchildren and one great-great grandchild.

I am honored to share this couple's story of commitment and service with the Senate today. Austin and Lydia Warder are fine Marylanders. Their shared values, hard work, and spirit kept them together through the War, through many years with the Navy, through children and grandchildren and great grandchildren. Please join me in wishing the Warders my most sincere congratulations and best wishes for many more happy years!•

RECOGNIZING THE ENTERPRISE FOUNDATION'S 20TH ANNIVERSARY

• Mr. SARBANES. Madam President, I rise today to recognize The Enterprise Foundation as it celebrates its 20th year of building communities and improving low-income people's lives across America.

Renowned developer James Rouse and his wife, Patty, launched Enterprise in 1982. Jim and Patty were inspired to start Enterprise by three women from the Church of the Saviour here in Washington. They asked Jim for help in turning two run-down, rat-infested buildings blighting their Adams Morgan neighborhood into affordable apartments for low-income residents of the area.

With Jim and Patty's help and thousands of hours of volunteer time, the group achieved its goal. The buildings still provide a decent affordable home to low-income people in that community today.

Jim and Patty founded Enterprise to help more community groups rebuild their neighborhoods. Today, Enterprise works through a network of more than 2,200 community-based organizations in more than 820 locations to provide affordable housing, safer streets, and access to jobs and quality childcare.

Through these unsung heroes at the grassroots, Enterprise has invested nearly $4 billion to produce more than 132,000 homes affordable to low-income people. On any given day, more than 250,000 low-income people live in decent, affordable housing made possible in part by Enterprise.

In addition, Enterprise's job training and placement programs have helped more than 32,000 hard-to-employ people qualify for work and retain employment. More than 4,500 children have benefited from Enterprise's childcare initiatives.

President Clinton presented Jim with the Presidential Medal of Freedom in 1995. When Jim passed away a year later, Patty and the rest of Enterprise's leadership continued the work he began.

That work goes on today. I have seen firsthand what Enterprise has achieved in many communities in my State. To cite just one example, Enterprise has been working since the early 1990s with the residents of Sandtown-Winchester in Baltimore City on a comprehensive effort to reverse decades of disinvestment and decay.

After more than a decade, Sandtown is showing signs of a turnaround. The median income in the community increased by 50 percent during the 1990s, according to the Census. Median home sale prices rose 376 percent during that time, according to Johns Hopkins University's Institute for Policy Studies. In the parts of this 72-block community where Enterprise has been most active, crime is down and elementary school students are going better.

More work remains, in Sandtown and in countless other low-income areas around the country. True to Jim Rouse's vision, Enterprise will not rest until all low-income Americans have the opportunity for fit and affordable housing and to move up and out of poverty into the mainstream of American life.

I ask that we pay tribute to Mr. Rouse's legacy and to the profound impact that The Enterprise Foundation has had, and continues to have, on the lives of low-income Americans building better lives for themselves, their families and their communities.•

THE 75TH ANNIVERSARY OF THE INVENTION OF THE TELEVISION BY PHILO T. FARNSWORTH

• Mrs. FEINSTEIN. Madam President, I rise today to honor the late Philo T.

Farnsworth and the Farnsworth family on the 75th anniversary of the invention of the electric television.

It was on September 7, 1927, while working in his small, cramped laboratory at 202 Green Street in San Francisco, that Philo Farnsworth conducted the first successful experiments that form the basis for today's television. Upon completing the very first transmission of an electronic image, Farnsworth sent a telegram to his investors that simply said, ''The Damn Thing Works.''

Farnsworth first conceptualized these ideas one summer day while tilling a potato field on his family's farm. Riding atop the horse driven plow, the 14 year-old Farnsworth was struck by the crisscrossed patterns in the field. Like the furrows in the field front of him, Farnsworth believed he could separate a picture into lines and reassemble them elsewhere.

In 1930, Farnsworth obtained the patents for his invention, which employs a magnetically deflected electron beam inside a cathode ray tube to transmit a picture. All forms of video in use in the world today, including computer displays, trace their origins to Farnsworth's patents and this seminal event 75 years ago.

When Farnsworth died at the age of 64 in 1971, he held more than 300 U.S. and foreign patents. In September 1983, he was one of four inventors honored by the U.S. Postal Service with a stamp bearing his portrait. My home State of California has recognized his invention of the electronic television by placing a State historical marker memorializing the event in front of his former lab in San Francisco. In addition, the mayor of San Francisco, Willie Brown, recently issued a proclamation making September 7, 2002, Philo Taylor Farnsworth Day in that city.

Before I conclude today, I also want to recognize the important contributions of Elma ''Pem'' Farnsworth, now 94 years of age and the only living witness to this historic 1927 event. Mrs. Farnsworth, a talented scientist in her own right, worked closely with her husband on many of his inventions. Often called ''The Mother of the Television,'' Mrs. Farnsworth now spends her retirement days residing in Fort Wayne, IN, working tirelessly to ensure that the legacy of Philo Farnsworth's inventions will live on.●

COMMENDING THE SERVICE OF KAYLA J. GILLAN

● Mrs. BOXER. Madam President, I take this opportunity to bring to the Senate's attention the exemplary career and public service of Kayla J. Gillan.

Ms. Gillan has served as General Counsel for the California Public Employees' Retirement System, CalPERS, since 1996, and also worked as Staff Counsel from 1986 to 1990 and as Deputy General Counsel from 1990 to 1996. She led a team of attorneys and other professionals who have worked to support the retirement, health and investment programs benefitting CalPERS members and employers. Ms. Gillan was instrumental in drafting corporate governance principles for the CalPERS Board of Administration, making CalPERS the first fund in the Nation to articulate roles for its Board, leaders, committees and staff.

Ms. Gillan also facilitated the CalPERS Board's self-evaluation process and helped the Board implement path-breaking corporate governance policies. She was the principal drafter of all CalPERS corporate governance policy statements since 1992, and met with more than 150 companies to address poor financial performance and corporate governance.

Under Ms. Gillan's leadership, the CalPERS legal team successfully fought and won litigation that resulted in a return of over $2 billion to the fund, and the establishment of the principle that CalPERS members have a vested right to a fiscally secure retirement system. She drafted Board policies on securities litigation, including the CalPERS process for evaluating litigation that served as a roadmap for the CalPERS legal team to win the largest securities fraud class action recovery in history.

Ms. Gillan has been the recipient of numerous industry honors, such as being named one of the National Law Journal's top 50 women lawyers in the United States in 1998, and was included in that publication's 1995 list of the top ''40 under age 40 attorneys'' in the Nation.

Ms. Gillan's expertise, dedication, and leadership should be commended. Her work has resulted in the advancement of corporate governance principles in corporations throughout the United States. Establishing higher standards and clear accountability for corporate governance is vital to the integrity of the American economy, particularly in light of the burgeoning corporate scandals in our markets.

I wish Ms. Gillan all the best in her future endeavors.●

THE CHALLENGE OF COMMUNITY SERVICE

● Mr. KERRY. Mr. President, we have learned much in the last year about how to measure the strength of America, a Nation built on the willingness of our citizens to give of their time and their energy, knowing that in the end our freedom and strength as individuals is connected to the freedom and strength of our Nation, and when one falters the other suffers in turn. Mothers and fathers have passed along to every successive generation pride in sacrifice and a commitment to our shared values that have become the touchstone of America's strength, grounded in the simple words of DeTocqueville: ''America is great because Americans are good.''

Arthur Blaustein's book on American volunteerism proves that the spirit of our forebears, that spirit that carried us through the tumultuous early days, a Civil War, a Depression, two World Wars, and the upheaval at home and overseas of the sixties, is alive and well today. From commitments to civil rights and civic bodies to military service and community volunteering, our Nation is a nation committed to strengthening and improving the world around us.

And every time Americans have sought to strengthen our freedom and values, we have found individuals willing to volunteer their time and lead by their example, Thomas Jefferson, Abraham Lincoln, Clara Barton, Rachel Carson, Martin Luther King, Jr., and many more. And today, youngsters in middle school and high school have more opportunities than ever to volunteer in their local communities, in nursing homes, tutoring their peers, or helping protect our environment; and are doing so in increasing numbers.

Arthur Blaustein, a long-time volunteer himself and an active force in American volunteer efforts, has written a book that appears at a crucial moment in our Nation's history, a moment when communal and civic engagement are more important then ever. His book honors the high ideals and values that are found in these organizations that have proven so successful in strengthening the ties of our communities and our country.

His message is an important one: if America is to remain strong and committed to our values, civic and community engagement is a necessity. I applaud his proposals and hope many more, both young and old, will volunteer their time and energy to keep America strong.

Part I, The Challenge of Community Service: The traditions of community service and citizen participation have been at the heart of American civic culture since before the nation was founded; whether through town hall meetings, the local school board, a political party, a hospital auxiliary, or one of our innumerable other national and local organizations, Americans have felt and acted on the need to give something back to their communities. Yet since the events of September 11, this need has become more urgent, as Americans on the whole have become more introspective and more patriotic. This patriotism has taken many different forms, but one thing is clear: our concern for our country, our communities, our families, and our neighbors has become more acute, and our need to contribute more urgent.

With firefighters, police officers, and rescue teams leading the way, ordinary citizens, ironworkers, teachers, public health clinicians, professionals, businesspeople, and schoolchildren, either volunteered to go to Ground Zero or offered their support from a distance. Everything from blankets to blood, peanut butter to poetry arrived

in New York City by the bale, the gallon, the barrel, and the ream. Americans didn't wait until January 1, 2002, to make resolutions; in mid-September, many resolved to be more caring and giving.

Make a Difference is here to help harness this outpouring of compassion, energy, and patriotism in creative and useful ways. If you've decided to make a difference because of the events of September 11, or if volunteering is one of those things you've been meaning to do all along but just haven't gotten around to, or if you're just curious about what's out there, this book can help you take the next step. It was designed to help you decide that you can make a contribution to the well-being of your community. It will help to answer the why, the how, the what, and the when. Why is community service important? How can you get in touch with a group that promotes the values and goals that you believe in? What specific volunteer activities match up with your skills and experiences? When is a good time to volunteer?

Each of the organizations included in the book has been selected because of its commitment to educational, social, economic, environmental, and community development goals. Some have been in existence for many decades and others are fairly new. Most are national organizations and some are local prototypes; but all have a solid track record of delivering services that are useful and meaningful. Before you select an organization, ask yourself a few questions.

How much time do you want to serve?

What kind of service fits your personality?

What neighborhood and community do you want to work in?

Which target population do you want to work with?

What skills do you have to offer?

What would you like to gain from the experience?

If, for example, you're over 17 can commit a full year, and would like leadership training, some income, and a stipend, you should seriously consider AmeriCorps. If you want to commit a year and you're over 18 and want to work on environmental, art, or music projects, or in community development, you should think about Volunteers in Service to America (VISTA). If you only have a weekend or one day a week, you like working with your hands, and you want to be outdoors, Habitat for Humanity will probably be perfect. If you only have a few hours a week and enjoy children, consider mentoring or tutoring with an educational group. It might take some reflection and research, but there is a fulfilling opportunity for everyone.

Historically, our greatest strength as a nation has been to be there for one another. Citizen participation is the lifeblood of democracy. As Thomas Paine put it, ''The highest calling of every individual in a democratic society is that of citizen!'' Accidents of nature and abstract notions of improvement do not make our communities better or healthier places in which to live and work. They get better because people like you decide that they want to make a difference.

Volunteering is not a conservative or liberal, Democratic or Republican issue; caring and compassion simply help to define us as being human, Unfortunately, opportunistic radio talk-show hosts and reactionary politicians have spread two false myths about community service. The first is the notion that only inner-city minorities benefit from volunteer efforts. Here's a story about that myth, told to me by a friend who was in VISTA. He was helping local groups organize fuel cooperatives many years ago, in small towns in Maine. That winter was unusually cold and the price of home heating had skyrocketed, placing an enormous financial burden on most families in the state, which had a low per-capita income. He was invited to make a presentation to about two hundred residents in their town's church. After the talk, one of the ''happy guy'' television reporters from Portland baited a farmer, asking, ''What do you think of this outside agitation?''

The farmer, who was about seventy-five, paused for a moment; and, with an edge of flint in his voice, he said, ''You know, I'm a fourth-generation Republican Yankee, just like my father, my grandfather, and my great-grandfather, but if I've learned anything, it's that there are two kinds of politics and economics in America. The first kind is what I see on television and what politicians tell me when they want my vote. The other kind is what me and my friends talk about over doughnuts and coffee. And that's what this young fellow was talking about tonight, and he made a lot of sense to me. I'm joining the co-op.''

Over 65 percent of America's poor are, like this farmer, white, and white families with children are the fastest growing homeless population. The myth that social programs only serve inner-city minorities stigmatizes volunteer social programs, which are, in fact, color-blind.

The second myth is that the vast majority of individuals who volunteer for community service are naive, idealistic do-gooders. Here's a story about that myth. It happened to me in a bookstore in Northern California. Six years ago, I was a technical advisor to the producers of a public television series called ''The New War on Poverty.'' There was a companion book to the series, and since I had been one of the contributing editors, the publisher asked me to give readings. This particular evening, I showed film clips from the series and spoke about the importance of several War on Poverty programs, including Head Start, the Job Corps, VISTA, Legal Services, and Upward Bound.

While I was signing books after the reading, a woman in her mid-twenties who looked like a quintessential California valley girl, blond hair, blue eyes, approached me with tears in her eyes. I asked if I had said anything that offended her. She replied that I had not and told me she was nonpolitical, conservative, and in her last year of law school. She had been a political science major at college but knew nothing about the history of the War on Poverty. She said she was ashamed because, despite having benefited from two of the programs I had spoken about, Head Start and Upward Bound, she had never before felt a responsibility to give back to her community, and to assure that these programs would be continued so that others could have the same opportunities she had.

Like this woman, the vast majority of volunteers I've worked with are not idealistic, but are serious realists. They are only too aware that as a nation we cannot squander our human and natural resources.

Community service not only exposes the sterility of this kind of idealism-versus-realism debate, but helps individuals to integrate their own idealism and realism. An idealist without a healthy dose of realism tends to become a naive romantic. A realist without ideals tends to become a cynic. Community service helps you put your ideals to work in a realistic setting. It creates a dynamic tension that gives you a coherent and comprehensive approach to complex problems. I've seen it happen time and again with my students, and with VISTA and AmeriCorps volunteers. Dr. Margaret Mead, one of my teachers in graduate school at Columbia, wrote that a truly healthy person is a thinking, feeling, acting person. That's what serving helps us to achieve.

The talk-show hosts and politicians who push these myths are scapegoating and attacking the most vulnerable segments of our society. They are adept at moralizing over the problems of the homeless and the hungry, the unemployed and the underemployed, drug users and the mentality ill, and over such issues as infant mortality, child and spousal abuse, and disrupted families. But they have neither the heart nor the will for rigorous thought and the work of finding cures, nor even relieving some of the suffering or symptoms. Just as military service and patriotism should not be politicized, neither should community service.

Nearly 40 years ago, when President John F. Kennedy launched the Peace Corps, he made this oft-quoted suggestion: ''Ask not what your country can do for you, but what you can do for your country.'' After 30 years of first-hand experience with hundreds of volunteers, I would make a follow-up suggestion: ''Ask not what you can do for your community and the people you serve, but what they can do for you.'' Community service is very much a two-way street. It is about giving and receiving, and the receiving can be

nourishing for the heart and mind. The very act of serving taps into a wellspring of empathy and generosity that is both personally gratifying and energizing. Again and again, former volunteers described their experiences with words like these: adventure, growth, human connection, exciting, spiritual, learning, and enjoyable.

I saw this in action 3 years ago when I decided to give the students in each of my classes, mostly university seniors, the choice between a mid-semester exam or sixteen hours of community service. The students unanimously chose service—though most of them didn't know what was in store for them. They had a choice of about ten different activities organized by the Public Service Center at the University of California, Berkeley.

Here's what one student wrote about this experience: ''Before I started volunteering, I had very different expectations about the [after-school] program. I thought it would be very sports-oriented with little academic emphasis. Luckily, my expectations proved false. The program for fourth and fifth-grader at the Thousand Oaks/Franklin Elementary School, has a set schedule for each grade. The students rotate between free play, sports, library study time, circle time, and arts and crafts.

It was in the library that I saw how truly behind these children are in mathematics, reading, and grammar. In addition, I never expected to see the immense poverty that these children experience or to be so emotionally affected by it. Last week, I learned that one of my favorite children is homeless. It seems so silly to be reprimanding him for not doing his homework and not putting out the effort at school. This seems so trivial compared to the real-life horrors that he must experience. Although I had my expectations, never did I anticipate the emotional attachment that I now share with these children. I find myself yearning to become a teacher, which was a career I never thought about before this program. I know that as these children grow, they will probably forget about me; but I know I will never forget them. I have truly changed and matured as a result of them.

A second student wrote:

Before I started tutoring I was really scared, because I didn't know what tutors did in junior high schools. I was afraid of not being able to explain things so that the kids could understand. I thought I might also lose patience quickly with kids who were slower in understanding and for whom I would have to repeatedly state the same thing. I was concerned that the kids would resent me or not respect me because I wasn't the teacher and was closer to their age. And finally, I thought they wouldn't like me; the first day I even had trouble introducing myself because of this initial uncertainty.

Contrary to these preliminary fears, however, tutoring at Willard has been a life-changing experience for me. I've found that I have more patience working with kids than I've ever had in any other area of my life. I work hard to come up with lots of examples when the kids I'm working with don't understand. We relate well to one another because I'm close to their age, yet they respect me because I go to Cal and they know that I'm there to help them. It's been the joy of my semester to work with these students, who I really appreciate.

These comments were typical of the experience of nearly all 80 students. Their testimony is consistent with the more formal academic research and evaluations, which tell us that service-learning clearly enriches and enhances the individual volunteer in multiple ways. And the same things happened to me during my own community service 35 years ago, when I taught in Harlem during the early years of the War on Poverty and VISTA.

My students now, and I back then, confronted the complexities of the everyday worlds of individuals and communities quite different from our own. We are forced to deal with difficult social and economic realities. It was an eye-opener to learn about the inequities and injustices of our society, to see firsthand the painful struggles of children who did not have the educational, social, or economic opportunities that we took for granted. This experience was humbling and it broke down my insularity, for which I'm truly grateful. Again, it was Dr. Margaret Mead who called this ''heart-learning.''

Community service also taught me an important lesson about our society: ethical values and healthy communities are not inherited. They are either recreated through action by each generation, or they are not. That is what makes AmeriCorps, VISTA, and other forms of community service unique and valuable. They help us to regenerate our best values and principles as individuals and as a society. From Plato to the present, civic virtue has been at the core of civilized behavior. My experience as a teacher and with service-learning has taught me that moral and ethical values cannot survive from one generation to the next if the only preservatives are texts or research studies. Real-life experience is the crucible for shaping values. Out of it develop an intuition and a living memory that are the seeds of a humane and just society.

The task of passing along to the young our best civic traditions is made more difficult by the steady shift of emphasis away from qualitative values civility, cooperation, and the public interest, to quantitative ones, competition, making it, and privatism, as well as the demoralizing pursuit of mindless consumerism and trivia force-fed us by the mass media. Just about every parent and teacher I know has, in one way or another, expressed the concern that they cannot compete with the marketing techniques of the mass media, particularly television. They are worried about the potential consequences of the growing acquisitiveness, the indulgence, and the self-centeredness of children. You hear this from conservatives, liberals, and moderates. Small wonder. The average eighteen-year-old in the United States has seen more than 380,000 television commercials. We haven't begun to comprehend the inherent brutality of this media saturation on our children's psyches.

Materialism and assumptions of entitlement breed boredom, cynicism, drug abuse, and crime for kicks. Passivity, isolation, and depression come with television and on-line addiction. Ignorance, fear, and prejudice come from insularity and exclusivity. A national and local effort to promote community service by young people is the best antidote to these social ills. The goals are inclusive and nourishing; they seek to honor diversity, to protect the environment, and to enrich our Nation's educational, social, and economic policies so that they enhance human dignity. On a personal level, volunteering, the very act of caring and doing, makes a substantial difference in our individual lives because it nourishes the moral intelligence required for critical judgment and mature behavior.

Dr. Seuss reminded us in The Lorax that ''unless someone like you cares a whole awful lot nothing is going to get better. It's not.'' September 11, 2001, as tragic and traumatic as it was, can serve as a transformative event for the American people. We responded to this crisis with introspection, generosity, and caring. Now is not the time to push the snooze button and return to civic fatuity and complacency. Just as we marshaled our forces and mobilized our capacities to confront a foreign enemy, we can take action and confront our domestic problems and conflicts on the home front. In the real world, we know that taking ordinary initiatives can make a difference. It is within our power to move beyond a disaster and to create new opportunities. What it comes down to is assuming personal responsibility. If we decide to become involved in voluntary efforts, we can restore idealism, realism, responsiveness, and vitality to our institutions and our communities.

At her memorial service, it was said of Eleanor Roosevelt, the most influential American woman of the twentieth century, ''she would rather light a candle then curse the darkness.'' What was true for her then is true for us now. The choice to make a difference is ours.●

HONORING NEW YORK CITY'S COURT OFFICERS

● Mrs. CLINTON. Madam President, as we approached the 1-year anniversary of 9/11, I rise today to again honor all of the public safety officers whose courageous and heroic acts saved thousands of lives at the World Trade Center. In particular, I want to highlight a group of public safety officers who deserve to be honored for their heroism. The New York City court officers risked their lives and contributed immensely to the rescue and recovery operations at Ground Zero.

I especially would like to honor three court officers who gave the ultimate sacrifice—their lives. Their heroic deeds have earned them the nomination for the Public Safety Officer Medal of Valor—a testament to true American heroes.

I would like to say a little bit on each officer.

Captain William ''Harry'' Thompson, of the Bronx, was widely respected and beloved by all 1,600 court officers in New York City as senior instructor at the New York State Court Officers Academy. A 27-year veteran, he was the father of two adult sons and was the sole supporter for his widowed mother. All who knew Captain Thompson considered him a ''spit and polish'' type of officer. Captain Thompson was proud of his profession and New York is so very lucky that he devoted his life to public service.

Senior Court Officer Thomas Jurgens was part of a family who believed in giving back to one's city and country. Senior Court Officer Jurgens was the son of a firefighter, and was a volunteer fireman from Lawrence, Long Island. He made all of us proud by serving his country in the Persian Gulf war as an Army combat paramedic. Senior Court Officer Jurgens was a 4-year veteran at the Manhattan Supreme Court, and he was married in June 2001.

Senior Court Officer Mitchel Wallace, of Mineloa, Long Island, worked at the Manhattan Supreme Court for 2 years. Before September 11, the New York State Court of Appeals Chief Judge Judith Kaye honored him for resuscitating a man who had collapsed from cardiac arrest aboard a Long Island railroad train. Senior Court Officer Wallace planned to marry Noreen McDonough in October, and he called her ''Cinderella.''

In addition to these brave heroes who were lost, 22 other court officers risked their lives to save others at the World Trade Center. These men and women have been honored for their bravery on September 11. They are: Deputy Chief Joseph Baccellieri, Jr., Officer Tyree Bacon, Sgt. Frances Barry, Captain John Civelia, Sgt. Gerard Davis, Officer William Faulkner, Officer Gerard Grant, Officer Edwin Kennedy, Officer Elayne Kittel, Officer William Kuhrt, Officer Theodore Leoutsakos, Officer Craig Lovich, Sgt. Patricia Maiorino, Major Reginald V. Mebane, Sgt. Al Moscola, Sgt. Kathryn Negron, Officer Joseph Ranauro, Sgt. Albert Romanelli, Sgt. Richard Rosenfeld, Officer Andrew Scagnelli, Officer Mahindra Seobarrat, and Sgt. Andrew Wender.

Hundreds of court officers volunteered to work on recovery efforts at Ground Zero. After working full shifts at the courthouse, these officers would then work a full shift at Ground Zero. They would return home, clean the dust and debris from their hands, and return to their jobs at the courthouse. Through valor, duty, and commitment, they did all that they could to assist in the rescue and recovery operations.

On behalf of the American people, I express my thanks and appreciation for these public safety officers whose dedication and patriotism strengthen the resolve of our Nation. These officers went above and beyond the call of duty, sacrificing their lives in order to save others, not because it was their job, but because it was their sense of duty of pride. These officers represent the very best in America.●

IN MEMORIAM: WILLIAM A SCHWARTZ, VICE CHAIRMAN AND VOLUNTEER CEO, NATIONAL PROSTATE CANCER COALITION

● Mr. CLELAND. Madam President, William A. Schwartz died today from the disease that he fought so tirelessly to defeat, prostate cancer. Bill was a 35-year veteran executive of the media industry and a staunch leader in the fight against prostate cancer. His endless passion, devotion, drive, and caring for his family, friends, and community, along with his unwavering commitment to save lives from cancer, will always be remembered.

After being diagnosed with prostate cancer in 1994, Bill dedicated himself to fighting the disease by promoting awareness and launching lobbying efforts to increase research dollars. He served as vice chairman and volunteer CEO of the National Prostate Cancer coalition, board member of CaP CURE, and president of the Prostate Cancer Research Political Action Committee. His work also included cancer projects for the Department of Defense and the National Dialogue on Cancer. The results of his work will continue to benefit countless men and families for many years to come. Georgia was very fortunate to have Bill, his wife Marlene and their three children reside in Atlanta for the past 23 years.

Thank you for letting me take this time to remember our friend, Bill Schwartz and to offer our prayers for the loss of a great American. Prostate cancer is the most commonly diagnosed cancer in America among men and nearly 40,000 American men lose their lives to this disease each year. I know the best tribute we can pay to Bill and his family is to continue his work and find the cure for prostate cancer.●

NATIONAL ASSISTED LIVING WEEK

● Mr. WYDEN. Madam President, I want to draw the Senate's attention to National Assisted Living Week, which begins September 8 and continues through September 14. Since 1995, the National Center for Assisted Living has sponsored National Assisted Living Week to emphasize the importance of this service that nearly 1 million seniors rely on for long-term care.

Assisted living offers hope to seniors who can no longer live independently at home but do not need the level of care provided by nursing facilities. In assisted living facilities, seniors find dedicated caregivers to provide assistance in the activities of daily living in a setting that truly becomes a home. It is predicted that the demand for assisted living will continue to grow as more and more seniors and their families seek out home-like independent living with the benefits of 24-hour supervision.

The theme of this year's National Assisted Living Week is ''Honoring the Spirit of Our Nation,'' which is intended to honor the Nation's rekindled interest in our heritage and values. It is an appropriate theme because it celebrates the residents' lifetime of memories, devotions, and patriotism and the dedication and service of assisted living caregivers. The theme for National Assisted Living Week will highlight the variety of ways assisted living meets the different needs of seniors in our Nation.

I am proud that Oregon has led our Nation in the concept of assisted living. Assisted living has developed differently in each State and its importance in meeting the needs of seniors continues. I believe offering these choices for seniors is important in order to provide them with security, dignity, and independence. It is also important for us to continue to support options that allow seniors and their families a choice of settings in order to assure that they get the level of care they need and deserve.●

REMEMBERING A GREAT GEORGIAN AND A DEVOTED LEADER IN THE FIGHT AGAINST PROSTATE CANCER

● Mr. MILLER. Madam President, I rise today to remember a great Georgian, a 35-year veteran executive of the media industry and a staunch leader in the fight against prostate cancer. William A. Schwartz died today at the age of 63 from the disease that he fought so tirelessly to defeat.

His endless passion, devotion, drive, and caring for his family, friends, and community, along with his unwavering commitment to save lives from cancer, will always be remembered.

After being diagnosed with prostate cancer in 1994, Bill dedicated himself to fighting the disease by bringing national attention to it and by lobbying for crucial research dollars.

Bill served as vice chairman and volunteer CEO of the National Prostate Cancer Coalition and president of the Prostate Cancer Research Political Action Committee. His work also included cancer projects for the Department of Defense and the National Dialogue on Cancer. His work will continue to benefit countless men and families for many years to come.

Bill was the former president and COO of Cox Enterprises and held various executive positions with the company in New York, San Francisco, and Atlanta between 1973 and 1987. In the 1990s, he served as president and part owner of Cannell Communications and First Media Television and was chairman, CEO, and partner of Capital Cable.

A native of Detroit, Bill received a BS degree from Wayne State University in 1961 and did graduate work at Baruch College. After his military service in the Army Security Agency,

he began his broadcasting career in New York with NBC. He eventually moved to Cleveland, OH, and helped put WUAB-TV on the air, and many years later purchased the station with several partners.

Always a music lover, Bill was a professional drummer, playing in jazz trios throughout college and his time in the Army. He marched in President John F. Kennedy's inaugural parade in college, and toured the Mediterranean with the USO.

An Atlanta resident for 23 years, Bill was also a philanthropist who generously donated his time as well as financial support.

I send my heartfelt sympathies to Bill's wife of 39 years, Marlene, and to their children and grandchildren.●

AMERICAN ASSOCIATION ON MENTAL RETARDATION AWARD WINNERS

● Mr. DURBIN. Madam President, I am pleased today to join the Illinois chapter of the American Association on Mental Retardation, AAMR, in recognizing the recipients of the 2002 Direct Service Professional Award. These individuals are being honored for their outstanding devotion to the effort to enrich the lives of people with developmental disabilities in Illinois.

These recipients have displayed a strong sense of humanity and professionalism in their work with persons with disabilities. Their efforts have inspired the lives of those for whom they care, and they are an inspiration to me as well. They have set a fine example of community service for all Americans to follow.

These honorees spend more than 50 percent of their time at work in direct, personal involvement with their clients. They are not primarily managers or supervisors. They are direct service workers at the forefront of America's effort to care for people with special needs. They go to work every day with little recognition, providing much needed and greatly valued care and assistance.

It is my honor and privilege to recognize the Illinois recipients of AAMR's 2002 Direct Service Professional Award: Amy Burnell, Kay Grant, Hattie Gregory, Judy Harper, Dora Hildebrand, Mae Holmes, Sarah Kyakonye, Toni Lloyd, Bob Maas, Kelli Martin, Janet Maxton, Millicent McAfoos, Flo McMaster, Lisa Mitchell, Anne Pettus, Sharon Pritchett, LeVetta Rhodes, Ruth Rodenberg, Karin Schwab, and Judy Sheffield.

I know my fellow Senators will join me in congratulating the winners of the 2002 Direct Service Professional Award. I applaud their dedication and thank them for their service.●

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

Under the authority of the Senate of January 3, 2001, the Secretary of the Senate, on September 6, 2002, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

H.R. 5012. An act to amend the John F. Kennedy Center Act to authorized the Secretary of Transportation to carry out a project for construction of a plaza adjacent to the John F. Kennedy Center for the Performing Arts.

Under the authority of the Senate of January 3, 2001, the enrolled bill was signed by the President pro tempore (Mr. BYRD) on August 2, 2002.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–8624. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report relative to the Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States; to the Committee on the Budget.

EC–8625. A communication from the Assistant Secretary for Indian Affairs, transmitting, pursuant to law, the report of rule entitled ''Trust Management Reform: Repeal of Outdated Rules'' (RIN1076–AE20) received on August 27, 2002; to the Committee on Indian Affairs.

EC–8626. A communication from the Architect of the Capitol, transmitting, pursuant to law, a report on all expenditures during the period October 1, 2001 through March 31, 2002; to the Committee on Appropriations.

EC–8627. A communication from the Under Secretary of Defense, Comptroller, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 98–01; to the Committee on Appropriations.

EC–8628. A communication from the Acting Director, Office of Regulatory Law, Veterans' Benefits Administration, Department of Veterans' Affairs, transmitting, pursuant to law, the report of a rule entitled ''Schedule for Rating Disabilities; Intervertabral Disc Syndrome'' (RIN2900–AI22) received on September 3, 2002; to the Committee on Veterans' Affairs.

EC–8629. A communication from the Acting Director, Office of Regulatory Law, Veterans' Benefits Administration, Department of Veterans' Affairs, transmitting, pursuant to law, the report of a rule entitled ''Accelerated Benefits Option for Servicemenbers' Group Life Insurance and Veterans' Group Life Insurance'' (RIN2900–AJ80) received on September 3, 2002; to the Committee on Veterans' Affairs.

EC–8630. A communication from the Acting Director, Office of Regulatory Law, Veterans' Benefits Administration, Department of Veterans' Affairs, transmitting, pursuant to law, the report of a rule entitled ''National Service Life Insurance'' (RIN2900–AK43) received on September 3, 2002; to the Committee on Veterans' Affairs.

EC–8631. A communication from the Acting Director, Office of Regulatory Law, Veterans' Benefits Administration, Department of Veterans' Affairs, transmitting, pursuant to law, the report of a rule entitled ''VA Acquisition Regulation: Construction and Architect-Engineer Contracts'' (RIN2900–AJ56) received on September 3, 2002; to the Committee on Veterans' Affairs.

EC–8632. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled ''Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act: XIX Olympic Winter Games and VIII Paralympic Winter Games in Salt Lake City, UT, 2002'' (22 CFR Part 41) received on August 27, 2002; to the Committee on Foreign Relations.

EC–8633. A communication from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a memorandum of justification under section 610 of the Foreign Assistance Act of 1961 regarding determination to transfer FY 2002 funds appropriated for International Organizations and Programs (IO&P) to the Child Survival and Health Programs Fund; to the Committee on Foreign Relations.

EC–8634. A communication from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report concerning amendments to Parts 121 and 123 of the International Traffic in Arms Regulations (ITAR); to the Committee on Foreign Relations.

EC–8635. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–8636. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–8637. A communication from the Chief Justice of the Supreme Court, transmitting, pursuant to law, the Report of the Proceedings of the Judicial Conference of the United States; to the Committee on the Judiciary.

EC–8638. A communication from the Senior Counsel, Civil Division, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Claims Under the Radiation Exposure Compensation Act Amendments of 2000; Technical Amendments'' (RIN1105–AA75) received on August 27, 2002; to the Committee on the Judiciary.

EC–8639. A communication from the Rules Administrator, Office of General Counsel, Federal Bureau of Prisons, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''District of Columbia Educational Good Time Credit Interim Final Rule'' (RIN1120–AB05) received on August 27, 2002; to the Committee on the Judiciary.

EC–8640. A communication from the Director, Regulations and Forms Services Division, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Reduced Course Load for Certain F and M Nonimmigrants Students in Border Communities'' (RIN1115–AG75) received on August 27, 2002; to the Committee on the Judiciary.

EC–8641. A communication from the General Counsel, Executive Office for Immigration Review, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Board of Immigration Appeals; Procedural Reforms to Improve Case Management'' (RIN1125–AA36) received on August 27, 2002; to the Committee on the Judiciary.

EC–8642. A communication from the Clerk of the Court of Federal Claims, transmitting, pursuant to law, the report of the Court for the period October 1, 2000 through September 30, 2001; to the Committee on the Judiciary.

EC–8643. A communication from the Principal Deputy Associate Administrator of the

Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Thiophanate-methyl; Pesticide Tolerance'' (FRL7192–1) received on August 27, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8644. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Triflumizole; Pesticide Tolerance for Emergency Exemption'' (FRL7194–4) received on August 27, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8645. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Azoxystrobin; Pesticide Tolerances for Emergency Exemptions'' (FRL7195–9) received on August 27, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8646. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Iprovalicarb; Pesticide Tolerance'' (FRL7194–3) received on August 27, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8647. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clomazone; Pesticide Tolerance'' (FRL7192–2) received on August 27, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8648. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Importation of Artificially Dwarfed Plants'' (Doc. No. 00–042–2) received on August 27, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8649. A communication from the Under Secretary, Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Child and Adult Care Food Program: Implementation Legislative Reforms to Strengthen Program Integrity'' (RIN0584–AC94) received on August 27, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8650. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the annual assessment of the cattle and hog industries; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8651. A communication from the Chairman, Securities and Exchange Commission, transmitting, pursuant to law, the Annual Report of the Securities Investor Protection Corporation (''SIPC'') for 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–8652. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''National Flood Insurance Program; Assistance to Private Sector Property Insurers'' (RIN3067–AD30) received on September 3, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–8653. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determination'' (44 CFR Part 65) received on September 3, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–8654. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' (Doc. No. FEMA–7789) received on September 3, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–8655. A communication from the Assistant General Counsel for Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Single Family Mortgage Insurance; Sec. 203(k) Consultant Placement and Removal Procedures'' (RIN2502–AH51) received on September 3, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–8656. A communication from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled ''Agency Reorganization; Nomenclature Changes'' received on August 27, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–8657. A communication from the Director, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law , the Office of Thrift Supervision's 2001 Annual Report on the Preservation of Minority Savings Institutions; to the Committee on Banking, Housing, and Urban Affairs.

EC–8658. A communication from the Director, Office of Federal Housing Enterprise Oversight, transmitting, pursuant to law, the report of a rule entitled ''Safety and Soundness'' (RIN2550–AA22) received on August 27, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–8659. A communication from the Assistant General Counsel for Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Uniform Financial Reporting Standards for HUD Housing Programs, Additional Entity Filing Requirements'' (RIN2501–AC80) received on September 3, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–8660. A communication from the Assistant General Counsel for Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Manufactured Housing Program Fee'' (RIN2502–AH62) received on September 3, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–8661. A communication from the Deputy Secretary, Division of Corporation Finance, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Ownership Reports and Trading by Officers, Directors and Principal Security Holders'' (RIN3235–AI62) received on September 3, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–8662. A communication from the Assistant General Counsel for Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Manufactured Home Construction and Safety Standards: Smoke Alarms; Amendments'' (RIN2502–AH48) received on August 27, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–8663. A communication from the Vice Chairman, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to Mexico; to the Committee on Banking, Housing, and Urban Affairs.

EC–8664. A communication from the Vice Chairman, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to Nigeria; to the Committee on Banking, Housing, and Urban Affairs.

EC–8665. A communication from the Vice Chairman, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to Canada; to the Committee on Banking, Housing, and Urban Affairs.

EC–8666. A communication from the Chairman, Medicare Payment Advisory Commission, Medpac, transmitting, pursuant to law, a report on Medicare payment for advanced practice nurses and physician assistants; to the Committee on Finance.

EC–8667. A communication from the Chairman, Medicare Payment Advisory Commission, Medpac, transmitting, pursuant to law, a report on Medicare's coverage of nonphysician practitioners; to the Committee on Finance.

EC–8668. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Split-Dollar Life Insurance Arrangement'' (Notice 2002–59) received on August 27, 2002; to the Committee on Finance.

EC–8669. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''July—September 2002 Bond Factor Amounts'' (Rev. Rul. 2002–51) received on August 27, 2002; to the Committee on Finance.

EC–8670. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Applicable Federal Rates—September 2002'' (Rev. Rul. 2002–53) received on August 27, 2002; to the Committee on Finance.

EC–8671. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Limitations on Passive Activity Losses and Credits—Treatment of Self-Charged Items of Income and Expense'' (RIN1545–AN64) received on August 27, 2002; to the Committee on Finance.

EC–8672. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Revenue Procedure 2002–55'' (RP–106334–02) received on August 27, 2002; to the Committee on Finance.

EC–8673. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Revenue Ruling 2002–57—Bureau of Labor Statistics Price Indexes for Department Stores—July 2002'' (Rev. Rul. 2002–57) received on August 27, 2002; to the Committee on Finance.

EC–8674. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Rev. Proc. 2002–48 (Revision of Rev. Proc. 88–10)'' received on August 27, 2002; to the Committee on Finance.

EC–8675. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Notice 2002–54, 2002 Marginal Production Rates'' received on August 27, 2002; to the Committee on Finance.

EC–8676. A communication from the Chief, Regulations Branch, Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Licenses for Certain Worsted Wool Fabrics Subject to Tariff-Rate Quota'' (RIN1515–AC83) received on September 3, 2002; to the Committee on Finance.

EC–8677. A communication from the Chief, Regulations Branch, Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Re-use of Air Waybill Number on Air Cargo Manifest'' (RIN1515–AD01) received on September 3, 2002; to the Committee on Finance.

EC–8678. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the Medicare inpatient psychiatric prospective payment system (PPS); to the Committee on Finance.

EC–8679. A communication from the Deputy Secretary of Defense, transmitting, the report of seven retirements; to the Committee on Armed Services.

EC–8680. A communication from the Assistant Secretary of Defense, Force Management Policy, transmitting, pursuant to law, a report relative to pay Critical Skills Retention Bonuses (CSRB) to selected military personnel and of each military skill to be designated; to the Committee on Armed Services.

EC–8681. A communication from the Assistant Secretary of Defense, International Security Policy, transmitting, pursuant to law, a report relative to appropriations requested for each project category under each Cooperative Threat Reduction (CTR) program element; to the Committee on Armed Services.

EC–8682. A communication from the Assistant Secretary of Defense, Force Management Policy, transmitting, pursuant to law, a report on the use of alternatives to the Fee-Basis Physicians in providing pre-enlistment medical evaluations for military applicants; to the Committee on Armed Services.

EC–8683. A communication from the Assistant Secretary of Defense, International Security Policy, transmitting, pursuant to law, a report on Activities and Assistance under the Cooperative Threat Reduction (CTR) program; to the Committee on Armed Services.

EC–8684. A communication from the Assistant Secretary of Defense, Health Affairs, transmitting, pursuant to law, the Report on the Evaluation of the TRICARE Program for Fiscal Year 1999; to the Committee on Armed Services.

EC–8685. A communication from the Assistant Secretary of Labor, Employment and Training Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Disaster Unemployment Assistance Program, Interim Final Rule; Request for Comments'' (RIN1205–AB31) received on September 3, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–8686. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Use of Ozone-Depleting Substances; Essential-Use Determinations'' (RIN0910–AA99) received on September 3, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–8687. A communication from the Administrator, Office of Workforce Security, Employment and Training Administration, Office of Workforce Security, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Unemployment Insurance Program Letter No. 39–97, Change 2'' received on August 15, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–8688. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Records and Reports Concerning Experience with Approved New Animal Drugs; Delay of Effective Date'' (RIN0910–AA02) received on August 27, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–8689. A communication from the General Counsel, Corporation for National and Community Service, transmitting, pursuant to law, the report of a rule entitled ''AmeriCorps Grant Regulations'' (RIN3045–AA32) received on August 27, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–8690. A communication from the Administrator, Office of Workforce Development, Office of Workforce Security, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Unemployment Insurance Program Letter (UIPL) 30–02—Operating Instructions for the Temporary Extended Unemployment (TEUC) Act of 2002'' received on August 27, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–8691. A communication from the Acting Assistant General Counsel for Regulatory Services, Office of Elementary and Secondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Title I—Improving the Academic Achievement of the Disadvantaged'' (RIN1810–AA92) received on August 27, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–8692. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Listing of Color Additives Exempt From Certification; Sodium Copper Chlorophyllin; Confirmation of Effective Date'' (Doc. No. 00C–0929) received on August 27, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–8693. A communication from the Acting Assistant General Counsel for Regulatory Services, Office of Elementary and Secondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Indian Education Discretionary Grant Program'' (RIN1810–AA93) received on August 27, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–8694. A communication from the Acting Assistant General Counsel for Regulatory Services, Office of Elementary and Secondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Impact Aid Program'' (RIN1810–AA94) received on August 27, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–8695. A communication from the Director of Communications and Legislative Affairs, transmitting, pursuant to law, the Annual Report on the Federal Work Force for Fiscal Year 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–8696. A communication from the Secretary, Department of Agriculture, transmitting, pursuant to law, the semiannual report of the Office of the Inspector General for the period October 1, 2001 through March 31, 2002; to the Committee on Governmental Affairs.

EC–8697. A communication from the Acting Chairman, Consumer Product Safety Commission, transmitting, pursuant to law, the semiannual report of the Office of the Inspector General for the period October 1, 2001 through March 31, 2002; to the Committee on Governmental Affairs.

EC–8698. A communication from the Vice Chairman, Federal Election Commission, transmitting, pursuant to law, the Annual Report regarding the implementation of the Government in the Sunshine Act for calendar year 2001; to the Committee on Governmental Affairs.

EC–8699. A communication from the Director, Office of Personnel and Management, transmitting, pursuant to law, the report of a rule entitled ''Prevailing Rate Systems; Definition of San Joaquin County, California, as a Nonappropriated Fund Wage Area'' (RIN3206–AJ35) received on August 27, 2002; to the Committee on Governmental Affairs.

EC–8700. A communication from the Director, Office of Personnel Management, Executive Office of the President, transmitting pursuant to law, the report of a rule entitled ''Presidential Rank Awards'' received on September 3, 2002; to the Committee on Governmental Affairs.

EC–8701. A communication from the Director, Program Services Division, Office of Agency Programs, Office of Government Ethics, transmitting, pursuant to law, the report of a rule entitled ''Technical Amendments to Regulations Governing Filing Extensions and Late Filing Fee Waivers'' (RIN3209–AA00) received on August 27, 2002; to the Committee on Governmental Affairs.

EC–8702. A communication from the Comptroller General of the United States, Government Accounting Office, transmitting, pursuant to law, the report of the list of General Accounting Office reports for June 2002; to the Committee on Governmental Affairs.

EC–8703. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the list of General Accounting Office Reports for May 2002; to the Committee on Governmental Affairs.

EC–8704. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, the Annual Performance Plan for 2003; to the Committee on Governmental Affairs.

EC–8705. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled ''Audit of Advisory Neighborhood Commission 7D for Fiscal Years 2000, 2001, and 2002 Through March 31, 2002''; to the Committee on Governmental Affairs.

EC–8706. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled ''D.C. Public Schools Medicaid Revenue Recovery Operations Require Substantial Improvement''; to the Committee on Governmental Affairs.

EC–8707. A communication from the Director, Office of Personnel Management, Executive Office of the President, transmitting, pursuant to law, the report of a rule entitled ''Prevailing Rate Systems; Change in the Survey Cycle for the Portland, OR, Appropriated Fund Wage Area'' (RIN3206–AJ60) received on August 27, 2002; to the Committee on Governmental Affairs.

EC–8708. A communication from the Secretary, Department of Housing and Urban Development, transmitting, pursuant to law, the Annual Report on Performance and Accountability for Fiscal Year 2001; to the Committee on Governmental Affairs.

EC–8709. A communication from the General Counsel, Federal Retirement Thrift Investment Board, transmitting, pursuant to law, the report of a rule entitled ''Employee Elections to Contribute to the Thrift Savings Plan, Participants' Choices of Investment Funds, Vesting, Uniformed Services Accounts, Correction of Administrative Errors, Lost Earnings Attributable to Employing Agency Errors, Participant Statements, Calculation of Share Prices, Methods of Withdrawing Funds from the Thrift Savings Plan, Death Benefits, Domestic Relations Orders Affecting Thrift Savings Plan Accounts, Loans, Miscellaneous'' received on September 3, 2002; to the Committee on Governmental Affairs.

EC–8710. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report

on D.C. Act 14–441, ''Domestic Relations Laws Clarification Act of 2002''; to the Committee on Governmental Affairs.

EC–8711. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–446, ''Honoraria Amendment Temporary Act of 2002''; to the Committee on Governmental Affairs.

EC–8712. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–458, ''Child Restraint Amendment Act of 2002''; to the Committee on Governmental Affairs.

EC–8713. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–459, ''Technical Amendment Act of 2002''; to the Committee on Governmental Affairs.

EC–8714. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–444, ''Back-to-School Sales Tax Holiday Temporary Act of 2002''; to the Committee on Governmental Affairs.

EC–8715. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–445, ''Special Education Task Force Temporary Act of 2002''; to the Committee on Governmental Affairs.

EC–8716. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–443, ''Public Health Laboratory Fee Temporary Amendment Act of 2002''; to the Committee on Governmental Affairs.

EC–8717. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-440, ''Improved Child Abuse Investigations Amendment Act of 2002''; to the Committee on Governmental Affairs.

EC–8718. A communication from the Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; San Francisco Bay, CA'' ((RIN2115-AA97)(2002-0178)) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8719. A communication from the Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations; (4 regulations)'' ((RIN2115-AE46)(2002-0029)) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8720. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Notification of Arrival: Addition of Charterer to Required Information'' ((RIN2115-AG06)(2002-0001)) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8721. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Captain of the Port of Chicago Zone, Lake Michigan'' ((RIN2115-AA97)(2002-0177)) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8722. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Traffic Separation Scheme: In Prince William Sound, Alaska'' ((RIN2115-AG20)(2002-0001)) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8723. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations; Big Wells, Texas'' (MM Doc. No. 01-247) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8724. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations; Baird, Texas'' (MM Doc. No. 01-197) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8725. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations; Georgetown, SC'' (MB Doc. No. 02-65) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8726. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations; Athens, GA'' (MB Doc. No. 02-94) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8727. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of FM Allotments, FM Broadcast Stations; Eldorado, Texas'' (MM Doc. No. 01-294) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8728. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of FM Allotments, FM Broadcast Stations; Pawhuska, Oklahoma'' (MM Doc. No. 01-260) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8729. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of FM Allotments; FM Broadcast Stations; Ballinger, Texas'' (MM Doc. No. 01-292) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8730. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of FM Allotments, FM Broadcast Stations; Bearden, Arkansas'' (MM Doc. No. 01-258) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8731. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of FM Allotments, FM Broadcast Stations; Benavides, Texas'' (MM Doc. No. 01-256) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8732. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of FM Allotments, FM Broadcast Stations; Weinert, Texas'' (MM Doc. No. 01-205) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8733. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of FM Allotments, FM Broadcast Stations; Grandim, Missouri'' (MM Doc. No. 01-259) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8734. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622, Table of Allotments, DTV Broadcast Stations, San Mateo, CA'' (MM Doc. No. 02-84) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8735. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of FM Allotments, FM Broadcast Stations; Cheboygan and Onaway, Michigan'' (MM Doc. No. 00-69) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8736. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of FM Allotments, FM Broadcast Stations; George West, Texas'' (MM Doc. No. 01-147) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8737. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of FM Allotments, FM Broadcast Stations; Freer, Texas'' (MM Doc. No. 01-243) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8738. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of FM Allotments, FM Broadcast Stations; Cuthbert and Buena Vista, Georgia'' (MM Doc. No. 02-48) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8739. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of FM Allotments, FM Broadcast Stations; Burney, California'' (MM Doc. No. 01-311) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8740. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of FM Allotments, FM Broadcast Stations; Buffalo Gap, Texas'' (MM Doc. No. 01-221) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8741. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of

FM Allotments, FM Broadcast Stations; Harrodsburg and Keene, Kentucky'' (MM Doc. No. 02-24) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8742. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of FM Allotments, FM Broadcast Stations; Asherton, Texas'' (MM Doc. No. 01–246) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8743. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of FM Allotments, FM Broadcast Stations; La Pryor, Texas'' (MM Doc. No. 01–262) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8744. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of FM Allotments, FM Broadcast Stations; Firth, Nebraska'' (MM Doc. No. 01–234) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8745. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of FM Allotments, FM Broadcast Stations; Childress, Texas'' (MM Doc. No. 01–196) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8746. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directive: Rockwell Collins, Inc. ADC–85, 85A, 850D, and 850F Air Data Computers'' (RIN2120–AA64) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8747. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model MD–11 and 11F Airplanes'' (RIN2120–AA64) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8748. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directive: Pilatus Aircraft Lrd. Models PC–12 and PC–12/45 Airplanes'' (RIN2120–AA64) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8749. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directive: Boeing Model 737–600, 700, and 800 Series Airplanes'' (RIN2120–AA64) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8750. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model 717–200 Airplanes'' (RIN2120–AA64) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8751. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model MD–11 and –11F Airplanes'' (RIN2120–A64) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8752. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directive: Boeing Model 767–300 Series Airplanes Equipped with Rolls Royce RB211–524H Series Engines'' (RIN2120–AA64) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8753. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 737–600, –700, –800, and –900 Series Airplanes'' (RIN2120–AA64) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8754. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directive: Hamilton Sundstrand Corporation Model 568F–1 Propellers'' (RIN2120–AA64) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8755. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Turbomeca S.A. Arriel Models 1A, 1A1, 1B, 1D, and 1D1 Turboshaft Engines'' (RIN2120–AA64) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8756. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: EMPRESA Model EMB–135 and –145 Series Airplanes'' (RIN2120–AA64) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8757. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Glaser-Dirks Glugzeugbau GmbH Models DG–400 and DG–800A Sailplanes'' (RIN2120–AA64) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8758. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directive: Empresa Brasileira de Aeornautica SA Model EMB 135 and 145 Series Airplanes'' (RIN2120–AA64) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8759. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directive: Hamilton Sundstrand Power Systems T–62T Series Auxiliary Power Units'' (RIN2120–AA64) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8760. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directive: Eurocopter France Model DC120B Helicopter'' (RIN2120–AA64) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8761. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directive: McDonnell Douglas Model DC 9, 10, 30, 30F, and 40 Series Airplanes; and Model C 9 Airplanes'' (RIN2120–AA64) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8762. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directive: McDonnell Douglas Model DC–10–10, 10F, 15, 30, 30F (KC 10A and KDC–10), 40 and 40F Airplanes; Model MD–10–10F and 30F Airplanes; and Model MD–11 and 11F Airplanes'' (RIN2120–AA64) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8763. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directive: Airbus Model A300, Br–600, and F4–600R and A310 Series Airplanes'' (RIN2120–AA64) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8764. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directive: Boeing 727 Series Airplanes'' (RIN2120–AA64) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8765. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class D Airspace; Marquette, MI; Modification of Class E Airspace Marquette, MI'' (RIN2120–AA66) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8766. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Jackson, OH'' (RIN2120–AA66) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8767. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Tecumseh, MI'' (RIN2120–AA66) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8768. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''IFR Altitude; Miscellaneous Amendments; Amdt. No. 436'' (RIN2120–AA63) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8769. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''IFR Altitude; Miscellaneous Amendment-Correction; Amdt. No. 436'' (RIN2120–AA63) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8770. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directive: McDonnell Douglas Model MD–11 and 11F Airplanes Equipped with General Electric Tail Engine Buildup United (EBU)'' (RIN2120–AA64) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8771. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directive: McDonnell Douglas Model MD–11 and 11F Airplanes'' (RIN2120–AA64) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8772. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directive: McDonnell Douglas MD–11 and 11F Airplanes'' (RIN2120–AA64) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8773. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directive: McDonnell Douglas Model MD–11 and 11F Airplanes Equipped with United Technologies Pratt and Whitney Engines'' (RIN2120–AA64) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8774. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model MD–11 and 11F Airplanes'' (RIN2120–AA64) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8775. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directive: McDonnell Douglas Model MD–11 and 11F Airplanes'' (RIN2120–AA64) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8776. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directive: Eurocopter France Model AS332L and AS332L1 Helicopters'' (RIN2120–AA64) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8777. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directive: Pratt and Whitney JT8D–200 Series Turbofan Engines'' (RIN2120–AA64) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8778. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directive: McDonnell Douglas Model MD–11 and 11F Airplanes'' (RIN2120–AA64) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8779. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Final Rule to Implement Amendment 11 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico'' (RIN0648–AO51) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8780. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''2002 Recreational Specifications for Summer Flounder, Scup and Black Sea Bass, Final Rule'' (RIN0648–AN70) received on September 3, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8781. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Closure Notice for Black Sea Bass Fishery; Commercial Quota Harvested for Quarter 3'' (RIN0648–AP06) received on September 3, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8782. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Removal of the Sablefish Size Limit South of 36 Degrees N. Latitude for Limited Entry Fixed Gear and Open Access Fishery'' (I.D. 072902E) received on September 3, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8783. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species Fisheries; Atlantic Bluefin Tuna; Adjustment of General Category Daily Retention Limit'' (I.D. 071202D) received on September 3, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8784. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Reopening of the 2002 Spring Commercial Red Snapper Fishery in the Gulf of Mexico Exclusive Economic Zone'' received on September 3, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8785. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska—Closes Pacific Ocean Perch Fishery in the Western Regulatory Area, Gulf of Alaska'' received on September 3, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8786. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Adjustment to the 2002 Scup Winter II Quota'' (RIN0648–AP06) received on September 3, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8787. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Final Rule to Implement Additional Interim Measures to Reduce Overfishing, as Specified in the Settlement Agreement'' (RIN0648–AP78) received on September 3, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8788. A communication from the Acting Director for the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska—Closes Rock Sole/Flathead Sole/ ''Other Flatfish'' Fishery Category by Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Area'' received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8789. A communication from the Acting Director for the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska—Closes Deep-Water Species Fishery Using Trawl Gear in the Gulf of Alaska'' received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8790. A communication from the Chief for the Domestic Fisheries Division, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska—Closes Shortaker and Rougheye Rockfish Fishery in the Western Regulatory Area , Gulf of Alaska'' received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8791. A communication from the Chief for the Domestic Fisheries Division, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 7—Adjustment of the Commercial Fishery from the U.S.-Canada Border to Cape Falcon, OR'' received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8792. A communication from the Chief for the Domestic Fisheries Division, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 6—Closure of the Commercial Fishery from Horse Mountain to Point Arena (Fort Bragg)'' (I.D. 080202D) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8793. A communication from the Chief for the Domestic Fisheries Division, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 5—Adjustment of the Recreational Fishery from the U.S.-Canada Border to Cape Falcon, OR'' received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8794. A communication from the Chief for the Domestic Fisheries Division, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska—Closes Pacific Ocean Perch Fishery in the Central Regulatory Area, Gulf of Alaska'' received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8795. A communication from the Chief for the Domestic Fisheries Division, National Marine Fisheries Service, Department

of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska—Closes Shallow-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska'' received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8796. A communication from the Chief for the Domestic Fisheries Division, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska—Closes Pacific Ocean Perch Fishery in the Central Regulatory Area, Gulf of Alaska'' received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8797. A communication from the Division Chief, Marine Mammal Conservation Division, Office of Protected Resources, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Taking and Importing of Marine Mammals: Taking Marine Mammals Incidental to Navy Operations of Surveillance Towed Array Sensor Low Frequency Active Sonar'' (RIN0648–AM62) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8798. A communication from the Division Chief, Marine Mammal Conservation Division, Office of Protected Resources, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Taking and Importing of Marine Mammals: Taking Marine Mammals Incidental to Oil and Gas Structure Removal Activities in the Gulf of Mexico'' (RIN0648–AP83) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8799. A communication from the Assistant Administrator, Office of Oceanic and Atmospheric Research, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''National Marine Fisheries Service—Sea Grant Joint Graduate Fellowship Program in Population Dynamics and Marine Resource Economics: Request for Applications for FY 2003'' received on September 3, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8800. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled ''Conformance with FA–07 and Miscellaneous Administrative and Technical Changes'' (RIN2700–AC33) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8801. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled ''Small Business Competitiveness Demonstration Program'' (RIN2700–AC33) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8802. A communication from the Director, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a report on Apportionment of Membership on the Regional Fishery Management Councils; to the Committee on Commerce, Science, and Transportation.

EC–8803. A communication from the Acting Division Chief, Marine Mammal Division, Office of Protected Resources, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Dolphin-Safe Tuna Labeling; Official Mark'' (RIN0648–AN37) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8804. A communication from the Associate Division Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information'' (FCC No. 02–214) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8805. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled ''Security Requirements for Unclassified Information Technology Resources'' (48 CFR Parts 1804 and 1852) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8806. A communication from the Acting Division Chief, Marine Mammal Division, Office of Protected Resources, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Taking of Marine Mammals Incidental to Commercial Fishing Operations; Tuna Purse Seine Vessels in the Eastern Tropical Pacific Ocean (ETP)'' (RIN0648–AI85) received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8807. A communication from the Administrator, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, a Report regarding Injuries and Fatalities of Workers Struck by Vehicles on Airport Aprons'' dated July 2002; to the Committee on Commerce, Science, and Transportation.

EC–8808. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; State of Missouri'' (FRL7266–9) received on August 27, 2002; to the Committee on Environment and Public Works.

EC–8809. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; State of Missouri'' (FRL7267–3) received on August 27, 2002; to the Committee on Environment and Public Works.

EC–8810. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; State of Missouri'' (FRL7267–6) received on August 27, 2002; to the Committee on Environment and Public Works.

EC–8811. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Determination of Attainment of the 1-Hour Ozone Standard for San Diego County, California'' (FRL7263–9) received on August 27, 2002; to the Committee on Environment and Public Works.

EC–8812. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revision to the Arizona State Implementation Plan, Maricopa County Environmental Services Department'' (FRL7261–7) received on August 27, 2002; to the Committee on Environment and Public Works.

EC–8813. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the Arizona State Implementation Plan, Maricopa County Environmental Service Department'' (FRL7266–3) received on August 27, 2002; to the Committee on Environment and Public Works.

EC–8814. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, Santa Barbara County Air Pollution Control District'' (FRL7266–5) received on August 27, 2002; to the Committee on Environment and Public Works.

EC–8815. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting a report entitled ''Hazardous Waste Generated in Laboratories'' received on August 27, 2002; to the Committee on Environment and Public Works.

EC–8816. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of New Jersey'' (FRL7264–6) received on August 27, 2002; to the Committee on Environment and Public Works.

EC–8817. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Determination of Attainment of the 1-Hour Ozone Standards for the Santa Barbara County Area, California'' (FRL7263–8) received on August 27, 2002; to the Committee on Environment and Public Works.

EC–8818. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion'' (FRL7264–1) received on August 27, 2002; to the Committee on Environment and Public Works.

EC–8819. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, Monterey Bay Unified Air Pollution Control District'' (FRL7258–3) received on August 27, 2002; to the Committee on Environment and Public Works.

EC–8820. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''FY03 Wetland Program Development Grants Guidelines''; to the Committee on Environment and Public Works.

EC–8821. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''Supplemental Guidelines for the Award of Section 319 Nonpoint Source Grants to States and Territories in FY 2003''; to the Committee on Environment and Public Works.

EC–8822. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''Watershed Initiative: Call for Nominations''; to the Committee on Environment and Public Works.

EC–8823. A communication from the Acting Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting: Final Framework for Early Season Migratory Bird Hunting Regulations'' (RIN1018–AI30) received on August 15, 2002; to the Committee on Environment and Public Works.

EC–8824. A communication from the Assistant Secretary for Fish and Wildlife and

Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting: Early Seasons and Bag and Possession Limits for Certain Migratory Game Birds in the Contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands'' (RIN1018–AI30) received on September 3, 2002; to the Committee on Environment and Public Works.

EC–8825. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting: Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2002–03 Early Season'' (RIN1018–AI30) received on September 3, 2002; to the Committee on Environment and Public Works.

EC–8826. A communication from the Director, Endangered Species Program, Fish and Wildlife Services, transmitting, pursuant to law, the report of a rule entitled ''Final Rule to Remove Potentilla robbinsiana (Robbin's cinquefoil) from the Federal List of Endangered and Threatened Plants'' (RIN1018–AH56) received on August 27, 2002; to the Committee on Environment and Public Works.

EC–8827. A communication from the Regulations Officer, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of the Manual on Uniform Traffic Control Devices; Accessible Pedestrian Signs'' (RIN2125–AE83) received on August 27, 2002; to the Committee on Environment and Public Works.

EC–8828. A communication from the Regulations Officer, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Traffic Control Devices on Federal-Aid and Other Streets and Highways; Color Specifications for Retroreflective Sign and Pavement Marking Materials'' (RIN2125–AE67) received on August 27, 2002; to the Committee on Environment and Public Works.

EC–8829. A communication from the Assistant Secretary of the Army, Civil Works, transmitting, pursuant to law, a report relative to the Howard A. Hanson Dam, Green River, Washington; to the Committee on Environment and Public Works.

EC–8830. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for the Northern Great Plains Breeding Population of the Piping Plover'' (RIN1018–AH96); to the Committee on Environment and Public Works.

EC–8831. A communication from the Acting Assistant Secretary of the Army, Civil Works, transmitting, pursuant to law, a report regarding the Missouri River Mitigation Project; Missouri, Kansas, Iowa, and Nebraska; to the Committee on Environment and Public Works.

EC–8832. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the monthly status report on the Commission's licensing activities and regulatory duties for April 2002; to the Committee on Environment and Public Works.

EC–8833. A communication from the Assistant Secretary of the Army, Civil Works, transmitting, pursuant to law, a report on navigation improvements for the Arthur Kill Channel-Howland Hook Marine Terminal, New York and New Jersey; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1028: A bill to direct the Secretary of the Interior to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal Features of the initial stage of the Oahe Unit, James Division, South Dakota, to the Commission of Schools and Public Lands and the Department of Game, Fish, and Parks of the State of South Dakota for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase the parcels from the Commission, and for other purposes. (Rept. No. 107–253).

S. 1638: A bill to authorize the Secretary of the Interior to study the suitability and feasibility of designating the French Colonial Heritage Area in the State of Missouri as a unit of the National Park System, and for other purposes. (Rept. No. 107–254).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with amendments:

S. 1944: A bill to revise the boundary of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area in the State of Colorado, and for other purposes. (Rept. No. 107–255).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment:

S. 2519: A bill to direct the Secretary of the Interior to conduct a study of Coltsville in the State of Connecticut for potential inclusion in the National Park System. (Rept. No. 107–256).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 2571: A bill to direct the Secretary of the Interior to conduct a special resources study to evaluate the suitability and feasibility of establishing the Rim of the Valley Corridor as a unit of the Santa Monica Mountains National Recreation Area. (Rept. No. 107–257).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2598: A bill to enhance the criminal penalties for illegal trafficking of archaeological resources, and for other purposes. (Rept . No. 107–258).

H.R. 37: A bill to amend the National Trails System Act to update the feasibility and suitability studies of 4 national historic trails and provide for possible additions to such trails. (Rept. No. 107–259) .

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

H.R. 38: A bill to provide for additional lands to be included within the boundaries of the Homestead National Monument of America in the State of Nebraska, and for other purposes. (Rept. No. 107–260).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with amendments:

H.R. 107: A bill to require that the Secretary of the Interior conduct a study to identify sites and resources, to recommend alternatives for commemorating and interpreting the Cold War, and for other purposes. (Rept. No. 107–261).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

H.R. 1776: A bill to authorize the Secretary of the Interior to study the suitability and feasibility of establishing the Buffalo Bayou National Heritage Area in west Houston, Texas. (Rept. No. 107–262).

H.R. 1814: To amend the National Trails System Act to designate the Metacomet-Monadnock-Mattabesett Trail extending through western Massachusetts and central Connecticut for study for potential addition to the National Trails System. (Rept. No. 107–263).

H.R. 1925: A bill to direct the Secretary of the Interior to study the suitability and feasibility of designating the Waco Mammoth Site Area in Waco, Texas, as a unit of the National Park System, and for other purposes. (Rept. No. 107–264).

By Mr. BAUCUS, from the Committee on Finance, with an amendment in the nature of a substitute:

S. 321: A bill to amend title XIX of the Social Security Act to provide families of disabled children with the opportunity to purchase coverage under the medicaid program for such children, and for other purposes. (Rept. No. 107–265).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted on September 5, 2002:

By Mr. LEAHY for the Committee on the Judiciary.

Reena Raggi, of New York, to be United States Circuit Judge for the Second Circuit.

James Knoll Gardner, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

Denny Wade King, of Tennessee, to be United States Marshal for the Middle District of Tennessee for the term of four years.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted on September 6, 2002 under the authority of an order of the Senate of September 5, 2002:

By Mr. BIDEN, from the Committee on Foreign Relations:

Treaty Doc. 96–53 CONVENTION OF THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (Exec. Rept. No. 107–9)

(TEXT OF COMMITTEE RECOMMENDED RESOLUTION OF RATIFICATION

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

Section 1. Advice and Consent to Ratification of the Convention on the Elimination of all Forms of Discrimination Against Women, subject to Reservations, Understandings and Declarations.

The Senate advises and consents to the ratification of the Convention on the Elimination of All Forms of Discrimination Against Women, adopted by the United Nations General Assembly on December 18, 1979, and signed on behalf of the United States of America on July 17, 1980 (Treaty Doc. 96–53), subject to the reservations in Section 2, the understandings in Section 3, and the declarations in Section 4.

Section 2. Reservations.

The advice and consent of the Senate is subject to the following reservations, which shall be included in the instrument of ratification:

(1) The Constitution and laws of the United States establish extensive protections against discrimination reaching all forms of

governmental activity as well as significant area of non-governmental activity. However, individual privacy and freedom from governmental interference in private conduct are also recognized as among the fundamental values of our free and democratic society. The United States understands that by its terms the Convention requires broad regulation of private conduct, in particular under Articles 2, 3 and 5. The United States does not accept any obligation under the Convention to enact legislation or to take any other action with respect to private conduct except as mandated by the Constitution and laws of the United States.

(2) Under current U.S. law and practice, women are permitted to volunteer for military service without restriction, and women in fact serve in all U.S. armed services, including in combat positions. However, the United States does not accept an obligation under the Convention to assign women to all military units and positions which may require engagement in direct combat.

(3) U.S. law provides strong protections against gender discrimination in the area of remuneration, including the right to equal pay for equal work in jobs that are substantially similar. However, the United States does not accept any obligation under this Convention to enact legislation establishing the doctrine of comparable worth as that term is understood in U.S. practice.

(4) Current U.S. law contains substantial provisions for maternity leave in many employment situations but does not require paid maternity leave. Therefore, the United States does not accept an obligation under Article 11(2)(b) to introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances.

Section 3. Understandings.

The advice and consent of the Senate is subject to the following understandings, which shall be included in the instrument of ratification:

(1) The United States understands that this convention shall be implemented by the Federal Government to the extent that it exercises jurisdiction over the matters covered therein, and otherwise by the State and local governments. To the extent that State and local governments exercise jurisdiction over such matters, the Federal Government shall, as necessary, take appropriate measures to ensure the fulfillment of this Convention.

(2) The Constitution and laws of the United States contain extensive protections of individual freedom of speech, expression, and association. Accordingly, the United States does not accept any obligation under this Convention, in particular under Articles 5, 7, 8 and 13, to restrict those rights, through the adoption of legislation or any other measures, to the extent that they are protected by the Constitution and laws of the United States.

(3) The United States understands that Article 12 permits States Parties to determine which health care services are appropriate in connection with family planning, pregnancy, confinement and the post-natal period, as well as when the provision of free services is necessary, and does not mandate the provision of particular services on a cost-free basis.

(4) Noting in this Convention shall be construed to reflect or create any right to abortion and in no case should abortion be promoted as a method of family planning.

(5) The United States understands that the Committee on the Elimination of Discrimination Against Women was established under Article 17 ''for the purpose of considering the progress made in the implementation'' of the Convention. The United States understands that the Committee on the Elimination of Discrimination Against Women, as set forth in Article 21, reports annually to the General Assembly on it activities, and ''may make suggestions and general recommendations based on the examination of reports and information received from the States Parties.'' Accordingly, the United States understands that the Committee on the Elimination of Discrimination Against Women has no authority to compel actions by States Parties.

Section 4. Declarations.

The advice and consent of the Senate is subject to the following declarations:

(1) The United States declares that, for purposes of its domestic law, the provisions of the Convention are non-self-executing.

With reference to Article 29(2), the United States declares that it does not consider itself bound by the provisions of Article 29(1). The specific consent of the United States to the jurisdiction of the International Court of Justice concerning disputes over the interpretation or application of this Convention is required on a case-by case basis.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DEWINE (for himself and Mr. DURBIN):

S. 2913. A bill to amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to provide health insurance protections for individuals who are living organ donors; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ROCKEFELLER:

S. 2914. A bill to amend title XVIII of the Social Security Act to provide for appropriate incentive payments under the medicare program for physicians' services furnished in underserved areas; to the Committee on Finance.

By Mr. SCHUMER (for himself, Mrs. CLINTON, Mr. TORRICELLI, and Mr. CORZINE):

S. 2915. A bill to provide for cancellation of student loan indebtedness for spouses, surviving joint debtors, and parents of individuals who died or became permanently and totally disabled due to injuries suffered in the terrorist attack on September 11, 2001; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BIDEN:

S. 2916. A bill to put a college education within reach, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. JOHNSON (for himself, Mr. WELLSTONE, Mr. HARKIN, Mr. LUGAR, Mr. DASCHLE, Mr. CONRAD, Mr. DORGAN, Mr. GRASSLEY, Mr. DAYTON, Mr. NELSON of Nebraska, Mr. DURBIN, Mr. BAUCUS, Mr. ALLARD, Mr. FEINGOLD, Mr. BAYH, Mr. CRAPO, Mrs. CARNAHAN, Mr. BINGAMAN, Mrs. MURRAY, Mr. JEFFORDS, Mr. LEVIN, Mr. LIEBERMAN, Mr. DEWINE, Ms. STABENOW, and Mr. BREAUX):

S. Res. 324. A resolution congratulating the National Farmers Union for 100 years of service to family farmers, ranchers, and rural communities; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. REID (for himself and Ms. CANTWELL):

S. Con. Res. 138. A concurrent resolution expressing the sense of Congress that the Secretary of Health And Human Services should conduct or support research on certain tests to screen for ovarian cancer, and Federal health care programs and group and individual health plans should cover the tests if demonstrated to be effective, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 155

At the request of Mr. BINGAMAN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 155, a bill to amend title 5, United States Code, to eliminate an inequity in the applicability of early retirement eligibility requirements to military reserve technicians.

S. 561

At the request of Ms. COLLINS, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 561, a bill to provide that the same health insurance premium conversion arrangements afforded to Federal employees be made available to Federal annuitants and members and retired members of the uniformed services.

S. 572

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of S. 572, a bill to amend title XIX of the Social Security Act to extend modifications to DSH allotments provided under the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

S. 611

At the request of Ms. MIKULSKI, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 611, a bill to amend title II of the Social Security Act to provide that the reduction in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 677

At the request of Mr. HATCH, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 677, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financing to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 874

At the request of Mr. TORRICELLI, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 874, a bill to require health plans to include infertility benefits, and for other purposes.

S. 1234

At the request of Mr. HATCH, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1234, a bill to amend title 18, United States Code, to provide that certain sexual crimes against children are predicate crimes for the interception of communications, and for other purposes.

S. 1394

At the request of Mr. ENSIGN, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 1394, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 1605

At the request of Mr. CONRAD, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 1605, a bill to amend title XVIII of the Social Security Act to provide for payment under the Medicare Program for four hemodialysis treatments per week for certain patients, to provide for an increased update in the composite payment rate for dialysis treatments, and for other purposes.

S. 1761

At the request of Mr. DORGAN, the names of the Senator from New Jersey (Mr. TORRICELLI) and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 1761, a bill to amend title XVIII of the Social Security Act to provide for coverage of cholesterol and blood lipid screening under the medicare program.

S. 1785

At the request of Mr. CLELAND, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 1785, a bill to urge the President to establish the White House Commission on National Military Appreciation Month, and for other purposes.

S. 1867

At the request of Mr. LIEBERMAN, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 1867, a bill to establish the National Commission on Terrorist Attacks Upon the United States, and for other purposes.

S. 2049

At the request of Mr. DEWINE, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2049, a bill to amend the Federal Food, Drug and Cosmetic Act to include a 12 month notification period before discontinuing a biological product, and for other purposes.

S. 2215

At the request of Mrs. BOXER, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2215, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and by so doing hold Syria accountable for its role in the Middle East, and for other purposes.

S. 2483

At the request of Mr. CLELAND, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 2483, a bill to amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns, and for other purposes.

S. 2505

At the request of Mr. KENNEDY, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 2505, a bill to promote the national security of the United States through international educational and cultural exchange programs between the United States and the Islamic world, and for other purposes.

S. 2533

At the request of Mrs. FEINSTEIN, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 2533, a bill to amend title II of the Social Security Act to provide for miscellaneous enhancements in Social Security benefits, and for other purposes.

S. 2555

At the request of Mr. BAUCUS, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 2555, a bill to amend title XVIII of the Social Security Act to enhance beneficiary access to quality health care services under the medicare program.

S. 2596

At the request of Mrs. BOXER, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 2596, a bill to amend the Internal Revenue Code of 1986 to extend the financing of the Superfund.

S. 2602

At the request of Mrs. CLINTON, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2602, a bill to amend title 38, United States Code, to provide that remarriage of the surviving spouse of a veteran after age 55 shall not result in termination of dependency and indemnity compensation.

S. 2626

At the request of Mr. KENNEDY, the names of the Senator from South Dakota (Mr. DASCHLE) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 2626, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

S. 2735

At the request of Mr. ENSIGN, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 2735, a bill to amend title 49, United States Code, to provide for the modification of airport terminal buildings to accommodate explosive detection systems for screening checked baggage, and for other purposes.

S. 2739

At the request of Mr. HATCH, the names of the Senator from Wyoming (Mr. ENZI), the Senator from Oklahoma (Mr. NICKLES) and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 2739, a bill to provide for post-conviction DNA testing, to improve competence and performance of prosecutors, defense counsel, and trial judges handling State capital criminal cases, to ensure the quality of defense counsel in Federal capital cases, and for other purposes.

S. 2770

At the request of Mr. DODD, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2770, a bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas.

S. 2793

At the request of Mr. ENSIGN, the names of the Senator from Ohio (Mr. VOINOVICH) and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 2793, a bill to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system.

S. 2826

At the request of Mr. SCHUMER, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2826, a bill to improve the national instant criminal background check system, and for other purposes.

S. 2841

At the request of Mr. CORZINE, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2841, a bill to adjust the indexing of multifamily mortgage limits, and for other purposes.

S. 2869

At the request of Mr. KERRY, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2869, a bill to facilitate the ability of certain spectrum auction winners to pursue alternative measures required in the public interest to meet the needs of wireless telecommunications consumers.

S. 2908

At the request of Mr. FEINGOLD, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2908, a bill to require the Secretary of Defense to establish at least one Weapons of Mass Destruction Civil Support Team in each State, and for other purposes.

S. CON. RES. 11

At the request of Mrs. FEINSTEIN, the names of the Senator from Nevada (Mr. REID) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. Con. Res. 11, a concurrent resolution

expressing the sense of Congress to fully use the powers of the Federal Government to enhance the science base required to more fully develop the field of health promotion and disease prevention, and to explore how strategies can be developed to integrate lifestyle improvement programs into national policy, our health care system, schools, workplaces, families and communities.

S. CON. RES. 94

At the request of Mr. WYDEN, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. Con. Res. 94, a concurrent resolution expressing the sense of Congress that public awareness and education about the importance of health care coverage is of the utmost priority and that a National Importance of Health Care Coverage Month should be established to promote that awareness and education.

AMENDMENT NO. 4508

At the request of Mr. FEINGOLD, the names of the Senator from Nevada (Mr. REID) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of amendment No. 4508 intended to be proposed to H.R. 5005, a bill to establish the Department of Homeland Security, and for other purposes.

AMENDMENT NO. 4509

At the request of Mr. FEINGOLD, the names of the Senator from Nevada (Mr. REID) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of amendment No. 4509 intended to be proposed to H.R. 5005, a bill to establish the Department of Homeland Security, and for other purposes.

AMENDMENT NO. 4510

At the request of Mr. BAYH, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of amendment No. 4510 intended to be proposed to H.R. 5005, a bill to establish the Department of Homeland Security, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DEWINE (for himself and Mr. DURBIN):

S. 2913. A bill to amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to provide health insurance protections for individuals who are living organ donors; to the Committee on Health, Education, Labor, and Pensions.

Mr. DEWINE. Madam President, I rise today to raise the awareness of an issue that affects over 22,000 people a year, and that issue is organ donation. The sad fact about organ donations is this: We have the medical know-how to save lives, but we lack the organs. We lack organs because most Americans simply are unaware of the life-giving difference they can make by choosing to become organ donors.

Sadly, each day the waiting list for those needing organs continues to grow. Today, nearly 79,000 people remain on the national transplant waiting list. Right now, more than 50,000 people, alone, are waiting for kidney transplants. That number is expected to double within the next decade. Additionally, between 12 and 16 people die each day just waiting for an available organ.

To remedy the organ shortage, we must increase public awareness. By educating the public and raising awareness, more people will choose to become organ donors. At the very least, through these efforts, we can encourage more families to discuss what their wishes are and whether they would want to be organ donors.

But our efforts must not stop there. We must do more than just implement public awareness campaigns, because the face of organ donation is changing. For the first time ever, the number of living organ donors outnumbered cadaver donors. Last year, there were 6,081 donor cadavers while 6,485 people opted to become living donors, usually giving up a healthy kidney to help a family member or friend.

Recognizing this, my colleague, Senator DURBIN, and I introduce a bill today that would help protect living organ donors in the group insurance market. Our bill would ensure that those individuals who choose to be living organ donors are not discriminated against in the insurance marketplace. Our bill builds on the protections provided by the Health Insurance Portability and Accountability Act, so that living organ donors are not denied insurance nor are they applied discriminatory insurance premiums because of their living organ donor status.

Quite simply, a brother who donates a part of his kidney to his sister should not be denied health insurance. But tragically, that is what oftentimes happens. Frequently, individuals who are living organ donors are denied health insurance or restricted from the insurance market. Instead, we should celebrate living organ donors and remove obstacles and barriers for the successful donation of organs. Insurance shouldn't undermine someone's decision to be a living organ donor.

Some States are evaluating how living organ donors affect the market. States are amending their Family Medical Leave eligibility so that living organ donors can participate and benefit from the program. The Federal Government, with the Organ Donor Leave Act of 1999, offered 30 days paid leave to Federal employees who chose to be an organ donor. But, paid leave and job protection doesn't mean much if people are denied health insurance or are required to pay higher premiums because they donated an organ to save another person's life.

The impact of living organ donation is profound. A living organ donor not only can save the life of one patient, but can also take that person off the waiting list for a cadaver donation. That means the next person on the waiting list is ''bumped up'' a spot—giving additional hope to the 79,000 persons on the national transplant waiting list.

Living organ donors give family members and friends a second chance at life and the opportunity to reduce the number of people on the waiting list to receive an organ. It is time for Congress to make a sensible decision in support of a person's decision to be a living organ donor. I encourage my colleagues to join me in co-sponsoring this bill.

By Mr. ROCKEFELLER:

S. 2914. A bill to amend title XVIII of the Social Security Act to provide for appropriate incentive payments under the medicare program for physicians' services furnished in underserved areas; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, today I introduce the Medicare Incentive Payment Program Refinement Act of 2002. This bill makes needed and long-overdue changes to the Medicare Inventive Payment Program, an initiative conceived to address the growing primary care physician shortage in some of our country's most medically underserved communities. The number of physicians needed to care for all individuals, especially our aging seniors, continues to grow in remote rural areas and in underserved urban areas. However, rising health costs and the difficulties of operating a practice in underserved communities has exacerbated the physician shortage. Although the Medicare Incentive Payment Program aims to address the financial hurdles facing physicians in needy areas, the program has failed to achieve real results. This bill will make fundamental changes to improve the program's effectiveness.

Rural areas, in particular, are in need of efforts to retain primary care physicians, since the difficulties of operating a practice often drive doctors to larger areas with more resources and professional support. According to the Federal Office of Rural Health Policy, over 20 million Americans live in areas that have a shortage of physicians, and between 1975 and 1995 the smallest counties in the U.S., population under 2,500, experienced a drop in their physician-to-population ratio. More than 2,200 primary care physicians would be needed to remove all nonmetropolitan HPSA designations, and more than twice that number is needed to achieve adequate physician staffing levels nationwide.

According to the National Rural Health Association, nonmetropolitan physicians treat a larger number of Medicare and Medicaid beneficiaries than their urban counterparts do, generating less income for physicians per patient. Furthermore, nonmetropolitan physicians are less likely to perform high cost medical services due to their limited number of resources. Understandably, MIPP monies can affect the quality of life for rural physicians and help prevent the mass migration of

needed health care professionals from underserved areas.

The Medicare Incentive Payment Program, as it exists today, has not fulfilled its original mandate, to recruit and retain primary care physicians in health professional shortage areas. Passed as part of OBRA 87, the program pays all physicians a 10 percent bonus for each Medicare recipient they treat. This enhanced reimbursement is meant to offset the financial advantage of providing service in more populous areas, as well as help physicians with the costs associated with operating a practice in an underserved community. Most importantly, the program aims to increase health care access for Medicare beneficiaries and improve the health of communities overall.

However, analyses from the Office of the Inspector General of HHS, the GAO, and independent health experts confirm that the program is unfocused and largely ineffective. All physicians are eligible for bonus payments, even when they may not be in short supply. Bonus payments are 10 percent, not enough to lure physicians to underserved areas, especially if the payment is based on a basic, primary care visit. Finally, many physicians do not even know this program exists, and those that do are often unsure whether they are delivering care in a HPSA and how to bill for the payment appropriately.

To improve the program, this bill increases the bonus payment from 10 percent to 20 percent and allows only those physicians providing primary care services, including family and general medicine, general internal medicine, pediatrics, obstetrics and gynecology, emergency medicine, and general surgery, to receive the incentive payment. Finally, my bill automates payments, so physicians no longer have to guess whether they are eligible for the program. These improvements will strengthen the original intent of the legislation, to recruit and retain primary care physicians in underserved areas, and strengthen the primary health care infrastructure of our country's most needy communities.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicare Incentive Payment Program Refinement Act of 2002''.

SEC. 2. REVISION OF INCENTIVE PAYMENTS FOR PHYSICIANS' SERVICES FURNISHED IN UNDERSERVED AREAS.

(a) IN GENERAL.—Section 1833(m) of the Social Security Act (42 U.S.C. 1395*l*(m)) is amended to read as follows:

''(m) INCENTIVE PAYMENTS FOR PHYSICIANS' SERVICES FURNISHED IN UNDERSERVED AREAS.—

''(1) IN GENERAL.—In the case of physicians' services furnished by a physician with an applicable physician specialty to an individual who is enrolled under this part and who incurs expenses for such services in an area that is designated under section 332(a)(1)(A) of the Public Health Service Act as a health professional shortage area, in addition to the amount otherwise paid under this part, there also shall be paid to the physician (or to an employer or facility in the cases described in clause (A) of section 1842(b)(6)) (on a quarterly basis) from the Federal Supplementary Medical Insurance Trust Fund, an amount equal to 20 percent of the payment amount for the service under this part.

''(2) APPLICABLE PHYSICIAN SPECIALTY DEFINED.—In this subsection, the term 'applicable physician specialty' means, with respect to a physician, the primary specialty of that physician if the specialty is one of the following:

''(A) General practice.

''(B) Family practice.

''(C) Pediatric medicine.

''(D) General internal medicine.

''(E) Obstetrics and gynecology.

''(F) General surgery.

''(G) Emergency medicine.

''(3) AUTOMATION OF INCENTIVE PAYMENTS.—The Secretary shall establish procedures under which the Secretary shall automatically make the payments required to be made under paragraph (1) to each physician who is entitled to receive such a payment. Such procedures shall not require the physician furnishing the service to be responsible for determining when a payment is required to be made under that paragraph.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to services furnished on or after January 1, 2003, in an area designated under section 332(a)(1)(A) of the Public Health Service Act (42 U.S.C. 254e(a)(1)(A)) as a health professional shortage area.

By Mr. BIDEN:

S. 2916. A bill to put a college education within reach, and for other purposes; to the Committee on Finance.

Mr. BIDEN. Mr. President, as another school year starts, many college students are worrying not only about their class loads and their coursework, but about where the money to pay for their educations will come from. Today, the average cost of attending a public 4-year college has jumped to $9,000, up 7.7 percent from last year. This represents the highest rate of increase since 1993. For those families that choose to send their children to a private institution, that number rises. Up 4.7 percent from the year before, the average cost of a private 4-year institution is now close to $24,000 a year.

What do these rising tuition costs mean? Hard working American families are spending a larger percentage of their incomes than ever before to send their children to college. To attend the University of Delaware, where I went to school, it costs nearly 20 percent of a Delaware family's average annual income to cover costs. To attend a private college or university, that number, in some instances can jump to over 40 percent of annual income.

To help remedy this situation I come to the floor today to reintroduce legislation to help American families afford their children's tuition. This comprehensive package, ''The Tuition Assistance for Families Act,'' builds upon previous steps that others and I have taken to make it possible for more families to provide their children with a college education. I introduce this bill so that the decision to send one's child to college will not be overshadowed by the decision of how to pay for it.

The ''Tuition Assistance for Families Act'' will provide middle class American families with a $12,000 tuition tax deduction each year. Based on legislation that I introduced with Senator SCHUMER last year, at $12,000 this deduction provides real, meaningful tax relief. Tax relief that American families have been waiting for. Tax relief that can go a long way in helping them afford room, board and tuition.

The bill that I am introducing today also expands the two tuition tax credits enacted in 1997—the Hope Scholarship and the Lifetime Learning Tax Credit. Under current law, the Lifetime Learning Credit allows a 20 percent tax credit on the first $10,000 in higher education expenses in year 2003. Under my bill, the Lifetime Learning Tax Credit percentage would jump from 20 to 25 percent and raise the amount of education expenses subject to the credit to $12,000. In terms of real dollars, this would mean that a student who files in tax year 2003 under my plan could get up to $3,000 back in taxes. Under current law, the maximum allowable credit is only $2,000. That is a $1,000 difference. $1,000 that can go directly into a student's pocket to pay for books, a computer or tuition. The also raises the income limits for each credit to $130,000 per family, per year, so that more families are afforded the help that they need.

This bill reintroduces the idea of a $1,000 merit scholarship to be awarded to the top 5 percent of each high school's graduating class. These types of scholarships not only reward student achievement, they help to ensure that the best and brightest students have the ability to go on to college—thereby increasing the pool of well-qualified American workers for the information technology age.

This act also increases the maximum Pell Grant award from $4,000 to $4,500. During the 2001–2002 school year, the maximum Pell Grant award covered about 42 percent of the average tuition, room and board at a public 4-year university. During the 1975–76 it covered 84 percent of these same costs. Clearly, the purchasing power of these grants has dramatically declined. As such, the debt load of American families and American students has increased considerably over the years as students have looked to federal and private loans to finance their educations. A report released just this March by the State PIRG's Higher Education Project found that at the end of the 1999–2000 school year, 64 percent of college students graduated with student loan debt at an average of $16,928, nearly double the average debt load just eight years ago. Double the debt load in 1994.

It is the dream of every American to provide for their child a better life than they had themselves. Helping families afford the increasing cost of a college education will move us closer to making that dream a reality. For this reason, I have spent a great deal of time in the Senate fighting to provide tax relief for middle class American families struggling with the cost of college. And while I was pleased when some of the ideas I advocated were adopted in the 1997 tax cut bill, it is clear that as tuition costs rise dramatically, working Americans need additional assistance. The ''Tuition Assistance for Families Act'' will provide extra help so that more families can afford to give their children a brighter and better future. Let's not allow a college education to become a luxury when, in the information technology age, it is an absolute necessity.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 324—CONGRATULATING THE NATIONAL FARMERS UNION FOR 100 YEARS OF SERVICE TO FAMILY FARMERS, RANCHERS, AND RURAL COMMUNITIES

Mr. JOHNSON (for himself, Mr. WELLSTONE, Mr. HARKIN, Mr. LUGAR, Mr. DASCHLE, Mr. CONRAD, Mr. DORGAN, Mr. GRASSLEY, Mr. DAYTON, Mr. NELSON of Nebraska, Mr. DURBIN, Mr. BAUCUS, Mr. ALLARD, Mr. FEINGOLD, Mr. BAYH, Mr. CRAPO, Mrs. CARNAHAN, Mr. BINGAMAN, Mrs. MURRAY, Mr. JERFFORDS, Mr. LEVIN, Mr. LIEBERMAN, Mr. DEWINE, Ms. STABENOW, and Mr. BREAUX) submitted the following resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. RES. 324

Whereas the National Farmers Union celebrates its centennial anniversary in 2002;

Whereas during its 100 years of service to rural America, the National Farmers Union has faithfully promoted the organization's mission of education, legislation, and cooperation as identified by its founders and proclaimed in its triangular symbol;

Whereas the National Farmers Union represents nearly 300,000 family farmer and rancher members across the United States;

Whereas the National Farmers Union epitomizes the spirit and energy of hundreds of thousands of family farmers, ranchers, rural advocates, and communities;

Whereas the National Farmers Union remains dedicated to protecting and enhancing the quality of life for rural America;

Whereas the National Farmers Union has been instrumental in the establishment and progress of the farmer-owned cooperative movement; and

Whereas the National Farmers Union strives to improve rural America through proactive support and proposals to enhance rural economic development, educational opportunities, resource conservation, market competition, domestic farm income, and international cooperation: Now, therefore, be it

Resolved, That the Senate commends and congratulates the National Farmers Union for a century of dedicated service to the farmers, ranchers, and rural communities of the United States.

SENATE CONCURRENT RESOLUTION 138—EXPRESSING THE SENSE OF CONGRESS THAT THE SECRETARY OF HEALTH AND HUMAN SERVICES SHOULD CONDUCT OR SUPPORT RESEARCH ON CERTAIN TESTS TO SCREEN FOR OVARIAN CANCER, AND FEDERAL HEALTH CARE PROGRAMS AND GROUP AND INDIVIDUAL HEALTH PLANS SHOULD COVER THE TESTS IF DEMONSTRATED TO BE EFFECTIVE, AND FOR OTHER PURPOSES

Mr. REID (for himself and Ms. CANTWELL) submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. CON. RES. 138

Whereas ovarian cancer is a serious and under recognized threat to women's health;

Whereas ovarian cancer, the deadliest of the gynecologic cancers, is the fourth leading cause of cancer death among women in the United States

Whereas ovarian cancer occurs in 1 out of 57 women in the United States;

Whereas approximately 50 percent of the women in the United States diagnosed with ovarian cancer die as a result of the cancer within 5 years;

Whereas ovarian cancer is readily treatable when it is detected in the beginning stages before it has spread beyond the ovaries, but the vast majority of cases are not diagnosed until the advanced stages when the cancer has spread beyond the ovaries;

Whereas in cases where ovarian cancer is detected in the beginning stages, more than 90 percent of women survive longer than 5 years;

Whereas only 25 percent of ovarian cancer cases in the United States are diagnosed in the beginning stages;

Whereas in cases where ovarian cancer is diagnosed in the advanced stages, the chance of 5-year survival is only about 25 percent; and

Whereas ovarian cancer may be difficult to detect because symptoms are easily confused with other diseases and because there is no reliable, easy-to-administer screening tool: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the Secretary of Health and Human Services, acting through the Director of the National Institutes of Health—

(A) should conduct or support research on the effectiveness of the medical screening technique of using proteomic patterns in blood serum to identify ovarian cancer, including the effectiveness of using the technique in combination with other screening methods for ovarian cancer; and

(B) should continue to conduct or support other promising ovarian cancer research that may lead to breakthroughs in screening techniques;

(2) the Secretary of Health and Human Services should submit to Congress a report on the research described in paragraph (1)(A), including an analysis of the effectiveness of the medical screening technique for identifying ovarian cancer; and

(3) if the research demonstrates that the medical screening technique is effective for identifying ovarian cancer, Federal health care programs and group and individual health plans should cover the technique.

Mr. REID. Madam President, I rise today for myself and Senator CANTWELL to submit a concurrent resolution expressing the sense of the Congress that the Secretary of Health and Human Services should conduct or support research to improve early detection of ovarian cancer. Specifically, our resolution encourages continuing and accelerating the development of an ovarian cancer screening test currently underway through a public-private partnership including the National Cancer Institute and the Food and Drug Administration.

Ovarian cancer is the deadliest of the gynecologic cancers and the fourth leading cause of cancer death among women in the United States. Ovarian cancer occurs in 1 out of 57 women, and an estimated 13,900 American women died from ovarian cancer in 2001 alone.

Currently, approximately three-quarters of women with ovarian cancer are diagnosed when they are already in advanced stages of the disease, and only one in five will survive five years. However, if the disease is caught early, the five-year survival rate jumps to 95 percent. Thus providing a way to routinely identify the disease in its ''Stage 1'' phase could have a dramatic impact in what is now a very deadly cancer. No screening test exists that can accurately detect ovarian cancer in the early states when it is highly curable.

In the February 2002 issue of The Lancet, scientists from the Food and Drug Administration and the National Cancer Institute reported that patterns of protein found in patients' blood serum may reflect the presence of ovarian cancer. Using an innovative testing approach, analyzing patterns of blood protein rather than identifying single blood biomarkers, researchers were able to differentiate between serum samples taken from patients with ovarian cancer and those from unaffected individuals.

However, this research finding was only a first step. Before the scientific community will agree that protein screening is an accurate and beneficial tool, additional multi-institutional trials must be completed.

Patients would certainly be more willing to be tested if all that it involved were a simple, finger-stick blood test, thus eliminating the need for surgery, biopsy, or other painful, invasive, or risky procedures. The critical advantage of such as screening test is early detection, finding the disease when it is most treatable. Of course, early detection of ovarian cancer will save health care costs, but, more importantly, it will save lives.

This is why I am submitting this resolution. Our resolution encourages the Department of Health and Human Services to rapidly evaluate the efficacy of this cutting-edge work in the area of testing for ovarian cancer. If the screening tests are proven effective, the public must have the widest

possible access to them. Toward that end, the resolution provides that they be covered by Federal health care programs and group and individual health plans.

Representatives STEVE ISRAEL, and ROSA DELAURO, both tireless leaders on cancer research and health issues, introduced this resolution, in the House of Representatives. Through their efforts and bi-partisan support, H. Con. Res. 385 was passed by the House of Representatives on July 22. The resolution deserves the Senate's prompt attention, and I urge my colleagues to join me in supporting it.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4512. Mr. CRAIG submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table.

SA 4513. Mr. THOMPSON (for himself and Mr. WARNER) proposed an amendment to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra.

SA 4514. Mr. REID (for Mr. HOLLINGS) proposed an amendment to the bill H.R. 4687, to provide for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life.

SA 4515. Mr. BAUCUS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4512. Mr. CRAIG submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 67, between lines 13 and 14 insert the following:

(10) Conducting the necessary systems testing and demonstration of infrastructure target hardening methods at the National Critical Infrastructure Testbed at the Idaho National Engineering and Environmental Laboratory.

And renumber the subsequent paragraphs as necessary.

SA 4513. Mr. THOMPSON (for himself and Mr. WARNER) proposed an amendment to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; as follows:

On page 8, strike lines 1 through 3.

On page 9, strike lines 13 through 15.

On page 12, line 15, strike '', with the Director,''.

On page 12, strike lines 18 through 26 and insert the following:

(4) To make budget recommendations relating to the Strategy, border and transportation security, infrastructure protection, emergency preparedness and response, science and technology promotion related to homeland security, and Federal support for State and local activities.

On page 77, lines 22 and 23, strike '', the Office,'' after ''OSTP''.

On page 103, line 5, strike ''amended—'' and all that follows through line 12 and insert the following: ''amended in section 204(b)(1) (42 U.S.C. 6613(b)(1)), by inserting 'homeland security' after 'national security,'.''.

On page 156, lines 15 and 16, strike '', the Office,''.

On page 158, line 9, strike '', the Office,''.

On page 162, line 11, strike ''and the Director''.

On page 162, line 17, strike ''and Office''.

On page 173, strike line 15 and all that follows through page 197, line 19.

SA 4514. Mr. REID (for Mr. HOLLINGS) proposed an amendment to the bill H.R. 4687, to provide for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life; as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Construction Safety Team Act''.

SEC. 2. NATIONAL CONSTRUCTION SAFETY TEAMS.

(a) ESTABLISHMENT.—The Director of the National Institute of Standards and Technology (in this Act referred to as the ''Director'') is authorized to establish National Construction Safety Teams (in this Act referred to as a ''Team'') for deployment after events causing the failure of a building or buildings that has resulted in substantial loss of life or that posed significant potential for substantial loss of life. To the maximum extent practicable, the Director shall establish and deploy a Team within 48 hours after such an event. The Director shall promptly publish in the Federal Register notice of the establishment of each Team.

(b) PURPOSE OF INVESTIGATION; DUTIES.—

(1) PURPOSE.—the purpose of investigations by Teams is to improve the safety and structural integrity of buildings in the United States.

(2) DUTIES.—A Team shall—

(A) establish the likely technical cause or causes of the building failure;

(B) evaluate the technical aspects of evacuation and emergency response procedures;

(C) recommend, as necessary, specific improvements to building standards, codes, and practices based on the findings made pursuant to subparagraphs (A) and (B); and

(D) recommend any research and other appropriate actions needed to improve the structural safety of buildings, and improve evacuation and emergency response procedures, based on the findings of the investigation.

(c) PROCEDURES.—

(1) DEVELOPMENT.—Not later than 3 months after the date of the enactment of this Act, the Director, in consultation with the United States Fire Administration and other appropriate Federal agencies, shall develop procedures for the establishment and deployment of Teams. The Director shall update such procedures as appropriate. Such procedures shall include provisions—

(A) regarding conflicts of interest related to service on the Team;

(B) defining the circumstances under which the Director will establish and deploy a Team;

(C) prescribing the appropriate size of Teams;

(D) guiding the disclosure of information under section 8;

(E) guiding the conduct of investigations under this Act, including procedures for providing written notice of inspection authority under section 4(a) and for ensuring compliance with any other applicable law;

(F) identifying and prescribing appropriate conditions for the provision by the Director of additional resources and services Teams may need;

(G) to ensure that investigations under this Act do not impede and are coordinated with any search and rescue efforts being undertaken at the site of the building failure;

(H) for regular briefings of the public on the status of the investigative proceedings and findings;

(I) guiding the Teams in moving and preserving evidence as described in section 4(a)(4), (b)(2), and (d)(4);

(J) providing for coordination with Federal, State, and local entities that may sponsor research or investigations of building failures, including research conducted under the Earthquake Hazards Reduction Act of 1977; and

(K) regarding such other issues as the Director considers appropriate.

(2) PUBLICATION.—The Director shall publish promptly in the Federal Register final procedures, and subsequent updates thereof, developed under paragraph (1).

SEC. 3. COMPOSITION OF TEAMS.

Each Team shall be composed of individuals selected by the Director and led by an individual designated by the Director. Team members shall include at least 1 employee of the National Institute of Standards and Technology and shall include other experts who are not employees of the National Institute of Standards and Technology, who may include private sector experts, university experts, representatives of professional organizations with appropriate expertise, and appropriate Federal, State, or local officials. Team members who are not Federal employees shall be considered Federal Government contractors.

SEC. 4. AUTHORITIES.

(a) ENTRY AND INSPECTION.—In investigating a building failure under this Act, members of a Team, and any other person authorized by the Director to support a Team, on display of appropriate credentials provided by the Director and written notice of inspection authority, may—

(1) enter property where a building failure being investigated has occurred, or where building components, materials, and artifacts with respect to the building failure are located, and take action necessary, appropriate, and reasonable in light of the nature of the property to be inspected to carry out the duties of the Team under section 2(b)(2)(A) and (B);

(2) during reasonable hours, inspect any record (including any design, construction, or maintenance record), process, or facility related to the investigation;

(3) inspect and test any building components, materials, and artifacts related to the building failure; and

(4) move such records, components, materials, and artifacts as provided by the procedures developed under section 2(c)(1).

(b) AVOIDING UNNECESSARY INTERFERENCE AND PRESERVING EVIDENCE.—An inspection, test, or other action taken by a Team under this section shall be conducted in a way that—

(1) does not interfere unnecessarily with services provided by the owner or operator of the building components, materials, or artifacts, property, records, process, or facility; and

(2) to the maximum extent feasible, preserves evidence related to the building failure, consistent with the ongoing needs of the investigation.

(c) COORDINATION.—

(1) WITH SEARCH AND RESCUE EFFORTS.—A Team shall not impede, and shall coordinate its investigation with, any search and rescue efforts being undertaken at the site of the building failure.

(2) WITH OTHER RESEARCH.—A Team shall coordinate its investigation, to the extent practicable, with qualified researchers who are conducting engineering or scientific (including social science) research relating to the building failure.

(3) MEMORANDA OF UNDERSTANDING.—The National Institute of Standards and Technology shall enter into a memorandum of understanding with each Federal agency that may conduct or sponsor a related investigation, providing for coordination of investigations.

(4) WITH STATE AND LOCAL AUTHORITIES.—A Team shall cooperate with State and local authorities carrying out any activities related to a Team's investigation.

(d) INTERAGENCY PRIORITIES.—

(1) IN GENERAL.—Except as provided in paragraph (2) or (3), a Team investigation shall have priority over any other investigation of any other Federal agency.

(2) NATIONAL TRANSPORTATION SAFETY BOARD.—If the National Transportation Safety Board is conducting an investigation related to an investigation of a Team, the National Transportation Safety Board investigation shall have priority over the Team investigation. Such priority shall not otherwise affect the authority of the Team to continue its investigation under this Act.

(3) CRIMINAL ACTS.—If the Attorney General, in consultation with the Director, determines, and notifies the Director, that circumstances reasonably indicate that the building failure being investigated by a Team may have been caused by a criminal act, the Team shall relinquish investigative priority to the appropriate law enforcement agency. The relinquishment of investigative priority by the Team shall not otherwise affect the authority of the Team to continue its investigation under this Act.

(4) PRESERVATION OF EVIDENCE.—If a Federal law enforcement agency suspects and notifies the Director that a building failure being investigated by a Team under this Act may have been caused by a criminal act, the Team, in consultation with the Federal law enforcement agency, shall take necessary actions to ensure that evidence of the criminal act is preserved.

SEC. 5. BRIEFINGS, HEARINGS, WITNESSES, AND SUBPOENAS.

(a) GENERAL AUTHORITY.—The Director or his designee, on behalf of a Team, may conduct hearings, administer oaths, and require, by subpoena (pursuant to subsection (e)) and otherwise, necessary witnesses and evidence as necessary to carry out this Act.

(b) BRIEFINGS.—The Director or his designee (who may be the leader or a member of a Team), on behalf of a Team, shall hold regular public briefings on the status of investigative proceedings and findings, including a final briefing after the report required by section 8 is issued.

(c) PUBLIC HEARINGS.—During the course of an investigation by a Team, the National Institute of Standards and Technology may, if the Director considers it to be in the public interest, hold a public hearing for the purposes of—

(1) gathering testimony from witnesses; and

(2) informing the public on the progress of the investigation.

(d) PRODUCTION OF WITNESSES.—A witness or evidence in an investigation under this Act may be summoned or required to be produced from any place in the United States. A witness summoned under this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(e) ISSUANCE OF SUBPOENAS.—A subpoena shall be issued only under the signature of the Director but may be served by any person designated by the Director.

(f) FAILURE TO OBEY SUBPOENA.—If a person disobeys a subpoena issued by the Director under this Act, the Attorney General, acting on behalf of the Director, may bring a civil action in a district court of the United States to enforce the subpoena. An action under this subsection may be brought in the judicial district in which the person against whom the action is brought resides, is found, or does business. The court may punish a failure to obey an order of the court to comply with the subpoena as a contempt of court.

SEC. 6. ADDITIONAL POWERS.

In order to support Teams in carrying out this Act, the Director may—

(1) procure the temporary or intermittent services of experts or consultants under section 3109 of title 5, United States Codes;

(2) request the use, when appropriate, of available services, equipment, personnel, and facilities of a department, agency, or instrumentality of the United States Government on a reimbursable or other basis;

(3) confer with employees and request the use of services, records, and facilities of State and local governmental authorities;

(4) accept voluntary and uncompensated services;

(5) accept and use gifts of money and other property, to the extent provided in advance in appropriations Acts;

(6) make contracts with nonprofit entities to carry out studies related to purpose, functions, and authorities of the Teams; and

(7) provide nongovernmental members of the Team reasonable compensation for time spent carrying out activities under this Act.

SEC. 7. DISCLOSURE OF INFORMATION.

(a) GENERAL RULE.—Except as otherwise provided in this section, a copy of a record, information, or investigation submitted or received by a Team shall be made available to the public on request and at reasonable cost.

(b) EXCEPTIONS.—Subsection (a) does not require the release of—

(1) information described by section 552(b) of title 5, United States Code, or protected from disclosure by an other law of the United States; or

(2) information described in subsection (a) by the National Institute of Standards and Technology or by a Team until the report required by section 8 is issued.

(c) PROTECTION OF VOLUNTARY SUBMISSION OF INFORMATION.—Notwithstanding any other provision of law, a Team, the National Institute of Standards and Technology, and any agency receiving information from a Team or the National Institute of Standards and Technology, shall not disclose voluntarily provided safety-related information if that information if that information is not directly related to the building failure being investigated and the Director finds that the disclosure of the information would inhibit the voluntary provision of that type of information.

(d) PUBLIC SAFETY INFORMATION.—A Team and the National Institute of Standards and Technology shall not publicly release any information it receives in the course of an investigation under this Act if the Director finds that the disclosure of that information might jeopardize public safety.

SEC. 8. NATIONAL CONSTRUCTION SAFETY TEAM REPORT.

Not later than 90 days after completing an investigation, a Team shall issue a public report which includes—

(1) an analysis of the likely technical cause or causes of the building failure investigated;

(2) any technical recommendations for changes to or the establishment of evacuation and emergency response procedures;

(3) any recommended specific improvements to building standards, codes, and practices; and

(4) recommendations for research and other appropriate actions needed to help prevent future building failures.

SEC. 9. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACTIONS.

After the issuance of a public report under section 8, the National Institute of Standards and Technology shall comprehensively review the report and, working with the United States Fire Administration and other appropriate Federal and non-Federal agencies and organizations—

(1) conduct, or enable or encourage the conducting of, appropriate research recommended by the Team; and

(2) promote (consistent with existing procedures for the establishment of building standards, codes, and practices) the appropriate adoption by the Federal Government, and encourage the appropriate adoption by other agencies and organizations, of the recommendations of the Team with respect to—

(A) technical aspects of evacuation and emergency response procedures;

(B) specific improvements to building standards, codes, and practices; and

(C) other actions needed to help prevent future building failures.

SEC. 10. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ANNUAL REPORT.

Not later than February 15 of each year, the Director shall transmit to the Committee on Science of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a report that includes—

(1) a summary of the investigations conducted by Teams during the prior fiscal year;

(2) a summary of recommendations made by the Teams in reports issued under section 8 during the prior fiscal year and a description of the extent to which those recommendations have been implemented; and

(3) a description of the actions taken to improve building safety and structural integrity by the National Institute of Standards and Technology during the prior fiscal year in response to reports issued under section 8.

SEC. 11. ADVISORY COMMITTEE.

(a) ESTABLISHMENT AND FUNCTIONS.—The Director, in consultation with the United States Fire Administration and other appropriate Federal agencies, shall establish an advisory committee to advise the Director on carrying out this Act and to review the procedures developed under section 2(c)(1) and the reports issued under section 8.

(b) ANNUAL REPORT.—On January 1 of each year, the advisory committee shall transmit to the Committee on Science of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a report that includes—

(1) an evaluation of Team activities, along with recommendations to improve the operation and effectiveness of Teams; and

(2) an assessment of the implementation of the recommendations of Teams and of the advisory committee.

(c) DURATION OF ADVISORY COMMITTEE.—Section 14 of the Federal Advisory Committee Act shall not apply to the advisory committee established under this section.

SEC. 12. ADDITIONAL APPLICABILITY.

The authorities and restrictions applicable under this Act to the Director and to Teams shall apply to the activities of the National Institute of Standards and Technology in response to the attacks of September 11, 2001.

SEC. 13. AMENDMENT.

Section 7 of the National Bureau of Standards Authorization Act for Fiscal Year 1986 (15 U.S.C. 281a) is amended by inserting '', or from an investigation under the National Construction Safety Team Act,'' after ''from such investigation''.

SEC. 14. CONSTRUCTION.

Nothing in this Act shall be construed to confer any authority on the National Institute of Standards and Technology to require the adoption of building standards, codes, or practices.

SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

The National Institute of Standards and Technology is authorized to use funds otherwise authorized by law to carry out this Act.

SA 4515. Mr. BAUCUS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Section 131 is amended by adding at the end the following:

(f) CONTINUATION OF CERTAIN FUNCTIONS OF THE CUSTOMS SERVICE.—

(1) IN GENERAL.—

(A) PRESERVATION OF CUSTOMS FUNDS.—Notwithstanding any other provision of this Act, no funds available to the United States Customs Service or collected under paragraphs (1) through (8) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(1) through (8)) may be transferred for use by any other agency or office in the Department.

(B) CUSTOMS AUTOMATION.—Section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) is amended—

(i) in paragraph (1), by striking subparagraph (B) and inserting the following:

''(B) amounts deposited into the Customs Commercial and Homeland Security Automation Account under paragraph (5).'';

(ii) in paragraph (4), by striking ''(other than the excess fees determined by the Secretary under paragraph (5))''; and

(iii) by striking paragraph (5) and inserting the following:

''(5)(A) There is created within the general fund of the Treasury a separate account that shall be known as the 'Customs Commercial and Homeland Security Automation Account'. In each of fiscal years 2003, 2004, and 2005 there shall be deposited into the Account from fees collected under subsection (a)(9)(A), $350,000,000.

''(B) There is authorized to be appropriated from the Customs Commercial and Homeland Security Automation Account for each of fiscal years 2003 through 2005 such amounts as are available in that Account for the development, establishment, and implementation of the Automated Commercial Environment computer system for the processing of merchandise that is entered or released and for other purposes related to the functions of the Department of Homeland Security. Amounts appropriated pursuant to this subparagraph are authorized to remain available until expended.

''(C) In adjusting the fee imposed by subsection (a)(9)(A) for fiscal year 2006, the Secretary of the Treasury shall reduce the amount estimated to be collected in fiscal year 2006 by the amount by which total fees deposited to the Customs Commercial and Homeland Security Automation Account during fiscal years 2003, 2004, and 2005 exceed total appropriations from that Account.''.

(2) ADVISORY COMMITTEE ON COMMERCIAL OPERATIONS OF THE UNITED STATES CUSTOMS SERVICE.—Section 9503(c) of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203; 19 U.S.C. 2071 note) is amended—

(A) in paragraph (1), by inserting ''in consultation with the Secretary of Homeland Security'' after ''Secretary of the Treasury'';

(B) in paragraph (2)(A), by inserting ''in consultation with the Secretary of Homeland Security'' after ''Secretary of the Treasury'';

(C) in paragraph (3)(A), by inserting ''and the Secretary of Homeland Security'' after ''Secretary of the Treasury''; and

(D) in paragraph (4)—

(i) by inserting ''and the Under Secretary of Homeland Security for Border and Transportation'' after ''for Enforcement''; and

(ii) by inserting ''jointly'' after ''shall preside''.

(3) CONFORMING AMENDMENT.—Section 311(b) of the Customs Border Security Act of 2002 (Public Law 107–210) is amended by striking paragraph (2).

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a Committee hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, September 17, at 9:30 a.m. in Dirksen 366.

The Committee will conduct an oversight hearing on the Federal Energy Regulatory Commission's Notice of Proposed Rulemaking Remedying Undue Discrimination through Open Access Transmission Service and Standard Electricity Market Design, issued July 31.

Those wishing to submit written statements on this subject should address them to the Committee on Energy and Natural Resources, Attn: Jonathan Black, United States Senate, Dirksen 364, Washington, D.C. 20510.

For further information, please call Leon Lowery at 202/224–2209 or Jonathan Black at 202/224–6722.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a Committee hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Wednesday, September 18, at 9:30 a.m. in SD–366.

The purpose of the hearing is to receive testimony concerning the effectiveness and sustainability of U.S. technology transfer programs for energy efficiency, nuclear, fossil and renewable energy; and to identify necessary changes to those programs to support U.S. competitiveness in the global marketplace.

Those wishing to submit written statements on this subject should address them to the Committee on Energy and Natural Resources, ATTN: Jonathan Black, 364 Dirksen Senate Office Building, Washington, D.C., 20510.

For further information, please call Jennifer Michael on 4–7143 or Jonathan Black on 4–6722.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation and Merchant Marine and the Subcommittee on Transportation, Infrastructure and Nuclear Safety be authorized to meet on September 9, 2002, at 2:30 p.m. on freight and intermodal transportation.

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

COMMITTEE ON TRANSPORTATION INFRASTRUCTURE, AND NUCLEAR SAFETY

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works, Subcommittee on Transportation, infrastructure, and Nuclear Safety be authorized to meet jointly with the Subcommittee on Surface Transportation and Merchant Marine of the Committee on Commerce, Science, and Transportation on Monday, September 9, 2002, at 2:30 p.m. to conduct a hearing to receive testimony on freight and transportation issues. The hearing will be held in SR–253.

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

NATIONAL CONSTRUCTION SAFETY TEAM ACT

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 510, H.R. 4687.

The PRESIDING OFFICER. The clerk will report the bill by title.

A bill (H.R. 4687) to provide for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life.

There being no objection, the Senate proceeded to consider the bill.

Mr. HOLLINGS. Madam President, today the Senate will consider H.R. 4687, the National Construction Safety Team Act. The Senate companion, S. 2496, was introduced by Senators CLINTON, SCHUMER, LIEBERMAN, and DODD, and is currently pending before the Senate Committee on Commerce, Science, and Transportation, which I chair.

At the urging of our colleagues, particularly Senator CLINTON, the committee has agreed to move the House version of the legislation in the hopes

that action on this bill might be completed by September 11. The committee has worked to accommodate those requests to move this bill. In that effort, the committee has made some changes to the bill to clarify its purpose and to address some technical issues.

The National Construction Safety Team Act would provide for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life. The bill seeks to address several problems identified as a result of the collapse of the World Trade Center Towers. For example, no Federal agency is clearly charged with investigating building failures. The bill would solve this problem by giving the National Institute of Standards and Technology, NIST, clear responsibility to handle such investigations. Further, there are currently no guarantees that investigations will begin quickly enough to preserve valuable evidence. The bill would require NIST to act within 48 hours of a building failure. In addition, no Federal agency has the investigative authority needed to ensure access to a building's structural information. Therefore, the bill would provide to NIST clear authority to enter sites, access documents, test materials, and move evidence, as well as clear authority to issue subpoenas. Finally, there is no mechanism for keeping the public informed of the progress of an investigation. The bill would require NIST to provide regular public briefings and to make public its findings and the materials that led to those findings.

I would like to enter into a discussion with my friend Senator MCCAIN, the ranking member of the committee, regarding the provisions in the bill relating to a construction safety team's final report and membership.

Mr. MCCAIN. I thank the chairman of the Commerce Committee. When a construction safety team issues its report on the likely technical cause for building failure, along with recommendations under Section 8 of this legislation, it is my understanding that any strongly held minority or dissenting views would also be included in that report. I believe that is the committee's intent.

Mr. HOLLINGS. The ranking member is correct. While it is our hope that teams would be able to issue a consensus report, the committee urges the Director of the National Institute of Standards and Technology, when setting the procedures to govern construction safety teams, to ensure that any such minority or dissenting views are included in any report.

Mr. MCCAIN. I would also like to clarify an issue regarding the composition of a safety team. It seems appropriate to permit employees of Federal agencies to serve as members of construction safety teams. And certainly in the event that a construction safety team investigates the collapse of a Federal building, a representative from the General Services Administration should be included on the team.

Mr. HOLLINGS. I agree that is the committee's intent. I thank Senator MCCAIN once again for his cooperation in this matter and urge the Senate to pass this legislation, as amended.

AMENDMENT NO. 4514

(Purpose: To provide for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life)

Mr. REID. Senator HOLLINGS has a substitute amendment at the desk. I ask unanimous consent that the amendment be considered and agreed to; the motion to reconsider be laid upon the table; the bill, as amended, be read the third time and passed; the motion to reconsider be laid upon the table; and that any statements and colloquies 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 amendment (No. 4514) was agreed to.

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

The bill (H.R. 4687), as amended, was read the third time and passed.

ORDERS FOR TUESDAY, SEPTEMBER 10, 2002

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m., Tuesday, September 10; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the Interior Appropriations Act under the previous order. Further, that the Senate recess from 12:30 to 2:15 p.m. for the weekly partly conferences, and at 2:15 p.m. the Senate resume consideration of the Homeland Security Act.

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

PROGRAM

Mr. REID. Madam President, the next rollcall vote will occur at about 10:30 tomorrow morning in relation to the Daschle second-degree amendment regarding agricultural disaster assistance, and this will be an amendment that is considered on the Interior Appropriations Act.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. There being no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:34 p.m., adjourned until Tuesday, September 10, 2002, at 9:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate September 9, 2002:

THE JUDICIARY

KENNETH A. MARRA, OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA.