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### EXECUTIVE SESSION

#### NOMINATION OF MIGUEL A. ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT

(Continued)

Mr. STEVENS. I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, one of the great privileges of being a Member of the Senate is to recommend to the President names of people who should be members of the Federal judiciary—that is either the Federal district court, circuit court of appeals, but certainly not the U.S. Supreme Court because that is out of the purview of recommendations by a single Senator.

Since I have been in the Senate, I have been able to recommend to a Democratic President at least two. We are not a large State so we have the opportunity to only recommend two people to the Federal bench.

The first one I was able to recommend was a circuit court of appeals judge and the second was a district court judge. This decision was so important to me that I went out of my way to make sure whoever I recommended to President Clinton at the time would be someone the President would want to nominate to be confirmed as a member of the circuit court of appeals. In this case it was the Ninth Circuit Court of Appeals. Montana is included in the Ninth Circuit.

What did I do? First, I went out of my way to put together a group of Montanans—6, 7, 8, 10 Montanans—and I selected the best folks I could find in my home State to represent a cross-section, a broad array of interests and points of view. Some were lawyers; some were not lawyers.

I said to each one of them: I want you to suggest to me the very best three people in the State of Montana who should serve on the Ninth Circuit

Court of Appeals. I do not care whether they are Republicans. I do not care whether they are Democrats, liberals, conservatives; I just want the best, the most solid people, the people who have deep common sense, have a tremendous sense of history in our country, the highest integrity. I just want the best.

The committee I appointed came back to me several weeks, maybe a month later with three names. I sat down with each of the three for an interview, and I spent about 3 hours with each of the three to try to determine for myself who was the best person that President Clinton could nominate from Montana to sit on the Ninth Circuit Court of Appeals.

It was a very difficult process. It was very difficult because the three the group suggested to me were all very good. I made a selection finally. It was Mr. Sid Thomas, who President Clinton appointed and who now sits on the Ninth Circuit Court of Appeals.

He has been a tremendous credit to not just the State of Montana and the Ninth Circuit, but the Nation. In fact, many members of the judiciary, including the U.S. Supreme Court, talked to me specifically about Judge Thomas and indicated to me they are very proud of him. He is a "solid person," a very solid man, a solid judge.

The second instance was virtually the same. I put together another group. There was an opening in the Federal district court in Montana. I put together seven, eight, to nine people I thought would do a terrific job in coming up with the very best person to sit on the Federal district court in Montana.

I interviewed each of the three persons the group gave me. I had the same criteria for the committee: I want the best. I do not care if they have brown eyes or blue eyes. I do not care if there is any acid test. That is not relevant to me. I want the very best, most solid, thoughtful people with the highest integrity and a deep sense of the law and history of our State and our Nation.

I do not care whether they are Republicans, Democrats, liberals, conservatives—that does not mean anything to me. I just want the best.

They came up with three names. I interviewed the three people. I, again, had the excruciating choice to make because they were all very good. I made a selection finally, and I recommended to President Clinton a person who I think has done great credit to the U.S. Federal district court in Montana, Judge Don Malloy.

I can tell you, the bar in Montana thinks he is terrific. The plaintiffs bar, the defense bar—they all have the highest regard for him. Why? Because he is smart, he is hard working, and he does not play favorites. He is what a Federal district court judge should be.

Why do I say all that? I say that because we are now faced with whether or not the Senate should confirm to the DC Court of Appeals Miguel Estrada. Should we or should we not? Let me roll back history a bit.

Several years ago, I was on the Judiciary Committee. In fact, it was quite a few years ago. At that time, Justice Sandra Day O'Connor, not then a Justice, was nominated by the President to sit on the U.S. Supreme Court. With all deference to Justice O'Connor, that was the first time, at least in my memory, when a nominee essentially did not answer very many questions.

I asked her questions, other members of the committee asked her questions, and she essentially began this tradition of not answering the questions. Again, I have the highest regard for Justice O'Connor. I think she has been a great Justice of the U.S. Supreme Court. It bothered me as a member of the Judiciary Committee that a nominee was not answering questions. It just did not seem right.

We at that time decided, OK, she seems like a very good person. She was in the State senate in her home State of New Mexico, so let's vote to confirm her.

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



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We are now faced with the situation where Mr. Estrada is not answering any questions whatsoever, and he is not providing other information to the committee. I am not now on the Judiciary Committee but I take this responsibility of whether or not the Senate should confirm a nominee to the circuit court of appeals, Federal district court, or the U.S. Supreme Court very seriously. I know all of us in this body do.

There are not very many decisions we can make that will be more important. There are not very many. Why is that? That is because these are lifetime appointments.

Mr. President, you run for reelection, I do, everybody in this body, every few years, every 6 years. Everybody in the other body runs for reelection every 2 years. Every Governor runs every 4 years, sometimes 2 years. Every President runs every 4 years, except those who cannot run because of the constitutional requirement. We face voters. We are held accountable. Voters have a chance to either reelect us or not. But boy, once someone is put in the U.S. Federal judiciary, an article III position, that is for life.

I believe that is the way it should be. Why? Because these are the people we want to be totally impartial to do what is right and not be swayed by temporary whims and vogues of the moment. We try not to as elected officers. It is our job to represent people in our State. If they want something, we should give that to people, given what we think makes sense and is right for our home States and right for the country.

Federal judges are held to a different standard. State judges are not lifetime appointments. I do not know any who are. Federal judges are appointed for life. That is a huge responsibility they have.

We have to make sure we get the right people. It is our responsibility. When voters elect us, they basically say: Senator, we do not know all the ins and outs of what goes on in Washington, DC, but we want you to do the right thing. Just do not do something nutty or crazy, but, basically, do the right thing.

Most people give us a lot of latitude. So long as it sounds right, fits right, and smells right, it really is all right.

It does not sound right, it does not fit right, it does not smell right, it does not seem right, for this body to confirm somebody who will not answer any questions, who will not give us relevant information, and who has no prior history so it is hard for us to know.

I will bet this: At that Justice Department and perhaps at the White House, they sat down with Mr. Estrada and asked him a lot of questions. I bet he gave them a lot of answers. I bet there is somebody in this operation who is supporting his nomination in the executive branch who knows a lot about Mr. Estrada, who had long con-

versations with him. If they did, which is entirely proper—in fact, it is imperative and an obligation they have to ask him questions, particularly before the President suggests a nominee for the DC Court of Appeals. If they do, so should we have the information in the Senate. We have an equal responsibility to know how he feels about certain issues.

I am not saying he should address how he feels about certain cases decided by the Supreme Court or cases decided by even the court of appeals. I am not asking for that because judges have to be impartial. I am saying we have a responsibility to know who this fellow is: What makes him tick? What does he really think about? What are his values? What does he stand for? Will he be impartial? What does he think about our Constitution? What does he think about the court as the third branch of Government? There are tons of questions one could come up with, and we have that responsibility.

Why do I say we have that responsibility? I have already said it is a lifetime appointment, but in addition the Constitution tells us we have that responsibility. The advice and consent provision is in the U.S. Constitution.

When our Founding Fathers wrote the Constitution, they debated the advice and consent clause. They did not know what it should provide. There are various interpretations, but they knew it was very serious. One interpretation, that is one view, that was advanced very seriously when our Founding Fathers wrote the Constitution, was this: That the Senate should send a selection of three, four, or five names to the President and then the President makes the decision. The Senate would give the names to the President and then the President would decide. It is kind of like what I did a little bit when I was interviewing people in Montana. I got a bunch of names of the best people, and I made a decision who I thought was the best person.

Why did our Founding Fathers really wrestle over this question over what the proper mechanism would be for the Senate to jointly decide with the President who should or should not be on the Federal judiciary? It is pretty simple. It is our third branch of Government. It is the third of the three branches of Government, and it is not right that one branch of Government should dictate who does or who does not sit on the U.S. Supreme Court. That is not right. Rather, it is a joint decision. It is a decision which, just as the President took very seriously, we have an obligation to take equally seriously.

It reminds me a little bit of a number of years ago when an earlier President, President Franklin Roosevelt, decided he did not agree with the Supreme Court decisions. What did he do? He came up with an idea to add more Justices to the U.S. Supreme Court. It is colloquially referred to as court packing by President Roosevelt.

The Senate stood up. It said: No, that is the wrong thing to do. I am very proud to say that the Senator who stood up was from Montana. It was Senator Burton Kendall Wheeler. He said: No, it is not the right thing to do.

Just as he stood up, I think we have an obligation in the Senate to stand up when it is the wrong thing to do; that is, to pass judgment on—to agree with the President's nominee where we have no information, where he will not answer questions, he will not tell us what he thinks. What is this person really all about? What is the sense of the man? Where is he? Where is his soul? Who is he? That is what we have to determine in deciding whether he should be placed on the DC Court of Appeals. And I say that very respectfully.

I might add that the DC Court of Appeals is no ordinary, garden variety appellate court. It is a special appellate court, and that is because so many decisions made by Federal agencies go to the DC Court of Appeals as opposed to the Ninth Circuit or the Fourth Circuit. There are so many of them. There are environmental laws, for example, and labor laws that go primarily to the DC Court of Appeals, for which Mr. Estrada has been nominated, much more than to other courts. These decisions affect all of us around the country. They do not just affect the DC Circuit or people who reside in the DC Circuit. They affect all Americans. The DC Court of Appeals jurisdiction extends to the National Labor Relations Board, the Occupational Safety and Health Administration, the Federal Communications Commission, the Federal Elections Commission, the Environmental Protection Agency.

Obviously, decisions made by those agencies have a great effect on all Americans. When they are reviewed by the DC Court of Appeals, the decisions the DC Court of Appeals makes certainly have the same effect upon all Americans. Those rulings affect our workers, our businesses, our national environment, our families, and our homes. They affect political elections. They affect directly the present occupant of the chair, just as they affect me directly.

About 50 percent of the DC Court's caseload consists of appeals from regulations or decisions made by Federal agencies. Fifty percent of the DC Court of Appeals caseload is appeals of Federal agencies. In many cases, the DC Court of Appeals is the last word, too, on Federal decisions. We all know this.

The U.S. Supreme Court is taking fewer cases on appeal. The caseload of the U.S. Supreme Court has fallen off dramatically in the last couple or 3 years, which means that the courts of appeals' rulings are that much more important. They are almost like a supreme court in many respects because the U.S. Supreme Court is taking fewer cases.

I will give an example of the power of the DC Court of Appeals in my State of Montana. This is Montana. Don't forget we are in the Ninth Circuit—not

the DC Circuit—as is the State of the Presiding Officer. The DC Court of Appeals has exclusive jurisdiction over cases brought against the Environmental Protection Agency, particularly regarding the Superfund.

I know in the Presiding Officer's State there are huge Superfund issues. They are dramatic. Superfund is tremendously important to my home State of Montana as well. In the town of Libby, MT, for example, they have suffered from decades of asbestos contamination at the hands of W.R. Grace. It is just tragic. It happened to the people of Libby, MT. As a result, Superfund cleanup efforts are now taking place in an attempt to make the town and its residents whole again. It is a gigantic undertaking.

Libby is not the only Superfund site. As the Presiding Officer knows, we have Superfund sites around the country. In Montana, for example, we have the largest Superfund site in the Nation. It is called the Clark Fork Basin. It starts up in Butte and ends up eventually down in the State of the Presiding Officer. It is huge. These sites threaten the health and well-being of so many people not only in my State but in other States as well.

When Congress created the Superfund, our goal was to ensure that the public health and environment were protected and made whole, particularly the cleanup. So decisions made by the DC Court of Appeals overseeing the Environmental Protection Agency obviously greatly influence whether the intent of the law is actually fulfilled on the ground; that is, in Montana or any other State in the Nation, because EPA is all over America. It is not only the Ninth Circuit where the Presiding Officer and I live. There is no question that in the State of Montana we have a terrific interest, a big interest, in who sits on the DC Circuit Court, given that court's influence over our Nation's health, safety, and welfare laws.

Different Members may disagree with different decisions made by the DC Court of Appeals, but we do agree we want a very thoughtful, fully considered, and impartial decision. That is what we want. That is what we expect. That is why, in my judgment, this body has to go to extraordinary lengths to determine whether nominees to the courts of appeals, district courts, and the Supreme Court, are the right people. It is our duty.

We cannot just pass it off and say, oh, the President appointed him. We cannot stop there. It would be irresponsible. When we are elected, we are elected by people in our States to hold up the Constitution of the United States. Certainly the President can appoint, but just as certainly the Senate has the right and, indeed, the obligation to advise and consent and, given the tradition of the advice and consent clause and balance of powers, give it the same weight as the President.

That is why I think at the bare minimum the Senate has the right to ask

for more information. Who is this man? Find out more about him. Look at his writings. What is he hiding? What is there to hide? We all know the more information in the public arena, the more likely it is we will make the right decision. We know that. It is only proper the White House ask Mr. Estrada to answer some questions and give some information. This is not rocket science. This is pretty easy. This is simple stuff.

I do not feel it is proper for the Senate to confirm Mr. Estrada. This is very important. I cannot think of many decisions we make that are ultimately more important, particularly regarding the DC Court of Appeals. We may have different conclusions when he gives us information, but at least he should talk to us.

(The remarks of Mr. BAUCUS pertaining to the submission of S. 396 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I continue to oppose the Estrada nomination. What is at stake in this nomination is a lifetime appointment to the second highest court in the land. The D.C. Circuit Court of Appeals makes decisions that affect millions of Americans every day—whether they will drink clean water and breathe clean air—whether workers will be safe in the workplace, and can join unions without fear of reprisal by their employer—whether minorities and women will be able to stop workplace harassment.

Yet our Republican colleagues want us to rubber stamp the nomination of Miguel Estrada to this important court. They say to us, you do not need to look at his record. You do not need to ask him what kind of judge he would be. You do not have to ask him to explain the serious discrepancies in the answers he gave during his hearing in the Judiciary Committee. They even make the preposterous and shameless claim that Mr. Estrada is being opposed because he is Latino.

Our Republican colleagues obviously do not appreciate the importance of the position that Mr. Estrada seeks. If they did, they would not be in such a rush to confirm a divisive nominee about whom we know so little.

Our duty under the Constitution is not to rubber stamp. It is to provide informed advice and consent in the nomination process. Our duty is to ensure that the Federal judiciary is fair and independent, a place where everyone, even the most vulnerable among us, can obtain protection of their rights. If we become a Senate that simply rubber stamps judicial nominees, the nomination process becomes a charade. Whoever happens to have the favor of the White House can become a Federal judge simply by refusing to give the Senate the information necessary to

provide real advice and consent. The Federal courts would become a political lackey of the executive and legislative branches, and would lose their essential independence.

We all know the importance of this judicial independence and the critical role that the Federal courts have in the lives of millions of our fellow citizens, especially those who are minorities.

The Latino experience is typical of minority groups that seek justice. When the executive branch has failed them, when the legislative branch has failed them, it is the Federal courts, independent of political forces, that have protected their rights. Federal courts have protected Latinos' right to fair redistricting rules in Lopez v. Monterey County. Federal courts have also protected Latinos' right to bilingual education. They have protected Latinos' right to sit on a jury free from challenge on the basis of their race. They protect Latinos' right to be free from racial profiling.

When the Senate considers a judicial nominee, it must take this history into account. We must consider whether the nominee accepts the historic role of the courts in the protection of basic rights. One of the most serious concerns raised by the Congressional Hispanic Caucus, which met with Mr. Estrada, was that he does not understand and appreciate this history. The Hispanic Caucus does not lightly oppose the nomination of a Latino to a Federal court. In fact, they have never done it before. It would have been far easier for them to decide that a Latino judge on the DC Court of Appeals could be called a victory for them. But they realized it would be a victory in name only. They saw that Mr. Estrada would not uphold the basic rights of the Latino community, and they decided—unanimously—to oppose his nomination.

When the Hispanic Caucus reviews a judicial nominee, they look for a person who will have a sense of fairness, who will be sensitive to claims of racial bias and discrimination, and who are aware of the fundamental role of the Federal courts in ending these injustices. Mr. Estrada failed to satisfy them on each of these important points.

The Hispanic Caucus asked Mr. Estrada about his legal work on two cases in which he defended anti-loitering ordinances. Statutes such as these have too often been used for racial profiling and to harass minorities performing lawful activities. The members of the Hispanic Caucus left that meeting convinced that Mr. Estrada did not understand the effect of these anti-loitering statutes on minorities, or that he did not care about them.

Mr. Estrada has also demonstrated his lack of sensitivity on issues affecting Latinos in his numerous statements about race and affirmative action. He has been dismissive of the under-representation of Latinos among

law clerks in the Supreme Court. You do not have to be Latino to understand that there are long-standing barriers to full participation by Latinos. But Mr. Estrada does not see it that way. Perhaps this is why Mr. Estrada has never tried to improve opportunities for Latino lawyers or law students.

But if you cannot see the problem, you cannot be part of the solution. I am deeply concerned, given these statements by Mr. Estrada, that he would oppose basic programs, that have done so much to open the doors of opportunity for minorities throughout our Nation.

In light of all of these facts, the Hispanic Caucus has decided to oppose this nomination. As I said, they did not make this decision lightly. They have supported the nomination of conservative judges in the past, including judges nominated by the current administration. Jose Martinez, for one, was nominated by this administration. The Caucus met with him. Not all of the members of the Caucus agreed with Mr. Martinez's politics, but they saw that Mr. Martinez was sensitive to the needs and experience of the Latino community. He understood the historic and important role of the Federal courts in the lives of Latinos. So the caucus supported his nomination and Judge Martinez is now a United States District Judge for the Southern District of Florida.

When Democrats oppose Mr. Estrada, we are standing with these groups. We are standing up for the rights of Latinos and other minorities. In fact, it has been Senate Republicans who have unfairly blocked the confirmation of Latino nominees. The last Republican-controlled Senate unfairly refused to confirm eight—eight—qualified Latino nominees. Two who were nominated to the Fifth Circuit Court of Appeals from Texas were not even given hearings by the Republicans.

The Fifth Circuit is one of the areas where the highest percentage of minorities in this country live. Where were our Republican colleagues when these qualified judges were waiting for confirmation? Where were our Republican colleagues when Richard Paez waited for confirmation longer than any other nominee in U.S. history? Where were they? They were in control of the Senate.

When Republicans call on us to rubberstamp a judicial nominee, telling us that we have no right to look into his record to see what kind of judge he may be, they are ignoring their own history, and they are ignoring the proper role of the Senate. President Bush, more than perhaps any other President, has made it his goal to pack the courts with judges who will roll back basic Federal rights, including civil rights, workers' rights, and environmental protections. Ideology clearly guides the President's decision to nominate judges. It clearly guided the decision to nominate Mr. Estrada. It would be wrong to ask Senators now

to ignore his ideology. Judges should be committed to basic principles and ideals. They should respect our judicial system and the co-equal relationship between the executive, legislative, and judicial branches. It makes no sense for the Senate, in fulfilling its constitutional role, to adopt a head-in-the-sand approach and abandon all ideological considerations in deciding whether to confirm Mr. Estrada.

Now we have, instead, a Republican stampede to confirm a nominee we know very little about. Despite the critical importance of the Federal courts, and despite the immense power of the appellate court to which he has been appointed, Miguel Estrada has not answered the questions put to him. He has not been forthcoming about the views that he would bring to the bench. He has failed to resolve the serious discrepancies in his answers to the questions put to him during his hearing. The Bush administration refuses to turn over important documents to the Senate as we consider this nominee, despite clear precedent for doing so.

At the same time, what we do know about him clearly indicates that he fails to appreciate the role of the Federal courts and Federal rights in the protection of the most vulnerable members of our society. On this inadequate and unsatisfactory record, the Senate should not confirm a nominee to such an important position.

#### IRAQ

Mr. President, tomorrow, the United Nations inspectors will report to the Security Council about Iraq's weapons of mass destruction. In all likelihood we will continue to hear from Mr. Hans Blix that the inspections are proceeding, but that Iraqi authorities need to be much more cooperative. We know that the administration is lobbying Mr. Blix to submit the strongest possible case that Iraq is not cooperating.

We all agree that Saddam Hussein is a dangerous and deceptive dictator. We live in a dangerous world and Saddam must be disarmed. The question is how to do it in a way that minimizes the risks to the American people at home, to our armed forces, and to our allies.

I am still hopeful that we can avoid war. War should always be a last resort.

Earlier today, President Bush quoted President Kennedy and referred to the Cuban missile crisis. President Bush praised my brother for understanding that the dangers to freedom had to be confronted early and decisively.

President Kennedy did understand this. But he also genuinely believed that war must always be the last resort. When Soviet missiles were discovered in Cuba—missiles far more threatening to us than anything Saddam has today—some leaders in the highest councils of our government urged an immediate and unilateral strike. Instead, the United States took its case to the United Nations, won the endorsement of the Organization of American States, and persuaded even

our most skeptical allies. We imposed a blockade, demanded inspection, and insisted on the removal of the missiles—all without resorting to full-scale war.

As he said then:

Action is required . . . and these actions [now] may only be the beginning. We will not prematurely or unnecessarily risk the costs of . . . war—but neither will we shrink from that risk at any time it must be faced.

I continue to be concerned that the Bush administration is persisting in its rush to war with Iraq, even as we face grave threats from al-Qaida terrorism and North Korea's nuclear ambitions. The administration has done far too little to tell Congress and the American people about what our country and our troops will face in going to war with Iraq, especially if we have little genuine support from our allies.

We are nearing decision time. I urge President Bush to come clean with the American people about this war. Before endangering the Nation's sons and daughters in the Iraqi desert, our citizens deserve full answers to four questions.

First, the President must explain what he considers victory in Iraq. The American people deserve at least this much. Is it disarmament? Is it the overthrow of Saddam? Is it the establishment of a stable, democratic government? If we get rid of Saddam, but leave his bureaucracy in power, will that be a victory? Or, as General Zinni has said, will we be doing what we did in Afghanistan—drive the old Soviet Union out and let something arguably worse emerge?

This should be a basic consideration in committing American lives to this war. Our country should know what we are fighting for. But the administration has failed to define even this most basic question for the American people.

Second, the President must explain whether we are doing all we can to see that America will be secure at home. A war in Iraq may well strengthen al-Qaida terrorists, not weaken them, especially if the Muslim world opposes us. We have not broken Osama bin Ladin's will to kill Americans. Our Nation has just gone on new and higher alert because of the increased overall threat from al-Qaida. What if al-Qaida decides to time its next attack for the day we go to war? The war against al-Qaida must remain our top priority.

In fact, our Nation's intelligence experts have maintained consistently since 9/11 that al-Qaida terrorism is the greatest threat to our security here at home. They also fear that an American attack on Iraq will only make matters worse by inflaming anti-American sentiments across the Arab world.

Third, the President must fully explain how long, even after the war ends, we will have to commit our forces and economic resources to deal with the consequences of the war. This war will be different than the Gulf war. We will not stop short of Baghdad. If we want to change the regime, we may well have to fight in Baghdad and engage in hand-to-hand combat and

urban guerilla warfare. When the war is over, our troops will become an occupying force, possibly for many years. The tribal, ethnic, and religious fault lines that Saddam has held together through repression may fall apart—much as they did in the brutal civil wars in the former Yugoslavia, in Rwanda, and other countries.

Will the United States have to manage Iraq for years to come on our own? Are we prepared to commit billions of American dollars to Iraq for years to come? Will our troops be part of a United Nations force? Will they become sitting targets for terrorists?

Finally, the President must explain whether our Nation is prepared to use this war as the new foreign and defense policy for the future. Are we prepared to invade any nation that poses a threat?

Iran, Libya—forget Libya. Pan Am 103; 67 American servicemen who were killed; 13 families in the State of Massachusetts; scores of families in New Jersey and other States—a country that has used chemical warfare against its neighbors and against Chad in the south.

Libya, Iran, with all of the harboring of terrorists and Hamas—the terrorists that are so active in Syria, and these other countries. What are we going to do about these nations as they continue to move forward in developing weapons of mass destruction? What are our policies going to be about them? Which country will be next? Will we attack them, too?

Are we really prepared, as the administration is considering, to radically change our nuclear weapons policy and use nuclear weapons in Iraq and other conflicts? Even contemplating the first use of nuclear weapons in Iraq under current circumstances and against a non-nuclear nation dangerously undermines the crucial and historical distinction between conventional and nuclear arms. It undermines our international commitment to the Nuclear Non-Proliferation Treaty that we will not consider a first strike against a country that is a nonnuclear country. If we use the Nation's nuclear arsenal in this unprecedented way in Iraq, it will be the most fateful decision since the nuclear attack on Hiroshima. All of us are hopeful we will not use the tactical nukes. We have abundant testimony that our conventional weapons are quite capable and able to handle any of the challenges we are going to face in terms of deep bunkers and other activities. But we have to listen to those in the administration who are talking in a different way about the development of a tactical nuke, and also about perhaps changing what they consider to be the STRAPP amendment that limits the research to 5 kilotons and the administration's consideration of that.

Obviously, implications of any use of any nuclear war in Iraq would inflame the people not only of that nation but certainly of Arabs all over the world—

and not only the Arabs and the move towards developing smaller, more easily usable nuclear weapons and all of the challenges we would have of being more attractive to use under certain circumstances with the dangers of proliferation and the fact these weapons could be proliferated and stolen and used and captured by terrorists.

On each of these questions, the President must reassure the American people. They deserve to know that we are not stepping into quicksand and that this military operation is well thought out. He must convince the Nation that we are putting as much effort into thinking about how we get out of Iraq as we are about getting into Iraq.

We must take both the short-term and the long-term view of this enormous problem. Whether war with Iraq will be a sprint or a marathon we must always remember the finish line.

There is no more important decision by Congress or the President under the Constitution than the decision to send our men and women in uniform to war. The administration must make a compelling case that war with Iraq is now the only alternative and explain it to the American people.

The administration says we can fight a war in Iraq without undermining our most pressing national security priority—the ongoing war against the international al-Qaida terrorist network.

al-Qaida—not Iraq—is the most imminent threat to our national security. Our citizens are asked to protect themselves from Osama bin Ladin at home with a roll of duct tape, while the administration sends the most deadly and sophisticated army in the world to go to war with Saddam Hussein. Those are the wrong priorities.

On Monday, Tom Ridge, the Secretary of Homeland Security said that the heightened security warning that has millions of Americans stocking up on food, water, duct tape, and plastic sheeting is connected to al-Qaida and not “the possibility of military involvement with Iraq.”

On Tuesday, FBI Director Mueller told the Senate Intelligence Committee that “the Al Qaeda network will remain for the foreseeable future the most immediate and serious threat facing this country.”

On Wednesday, CIA Director Tenet told the Senate Armed Services Committee that the heightened alert issued this week is because of the threat from al-Qaida—not Iraq.

For any Member of this body who thinks we have done what we need to do in homeland security, call any mayor in your State, call any mayor in a major city or a small city in your State, and ask them whether they have received the support for the training of first responders. Ask them if they have the various vaccines, how that program is going—and it isn't going, because we have failed to develop a compensation fund for that and to match our determination for vaccines with the other

kinds of supportive efforts in terms of health care.

Ask any mayor in any sized city what degree of support they are getting and whether they believe they are receiving the kind of assistance they need—whether it is in the radios, in the communications, whether it is in the training, whether it is in the wide area of support for public health interests—and you will get the answer that all of us heard—that I heard—within the last 10 days when the mayors across this country came together and met here. And the answer is clearly: No, no, no, it is not there.

In addition to threatening American lives, Saudi Arabia has indicated it will ask American troops to leave its soil. NATO's division over war has threatened the alliance. The Chairman of the Federal Reserve, Alan Greenspan, has said uncertainty over Iraq is slowing our Nation's economy.

There you have three activities: Osama bin Laden, wherever he is, American troops out of Saudi Arabia, division in the alliance, stagnation here at home in the economy. And we are all blaming Osama bin Laden. We are about to send our troops on into Iraq, not giving inspections a chance to finish. The wrong priorities, Mr. President.

As I mentioned in terms of what we are doing here at home, I am concerned about the state of our preparedness. Clearly, there is much more we need to do at the Federal, State, and local levels to strengthen our defenses against a terrorist attack.

First responders are not adequately prepared for a chemical or biological attack. The radios are not interoperable, and they lack the training and gear to protect them in the event of an emergency. Ask any of your mayors, as I mentioned, across the country. You will get your answer.

This isn't just a Democrat pointing this out. Last week, our former colleague, Senator Rudman, of the State of New Hampshire, said:

There was no rational answer for the White House failure to seek more funds for the domestic security in the 2004 budget. I'm very concerned. We have to put more money into the Coast Guard, into communications gear, into preparedness for the use of weapons of mass destruction, into police and firefighters. We have to spend a huge additional amount of money on port security. Money isn't the only answer, but it is a pretty clear indication of a nation's priorities in this area, and it has not been there in terms of the support on homeland security.

Even before the war has begun, we hear of possible threats from a wave of suicide bombers. War with Iraq could swell the ranks of terrorists and trigger an escalation in terrorist acts. As Gen Wesley Clark told the Armed Services Committee last September, war with Iraq could “super-charge recruiting for Al Qaeda.”

These are real dangers—dangers that the administration has minimized in its determination to attack Iraq.

The administration maintains there are convincing links between al-Qaida

and Iraq that justify war. But al-Qaida activists are present in more than 60 countries, including Iran, Pakistan, Afghanistan, and also in the United States. Even in the administration, there are skeptics about the links with Iraq. Intelligence analysts are concerned that intelligence is being politicized to justify war, as the New York Times pointed out in a recent article which I will ask to be printed in the RECORD.

Mr. President, I ask unanimous consent that article be printed in the RECORD.

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

SPLIT AT C.I.A. AND F.B.I. ON IRAQI TIES TO  
AL QAEDA

(By James Risen and David Johnston)

WASHINGTON, Feb. 1—The Bush administration's efforts to build a case for war against Iraq using intelligence to link it to Al Qaeda and the development of prohibited weapons has created friction within United States intelligence agencies, government officials said.

Some analysts at the Central Intelligence Agency have complained that senior administration officials have exaggerated the significance of some intelligence reports about Iraq, particularly about its possible links to terrorism, in order to strengthen their political argument for war, government officials said.

At the Federal Bureau of Investigation, some investigators said they were baffled by the Bush administration's insistence on a solid link between Iraq and Osama bin Laden's network. We've been looking at this hard for more than a year and you know what, we just don't think it's there," a government official said.

The tension within the intelligence agencies comes as Secretary of State Colin L. Powell is poised to go before the United Nations Security Council on Wednesday to present evidence of Iraq's links to terrorism and its continuing efforts to develop chemical, biological and nuclear weapons and long-range missiles.

Interviews with administration officials revealed divisions between, on one side, the Pentagon and the National Security Council, which has become a clearinghouse for the evidence being prepared for Mr. Powell, and, on the other, the C.I.A. and, to some degree, the State Department and agencies like the F.B.I.

In the interviews, two officials, Paul D. Wolfowitz, deputy defense secretary, and Stephen J. Hadley, deputy national security adviser, were cited as being most eager to interpret evidence deemed murky by intelligence officials to show a clearer picture of Iraq's involvement in illicit weapons programs and terrorism. Their bosses, Defense Secretary Donald H. Rumsfeld and the national security adviser, Condoleezza Rice, have also pressed a hard line, officials said.

A senior administration official said discussions in preparation for Mr. Powell's presentation were intense, but not rancorous, and said there was little dissension among President Bush's top advisers about the fundamental nature of President Saddam Hussein's government. "I haven't detected anyone who thinks this a not compelling case," the official said.

Mr. Bush asserted in his State of the Union address this week that Iraq was protecting and aiding Qaeda operatives, but American intelligence and law enforcement officials said the evidence was fragmentary and inconclusive.

"It's more than just skepticism," said one official, describing the feelings of some analysts in the intelligence agencies. "I think there is also a sense of disappointment with the community's leadership that they are not standing up for them at a time when the intelligence is obviously being politicized."

Neither George J. Tenet, the director of central intelligence, nor the F.B.I. director, Robert S. Mueller III, have publicly engaged in the debate about the evidence on Iraq in recent weeks, even as the Bush administration has intensified its efforts to build the case for a possible war.

The last time Mr. Tenet found himself at the center of the public debate over intelligence concerning Iraq was in October, when the Senate declassified a brief letter Mr. Tenet wrote describing some of the C.I.A.'s assessments about Iraq.

His letter stated that the C.I.A. believed that Iraq had, for the time being, probably decided not to conduct terrorist attacks with conventional or chemical or biological weapons against the United States, but the letter added that Mr. Hussein might resort to terrorism if he believed that an American-led attack was about to begin.

Alliances within the group of officials involved have strengthened the argument that Mr. Bush should take a firm view of the evidence. "Wolfowitz and Hadley are very compatible," said one administration official. "They have a very good working relationship."

There were some signs that Mr. Powell might not present the administration's most aggressive case against Iraq when he speaks to the United Nations, leaving such a final definitive statement to the president in some future address.

"You won't see Powell swing for the fences," the official said. "It will not be the end-all speech. The president will do that. The president has to lay it out in a more detailed way."

Deputy Secretary of State Richard L. Armitage told the Senate Foreign Relations Committee last Thursday that Mr. Powell would not assert a direct link between the Iraqi government and the September 11 attacks on New York and Washington.

In demonstrating that there are links between Iraq and Al Qaeda, Mr. Powell is expected to focus on intelligence about possible connections between Mr. Hussein, an Islamic militant group that may have produced poisons in a remote region of northern Iraq and a Qaeda terrorist leader, Abu Mussab al-Zarqawi. Much of the intelligence had been publicly known for months.

Some of the most recent intelligence related to Mr. Zarqawi centers on charges that he orchestrated the plot on Oct. 28 in Amman, Jordan, in which two Qaeda followers—under Mr. Zarqawi's direction—stalked and shot to death Laurence Foley, an American diplomat.

In December, the Jordanian authorities announced that the two men had confessed to killing Mr. Foley and that they had been directed by Mr. Zarqawi.

The connection to the Foley killing was important because the United States had evidence that Mr. Zarqawi, a Jordanian of Palestinian descent, has spent time in Baghdad earlier in 2002. American officials describe Mr. Zarqawi as a major figure in Al Qaeda's leadership and say that after he was wounded in the fighting in Afghanistan after September 11, he made his way to Iraq in the spring of 2002.

He was hospitalized in Baghdad for treatment of his wounds, and then disappeared in August, after Jordanian officials told the Iraqi government they knew he was there. There have been recent reports that he is in hiding in northern Iraq, but that has not yet been confirmed.

But despite Mr. Zarqawi's earlier presence in Baghdad, American officials have no evidence linking Iraqi officials to Mr. Foley's killing, or direct evidence that Mr. Zarqawi is working with the Iraqi government.

"All they know is that he was in the hospital there," one official said.

If he is in northern Iraq, American officials believe that Mr. Zarqawi may be with members of a militant group there called Ansar al-Islam. There is evidence that he has links to the group, and that he may have been working with it to develop poisons for use in terrorist attacks, possibly including a recent plot to poison the food supply of British troops.

But intelligence officials say there is disagreement among analysts about whether there are significant connections between Ansar al-Islam and the Baghdad government. Some administration officials, particularly at the Pentagon, have argued that Ansar al-Islam has close ties to the Iraqi government, but other intelligence officials say there is only fragmentary evidence of such a link.

Intelligence professionals have expressed fewer reservations about the administration's statements concerning Iraq's weapons programs. There is broad agreement within intelligence agencies that Iraq has continued its efforts to develop chemical, biological, and probably nuclear weapons, and that it is still trying to hide its weapons programs from United Nations inspectors.

Officials said the United States had obtained communications intercepts that show Iraqi officials coaching scientists in how to avoid providing valuable information about Iraq's weapons programs to inspectors. At the United Nations, Mr. Powell may also display American satellite photographs showing Iraqi officials moving equipment and materials out of buildings before they can be inspected by the United Nations.

Still, there have been disagreements over specific pieces of intelligence used publicly by the White House to make its case, including the significance of one report that Iraq had imported special aluminum tubes for use in its nuclear weapons program.

In testimony before the Senate Foreign Relations Committee on Thursday, Mr. Armitage acknowledged that the administration had at times relied on inconclusive reports that had not served to strengthen Washington's case.

He agreed with the suggestion of Senator Joseph R. Biden Jr. of Delaware, the committee's ranking Democrat, that the administration should instead stick with the indisputable evidence that Iraq has in the past stockpiled chemical weapons, tried to make biological weapons, and has continued to deceive United Nations inspectors.

"As we used to say in the Navy, KISS, 'Keep it simple, sailor,'" Mr. Armitage said. "Go with your strong points."

Mr. KENNEDY. Although the U.N. inspectors have found no evidence so far of a revived nuclear weapons program in Iraq, there is ample evidence in North Korea. North Korea possesses 8,000 spent nuclear fuel rods capable of being reprocessed, by May, into enough plutonium to make up to 6 nuclear bombs. With inspectors gone and North Korea gone from the Non-Proliferation Treaty, we face an urgent crisis, with nothing to prevent that nation from quickly producing a significant amount of nuclear materials and nuclear weapons for its own use, or for terrorists hostile to America and our allies.

North Korea has already provided missiles to deliver chemical, biological, and nuclear weapons to terrorist

states, including Iran, Syria, and Libya. We understand that North Korea has already provided the missiles to deliver chemical, biological, and nuclear weapons to terrorist states. Desperate and strapped for cash, North Korea can easily provide nuclear weapons or weapons grade plutonium to terrorist groups, which could be used against us in the very near future. And we are talking about the production of weapons grade plutonium in the next few weeks. There is no division of opinion on that, absolutely none. There is no division of opinion on that. As some have described it, it would be a cash cow for North Korea that is absolutely strapped for cash.

Despite these alarm bells, the administration refuses to call the situation on the Korean peninsula what it is: a genuine crisis. If this is not a crisis, I don't know what is.

The administration refuses to directly engage the North Koreans in talks to persuade North Korea to end its nuclear program. By ignoring the North Korean crisis in order to keep focus on Iraq, the administration has kept its eye on the wrong place.

The administration says we can handle the war in Iraq, we can handle the war against al-Qaida, and we can deal with the problems of the nuclear crisis in North Korea. Any administration should seek to avoid three simultaneous foreign policy crises. In this case, we can, and we should, by not rushing to war with Iraq.

It is far from clear that we will be safer by attacking Iraq. In an October 7, 2000, letter to the Senate Committee on Intelligence, CIA Director George Tenet said the probability of Saddam Hussein initiating an attack on the United States was low. But his letter said: "should Saddam Hussein conclude that a U.S.-led attack could no longer be deterred, he probably would become much less constrained in adopting terrorist actions."

Yesterday, Admiral Jacoby, the Director of the Defense Intelligence Agency, told the Senate Armed Services Committee that Saddam Hussein would use weapons of mass destruction "when he makes the decision that [his] regime is in jeopardy." CIA Director Tenet agreed with this assessment.

This assessment begs the question: If Saddam will not use weapons of mass destruction against the United States until his regime is about to fall, why is it in our national security interest to provoke him into using them?

The administration must be more forthcoming about the potential human costs of war with Iraq, especially if it pushes Saddam into unleashing whatever weapons of mass destruction he possesses. The administration has released no casualty estimates, and they could be extremely high. Many military experts have predicted urban guerilla warfare—a scenario which Retired General Joseph Hoar, who had responsibility for Iraq

before the gulf war, says could look "like the last 15 minutes of 'Saving Private Ryan.'"

Nor has the administration fully explained the ramifications of large-scale mobilization of the National Guard and Reserve—especially its effect on police, firefighters, and others, who will be on duty for Iraq but who are needed on the front lines here at home if there is a terrorist attack on the homeland. In Massachusetts, 2,000 citizens have been called to active duty in the Armed Forces. Many of them are police, firefighters, first responders, and other health workers.

Nor has the administration been candid about the humanitarian crisis that could result from war.

Refugee organizations are desperately trying to prepare for a flood of as many as 900,000 refugees. Billions of dollars and years of commitment may well be needed to achieve a peaceful post-war Iraq, but the American people still do not know how that process will unfold and who will pay for it.

No war can be successfully waged if it lacks the strong support of the American people. Before pulling the trigger on war, the Administration must tell the American people the full story about Iraq. So far, it has not.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent to speak in support of the nomination of Miguel Estrada.

THE PRESIDING OFFICER. The Senator has that right.

Mr. CHAMBLISS. Mr. President, I recognize that we are now in our ninth day of debate leading up to an ultimate vote on whether or not Miguel Estrada should be confirmed as the nominee of President George W. Bush to the Circuit Court of Appeals for the District of Columbia. As part of the debate on both sides of the aisle, there has been a continual question asked on this side of our friends by the other side who are in opposition to the appointment and confirmation of Mr. Estrada. That question has been: Give us a reason we should not have a vote on whether or not Mr. Estrada should be confirmed.

I have great respect for the Senator from Massachusetts. He has certainly been a part of this institution for a long time. I listened very closely to his comments which I respect. And I respect his opinion and his right to hold his opinion in opposition to Mr. Estrada. But I think what we have just heard for the last 20 minutes is very indicative of what we have heard for the last 9 days. And that is, there is no reason Mr. Estrada should not be confirmed.

There have been reasons put forth from the other side, and every time one of those reasons has been put forth, the chairman of our committee, Senator HATCH, or someone else, has risen to refute that argument. What the other side has now done is, instead of concen-

trating on the argument in opposition to Mr. Estrada, they have gotten off extensively on to other issues.

I go back to the same question we have asked: Why do we not vote on Mr. Estrada? What is the reason you have that Mr. Estrada should not be confirmed as President Bush's nominee to the Circuit Court for the District of Columbia?

There has been a lot of debate about what was said and the opinion that came out of the conversation between Mr. Estrada and the Hispanic Caucus over on the House side. Let me tell you about some of the folks in the Hispanic community who have come out in support of the nomination of Mr. Estrada: The League of United Latin American Citizens, which is the Nation's oldest and largest Hispanic civil rights organization, has come out in support of the nomination and confirmation of Mr. Estrada; the U.S. Hispanic Chamber of Commerce; the Hispanic National Bar Association; the Hispanic Business Roundtable; the Latino Coalition; the National Association of Small Disadvantaged Businesses; the Mexican American Grocers Association; the Phoenix Construction Services; the Hispanic Chamber of Commerce of Greater Kansas City; the Hispanic Engineers Business Corporation; the Hispano Chamber of Commerce de Las Cruces; Casa Del Sinaloense; the Republican National Hispanic Assembly; Hispanic Contractors of America, Inc., and Charo Community Development Corporation—a long and distinguished list of Hispanic entities that have come out in strong support of the nomination and confirmation of Miguel Estrada.

Let me go further and quote from statements from some individuals who are involved in some of these organizations. The League of United Latin American Citizens, the oldest and largest Hispanic civil rights organization—the president of that organization is a gentleman named Dovalina. Here is what he says about Miguel Estrada:

On behalf of the League of United Latin American Citizens, the nation's oldest and largest Hispanic civil rights organization, I write to express our strong support for the confirmation of Miguel Estrada. . . . Few Hispanic attorneys have as strong educational credentials as Mr. Estrada, who graduated magna cum laude and Phi Beta Kappa from Columbia and magna cum laude from Harvard Law School, where he was editor of the Harvard Law Review. He also served as a law clerk to the Honorable Anthony M. Kennedy in the United States Supreme Court, making him one of a handful of Hispanic attorneys to have had this opportunity. He is truly one of the rising stars in the Hispanic community and a role model for our youth.

The Latino Coalition, of which the president is, Mr. Robert Deposada—here is what he said about Mr. Estrada:

To deny Latino's, the nation's largest minority, the opportunity to have one of our own serve on this court in our nation's capital is unforgivable.

The president of the United States Hispanic Chamber of Commerce, Ms. Elizabeth Lisboa-Farrow, stated:

We unanimously endorse this nominee and strongly urge you to move on the confirmation of Miguel Estrada. As a judge, he will be a credit to the federal judiciary, the President, Hispanics, and all Americans.

That emphasizes something I said on the floor a few days ago. There has been a lot of debate about Mr. Estrada being a Latino. Mr. Estrada is a Latino. I am sure he is very proud of that. But the thing I like about Mr. Estrada is that he is qualified to be appointed to the Circuit Court for the DC Circuit. He is qualified because he is an intellectual. He is bright. His record proves that. He is a world class lawyer who happens to be a Latino. This man needs to be appointed and confirmed to the DC Circuit Court of Appeals because he is a good lawyer. Even more than that, he is an outstanding lawyer.

The president of the Hispanic National Bar Association, Mr. Rafael Santiago, stated as follows:

The Hispanic National Bar Association, national voice of over 25,000 Hispanic lawyers in the United States, issues its endorsement. . . Mr. Estrada's confirmation will break new ground for Hispanics in the judiciary. The time has come to move on Mr. Estrada's nomination. I urge the Senate Committee on the Judiciary to schedule a hearing on Mr. Estrada's nomination and the U.S. Senate to bring this highly qualified nominee to a vote.

Mr. Henry T. Wilfong, Jr., president of the National Association of Small Disadvantaged Businesses, stated as follows, in a letter to Senator LEAHY on July 12, 2001:

The [National Association of Small Disadvantaged Businesses] would like to add our support . . . for Miguel Estrada's nomination as United States Court of Appeals Judge for the District of Columbia Circuit.

Mr. Estrada is a brilliantly talented and accomplished attorney who will make an outstanding addition to the prestigious DC Circuit. . . While we do not dwell on symbolism, we feel that Mr. Estrada's appointment as the first Hispanic member of the DC Circuit will be of benefit to us in further illustrating the wide range of talent in the minority communities, just wanting to be effectively and fully used.

Well, I could go on quoting comments from other members of the Hispanic organizations around the country. All of the major Hispanic organizations have said this man needs to be confirmed to the DC Circuit Court of Appeals. He needs to be confirmed, yes, because we are proud of him as a Latino, but he needs to be confirmed because he is one of America's outstanding lawyers.

Now, some of the criticism that has been directed at Mr. Estrada has been for totally unfounded reasons. I wish to talk about a couple of those. I wasn't here back in September of 2002, when the hearing of Mr. Estrada was held before the Senate Judiciary Committee. But at that point in time, the Judiciary Committee was controlled by the Democrats. The chairman of that committee was Senator LEAHY, who I have come to know. He is a very fair man. He is a very strong advocate for his beliefs. But I have seen him operate within the Judiciary Committee, and I

know him to be a person who is very deliberate in the way he presents himself on that committee. So I have no doubt that at the time of Mr. Estrada's hearing in September of last year, Mr. Estrada was treated very fairly and was given due accord.

One of the criticisms that has been repeated today is the fact Mr. Estrada, during the course of that hearing, in September of last year, was that he was nonresponsive to questions that were presented. Under the leadership of Senator LEAHY, the hearing began at around 10 o'clock in the morning. I am told it lasted until 5:30 in the evening; and although there were few district court nominees who were also testifying at that hearing, the great bulk of the time was given to Mr. Estrada. That is the case, as I have seen it, over the last several weeks since I was elected and sworn in as a Member of this body and appointed to the Judiciary Committee.

After the hearing, every member of the Judiciary Committee was given an opportunity not just to ask every question they wanted to ask, but if they weren't satisfied with the answers they received, whether it was what they wanted to hear or not, they had the opportunity to ask that Mr. Estrada come back for another series of questions. But they did not do so. He was not asked to come back and appear before the Judiciary Committee again.

In addition to that, at every hearing we have on judicial nominees—and I know this to have been the case last year under the direction of Senator LEAHY—every member of the Judiciary Committee has the opportunity to submit written questions to every nominee who has their confirmation hearing before the Judiciary Committee. So if there was any member of that committee who was not satisfied with the answers they received, or wanted a written answer in addition to the verbal answer that was given that day, or if they didn't feel as if the nominee was being totally forthcoming, they could ask the question again and get an answer in writing.

After the hearing of Mr. Estrada before the Judiciary Committee, only two Democratic Senators submitted written questions. Some of those folks who are on the other side of the aisle, over the last 9 days who have been complaining the loudest about not knowing enough about Mr. Estrada, did not submit any written questions at all. Is that fair? Is that reasonable? Is that the way this body ought to function with respect to the confirmation of our judicial nominees? I don't think so. I don't think that is the way our Founding Fathers intended this body to operate.

Let me look at another couple of objections that have been raised by the other side with respect to Mr. Estrada. There has been an issue regarding the fact that he has no judicial experience and, therefore, he should not be confirmed.

Well, let me say that if that were the case, if experience in an area in our line of work, politics, was a requirement to be elected, I never would have been elected to the House of Representatives where I gained experience before I was elected to the Senate. I had never run for political office before. You know what? I brought a lot of assets to the House of Representatives because I was not involved in politics before. I had about 72 other Republican classmates in my class in 1994. Some of them had been involved in politics. The one common thread we all had was that we came from a business background. Most of us have had to meet a payroll, and we knew and understood about business and about balancing budgets. And one of the focuses of the class of 1994 in the House of Representatives was to move forward to balance the budget of this country, which had not been balanced for decades prior to that election. We achieved that. We achieved it because we knew and understood that is what was required of families in America who sit around their kitchen table every single month, and it was only right to ask Congress to do that. That is the kind of lack of political experience that my class had when we were elected in 1994.

For the contention to be made that Mr. Estrada has no judicial experience and that is why he ought not to be confirmed, I think is just ludicrous. I think because he lacks judicial experience, that may be an asset. There have been some pretty significant judges appointed to the bench who did not have judicial experience. Byron White, nominated by President Kennedy, and William Rehnquist, currently Chief Justice of the U.S. Supreme Court, had no judicial experience when they were appointed to the court. Of the eight judges who are today serving as members of the same court to which we seek to have Mr. Estrada nominated, five had no previous judicial experience at the time they were nominated and confirmed by this body. I don't know whether the same objection was raised then or not, but if it was, it has obviously been proven that it was not a valid objection.

There has been an allegation that the administration has refused to produce memoranda that Mr. Estrada wrote as an Assistant to the Solicitor General. Mr. Estrada was Assistant to the Solicitor General both in the Clinton administration as well as in the Bush administration. There is just a wealth of knowledge that he gained by virtue of the fact that he worked for the Government in addition to serving in the private sector as a lawyer.

But while he was in the Solicitor General's Office, sure, he did what his boss told him to do. If it required research and giving his boss a memorandum on a particular issue, he did what he was told to do and, obviously, did it in a very efficient manner, because every single living Solicitor General has come forward, including those

for whom Mr. Estrada worked, and has said that it would be improper for the Justice Department to produce the memoranda that Mr. Estrada worked on and provided to his boss. And also, the Solicitor General for whom he worked, both in the Clinton administration as well as in the Bush administration, have both talked about how highly qualified and how competent this individual is.

For an objection to be made that he failed to produce memoranda that the Justice Department says would not be proper to present, and that Republican and Democratic Solicitor Generals say would not be proper for the Justice Department to present, I think totally negates any argument about the fact that those memoranda have not been produced.

I could go on and on about the issues relative to Mr. Estrada's nomination that had been presented by the other side. I repeat, every time one of those issues has been raised, Chairman HATCH or some other member on this side has totally refuted that argument.

I go back to the point of why are we here? Why are we, 100 Members of this body, here? We are here to do the people's work. We are here to do what is in the best interest, not just of our constituents, but in the case of judges, we are required—and I agree with the Senator from Massachusetts, we ought not be a rubberstamp. But we have a process we go through to nominate and confirm judges. We ought to have full, open, and free debate on each and every one of those nominees, and we have done that.

We are here to do the work of the people of the United States of America. The people of the United States of America elected us to have full, free, and open debate on judges, as well as the many other issues with which we have to deal. We have done that. We have had 9 days of debate on the nomination of Miguel Estrada. It is time now that we do what the people elected us to do, and that is to vote. If a Member thinks he ought not be confirmed, vote against him.

I think he ought to be confirmed because he is well qualified and his time to go to the Federal bench has come. I am going to vote to confirm him. Because we are here as elected officials and because we have a duty to represent not just the people who sent us but the people of America when it comes to the confirmation of judges, we owe those people who sent us here and the people all across America a response to that obligation. We should move this nomination forward to a vote.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I thank the Chair.

Mr. President, I wish to take an opportunity to discuss the appointment of Miguel Estrada to the circuit court and to raise an objection I share with

other colleagues on this side of the aisle.

I come out of the business world. I think of how I might react if I were interviewing a senior executive candidate, and if that individual refused to answer relevant questions about his experience or her views, or what kind of a life attitude had developed in that person's mind, I sure would not be putting them on my payroll.

To respond to our colleague from Georgia who raises legitimate questions about why there is opposition on our side, the Senator challenges the fact that Mr. Estrada's lack of experience—I think if I heard him correctly—could even be an asset.

The Senator also alluded to the fact he came here without experience. I certainly did. I came here directly from the business community. I came here without experience. He and I and the occupant of the Chair have a job that is less than permanent. My colleague from Georgia and my colleague in the Chair got here because they terminated someone else's tenure in office. If that was the condition, if we were not talking about a lifetime appointment, we would not be having this debate, in my view. I am sure we would have had a vote and probably approved for Mr. Estrada to assume the appeals court bench.

That is not the case. Nor is it the case that the advise and consent relationship of a recommendation that comes from the President means automatic consent. We are supposed to take these responsibilities seriously. I am not a lawyer, but I feel the full measure of a democracy is the way justice is dispensed. We have a separation of powers to make sure there are checks and balances. That is why we protect the judiciary from being tossed out of office willy-nilly. They are able to exercise their will and exercise it to the best of their ability. But we have an obligation to confirm what the best of their ability is.

I am not happy about entering this discussion like this because I do have respect for colleagues on the other side of the aisle. I think they should have every right to add their views of support, to register those views as diligently and as forcefully as we have seen.

This is a two-way street. When a Democratic President sent up nominations, the delays were interminable. We heard last night about 1,500-day delays without being able to get a hearing. That is over 4 years.

I register my opposition to the confirmation of Mr. Estrada for the Circuit Court of Appeals for the District of Columbia. My opposition stems from several reasons, particularly questions about his unwillingness to come forward to discuss his views, to say to the American people—because they are ultimately the folks who are listening—that he is unwilling to participate in the system as it exists; that he is challenging the advice and consent aspect

of the Senate's approval of asserting himself as a viable candidate for the United States Court of Appeals; that he is unwilling to open up his views to the people who are responsible for making the judgment.

Last night, I listened eagerly to the debate that took place. I listened to the distinguished chairman of the Judiciary Committee—a friend, someone I have known for a long time—talk about how unfair we are being to the President of the United States in not giving him full recognition of the fact he is the President and he is entitled to make his recommendation. The Constitution is so clear. The Constitution says the nomination has to come to the Senate for advice and consent. That is the process. We are not violating any rule by raising these questions.

Last night, it was even insinuated there might be some racial issue tied up here, and that borders on the ludicrous. I point out that the Puerto Rican Legal Defense and Education Fund, the Mexican American Legal Defense and Educational Fund, the National Council of La Raza, NAACP, and the Congressional Hispanic Caucus all oppose Mr. Estrada's nomination. These organizations obviously are not prejudiced against Hispanics.

Any illusion, any suggestion, any insinuation that there could be a racial concern here is an outrageous claim.

So we are going to leave those comments behind. They are without merit and without consideration. I have real substantial concerns about this nominee.

His former supervisor at the Justice Department concluded:

He lacks the judgment and is too much of an ideolog to be an appeals court judge.

We have a right to hear what his views are. It is especially troubling because we are talking about a nominee to the DC Circuit, the most important court outside the Supreme Court in this country. The DC Circuit oversees enforcement of critical environmental, consumer, and worker protection laws. Three sitting U.S. Supreme Court Justices have come from the DC Circuit. It is an enormously important position and it is, once again, a lifetime position.

If we were to do anything except fully exercise our conscience to make sure that we understood as clearly as each one of us has not only the right but the obligation to do to examine what this individual brings to the position, we would be shirking our responsibilities.

Last night we heard talk about the fact that the Mexican American Legal Defense and Educational Fund, and other groups, have raised concerns about Mr. Estrada's view on a subject that I am particularly concerned about: racial profiling. The concern is that Mr. Estrada's support for so-called antiloitering laws were actually a guise for racial profiling.

Racial profiling is a terrible problem. We had a very difficult time in the

State of New Jersey with that issue. I introduced racial profiling prohibition legislation in the Senate, and I am pleased to work with my colleague from Wisconsin, Senator FEINGOLD, on that issue now.

Driving while black, walking while Hispanic—we have heard those phrases—should not be crimes. I think the courts must do all they can to prevent this practice. I am worried that Mr. Estrada's views go in another direction.

Another major problem with this nominee is that he seems to be hiding the ball, not playing the game the way it ought to be, refusing to discuss his basic legal theories and beliefs. The Constitution does not say the President of the United States has a unilateral right to put anybody he wants to on the Federal bench. Presidential appointments require, as I said before, the advice and consent of the Senate, and that certainly does not suggest automatic consent.

We have a constitutional obligation to evaluate the President's choices. As all judicial nominees, Mr. Estrada had his job interview before the Judiciary Committee. At his Judiciary Committee hearings, Mr. Estrada refused to answer important questions. My colleagues who serve on that committee asked the appropriate questions about his judicial philosophy, such as his views on key Supreme Court decisions, but he failed to respond or was unwilling to respond to fundamental and simple questions expected of a nominee before that committee.

I mentioned that before I came to the Senate I ran a pretty good sized company, and when we would interview people for important positions in our company we would expect them to be completely responsive to our inquiries. If someone was evasive, refused to answer reasonable questions, we would not hire them. It would not be fair to our shareholders, our customers, and the other employees of the company to hire someone who refused to answer basic questions about how they would handle the job.

In the case of Miguel Estrada, we have someone who refused to answer questions regarding his nomination for a lifetime position. We, in the Senate, have a constitutional responsibility to review the nominees fully and have our consciences clear when we decide their fate. This nomination should not move forward because Mr. Estrada has left too many questions unanswered. He has kept many of his views on important legal matters a mystery, and that is not how this process should work. That is not how it is going to work.

This has nothing to do with anyone's ethnic background. That is silly. This Democratic caucus is always looking to expand diversity, and everybody knows that. This debate is about a nominee who is not cooperating. If he thinks *Roe v. Wade* is unsound law, let him say it. If he thinks it is settled law and respects it as a judge, let him say

that. I do not think this nominee should move forward until serious questions about his legal philosophy have been answered.

Some of my colleagues on the other side act as if this is unprecedented for a Presidential nominee to not receive a vote, but there were Clinton nominees who could not even receive a hearing, no less a vote. I wish to remind the Senate of some of the names we heard from our Democratic whip the other day, people such as Judith McConnell, John Tait, John Snodgrass, Patrick Toole, Wenona Whitfield, Leland Shurin, John Bingler, Bruce Greer, Sue Ellen Myerscough, Cheryl Wattle, Michael Schattman, James A. Beaty, Jr.; J. Rich Leonard, Anabelle Rodriguez-Rodriguez, Helene White, Jorge Rangel, Jeffrey Coleman, James Klein, Robert Freedberg, Lynette Norton, Robert Raymar, a fellow from New Jersey whose name came up, could not get a hearing, Legrome Davis, Lynne Lasry, Barry Goode, H. Alston Johnson, James Duffy, Elana Kagan, James Wynn, Kathleen McCree-Lewis, Enrique Moreno, James Lyons, Kent Markus, Robert Cindrich, and the list of those who waited for such long periods is rather lengthy. We are talking about 57 nominees who were never allowed votes by the Republican-controlled Senate: 31 circuit and 48 district judges, 57 of those never allowed votes; 31 circuit court nominees, 22 blocked from getting a vote or being confirmed. There is person after person. One person waited more than 1,500 days, Helene White, never to be allowed a hearing or a vote. Richard Paez waited more than 1,500 days, finally confirmed. The list goes on.

So when I hear the complaining about how unfair the Democrats have been, I just say look back over our shoulder not too long ago and see the number of people who waited and waited and could not get any attention at all.

Mr. Estrada is getting attention, a lot of attention, and if he was responsive appropriately, I am positive a vote would have taken place and we would all have registered our opinion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, Senator BYRD wished to come to the floor and speak for about 45 minutes. I spoke to him a few minutes ago. He indicated he would be ready to go at quarter after 5. The Senator from Washington wishes to speak for 10 or 12 minutes. So I do not think it would greatly inconvenience anyone if I ask unanimous consent that the Senator from Washington be recognized for up to 12 minutes, and following her statement that Senator BYRD be recognized for up to 45 minutes.

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

The Senator from Washington.

Mrs. MURRAY. Mr. President, I rise today to discuss the nomination of

Miguel Estrada to the U.S. Court of Appeals for the District of Columbia. Throughout my service in the Senate, we have struggled with judicial nominations. I know we can make the process work.

In Washington State, I worked with a Republican Senator and a Democratic President to nominate and confirm Federal judges, and today, with a Republican President I am working with my Democratic colleague from Washington State on a bipartisan process to recommend judicial candidates.

I have also seen the process work in the Senate. My Democratic Senate colleagues agreed to confirm 100 Federal judges during the period of the 107th Congress when Democrats were in the majority. That is a great accomplishment for a Democratic Senate and a Republican President.

There were also periods during the Clinton administration where the Republican Senate confirmed significant numbers of judges appointed by a Democratic President. It is important to put this standoff in the proper context. We are considering a nominee to the DC Circuit Court which is widely acknowledged as the second highest court in our country.

This court has jurisdiction over a broad array of critical issues involving workers rights, civil liberties, disabilities, and environmental regulations. Judges at the DC Circuit Court are often given serious consideration for service on the United States Supreme Court. This is a lifetime appointment. Neither the President nor the Senate can revisit this nomination once it has been confirmed.

All of these factors—the importance of the DC Circuit, the potential of consideration for the Supreme Court, and the lifetime appointment—signal Members to proceed with caution. We are not considering a nomination to a commission or an ambassadorship or some other Senate-confirmable position. This is different. This is a lifetime appointment for a Federal judge whose rulings over the next 30 or 40 or more years will have ramifications for every single American.

I respect President Bush's role in nominating Miguel Estrada. I respect the majority's right, working with the President, from the same party, to promptly move judicial appointments. I come to the floor today to ask my colleagues to respect the Senate's constitutional advice and consent responsibilities. As Senators, we are elected to serve our constituents. We are asked to confirm judges whose decisions can change U.S. history and shape the lives of the American people for generations to come. That is a tremendous responsibility. I know all Senators take it very seriously.

Let me say a few words about the nominee now before the Senate. Miguel Estrada, by all accounts, is an accomplished lawyer with a compelling personal history. But I owe it to my constituents to make an informed judgment on his nomination. At this time I

am simply not prepared to move forward with a vote on the nomination of Miguel Estrada because there is too little information for me to make an informed decision. I encourage the majority leader to take this nomination off the floor at this time. We expect Federal judges to provide the proper check in our system of checks and balances outlined in the Constitution. Without it, our system does not function properly.

We must ensure each nominee has sufficient experience to sit in judgment of our fellow citizens, will be fair to all those who come before their court, will be evenhanded in administering justice, and will protect the rights and liberties of all Americans. To determine if a nominee meets those standards, we need to explore their record, ask questions, and weigh their responses. Miguel Estrada and the administration have failed to address these basic issues. And without addressing these basic issues, I cannot assess the nominee's qualifications. From my perspective, the Senate has been asked to confirm a candidate about whom we know very little. I cannot at this time vote to confirm Miguel Estrada for lifetime service on the DC Circuit Court.

As several of my colleagues have done, I need only to invoke the words of the chairman of the Judiciary Committee to describe my hesitancy to move forward with the Estrada nomination. Speaking of President Clinton's judicial nominees and the Senate, Senator HATCH said the Senate will have "to be more diligent and extensive in its questioning of nominees' jurisprudential views."

Mr. Estrada and the administration have failed to meet the same standard set out by Senator HATCH. Mr. Estrada has failed to provide through his writing, his experience, or through answers to questions at the Judiciary Committee, any meaningful insight into his likely decisionmaking process as a Federal judge. He has very limited scholarly or judicial experience. He did work in the Solicitor General's Office at the Department of Justice during the 1990s. But, unfortunately, the administration has refused to provide the Senate with or characterize any opinions he wrote or had while at DOJ.

Despite repeated requests from Senators, the nominee and the administration have refused to provide information that can help all Senators determine whether Miguel Estrada is deserving of confirmation to a lifetime appointment to the Federal bench. Allowing Senators to access the memoranda he wrote while at the Solicitor General's office is particularly important.

Unlike most judicial nominees, he has nothing on paper to give us any indication as to how he would rule on the bench. In fact, Mr. Estrada has not had any published legal writings since he was in law school.

Time and again, we are told by the administration that Miguel Estrada is

a brilliant lawyer and more than qualified to serve on the D.C. Circuit Court. Yet, all we have to base a decision on his nomination are the endorsements of others. I appreciate these endorsements, but each of us as Senators must reach our own conclusions based on the facts. I am greatly troubled by the silence we have heard from the nominee himself.

The path to confirmation for a judicial nominee is indeed a difficult one. But in the case of Mr. Estrada, the nominee and the administration went beyond anything we are accustomed to and brought great difficulty upon themselves. At his confirmation hearing before the Judiciary Committee, Mr. Estrada refused to give Senators straight answers to most of their questions.

Many of our Judiciary Committee colleagues have discussed this nomination at great length here on the floor. I have listened to the statements from both Democrats and Republicans on the Judiciary Committee.

The words of Senator FEINSTEIN stands out as I look at this nomination. Let me share them again with the Senate.

Senator FEINSTEIN said:

I have been reviewing background materials about Miguel Estrada, talking to those who have concerns about him, and I have reread the transcript from Mr. Estrada's hearing.

I must say that throughout this process, I have been struck by the truly unique lack of information we have about this nominee, and the lack of answers he has given to the many questions raised by Members of this Committee.

He, essentially, is a blank slate. And, if confirmed, he could serve for 30, 40, or even 50 years on one of the highest courts in the Nation. We have better be right about this decision.

Mr. President, I agree with that assessment. The Senate must be right about this decision. That is why so many on this side of the aisle have asked the majority leader to help us be right about the Miguel Estrada nomination.

At a minimum, Mr. Estrada should be sent back to the Judiciary Committee for more questioning. In the Committee, he should be more forward in answering the questions of Senators. He should be more willing to release information regarding his opinions about important judicial matters.

Mr. Estrada was asked to name any case in the history of the Supreme Court with which he disagreed. Surely, Mr. Estrada—who served as the editor of the Harvard Law Review—can cite a case that he disagrees with. At his original confirmation hearing, Mr. Estrada could not cite a single case before the Supreme Court he disagreed with. The Senate should give Mr. Estrada another opportunity to answer this question before the Judiciary Committee.

Mr. Estrada was asked to name a Supreme Court judge that he admired. When he refused to answer this ques-

tion, Mr. Estrada was asked to name any Federal judge that he admired. Again, Mr. Estrada refused. The Senate should give Mr. Estrada another opportunity to answer this question before the Judiciary Committee.

Unless the Senate is able to learn more about Miguel Estrada, I am left to conclude that this nominee has no judge he would try to emulate, no judicial philosophy he follows, and no opinion on any important case that has ever come before the Supreme Court.

Without so little information to determine how Mr. Estrada will rule as a Federal judge on important matters of labor rights, rights of privacy, civil rights and environmental regulation, I cannot consent to considering his nomination at this time.

I strongly encourage the majority leader to withdraw this nomination and send it back to the Judiciary Committee. I encourage the President and the nominee to address the many issues raised by Senators.

The ultimate fate of the Miguel Estrada nomination—was well as the Senate's ability to move forward with bipartisan support for judicial nominees—rests with the majority leader and the President of the United States.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the distinguished Senator from West Virginia, who is to be recognized following the statement of the Senator from Washington, has agreed the Senator from Arkansas could speak for up to 6 minutes prior to his speech. There is no one here on that side, so I don't think it inconveniences anyone.

I ask unanimous consent that the order now in effect be changed to allow her to speak for up to 6 minutes before Senator BYRD speaks.

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

The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, I certainly thank my colleague from West Virginia for his courtesy and kindness in letting me go forward. I appreciate it.

Mr. President, I come to the floor today to express my frustration with the nomination of Miguel Estrada to the Court of Appeals for the DC Circuit. I have never before opposed a judicial nominee, but after much prayer and reflection I cannot support this nominee until he is able and willing to cooperate with the Senate in its Constitutional responsibility to advise and consent. I believe all executive and judicial nominations that come before the U.S. Senate are entitled to courtesy and respect. I also believe the U.S. Senate's role of advise and consent is an important check and balance that our forefathers instituted, and it is an obligation that I do not take lightly. I know our forefathers put it there for a good reason. Each nominee is entitled to a thorough and fair hearing, and I have fully evaluated each of President Bush's nominees as the Constitution

mandates. In every case before us, I have supported President Bush's nominees. Yet I can not in good conscience support this nominee at this time based on the lack of information that has been made available and the manner in which this nomination has been presented. Is it too much to ask of a person who is being offered a lifetime position to simply answer a few questions?

As a nominee seeking Senate confirmation, Mr. Estrada has the burden of proof to demonstrate his fitness for the high office he seeks. During the confirmation process, a nominee can meet this burden in many ways depending in part on the background and experience of an individual at the time of appointment. Another consideration is the level of scrutiny warranted for a life-time appointment to an important judgeship. Finally, one critical element I look for in all nominees is a willingness to cooperate with the Senate and show deference and respect for the process we engage in here in the Senate.

As many of my colleagues have already established, Mr. Estrada comes to the Senate with a very limited written record upon which to make an informed judgment. To make our job even more difficult, the administration has refused to release relevant information that would shed much needed light on this nominee's judicial philosophy and reasoning. Moreover, Mr. Estrada seemed determined to be evasive and unresponsive to questions put to him during his confirmation hearing.

After weighing these factors, reviewing the committee record, meeting personally with Mr. Estrada, and considering the views of hundreds of constituents and interested organizations, I am not satisfied that Mr. Estrada has met the burden required for confirmation to such an important position.

Even though Mr. Estrada is reluctant or unwilling to say so, I assume Mr. Estrada has a conservative ideology and that he and I would disagree on many issues. But after voting for every judicial nominee to come before the Senate since I took office, I can say with credibility that Mr. Estrada's ideology doesn't prevent me from supporting his nomination. A nominee's particular views or political beliefs don't bother me, so long as I am confident that nominee can separate his personal beliefs and opinions from his duty as a Federal judge to follow established precedent and interpret the law and Constitution fairly and without political bias.

What concerns me a good deal, however, is the unwillingness of the administration and Mr. Estrada to respond directly to reasonable requests for legitimate information. How hard is it to answer questions about Supreme Court cases that have been on the books for years? Why is the administration so unwilling to allow U.S. Senators to review written material that would help

us discharge our duty under the Constitution?

I believe having judges from different backgrounds is important, and I salute President Bush for nominating a Hispanic to serve on this court. I fully support efforts to diversify the Federal judiciary so that it is more representative of our society. But I cannot support Mr. Estrada simply because he is Hispanic.

Charges of racial insensitivity have no place in this debate. This Senate has already confirmed unanimously seven of President Bush's Hispanic judicial nominees.

Like all nominees that come before the Senate, Mr. Estrada must answer questions put before him. I want to make clear that the questions Democrats asked of Mr. Estrada are no different than the questions Republicans have asked of nominees. In fact, when the current Attorney General served on the Senate Judiciary Committee, he asked a judicial nominee the same question that Mr. Estrada refused to answer. The question was: "Which judge has served as a model for the way you would conduct yourself as a judge and why?" Mr. Estrada was asked and refused to answer a similar question.

When I let my boys off at school this morning—they are 6 years old and in the first grade—they were having problems with a buddy at school, in their class. They were saying: What do we do with this, Mom? How do we handle it?

Do you know what I said to them? I said: Work with him. Figure it out. Work with him.

That is simple, and it is simply what Democrats have told Mr. Estrada: Work with us. We are trying to do our job, to satisfy our constitutional responsibility, in good conscience, to meet the job we are sent here to do by the constituents who believe in us. If that means reviewing oral arguments and briefs of a few cases so that Mr. Estrada can state an opinion on at least one case decided by the Supreme Court in the last 40 years, why not do it? No one disagrees that Mr. Estrada has a distinguished academic and professional background. He is a very nice man. I met with him. My responsibility is not just to put nice people into judgeships.

He graduated magna cum laude from Columbia and magna cum laude from Harvard Law School, served as editor for Harvard Law Review, and clerked for a Supreme Court Justice. It should not take him more than an afternoon, or less, to do a little research so that he could answer the questions that members of the Judiciary Committee have put before him.

I call on the administration to let Mr. Estrada answer the questions the Senate has put before him, in good faith, so that the Senate can vote on Mr. Estrada. Is it really too much to ask, to simply say we need more information to make an important judgment on a very important, lifetime nomination? Please, give us the ability

to execute our responsibilities under the Constitution. Is it too much to ask of one man, who is before us, who has the burden of proof, to show us his capabilities? Is it too much to ask, to simply say let's spend a couple of more hours, answer a few questions, and move forward? Because this Nation has a great deal to deal with. We have many issues on our plates and many things we need to address immediately. I simply say to my colleagues, is it too much to ask, to simply answer a few questions?

Mr. President, I especially thank my colleague from West Virginia for his yielding to me and allowing me to move forward.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, may I say to the distinguished Senator from Arkansas, my favorite Supreme Court Justice was John Marshall. It is not a very hard question to answer.

#### U.S. RHETORIC GOES OVER THE TOP

Mr. BYRD. Mr. President, the language of diplomacy is imbued with courtesy and discretion. Diplomats the world over can be counted on to choose each word of every public statement with precision, for an ill-received demarche could turn allies into adversaries or cooperation into confrontation.

Like most professions, diplomacy has its own lexicon. As John Kenneth Galbraith wrote in 1969, "There are few ironclad rules of diplomacy but to one there is no exception: when an official reports that talks were useful, it can safely be concluded that nothing was accomplished." And when we hear a seasoned envoy refer to a "frank and open discussion," we know that he is actually talking about a knock-down, drag-out fight behind closed doors. While negotiation can steer great powers away from a course that would lead to war, we can usually count on public statements about diplomacy to be underwhelming—not overwhelming but underwhelming.

There have been exceptional times when bold statements have energized world opinion. When President Reagan stood on the Berlin Wall in 1987 and proclaimed, "Mr. Gorbachev, tear down this wall," he spoke to millions of Germans who longed to be freed from oppression. While I would not go so far as to credit a single phrase with hastening the fall of the Eastern Bloc, certainly President Reagan's statement reflected the resolve of the West to oppose communism.

There have also been a fair number of bold statements to the world that have backfired. For example, Nikita Khrushchev squandered whatever credit he might have gained through a goodwill tour of the United States in 1959, when he visited the United Nations the next year. The Soviet Premier famously exclaimed to the West, "We will bury

you," while slamming his shoe on the table in front of him. This ill-advised outburst was a vivid depiction of an irrational and out-of-control superpower.

Fortunately, the United States has a tradition in foreign policy of being slow to anger. We have nurtured a reputation of being rational and deliberate. I doubt that Americans would have much tolerance for a president who used the United Nations as a forum for testing the construction of his footwear on the nearest table. It would be a great departure for the United States to use its foreign policy organs as a means to spread divisive rhetoric.

Unfortunately, the tone of our foreign policy in recent months has been in a steady decline. To some of our allies, the United States, through its words and its actions on the crisis in Iraq, is beginning to look more like a rogue superpower than the leader of the free world. Many newspapers in European capitals criticize U.S. policy toward Iraq. Moderate Muslim nations, such as Jordan and Turkey, are growing progressively suspicious of American motives in the war against terrorism. An increasing number of people in Arab countries are coalescing around an outright hatred of the United States.

Let us remember that President Bush came to office promising to change the tone in Washington. I wonder if the current tone of American foreign policy is what he had in mind? One source of alarm is the tone of the National Security Strategy released by the White House in September 2002. In broad strokes, the strategy argues that the United States should use its overwhelming military power to engage in preemptive strikes to prevent others from ever developing the means to threaten our country. The strategy notes a preference for working with allies to keep the peace, but underscores the willingness of the United States to act unilaterally.

The content and the tone of these important pronouncements in the National Security Strategy sparked outcry, in the United States and around the world. The report gave critics plenty of ammunition to make their case that the United States is a 400 pound gorilla that will stop at nothing to get its way. Our strategy leaves much of the world the impression that Americans agree with the quotation of the late Chinese leader, Zhou Enlai, which turned the axiom uttered by the military strategist Carl von Clausewitz on his head: "All diplomacy is a continuation of war by other means."

There are many examples of provocative rhetoric that have escalated the stakes of our standoff with Iraq. In his 2002 State of the Union Address, the President coined an "Axis of Evil," comprised of Iran, Iraq, and North Korea. In October 2002, the White House press secretary suggested that regime change in Iraq could be accomplished with "the cost of one bullet."

On December 30, 2002, President Bush said that Saddam's "day of reckoning is coming." The next day, he chided a reporter who asked about the prospect of war in Iraq by saying, "I'm the person who gets to decide, not you." The President's coarse words did nothing to ease criticism of American unilateralism.

Several members of the President's national security team warned Iraq in January 2003 that "time is running out" for Iraq, and that such time was measured in weeks, not months. On Sunday talk show interviews on January 29, the White House Chief of Staff refused to rule out the use of nuclear weapons in a war against Iraq. On February 6, President Bush ominously declared that "the game is over." With each of these statements, the chances of war appeared to grow.

To be fair, the President and his advisors have repeatedly stated a preference for the peaceful disarmament of Iraq. But as I speak right now, many Americans believe that war is inevitable. Through words and through action, the United States appears to be on a collision course with war in the Persian Gulf. Stating a preference for a peaceful solution is not enough to alter the heading of our great ship of state.

If our rhetoric toward Iraq is not alarming enough, the last weeks have seen an appalling increase in criticism of our allies and the United Nations.

On September 12, 2002, President Bush delivered a strong and effective speech that urged the United Nations to take action to disarm Iraq. The President said: "All the world now faces a test, and the United Nations [faces] a difficult and defining moment. Are Security Council resolutions to be honored and enforced, or cast aside without consequence? Will the United Nations serve the purpose of its founding, or will it be irrelevant?"

The President threw down the gauntlet, and the United Nations acted. Inspectors have returned to Iraq, and they are doing their job. The inspectors have asked for more time, but the President has now challenged the U.N. to authorize the use of force, or again face irrelevance.

And so, the world is now wondering, which is the greater threat to the relevance of the U.N.: a rogue nation that flaunts the will of the international community; or a permanent member of the Security Council that views the institution as useless unless the institution submits to its will? This hand has been overplayed. More threats of U.N. irrelevance will only portray the United States as a bully superpower.

European allies who do not share our view on the crisis in Iraq have recently been in the cross hairs for verbal bombardment. Secretary of Defense Rumsfeld has lumped Germany in with Libya and Cuba as the principal opponents of war in Iraq. He also characterized Germany and France as being "Old Europe," as if their economic and political power does not matter as com-

pared to the number of Eastern countries that comprise New Europe.

Richard Perle, a senior advisor to the Department of Defense, has also had choice words about our European allies. In October 2002, Mr. Perle recommended that German Chancellor Schroeder resign in order to improve relations between our two countries. On January 30, Mr. Perle followed up this charge by saying: "Germany has become irrelevant. And it is not easy for a German chancellor to lead his country into irrelevance." Spreading his criticism around, Mr. Perle stated that "France is no longer the ally that it once was." So far as I can tell from press reports, Mr. Perle, who is the Chairman of the Defense Policy Board, has not been admonished for his inflammatory statements.

Such vindictive criticism of our European allies has had repercussions. According to a new poll, published in the Financial Times Deutschland on February 10, 57 percent of Germans agree with the statement, "The United States is a nation of warmongers." And now we find ourselves in a pointless stalemate with our NATO partners over military assistance to Turkey. If we had been more temperate in our rhetoric, perhaps we could have worked through the anti-American tone of the recent elections in Germany. Instead, we find ourselves escalating a war of words against two great European powers, who were powers—and who were great powers—before ours became a republic.

And so, Mr. President, how we communicate our foreign policy makes a difference. We expect North Korea or Iraq to use inflammatory propaganda to speak to the world, but we are a more dignified nation. There are ways for our country to indicate resolve without resorting to bellicosity. The subtext to nearly every new White House statement on Iraq is that the United States has run out of patience. The administration is signaling its willingness to use an extreme amount of military force against Iraq when many still question the need to do so, when many in our own country still question the need to do so, when some in this Senate still question the need to do so at this time. We need to change our tone.

Impetuous rhetoric has added fuel to the crisis with Iraq and strained our alliances. Before committing our Nation to war with Iraq and the years of occupation that will surely follow, we should repair the damage to our relations with our allies. I urge the President, and the administration, to change the tone of our foreign policy—to turn away from threatening Iraq with war, to turn away from insulting our friends and allies, to turn away from threatening the United Nations with irrelevance. Our rhetoric has gone awry, our rhetoric has gone over the top, from giving an indication of our strength to giving an indication of our recklessness.

I have learned from 50 years in Congress that it is unwise to insult one's adversaries, for tomorrow you may be in need of an ally. I have found in my 56 years in politics that today's opponent may be tomorrow's friend. There will come the day when we will seek the assistance of those same European allies with which we are now feuding. But serious rifts are threatening our close relationship with some of the great powers—the truly great powers of history—some of the great powers of Western Europe. The Secretary of State said yesterday that NATO is at risk of breaking up. Mr. President, it is time that we pause. It is time that we take a look at ourselves. It is time to put our bluster and swagger away for the time being. I urge the President to calm his rhetoric, repair our alliances, and slow down in the charge to war.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Ms. CANTWELL. Mr. President, last night I sat in my office listening to my colleagues, most on the other side of the aisle, debating the issue of Miguel Estrada's nomination to the second most powerful court in the country, the District of Columbia Circuit Court of Appeals. Even after all of the debate, some people may not realize that the D.C. Circuit Court is the overseer of all Federal agencies. It is the court that is most likely to make decisions about whether Federal regulations will be upheld or overturned, whether reproductive rights will be retained or lost, or whether intrusive Government actions will be allowed or curtailed.

I understand why some of my colleagues last night may have become heated with the determination of our side of the aisle to filibuster this nomination. Many of my colleagues wanted to know why we believed we had no other choice but to filibuster the nomination.

It is time we quit dancing around the issue. The question that has gotten so many of us concerned is whether this body is going to approve Bush administration nominees to the court of appeals who are out of step with the mainstream views of America.

Someone said last night: Maybe that side of the aisle doesn't want to appoint conservatives.

That is not the issue. What is at issue is we don't want to appoint someone who clearly refuses to answer questions on key issues of the constitutional right to privacy, only later to find out they will not uphold current law on protecting a woman's right to choose!

Upholding a woman's right to choose is an important issue of privacy and something about which we should all

be concerned. It is an issue on which we have 30 years of settled law, and women across America count on that right.

But there are other stories and other issues of privacy we should also be concerned about. We are at a unique time in our country's history, a time when U.S. citizens have been treated as enemy combatants and imprisoned without access to counsel or trial by jury. We are at the tip of the iceberg of the information age where businesses may have access to personal information and exploit that information. Where health care industry people might have access to your most personal medical information. Where the Government has established a process of eavesdropping on and tracking U.S. citizens without probable cause. Where the Government has the ability to use and develop software that can track one's use of web sites and information on their personal computer without their consent or knowledge.

These are all important privacy questions that deserve to have the attention of any nominee to the Circuit Court of Appeals. When Miguel Estrada refused to answer the questions my colleagues on the Judiciary Committee posed to him about the issue of privacy, and if he in fact believed in a constitutional rights to privacy, it was troubling to me and to my colleagues who are opposing this nomination. We need to have answers to these questions before Miguel Estrada can be confirmed.

Make no mistake—the public is hearing a lot of bickering in the Chamber about numbers. How many nominees on this side have we pushed through, how many nominees have they pushed through, when a particular party was in charge. I am not sure the public wants to follow that debate.

But one debate I am sure they want to follow is the failure of Miguel Estrada to tell us what he believes. A 2001 poll shows that seventy four percent of the American public believes the question of judicial philosophy should be asked of nominees to the appellate court and that answers should be given. Over 50 percent of Americans, in a survey done in 2001, believe Members should not vote to confirm otherwise qualified nominees if they think their views on important issues are wrong.

Of course we cannot even make that judgement and we aren't left with a lot of options, when Miguel Estrada won't specifically answer the questions.

Some have said that the issue is simply that we don't like his answers to the questions. I do believe that it is important to view this debate in a larger context. This debate is about what this Administration means when it says we should appoint people to the court and who have a strict constructionist view of the Constitution. Like most Americans, I was not entirely sure what that phrase means. So I looked for further clarification. I found some that was

very interesting. In January 2000, the President appeared on one of the Sunday talk shows. And he was asked about strict constructionism. He was asked the following:

With regard to strict construction, we will put up on our screens some words from Justice Scalia pertaining to abortion.

[Justice Scalia] said: "There is no constitutional right to abortion. I reach that conclusion because of two simple facts: One, the Constitution says absolutely nothing about it and, two, the longstanding traditions of American society have permitted it to be legally proscribed."

The host then asked the President, "Would you ask a nominee that question? Do you agree with that?"

The President responded:

I guess you would have to say that is my idea of a strict constructionist.

So when people talk about a strict constructionist, very often they are talking about someone who doesn't believe in the constitutionality of a woman's right to choose.

An editorial in the Atlanta Journal Constitution makes the point as well when they wrote:

The same spirit of deception is apparent when the topic turns to abortion. Bush is committed to overturning the U.S. Supreme Court decision legalizing early term abortion; but in most settings, he dares not mention the truth because he understands how unpopular it would be. So instead of being frank about his stance, he talks in code of appointing judges who believe in strict construction of the U.S. Constitution.

Mr. President, I don't think that is what this body should support. And in this context I do not think we should approve nominees who will not answer questions about their view on whether the right to privacy is guaranteed in our Constitution.

Make no mistake about it. This is not about someone's political views, this is about each nominee's judicial philosophy. We had a very interesting debate before the Senate Judiciary Committee on a nominee to the Tenth Circuit, Michael McConnell. A man who in private practice and as a law professor had espoused many views in opposition to abortion rights and was very critical of the decision in *Roe v. Wade*. I do not agree with probably any of the political views of Michael McConnell. Yet he came before our committee and, for hours, outlined his judicial philosophy, his understanding of *stare decisis*, his view on where the right to privacy exists within the Constitution and how it evolved. He was very specific in saying he thought the issue had been settled. In just one of the many, many answers he gave on privacy he said:

I think most scholars would agree. In *Roe*, the Court canvassed several different possible textual bases and said it didn't matter which one of the bases. It was only in *Planned Parenthood v. Casey* that the Court finally came down to a single methodology and identified the privacy right as rooted in the substantive due process of the 14th amendment.

Mr. McConnell went on:

Not only was *Roe v. Wade* decided by the Supreme Court, but a lot has happened in the 26 to 27 years, or however many it has been, since *Roe v. Wade*. That decision has now been reconsidered. It has been reconsidered and reaffirmed by justices appointed by Presidents Nixon, Ford, Reagan, Bush, and Clinton after serious re-argument. At the time when *Roe v. Wade* came down, it was striking down State statutes of 45 of the 50 States of the Union. Today it is much more reflective of the consensus of the American people on the subject.

I offer this as an example of a nominee who was confirmed! Approved with bipartisan support. Was it because we agreed with his political views on abortion? No. It was because he came before the Senate and answered the question about the constitutionality of people's right to choose.

Now, some may say, well, this particular nominee, Miguel Estrada doesn't want to be that specific. We have all heard about this particular court, the District of Columbia, and how important it is to our country—the second highest court in the land—and the particulars of why this particular nominee may be so important. But again we also have to look at this nominee in context. This is not the first troubling nominee this administration has supported. They have put before us other individuals who, I believe, have been judicial activists in their role on various courts. We have been successful in defeating their nomination. Although we may be going to see them sometime in the future.

Several months ago, the President nominated Priscilla Owen to the Fifth Circuit. In a series of cases interpreting a new Texas law on parental consent, Owen suggested that a minor, even in the case of rape and incest, should be required to demonstrate that she had received religious counseling before receiving medical care.

She insisted that her holding followed Supreme Court precedent, yet she was unable to demonstrate where in the Supreme Court precedent the requirement on religious counseling existed. That is because it doesn't. Our law does not require those seeking abortion to have religious counseling. Her dissent in a similar case was called an "unconscionable act of judicial activism," by White House Counsel, Alberto Gonzales.

Another Bush nominee, Charles Pickering, received an unfavorable vote from the Senate Judiciary Committee last year after it became clear he had intervened on behalf of a convicted cross burner, calling prosecutors, including high-level officials in the Department of Justice, in an effort to lower the sentence of the convicted cross burner. The victim in this case said, after learning for the first time about the role that was played by Judge Pickering, that her "faith in the judicial system had been destroyed."

This is the context in which we view the nomination of Miguel Estrada. It is not clear where Miguel Estrada stands

on the issues. He doesn't have a record like Priscilla Owen, or like Judge Pickering, about which we can ask questions. So the fact that he refuses to answer those questions, and the fact that the administration has proclaimed that they are very interested in nominating people with "strict constructionist" views about the Constitution, has left us very concerned about this particular nominee.

Let me be clear. The public doesn't care about our bickering on numbers, but they do care about us doing our job and asking questions about the nominee's views on important issues.

Another survey that was done last year asked whether individuals thought the views of nominees on specific issues should be taken into account, that Senators are expected to have a viewpoint by the people who elect them and not simply rubberstamp the nominees the President sends to the Senate. And 77 percent found that to be the persuasive argument to which they agreed.

The public was also asked whether the views of nominees on specific issues should be taken into account since Federal judges serve for life and are not elected by the people, and no one should be put on the bench if that person holds a position on an important issue that Senators think is simply wrong. Again, 77 percent of the public believed that was a persuasive argument and correct.

The issue is that the public does want us to do our job. They want us to find out the positions of these nominees.

It was not that long ago we had another issue before this body, a nomination to the Supreme Court of Justice Clarence Thomas. At that time, Judge Thomas refused to answer questions on the right to privacy, saying he thought there had been too much controversy on the issue and he did not have a personal view on whether *Roe v. Wade* had been rightly decided. But then, only one year later, he dissented in *Planned Parenthood v. Casey* stating that *Roe v. Wade* should be overturned!

This debate is very alarming to Americans. It is alarming because they want to know that their judiciary represents the views of the mainstream public; they want to know that the judiciary will uphold current law; that they will follow *stare decisis*. They want to know that the right of privacy, as it has been recognized in the Constitution, will be upheld.

We have to go back and do our homework on this particular nominee. I think most people in America understand if you go to take a pass-fail test and you do not answer the questions, it is very hard for you to pass. We have all heard of oral exams where you have to show and understand the material you have been studying for years. If you do not show the comprehension of that material, you do not pass. I think people here understand that if you come before the Senate Judiciary Com-

mittee and fail to answer the questions, you do not pass as well.

Maybe we will not agree on the types of positions this side of the aisle would support for a nominee. Maybe that side of the aisle does support people of strict constructionist views who do believe that *Roe v. Wade* should be overturned, but let's not put forth and continue to pursue a nominee who refuses to answer the questions. These are questions that deserve an answer. These are questions about which this body should hold its head up high and say, as we continue in an age where privacy is going to become more important, we will continue to fight for the rights of the American people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I haven't had the opportunity in the last couple of days to have my say on Mr. Estrada. I thought I would take the time now to talk a little bit about the nomination of Miguel Estrada for the D.C. circuit court.

I have to say that there has been a lot of nonsense bandied about in the Chamber on the nomination and the idea of whether we are holding something up. Facts are bothersome things, as they say. What some people say in the past may come back to haunt them in the future.

It was Mo Udall, former Congressman, who coined the wonderful phrase. He always said: O Lord, let me always utter kind and humble words for tomorrow morning I may have to eat them.

I was looking back through the record. The current chairman of the Judiciary Committee in 1997 addressed the Utah chapter of the Federalist Society. This is what the current chairman of the Judiciary Committee said:

The Senate can and should do what it can to ascertain the jurisprudential views a nominee will bring to the bench in order to prevent the confirmation of those who are likely to be judicial activists. Determining who will become activist is not easy since many of President Clinton's nominees tend to have limited paper trails. Determining which of President Clinton's nominees would become activist is complicated and would require the Senate to be more diligent and extensive in its questioning of nominees' jurisprudential views.

That is interesting because when Mr. Estrada refused to answer even the most simple, straightforward questions, that sure doesn't help us in questioning his jurisprudential views. There is no doubt in anyone's mind that Mr. Estrada is a movement person. He will be a movement judge, one who will try to move the court in a certain ideological direction.

What also concerned me was something my colleague Senator HATCH from Utah said the other day. He said:

An up or down vote, that is all we ask. If the Democrats have enough votes to defeat Miguel Estrada, I will not complain about it. I might feel badly about it and I might say it was the wrong thing to do, but they have

a right to do it. If my colleagues who disagree do not like this, they can speak out. They can give their reason. They can vote no. Politics ought to be left out of it.

That is what the Senator from Utah said last night. Unfortunately, I am sorry that his sentiments didn't exist when President Clinton's nominees came up for confirmation. I recall saying just about the same thing over and over again on the nomination of Bonnie Campbell to serve on the Eighth Circuit. She received her hearing in May of 2000 and then her nomination was stopped cold. Despite the fact she had the ABA stamp of approval, a long and distinguished history in the field of law, including her work as Iowa's attorney general. Members on both sides of the aisle supported her nomination. On September 21 and October 3, I tried to bring it up. Then during the month of October I brought up Bonnie Campbell's nomination seven times and seven times the Republican majority objected.

The Senator from Utah kept talking last night about the Democrats' double standard. My first instinct is to call that claim laughable. But in reality, it is outrageous and duplicitous to us because so many extremely well-qualified nominees never got an up-or-down vote on the floor, never got a vote in committee, and many never even got a hearing.

Bonnie Campbell had a hearing, but then they stopped her cold. Senator HATCH suggested Bonnie Campbell's nomination came too late in the last year of the last administration. I know for a fact that two of Senator KYL's district court judges were nominated after Bonnie Campbell was, and they were confirmed on October 3, 2000.

And now back to Mr. Estrada. We're not holding Mr. Estrada up because we feel like spending all of our time through the wee hours of the night talking about him. We're holding up because he hasn't told us anything. He hasn't answered the soft ball questions that nearly all judicial nominees have more than willingly answered. What's he got to hide?

I don't know Mr. Estrada. To the best of my knowledge, I never met him. But I do know we have heard from people who do know him, who have associated with him, some of whom have termed him "scary" in his outlook, scary in what he might do as a judge. I don't know if he is or not, but I know the people who have associated with him have called him that. They think he is some kind of a rightwing kook. I don't know if he is or not. How do we know? Well, the stealth candidate hasn't helped when he won't even answer the most simple, straightforward questions. So we have no way of knowing one way or the other.

It is our job as Senators to examine nominees, their background, their way of thinking to determine what kind of judges they would be and whether or not they can fairly and impartially administer the law. And as far as this

Senator is concerned, I keep coming back to the same conclusion: we don't know enough about him to make an informed decision on his nomination to a lifelong appointment to the second most important and influential court of the land.

Even after I find out more about him, I may vote against him, but I don't think we even have to bring him up for a vote until we know more about Mr. Estrada. Is he a rightwing kook? I don't know. Some people say he is. Some people say he is scary. We have no way of knowing at this point in time. That is why we should not bring his name up. We should not move forward on this until we find out more—unlike Bonnie Campbell, who answered all the questions and gave all the documents they ever asked of her. Yet, they would not even bring her name to the floor.

So to my friend from Utah who says there is a double standard, I say look in the mirror.

Mr. President, with that, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, if my friend will yield.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I thank the Chair. The two managers of the bill—which we hope will be on the Senate floor before long—will return before long, just so the distinguished Senator from Utah is aware of that.

Mr. HATCH. On the appropriations bill.

Mr. REID. Yes.

Mr. HATCH. I will be happy to yield at any time to them.

Mr. President, before I came to the floor, I understand the distinguished Senator from Iowa criticized me for having a double standard. If I recall correctly, he said, I believe, I should look in the mirror when I talk about double standards.

Also, during last night's debate, several of my Democratic colleagues attacked my record on moving Clinton nominees. I heard some of these attacks repeated this morning by the Senators from California. This surprised me and it very much disappointed me since I worked hard to get not only Judge Paez but also Marsha Berzon, now Judge Berzon, confirmed, despite the opposition to their nominations, and there was serious opposition. That is one reason it took so long for Judge Paez, and there were some very serious allegations. But I was able to fight through those, and I can guarantee this body that neither of those judges would have gone through had it not been for my work.

I might add, neither would have a whole bunch of the 377 Clinton judges who did get through—the second highest total of confirmed judges in the history of the country—had it not been for what I was trying to do to help my colleagues on the other side.

I understand my dear friend from Iowa is very bitter about what happened to one of his judicial nominees. I do not blame him for that. He has always been a friend. I am disappointed that he would attack me on the floor and accuse me of a double standard because he knows better, and if he does not know better, he ought to know better.

I was unable to get his nominee through for a variety of reasons. I do not want to go into them here. I feel badly because of that. I personally liked his nominee, but there were things I was able to do as chairman and there were things I was unable to do. The one point nobody can rebut is that President Clinton was treated very fairly in getting the second highest total of Federal judges through in the history of the country of any President. President Reagan got 382 judges through, 5 more than President Clinton. With regard to those 382 judges, President Reagan had 6 years of a Republican—his own party—Senate to help him.

President Clinton had 6 years of the Republican Party in charge of the Judiciary Committee, and I was chairman during those 6 years.

I think he would be the first to say that I helped him, or he would be a baldfaced liar. I know he is not that. So I would presume that he would be willing to admit, as a decent honorable person, that Senator HATCH worked closely with him in trying to get those 377 judges through.

Unfortunately, I was not able to get some through some nominees about which some of my colleagues on the other side of the aisle feel very bitter. I apologize to them. I feel badly about that because there are things I could do and things I just could not do. There were a lot of things people did not think I could do that I did do. I am not perfect any more than anybody else, but I can say this: I do not think any other Senator could have gotten done what I got done with regard to fairness for the Clinton nominees.

In contrast, I do not think what is happening to President Bush's nominees is fair at all. In fact, here we are in a filibuster for the first time in history against a Hispanic judge who has risen to the top of his profession, even though he has a disability. That bothers me a lot, to be honest with you.

I did work hard to get Judge Paez and Judge Berzon through and confirmed, despite the opposition to their nominations, which opposition was not without merit. There were some legitimate concerns on the part of some of the Senators on this side of the floor.

The fact remains that I lobbied for cloture on those two nominees, and

they were afforded an up-or-down vote, something Miguel Estrada is not being afforded. They were afforded an up-or-down vote as a result of my efforts. They were both confirmed and both sit today on the Ninth Circuit Court of Appeals, a very prestigious circuit court.

Let me say this. I will stay here all day and all night, if I have to, to defend my record on Clinton judges because it is very unfair for anybody who looks at the record to say I personally did not treat him well.

With regard to my friend from Iowa, I am disappointed he would attack me on the floor of the Senate, but I will say to him, I understand his feelings, his very deep feelings, and he felt very bitter that his nominee did not get through, a personal friend and somebody whom I personally liked.

With my Democratic friends complaining so vociferously about the Republican treatment of Clinton nominees, which is totally unjustified, in my opinion, it leads me to believe that this shabby treatment of Miguel Estrada is driven in large part by a Democratic goal of retribution. That is all we heard last night in the questions from the Democratic side: Why didn't you do this? Why didn't you do that?

If that is the way we play the game, my gosh, I can give 100 cases where this side ought to have some retribution against them. I, frankly, do not believe in that. Call it tit for tat if you want to, call it payback, call it what you will, but I, for one, am becoming more and more convinced with each Democrat who takes the floor to complain about the Republican treatment of Clinton nominees that their opposition to Miguel Estrada is more about revenge than it is about Mr. Estrada. That bothers me a lot, to be frank.

Mr. President, I also understand the distinguished Senator from Iowa said that people who know Mr. Estrada have called him a right-wing kook. I do not know anybody who has called him a right-wing kook, not anybody on the face of the Earth. The only persons who would do that are those who act irresponsibly, and I have not even heard any irresponsible people do that. So there is little or no reason for anybody on the floor of this Senate to demean Miguel Estrada, and that is what this debate has devolved to, and it bothers me.

I caution my colleague from Iowa to respect other people. We all make mistakes, and we all say things that perhaps we should not say, and I will treat it that way this one time. But I do not want ever again to hear anybody on this floor call Miguel Estrada a right-wing kook or any other nomination by President Bush, any more than we should have called some of the far-left judges who were nominated by President Clinton left-wing kooks.

We never did that, or at least I do not ever recall doing that. I certainly did not, and I do not recall anybody else doing it on our side.

I just wonder who those mystery people are who called Mr. Estrada a right-wing kook. The only person I know of who has gone on record saying anything negative about Mr. Estrada, out of all the persons who have worked with him, is Mr. Bender, who has been more than, I think, rebutted, both in committee and on this floor, by his own performance reviews of Miguel Estrada that could not have been more glowing. And then when he has a chance to say something nasty because Miguel Estrada is now nominated to the circuit court of appeals, he chooses to do so. It is beneath the dignity of a law professor to do that, especially after giving those glowing performance reviews, even though he says everybody got those. Everybody knows that is not true.

If it is true, then it is a sad commentary for our Government. But then again, even though he admits everybody got those glowing performance reviews, he claims the reason for that is because these are the best lawyers in the country. Reading between the lines of his letter, that is what he basically said. That is as much as saying Miguel Estrada is one of the best lawyers in the country.

How can he be so inconsistent? He is the only one I know, and even he, as low as his comments are, did not call Miguel Estrada a "right-wing kook."

He has no credibility. I am just sorry in some ways for the law students who have to take his classes. I would prefer law professors—I do not care if they are liberal or conservative. Most of them are liberal, but I would prefer them to be honest people. I prefer them to have some dignity about their comments. I prefer them to be decent people teaching our young adults.

It is a pathetic thing that almost every law school in this country has a whole raft of left-wing professors who, if they had to, probably could not make a living at the practice of law. Maybe they could make a living, but they could not stand the rigors and the difficulties of practicing law. It is a lot easier to teach two classes a week and pontificate from their high perches as liberal law professors to the detriment of some of these law students. It is a pathetic thing. Anybody who has gone to law school knows how far left an awful lot of those professors are.

Are they bad people because they are far left? No. Some of them are terrific teachers and terrific people. Most of them are honest, which is something I cannot say for Mr. Bender with the way he has approached this thing.

I remind my friend from Iowa that we have a standard in the Senate against relying on anonymous allegations, even though I have seen people on that side bring up anonymous allegations where Mr. Estrada could not even confront those making the allegations. That is just hitting below the belt. Senator BIDEN made it clear that should never happen, and yet it has happened in this Chamber and it has

happened in committee. I, for one, am fed up with that kind of inappropriate behavior by Senators. It is beneath the dignity of these Senators to do something like that. Senator BIDEN's policy was: if they are not willing to face the person they are accusing, then they are not worthy of being listened to. I agree with him, and I intend to stick to that very same policy.

I am going to forget these derogatory comments by the distinguished Senator from Iowa. I have never held a grudge. It is one of my weaknesses as a Senator. I just plain cannot hold a grudge against my colleagues. I have had some of my colleagues come up to me and say, boy, you ought to have a grudge against that guy. I just cannot do it.

Personally, I love everybody in this body. And I think everybody knows that. It is against everything I believe to hold a grudge. So I am not going to do that and I am going to forget what was said today, but I do not want it ever said again. Nor do I want to have some stupid staffer putting words in the mouth of another Senator. That happens every once in a while. We should not allow staffers, no matter how bright they are or how stupid they are, to cause us to do things that are inappropriate on the floor of the Senate and to make accusations that are not justified against somebody who worked his guts out to try and help President Clinton get his judges through, because I believe the President of the United States has a right to have his judges voted on up or down.

I have made that clear throughout my tenure as chairman, and everybody knows it. I have had countless Democrat Senators say they know I am not responsible for some of the problems that happened. Then again how many are responsible over on my side, because 377 Clinton judges went through?

We were the opposition party putting them through. And they are complaining? We are in the second month of a brand new session of Congress and we cannot even get the first circuit court of appeals nominee, the first Hispanic nominated to the Circuit Court of Appeals for the District of Columbia, we cannot even get him a vote up or down because for the first time in history a true filibuster is being conducted against this Hispanic nominee. Now, that is a real double standard, not the one the distinguished Senator from Iowa is talking about.

People get emotional sometimes. I may be a little bit myself right now. I think I am somewhat justified under the circumstances, and I make allowances for that. I hope my colleagues will make allowances for me right now.

I keep hearing that Miguel Estrada has no record. That is a slander. And for those who have written it, it is a libel. The Judiciary Committee has confirmed numerous Clinton court nominees who, like Miguel Estrada, had no prior judicial experience. What a ridiculous argument, that a person

should not be on the bench because he has no prior judicial experience. Where would all those Clinton judges be? They would not be on the bench today if we had that as a rule, and neither would many of the top Supreme Court Justices in history, including Thurgood Marshall, whom nobody in this body would be against today—bless his departed soul. He, of course, had no prior judicial experience when he was nominated to the federal appellate bench.

A number of Clinton nominees worked in the Justice Department or other branches of the Federal Government, like Miguel Estrada, but Senate Democrats made no demands for their internal memoranda or privileged work product and, I might add, neither did we Republicans. We did not make those demands. We knew that would be a red herring to slow down the nominee.

We know this is a fishing expedition, and nobody in their right mind who understands government, who understands the separation of powers, who understands privilege, and who understands the right of the Solicitor General's Office to keep its own memoranda of recommendations on appeals, on certiorari, and on amicus briefs confidential would make this demand. It is one of the most ridiculous assertions I have seen, and yet that is the basis on which they are hanging this filibuster. There is nobody in any administration who would allow the Senate to muddle around and make public and politicize legal memoranda and recommendations, in those three areas at least—in other areas as well, but especially those three areas—appeal, certiorari, and amicus curiae recommendations.

Democrats are saying Miguel Estrada has no judicial experience, and therefore he should not be on the bench. What about Merrick Garland? I personally pushed Merrick Garland through. There were those who did not want to push him through, but before the end they all realized he was an exceptional man, a very good person, no more than Miguel Estrada is, but pretty darn exceptional, and he still is. He is a good judge. He was confirmed as a judge for the DC Circuit in 1997. He had never been a judge before. He had held several positions in the Department of Justice. Like Mr. Estrada, he was a partner in a prestigious DC law firm. But did anyone seek confidential memoranda from his time at the Justice Department? Absolutely not. We would not have stooped that low. To use it as a red herring so they could justify a filibuster, that is even stooping lower.

William Bryson is another one who was confirmed as a judge on the Federal Circuit in 1994. He had never been a judge. He held several positions at the Department of Justice and was an associate at a prestigious firm in town. Senate Democrats never asked for the confidential memoranda he wrote during his time at Justice. The list goes on.

Blane Michael was confirmed as a judge on the Fourth Circuit in 1993, his

first judgeship, never having been a judge before. Why is it that he can be a judge and we should work to get him on the bench but Miguel Estrada should not be a judge because he had no prior judicial experience? Well, neither did Blane Michael, but he is sitting on the Fourth Circuit Court of Appeals, his first judgeship. He had been a Federal district court clerk and served as a Federal prosecutor in New York and West Virginia before becoming a partner in a law firm. He had virtually no published writings, just like Miguel Estrada. Again, however, no one tried to gain his confidential privileged memoranda from his time as a Federal prosecutor before confirming him, and we would not.

Arthur Gajarsa was confirmed to the Federal Circuit in 1997. He was a clerk to a Federal district judge, then worked as an in-house counsel at an insurance company and later as a special counsel at the Department of Interior before joining a law firm. Did Democrats demand his internal memoranda? After all, he, like everyone else mentioned, had never been a judge. But, no, he was confirmed like the rest without anyone reviewing his confidential work product.

Then there is Eric Clay, confirmed to the Sixth Circuit in 1997. He never had been a judge before. He was a law clerk to a Federal district court judge, and worked in a law firm. What did we know about him that we do not know about Mr. Estrada? Absolutely nothing. We did not seek his confidential memoranda. We confirmed him anyway. We did what was right.

Another was John Kelly, whom we confirmed for the Eighth Circuit in 1998, yet another Clinton nominee to the circuit court who had never been a judge. He had worked in the Office of General Counsel for the Secretary of the Air Force before going into private practice. But Republicans never sought his internal memoranda, and he had very few published writings.

What about Sid Thomas? He was confirmed to the Ninth Circuit Court of Appeals in 1996 and had never been a judge. In fact, he had not even had a clerkship. He also had very few published writings. Democrats, however, did not cry out about his lack of a record. The entire transcript of his hearings takes up less than 2 pages in the RECORD. Why is it that he was treated differently than Miguel Estrada? I suspect it is because we gave President Clinton's nominees the benefit of the doubt in almost all cases. But this crew on the other side is not giving this President the same fair treatment that we gave to President Clinton.

I could go on and on but I think I made the case. Democrats opposing Miguel Estrada consistently failed to seek internal memoranda for Clinton nominees who had no prior judicial experience and little in the way of publications. The Democrats' claim that they have to do so now for Miguel Estrada simply does not hold water.

Now, naturally, I guess they wouldn't want to get internal memoranda to use against their own president's nominees. They wouldn't want to go on a fishing expedition that might hurt their own nominees, but neither did we. Now why are we using this red herring to justify a filibuster against one of the finest nominees I have seen in 27 years on the Senate Judiciary Committee—Miguel Estrada?

Let me address, once again, the Democrat demand to hold Mr. Estrada's nomination hostage for confidential internal memoranda. The Department of Justice historically has not disclosed confidential, deliberative documents from career lawyers in the Solicitor General's Office in connection with a judicial nomination. The Senate historically has not even asked the Department to do so.

My Democratic colleagues are creating a new double standard that applies only to the nomination of Miguel Estrada. A double standard, why is that? I ask the people out there who are watching C-SPAN, why is it that all of a sudden they are asking for all these things from the only Hispanic nominee in the history of the Circuit Court of Appeals for the District of Columbia? I think everyone out there must know by now. I don't think I even have to spell it out, but maybe I should spell it out a little bit.

Every living former Solicitor General has denounced the Democrats' demands. Every one of them, four of whom are eminent Democrat former Solicitors General. I have said this before but I think it is worth repeating. That letter was signed by Democrats Seth Waxman, Clinton's Solicitor General; Walter Dellinger, one of Clinton's top people in the White House; Drew Days, and Archibald Cox; and by Republicans Ken Starr, Charles Fried, and Robert Bork.

All seven have said, in essence, that this is ridiculous, that the Justice Department should not turn over confidential recommendations on appeals, certiorari petitions, and amicus curiae petitions.

The Solicitors General explained that the frank exchange of ideas on which their office depends "simply cannot take place if attorneys have reason to fear their private recommendations are not private at all but vulnerable to public disclosure."

The letter concludes that:

[A]ny attempt to intrude into the Office's highly privileged deliberations would come at a cost of the Solicitor General's ability to defend vigorously the United States' litigation interests—a cost that also would be borne by Congress itself.

Now, longstanding historical practice confirms that deliberative memoranda are off limits during confirmation hearings. Since the Carter administration, the Senate has confirmed former Justice Department employees—even those with no prior judicial experience, as I have already explained—without demanding to see their confidential

memoranda. It should not adopt a new double standard for Mr. Estrada's nomination.

Since 1997, the Senate has approved 67 appellate nominees who previously worked at the Justice Department, including 38 with no prior judicial experience. The Department did not disclose deliberative memoranda for any of those nominations. In fact, the Senate did not even request such documents. Seven of the 67 were in the same position as Mr. Estrada. They had worked for the Solicitor General and had not been judges previously. These seven nominees were nominated by Presidents of both parties and were confirmed by Senates controlled by both parties. Again, the Justice Department did not disclose deliberative memoranda in any of these nominations. The Senate did not even request such a disclosure for good reason, because we knew it was improper.

None of the so-called disclosures cited by the Democrats are precedent for the sweeping demands they are making regarding Mr. Estrada. In fact, only two of their purported "precedents" have even involved lawyers who worked in the Solicitor General's Office. And the Democrats' examples did not involve turning over what the then-chairman of the committee, Senator LEAHY of Vermont, demanded—amicus, certiorari, and appeal recommendations.

Let me address some of the specific examples my Democratic colleagues have represented as pressing for their demand. One is Frank Easterbrook, who is a judge on the Seventh Circuit. The Democrats' mere possession of a single memoranda, a 2-page amicus recommendation that Mr. Easterbrook wrote as an Assistant to the Solicitor General, does not suggest that the Justice Department waived any privileges or authorized it to be disclosed. The official record of the Easterbrook confirmation hearing contains no references to this document.

After comprehensively reviewing its files, the Justice Department concluded that it never authorized the release of the documents. It was probably leaked by some Democrat in the Justice Department. That makes it wrong. Yet it is being used as an example on the floor.

Last fall I sent a letter to Senator SCHUMER, then to Senator LEAHY, specifically asking for information about how the Democrats obtained this memorandum. To this day I have received absolutely no response to my question. I think there is good reason for that—because the document should never have been leaked to begin with.

This single document provides no precedent for the Democrats' sweeping request for every document Mr. Estrada ever prepared, which is what they have asked.

Mr. President, I ask unanimous consent that the letters I wrote to Senator SCHUMER of New York and Senator LEAHY of Vermont, inquiring about the

source of the Easterbrook memos, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,  
COMMITTEE ON THE JUDICIARY,  
Washington, DC, October 1, 2002.

Hon. CHARLES E. SCHUMER,  
U.S. Senate, Committee on the Judiciary,  
Washington, DC.

DEAR SENATOR SCHUMER: Thank you for chairing last Thursday's hearing on the nomination of Miguel Estrada to the United States Court of Appeals for the District of Columbia Circuit. I write to seek your clarification on a matter which you raised at the hearing.

You reiterated your belief that the Department of Justice should turn over certain appeal, certiorari and amicus recommendations that Mr. Estrada authored when he served as an Assistant to the Solicitor General. As precedent for this request, you noted that during the nomination of Judge Frank Easterbrook to the Seventh Circuit Court of Appeals, similar memos were turned over to the Committee. You produced those documents and placed them into the hearing record. When Republican staff requested copies of the documents, only one of the three documents we received appeared to pertain to Judge Easterbrook. That document consists of a two-page memorandum referencing another memorandum prepared by someone else.

At the hearing, you did not explain whether the Committee had ever formally requested this document, or the other two documents, from the Department of Justice, or whether the Department of Justice consented to their disclosure. The written record of Judge Easterbrook's hearing contains no such documents, or even a mention of them. So that the record of Mr. Estrada's hearing is as complete as possible, please advise whether you have any information that the Committee requested these documents from the Department of Justice and whether the Department consented to their disclosure to the Committee. If the documents were neither requested of nor produced by the Department of Justice, please indicate the manner in which the Committee came to possess them.

Thank you for your prompt attention to this matter. I look forward to your response.

Sincerely,

ORRIN G. HATCH,  
Ranking Republican Member.

UNITED STATES SENATE,  
COMMITTEE ON THE JUDICIARY,  
Washington, DC, October 10, 2002.

Hon. PATRICK J. LEAHY,  
Chairman, Committee on the Judiciary,  
U.S. Senate, Washington, DC.

DEAR CHAIRMAN LEAHY: On October 1, I sent a letter to Senator Schumer seeking clarification of questions about certain documents that he submitted for the record at Miguel Estrada's confirmation hearing. These documents consisted of memoranda that Senator Schumer stated were provided to the Committee by the Department of Justice during the nomination of Judge Frank Easterbrook to the Seventh Circuit. Senator Schumer cited these documents as precedent for your request that the Department release to the Committee appeal, certiorari and amicus recommendations that Mr. Estrada authored when he served as an Assistant to the Solicitor General.

When Republican staff requested copies of these documents, however, only one of the three documents provided appeared to pertain to Judge Easterbrook. That document

consists of a two-page memorandum referencing another memorandum prepared by someone else. The written record of Judge Easterbrook's hearing contains none of the three documents, or even a reference to them.

Enclosed is a copy of my letter to Senator Schumer, which seeks clarification of whether the Committee requested these documents from the Department of Justice in connection with Judge Easterbrook's confirmation and whether the Department consented to their disclosure to the Committee. It also asks for an explanation of the manner in which the Committee came to possess the documents in the event that they were neither requested of nor produced by the Department of Justice.

Yesterday, Senator Schumer's office advised my staff that the full Committee provided him with the documents at issue and, for this reason, he is deferring to you for a response to my letter. I look forward to hearing from you, particularly in light of the October 8 letter of Assistant Attorney General Dan Bryant, which stated the Department's conclusion that it did not authorize the release of the Easterbrook memorandum.

Sincerely,

ORRIN G. HATCH,  
Ranking Republican Member.

Mr. HATCH. Let's take a closer look at another one of the Democrats' alleged examples. William Rehnquist, the current Chief Justice, during his hearings to be Associate Justice, refused to reveal the private advice he had given to other Justice Department officials while he was Assistant Attorney General for Legal Counsel.

He stated:

[Insofar as I may have been asked for advice in the process of making administration policy decisions upon which the administration has not taken a public position, there, I think, the lawyer-client privilege very definitely obtains.

By the way, he was confirmed as a Justice on the Supreme Court.

Furthermore, on November 5, 1971, the Attorney General specifically refused to waive the attorney-client privilege after a Senator asked him to do so, stating:

I can well appreciate your personal, intense interest in probing into all aspects of Mr. Rehnquist's work while at the Department of Justice. I am sure you appreciate, however, that it is essential to the fulfillment of my duties and obligations that I have the candid advice and opinions of all members of the Department. Further, I am sure you realize that if I should consent to your request or other requests to inquire into the basis and background of advice and opinions that I receive from the members of my staff, it would be difficult to obtain the necessary free exchange of ideas and thoughts so essential to the proper and judicious discharge of my duties.

The Rehnquist example is irrelevant for the additional reason that none of the information sought related to amicus, certiorari, and appeal recommendations. Indeed, Chief Justice Rehnquist never served in the Solicitor General's Office.

Let's look at a third example that my Democratic friends claim justifies the release of confidential Solicitor General Office memos—Benjamin Civiletti. During his 1979 confirmation hearings to be Attorney General—and I

was there in the Senate Judiciary Committee at the time—the Senate did not request materials that he had prepared previously as a Department of Justice official. Rather, it simply sought assurances that Civiletti would cooperate with the Senate's oversight of the Justice Department in the future. Mr. Civiletti never specified which documents he would be willing to turn over or which documents would be privileged.

During his 1978 hearings to be Deputy Attorney General, the Senate obtained documents related to allegations that Mr. Civiletti had interfered with an investigation of an alleged kickback scheme involving Members of Congress. The documents related to specific charges of misconduct. Unlike during Mr. Civiletti's confirmation, there have been no allegations that Mr. Estrada engaged in any improper behavior or otherwise failed to discharge his duties.

As I recall it, Mr. Civiletti was not found to be wanting in that area either. None of the Civiletti materials were amicus, certiorari, or appeal recommendations. Indeed, Mr. Civiletti never served in the Solicitor General's Office.

Now let's turn to Brad Reynolds. The Senate sought and received materials in the course of pursuing specific allegations that Mr. Reynolds, while Assistant Attorney General for Civil Rights, failed to enforce the Voting Rights Act and the Civil Rights Act. As with Mr. Civiletti, the Department's disclosure was limited to specific cases of alleged misconduct. There have been no allegations that Mr. Estrada engaged in any improper behavior or failed to discharge his duties while working at the Solicitor General's Office. Significantly, although Mr. Reynolds had previously served as assistant to the Solicitor General, and it was a very-hard fought confirmation, the Senate never suggested that his appeal, certiorari, or amicus recommendations should be divulged—never. Nobody would have stooped to that level at the time.

Another alleged example that our friends have brought up is Jeffrey Holmstead. In 2001, the Senate requested 41 files that Mr. Holmstead created during his service as Associate Counsel to the first President Bush. The White House declined. After Mr. Holmstead's hearing, the Senate, based on its particularized concerns about one specific subject, requested documents related only to that matter. Because of the specificity of the Senate's concerns, the White House accommodated the committee by permitting review of documents related to that one subject matter while expressly preserving all privileges. Mr. Holmstead is no precedent for the current set of sweeping requests for every appeal, certiorari, or amicus recommendation that Estrada prepared during his years in the Solicitor General's Office.

The criticism that Miguel Estrada is refusing to provide the Senate with in-

sight into his personal views does create a double standard. My Democratic colleagues did not require nominees of President Clinton to answer questions of this sort. In fact, many Clinton circuit court nominees refused to answer such questions. President Clinton's appeals court nominees routinely testified as to their judicial approach without discussing specific issues or cases that could come before them as a judge. A few examples illustrate the point.

Each of the nominees I am talking about was confirmed to one of the circuit courts of appeals.

First we have Merrick Garland. In the nomination of Merrick Garland to the DC Circuit, Senator SPECTER asked him:

Do you favor, as a personal matter, capital punishment?

Judge Garland replied only that he would follow Supreme Court precedent:

This is really a matter of settled law now. The Court has held that capital punishment is constitutional and lower courts are to follow that rule.

Senator SPECTER also asked him about his views of the independent counsel statute's constitutionality, and Judge Garland responded:

Well, that, too, the Supreme Court in *Morrison v. Olsen* upheld as constitutional, and, of course, I would follow that ruling.

Another example is Judith Rogers. In the hearings on Judge Rogers' nomination to the DC Circuit, she was asked by Senator Cohen about the debate over the evolving Constitution. Judge Rogers responded:

My obligation as an appellate judge is to apply precedent. Some of the debates which I have heard and to which I think you may be alluding are interesting, but as an appellate judge, my obligation is to apply precedent. And so the interpretations of the Constitution by the U.S. Supreme Court would be binding on me.

My gosh, where is that any different from Miguel Estrada's answers? They are the same. Why the double standard? Why are we now demanding of Miguel Estrada something we didn't demand of the Clinton nominees?

She then was asked how she would rule in the absence of precedent and responded this way:

When I was getting my master's in judicial process at the University of Virginia Law School, one of the points emphasized was the growth of our common law system based on the English common law judge system. And my opinions, I think if you look at them, reflect that where I am presented with a question of first impression, that I look to the language of whatever provision we are addressing, that I look to the interpretations of other State courts, and it may be necessary, as well, to look to the interpretations suggested by commentators. And within that framework, which I consider to be a discipline, that I would reach a view in a case of first impression.

Where is that different from Miguel Estrada's answers? Miguel Estrada answered basically the same way.

Judge Rogers also was asked her view of mandatory minimums and stated:

I am aware, Senator, of some of the debate on the pros and cons, and certainly before I was a judge I was engaged in comment on them. But as a judge, I have been dealing with them strictly from the point of view of legal challenges to them. I have sat on a case where a mandatory minimum sentence was challenged, and we upheld it.

Finally, she was asked her view of the three-strikes law and stated:

As an appellate judge, my obligation is to enforce the laws that Congress passes or, where I am now, that the District of Columbia Council passes.

Why is there a different standard for Miguel Estrada? Those are the same answers, basically, that Miguel Estrada gave to these similar types of questions.

Let's take another example: Kim Wardlaw. In the hearing on Judge Wardlaw's nomination to the Ninth Circuit, she was asked about the constitutionality of affirmative action. She stated, in an answer similar to Miguel Estrada's answer to the same question:

The Supreme Court has held that racial classifications are unconstitutional unless they are narrowly tailored to meet a compelling governmental interest.

Why is there a double standard with regard to this Hispanic nominee when it was not utilized against these other nominees? These answers were perfectly all right and acceptable for these other nominees.

Now let's turn to Marsha Berzon and Robert Katzmann. In a hearing on their nominations to the Ninth and Second Circuits, Senator SMITH asked each whether legislation to prohibit partial-birth abortion was unconstitutional. Judge Katzmann responded as follows:

I would say that that is an issue that—Senator—that is a very important issue, and that as a judge, I would really have to evaluate that issue in the context of a law that is actually passed, and then in terms of a case or controversy. In terms of adjudication, there are restrictions on judges rendering advisory opinions on particular pieces of legislation in the advance of passage. And then even after passage, I think what a judge has to do is to evaluate the case in the context of a real case or controversy.

Judge Berzon responded with the following:

And I essentially agree with that answer. . . . It would obviously be inappropriate to say anything further on that precisely because the issue might come before a court on which Mr. Katzmann or I could be sitting.

Why the double standard? Why aren't the answers Mr. Miguel Estrada gave given the same credibility as the answers of these two Clinton judges? Why is there a double standard? Why is he being treated differently?

I have heard countless colleagues get up over here and complain and moan and groan and try to come up with excuses for their vote against Miguel Estrada and for their filibustering for the first time in history a Hispanic judge, the first ever nominated to the Circuit Court of Appeals for the District of Columbia.

I have heard a lot of complaining. But there has not been one statement

of substance. Why is he being treated differently? Why should a Hispanic judicial nominee be treated differently than all these other non-Hispanic judges? It seems to me that he ought to be treated similarly, afforded respect. This is a man who has fulfilled the American dream as an example to countless Hispanic young people that you can make it in this society. But can a Hispanic who is deemed to be not only a Republican but a conservative—can that type of Hispanic make it? Well, I sure hope so.

Now, back to this Berzon and Katzmann matter, I interrupted Senator SMITH's questioning on partial-birth abortion and noted to Senator SMITH:

Well, Senator, if I could interrupt, you have asked some very appropriate and good questions. . . . Both of them have said, in my opinion that they are not sure how they would decide the case, and that they wouldn't want to give the opinion that they have now without hearing all the facts and evidence. . . . But they both say that that could likely come before them and that they are going to have to decide it at that time.

Now, those two Clinton judicial nominees, Judge Berzon and Judge Katzmann. Some might say that they provided nonanswers to important questions they were asked. But I think they provided legitimate answers for the important reason that those questions might come before them someday in the event of their confirmation.

Why should Miguel Estrada be treated any differently by my colleagues on their side when I personally counseled one senator on my side that the answers of these Clinton judges were sufficient?

They were appropriate answers that they gave because they shouldn't have been talking about cases that could possibly come before them.

Let me go to Judge Maryanne Trump Barry.

I am now talking about circuit judges who made it through the system without any of this rig marole that has surrounded trying to defeat Miguel Estrada.

In the hearing on Judge Barry's nomination to the Third Circuit, Senator SMITH asked whether "an unborn child at any stage of pregnancy is a human being."

Senator SMITH is not an attorney. But anybody on the committee can ask any question they want to ask. He asked whether "an unborn child at any stage of pregnancy is a human being."

That was a loaded question—no question about it.

Judge Barry responded:

Casey is the law that I would look at. If I had a personal opinion—and I am not suggesting that I do—it is irrelevant because I must look to the law which binds me.

My goodness. Why is Miguel Estrada being treated differently than Judge Barry, or any of these other circuit court of appeals judges who were not Hispanic? Why is he being treated differently? Why isn't he accorded the same respect? Why is he expected to do

more? Why is it that it is tough for him? Why is it that my friends on the other side of the aisle who claim to be for civil rights and who claim to be for equal rights and who claim to be helpers to minorities are treating this man this way?

I hope everybody in America is asking that question—because I don't think they can answer it. I have to say that a lot of political things are done for political reasons. We are fighting for a Hispanic nominee to the circuit court of appeals. And you saw virtually every Republican in the Chamber last night fighting for Miguel Estrada.

Where were the Democrats? Backbiting, raising false issues, raising lousy issues, raising I think sometimes immature issues, raising irrelevant issues, raising red-herring issues, treating him totally different from the way they wanted their caucasian nominees to be treated.

Why is this different? Is it because Mr. Estrada is Hispanic? I don't believe that. I don't believe my colleagues are prejudiced against Hispanics. But I believe they don't want a Republican Hispanic to serve on the Circuit Court of Appeals for the District of Columbia no matter who is President, but especially when there is a Republican President. I don't think you can conclude anything else.

After watching these proceedings and after listening to these statements, where is one point of substance against that nominee? In all of this debate, where is it? It isn't there.

Why do they think his answers are insufficient when they are virtually identical to their non-Hispanic nominees' answers? Is it because they are trying to do a better job for the judiciary than the Republicans were trying to do? I don't think so—no better than this Republican was trying to do, I will tell you that. I was in a position to do a lot.

How about Raymond Fisher? In the hearing on Judge Raymond Fisher's nomination to the Ninth Circuit, Senator SESSIONS asked about Judge Fisher's own personal views on whether the death penalty was constitutional.

He had a right to do that. But Judge Fisher also had a right to respond. He responded:

My view, Senator, is that, as you indicated, the Supreme Court has ruled that the death penalty is constitutional. As a lower appellate court judge, that is the law that I am governed by. I don't want in my judicial career, should I be fortunate enough to have one, to inject my personal opinions into whether or not to follow the law. I believe that the precedent of the Supreme Court is binding and that is what my function is.

That is exactly, in essence, the language that Miguel Estrada used. Yet he is being criticized. Why? Is it because, as some of the Hispanic Caucus in the House said, he is just not Hispanic enough; or that he hasn't done enough for the Hispanic community? What more can a young man do than to rise to the top of his profession as a Hispanic and as an example to every

young Hispanic in this country—man and woman?

They are telling us what a Hispanic has to do to be accepted by the Democratic Hispanic Caucus in the House which is so partisan that they are undermining the first Hispanic ever nominated to the Circuit Court of Appeals for the District of Columbia. I think they should be ashamed.

As for Congressman MENENDEZ asking me for an apology—is he kidding? I think the apology is owed to the whole Hispanic community by the Democrat Hispanic Caucus over in the House which is undermining every Hispanic judicial nominee in the future, if they are saying—if they did, if I recall it correctly—because he has no judicial experience he should not have the privilege of sitting on the Circuit Court of Appeals for the District of Columbia.

I have previously gone through more than two dozen Clinton nominees who had no prior judicial experience and who are now sitting on the circuit court of appeals.

In the joint hearing on Judge Fisher and Judge Barry, Senator SMITH asked whether the nominees would have believed that there was a constitutional right to abortion without the *Roe v. Wade* precedent.

This is very similar to questions that Senator SCHUMER of New York asked certain nominees.

But I interrupted Senator SMITH to say—to my own colleague on my own side, one of my close friends in the Senate—as chairman, I said: "That is not a fair question to these two nominees because regardless of what happened pre-1973, they have to abide by what has happened post-1973 and the current precedents that the Supreme Court has."

Think about that. I basically told my own colleague that he was out of line in asking that question, even though he had a right to do it.

Everybody knows I am pro-life. Nobody doubts that. I have stood up for that, and I will always stand up for it because it is the right thing to do. It is the moral, upright thing to do as well. To have 39 million abortions in this society and millions more around the world primarily because of *Roe v. Wade* is something that every American ought to be analyzing and asking, What is going on here?

When we find that so many on the other side of the aisle support even partial-birth abortion where a full-of-life baby capable of being born outside of the mother's womb and living is basically killed by a doctor by ramming scissors into the back of its skull before that baby is pulled out so they can suck the brains out—and then say that is not a human being?

I don't see how anybody can stand up with that kind of barbaric practice, but it has been done.

Every time I think of one of these judges and how well we treated them

and how fairly we treated them, and then I see the contrast of how they are treating Miguel Estrada, I want the American people to know this. This is pure bunk on their side. Where is the substance? Why would they be filibustering for the first time in history and establishing this dangerous precedent where both sides can require 60 votes for anybody to become a judge in this country? And the Presidents will no longer control this process. Presidents will have to succumb to the almighty Senate if that becomes the rule.

That is what they are playing with over there. It is unbelievable. Presidents will no longer control the nomination process in any respect. They will have to do whatever the Senate says.

I cannot think of a worse thing that could happen to this country, because the judiciary is one-third of the separated federal powers in this country.

My gosh, let me go to Richard Tallman, since we are going through to show how they treated their nominees a lot differently than they are treating this Hispanic nominee.

I hope every Hispanic in this country is listening because it affects every Hispanic in the country, Democrat, Independent, and Republican.

Richard Tallman. In followup questions to his hearing on his nomination to the Ninth Circuit, Senator SMITH asked Judge Tallman whether "there are any questions that you feel are off limits for a Senator to ask?"

Judge Tallman's response:

A Senator may ask any question he or she wishes. Judicial nominees are limited by judicial ethical considerations from answering any question in a manner that would call for an "advisory opinion" as the courts have defined that or that in effect would ask a nominee to suggest how he or she would rule on an issue that could foreseeably require his or her attention in a future case or controversy after confirmation.

Senator SMITH also asked Judge Tallman several questions regarding how he would have decided certain Supreme Court cases, including *Brown v. Board of Education* and *Roe v. Wade*. Judge Tallman's answer to the *Roe* question was as follows. His answer to the other question was the same:

It is entirely conjectural as to what I would have done without having the opportunity to thoroughly review the record presented on appeal, the briefs and arguments of counsel, and the supporting legal authorities that were applicable at that time. I would note that the Supreme Court has since modified *Roe v. Wade*, in *Planned Parenthood v. Casey*.

Look, that is an answer no different than the answers for which they are criticizing Miguel Estrada. Why is that? Why is it they are not being fair to this Hispanic nominee? Why is it they do not care about fairness? Why is it they are not being fair to the nominees of the President of the United States? Why is it they are not observing the Senate practice of not filibustering nominees to the Federal courts of this country? Why is it Miguel

Estrada's answers, which were basically the same as these answers, are considered nonanswers when these were considered substantive answers? Why is there a double standard? I do not understand this. Why is there a double standard?

I got off on this because of the comments of the distinguished Senator from Iowa that I have set a double standard. I defy him to show where I have, because I have been fair. Again, I will repeat, the all-time confirmation champion was Ronald Reagan, with 382 confirmed Federal judges. That was amazing. Everybody thought that was amazing. Democrats have been mad ever since, that we could have confirmed 382 Reagan nominees to the Federal bench, almost all of whom have served with distinction in the best interest of this country, working with Democrat judges as well.

Reagan had 6 years of a Republican Senate to help him get those 382 through. President Clinton got virtually the same number, and he had 6 years of an opposition party in control of the Senate. He did not have 6 years of his own party helping him. He actually had 6 years of an opposition party. I was chairman, and he got virtually the same number—astounding. He was treated fairly.

And for anybody to walk on this floor and criticize me because we were unable to get through some of the judges at the end of the session is disingenuous. There were much fewer left over at the end of President Clinton's tenure than there were at the end of Bush 1. We did not complain that there were 54 judges left over at the end of Bush 1 and, in essence, only 42 left over at the end of Clinton.

But I do bitterly resent anybody coming in here and saying I had a double standard, when I worked so hard, and had to overrule a number of my colleagues—not a big number, but a small number of colleagues—who wanted, yes, some of them wanted to filibuster, and I helped to overrule that. And they all realize today why they should have never even contemplated that. And this has helped to bring it into even greater focus.

I am calling on my colleagues on the other side to bring it into focus and realize this is dangerous stuff they are playing with here. It is dangerous. It could cost this country and all future Presidents control of the nominations process.

Now, they do not control it completely. We have an obligation, too. Our obligation is to advise and consent. Now, advise and consent does not mean advise and filibuster. It does not mean advise and obstruct. It does not mean advise and help some people but treat others with a different standard, like Miguel Estrada is being treated here. It does not mean that. And advise and consent does not mean advise and filibuster, to go back to that point.

If they succeed in this, they will have established, I believe, an unconstitu-

tional precedent I am not sure we can get rid of afterwards. And I believe you are talking about upwards of 60 votes needed for every future judge of any quality and, I have to say, taking away a great deal of the President's power to nominate these judges, to select these judges, because no President would be able to have the right to select judges, not without the absolute blessing of the Senators. It is almost that bad now anyway.

Well, Mr. President, I think I have more than made a case that there is a double standard here. I think I have more than made the case that a lot of these Democrat judges have been treated differently from the way Miguel Estrada is being treated, and that is even not considering the filibuster.

When you consider the filibuster, that is like throwing nuclear waste all over the judiciary process, because that really is going to cause problems around here like we have never even dreamed of before.

It is inadvisable, it is wrong, it is constitutionally unsound. And it is a travesty. And it is—to use a very important word—unfair, unfair to Miguel Estrada, unfair to the President, who has nominated him, unfair to this process, unfair to Republicans on this side who treated Clinton judges fairly and well. It is unfair to our procedures around here.

With that, I yield the floor.

Mr. LEAHY. Mr. President, last night, White House Counsel Alberto Gonzales responded to the letter that Senator DASCHLE and I sent to the President this week, renewing the request that the Judiciary Committee made for the Justice Department work records of Mr. Estrada. This is a request that the Judiciary Committee first made nearly a year ago, and it is a request that has been made repeatedly since then.

I regret that, at this point, the White House remains recalcitrant and continues to stand in the way of a solution to this impasse.

For an administration that engages in lawyer-bashing at every turn, there is some irony in the fact that the White House has put a bevy of lawyers to work to compose a lawyer's brief rather than a straightforward response to Senator DASCHLE's good-faith effort to resolve this standoff.

But the letter from Mr. Gonzales does provide some new information that is quite interesting in one respect, at least. Buried within the 15-page letter is a new admission that the Justice Department and Senate Republicans had previously refused to make. The administration has finally acknowledged that there is precedent for providing the very types of documents the Judiciary Committee requested almost a year ago in connection with Mr. Estrada's nomination.

Interestingly, the administration in this letter makes no claim of legal privilege or executive privilege to withhold these documents from the

Senate. Instead, the White House Counsel's Office insists on substituting its judgment for the Senate's and tells the Senate that we already have sufficient information about this nominee.

We on this side of the aisle are making the simple request that judicial nominees for these lifetime positions fully and forthrightly answer legitimate questions so the Senate can make informed decisions. Even more important than this or any other nomination itself is the straightforward principle that no nominee should be rewarded with a lifetime appointment to the second highest court in the land for stonewalling the Senate and the American people. Getting a lifetime post on the Federal courts is a privilege, not a right.

I have voted for many, many judges whose judicial philosophy I disagreed with, but at least I knew what their judicial philosophies were. In fact the Democratic Senate confirmed 100 of President Bush's judicial nominees by the end of last year, and I voted for nearly all of them. The same can be said for each and every Senator on this side of the aisle.

I hope that after getting this letter off its chest, the administration will now begin to work with us. If they did we could end the stalemate they have created.

Those of us who want to resolve this in a way that upholds the principle of the Senate being able to make an informed judgment on this and on any judicial nominees welcomed the constructive discussion on the floor yesterday that Senator BENNETT initiated, about the potential for reaching agreement on making the Justice Department documents available to the Senate. I hope this is a signal that there is at least a chance that the administration will yet comply with our request, so that this standoff can be resolved.

With the White House, the House and the Senate now all controlled by one party, we are already seeing an erosion of accountability. Democratic members of the Senate are standing up for the Senate's constitutional role in the installation of judges on the Federal courts.

Beyond the difficulties we have encountered in obtaining straightforward answers from Mr. Estrada and in obtaining his work documents, in recent weeks the overall process of evaluating judicial candidates has begun to resemble a conveyor belt for rubber stamping nominees. The conveyor belt has been going faster and faster—so fast that the nominations have begun piling up at the end of the belt. We should be trying to minimize and not maximize those kinds of "I Love Lucy" moments. We have had an unprecedented hearing in which not one but three controversial circuit court nominees were considered, en bloc.

In the 107th Congress, the Democratic Senate confirmed 100 of President Bush's nominees, and we did so in an orderly process and with a steady

pace of hearings every single month that greatly improved on the slow and halting pace set by the previous Republican Senate in the handling of President Clinton's judicial nominees. The choice does not have to be between the slow pace of the earlier Republican Senate in the handling of President Clinton's nominees and the frenetic pace of the new Republican Senate in the handling of President Bush's nominees. We can and should find a responsible pace somewhere between those extremes.

The court to which Mr. Estrada has been nominated, the Circuit Court of Appeals for the District of Columbia, has been called the second most powerful court in the land, and for good reason. This court, in particular, affects every single American in many ways, in its decisions on everything from clean air and water issues to the voting rights of Latinos and other minorities to the health and employment rights of working men and women.

No circuit court in the Nation is more important to Hispanic Americans than the DC Circuit. I commend the Congressional Hispanic Caucus for the time, the effort its members have invested and the courage its members have shown in closely examining the record, in interviewing Mr. Estrada, and in offering its judgment about the importance of this nomination for the interests of Hispanic Americans everywhere.

What kind of cases does this court handle, and what is at stake in the decisions it renders? There is a big hint in a front page story that ran a few days ago in Roll Call, in which leaders on the other side of the aisle are reminding lobbyists for big business groups that they have a major stake in who gets on this crucial circuit court.

This process starts with the President. With a simple directive to the Justice Department, he can help the Senate resolve this. I was encouraged early in his term when the President said he wanted to be a uniter and not a divider. Yet he has sent several judicial nominations, selected foremost for their ideology, and not for their fairness, that have divided the American people and divided the Senate. And in terms of fairness, it also needs to be pointed out that the Republican Senate blocked President Clinton's nominees to this very same court.

What are we asking for? It is a simple request: We ask only for sufficient answers and information so that the Senate can make informed decisions about candidates for lifetime appointments to the Federal judiciary.

The PRESIDING OFFICER. The Senator from Alaska.

#### LEGISLATIVE SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

The minority whip.

Mr. REID. Mr. President, Senator STEVENS had asked some time ago if we could move things along. The Senator from Iowa has agreed to allow the Senator from Minnesota, who has been waiting here a long time, to give a speech on a subject, I believe it is Iraq. And he originally wanted to speak for 20 minutes. I asked him if he would speak for 10, and he has graciously consented to do that. It is my understanding the Senator from Arizona wishes to speak.

I ask unanimous consent that following the Senator from Minnesota speaking for 10 minutes, the Senator from Arizona be recognized for a period not to exceed—how much time?

Mr. MCCAIN. One hour.

Mr. REID. One hour. I ask unanimous consent that be the order.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. Actually, I object. I will not take a time agreement at this time. I will agree. I withdraw my objection.

Mr. REID. I say, before the Chair enters that, if the Senator from Arizona needs more time, we will certainly arrange that.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, I thank my colleague from Nevada for this agreement. And I thank the distinguished senior Senator from Alaska, Mr. STEVENS, and Senator MCCAIN also for graciously granting me this opportunity.

#### IRAQ

Mr. DAYTON. Mr. President, the Senate has been dealing with some important matters these days, with a judicial nomination to the second highest court in the country, and shortly to bring up an appropriations bill that will determine spending across this country with hundreds of billions of dollars for the rest of this fiscal year.

But there is something else going on in this country which is of overwhelming importance which really should supersede all of this, and that is the imminent prospect of a war against Iraq.

At the same time we are talking about these other matters, this country is under a condition code orange, the second highest level of security we have. Our citizens have been told in the last few days to go out and get duct tape and sheets of plastic and water.

Today at the Senate Armed Services Committee hearing, of which I am a member, the Secretary of Defense called the time that we are in now "the most dangerous security environment that the world has ever known." It is for those reasons I wrote the majority leader and urged we not take a recess as planned next week, that we stay in

Washington, stay in session, because I think this is a matter of such urgency and such paramount importance to our country and to the world that we should be continuing to focus on that matter.

The ominous forewarnings of this last couple of days affirm to me what Robert Kennedy said after the Cuban missile crisis. He said:

No action is taken against an adversary in a vacuum. The escalation on one side brings a counterresponse. A government of people will fail to understand this only at their great peril.

For the last 55 years the leaders of this country have understood that principle. They, too, faced dangerous dictators who possessed weapons of mass destruction, who headed countries that were hostile to the United States, the former Soviet Union, China, North Korea. But they didn't attack another country to eliminate those threats, even though they persisted, even though we disagreed with those countries, what their leaders did to their own people, the threats they were around the world. The principal reason was we understood the doctrine of mutual assured destruction. We understood their destruction against the United States would be an intolerable cost for our destruction of them and for the objectives we might accomplish militarily.

I believe these forewarnings we have received the last few days should cause us to ask this administration why would they expect Iraq to be any different. If the United States intervenes and begins to destroy that country and its cities, cause civilian casualties, why would we not expect Iraq to retaliate with every destructive force it has available to it within our own borders, against our own cities and our own citizens?

Why wouldn't we expect Osama bin Laden to do his worst to exploit this situation, to twist facts to be seen by the rest of the world other than as they are, but in ways that would be destructive to United States standing around the world and to our own national security now and in the days and months ahead?

Why does this administration believe it should disregard the lessons that other Presidents, Republican and Democrat, have recognized and observed and proven to be as valid then as they are today? What is different about this situation?

At the Senate Armed Services Committee hearing this morning I asked the Secretary of Defense his assessment of our ability to protect our citizens from retaliatory attacks against them if we were to invade Iraq. I asked that question twice. How do you assess, Mr. Secretary, our ability to protect our citizens in their homes and their schools and our cities from an enemy attack? Neither time did I receive a direct answer to that question. Neither time. I have the highest regard for the Secretary of Defense. He has an enor-

mous responsibility. He brings tremendous experience and ability and a heroic dedication to our country to this task. But if all this administration can offer the American people, when our national security alert is raised to the second highest level, is duct tape, sheets of plastic and water, there is something very seriously wrong, if this administration intends to start a war, not against the most urgent threat to this country, not the threat that endangered us before, attacked us before and endangers us now, according to many of their own officials, al-Qaida, Osama bin Laden, the tape that was released this week that issues that threat against us and our citizens once again, not an attack against al-Qaida but against Iraq, against a country that, no question, is ruled by an evil man, a dangerous dictator, a man who almost certainly, as the Secretary of State has demonstrated, the President in the State of the Union, possesses biological and chemical weapons and has for the last 12 years, ever since the first President Bush made a strategic decision at the conclusion of the gulf war to leave him in power, which may have been the right decision given the other options that were available.

Yes, an evil dictator, but one who has been constrained in key respects by active, ongoing efforts of diplomacy with our allies and containment by international forces by both former President Bush and by President Clinton. Contained, constrained, not perfectly, not easily, certainly not voluntarily on his part, but effectively, more effectively than has been acknowledged in recent months. He is weaker, according to reports I have seen, militarily in most respects than he was before the gulf war. He does, by all accounts that we can obtain, not possess nuclear warhead capabilities at this time, which I agree with the President would be intolerable for this country to permit. He has not attacked his neighbors—not because he wouldn't like to, probably, but because he has not had the capability to do so under these containment policies for the last 12 years. And as far as I have been informed in various briefings, he was not actively threatening our country or his neighbors or anyone else when he was dusted off the shelf by this administration right after Labor Day.

The President has properly refocused the world spotlight on this man and his intent. The President has drawn a line very clearly, which I support, that it would be intolerable for this Nation to permit that dictator to possess nuclear weapons or the missile capabilities to deliver those warheads or any warheads against this country or against neighbors in the region surrounding him.

Certainly after September 11 and Operation Enduring Freedom, no one in this world could question the steely resolve of our President and his willingness, if necessary, to use military force. After Operation Enduring Free-

dom, no one could raise a doubt about the might of the United States Armed Forces and the strength we can bring to bear anywhere in the world as a last resort, as truly a last resort.

But there is another lesson from September 11, which is that no matter how great our military might, we are not invulnerable. We are too big a country. We have too wide an expanse. We have too many possible targets for terrorists. And we saw on September 11 tragically, horribly, the damage and the destruction and the cost of human life and the untold human suffering and misery of families that a very small number of fanatical men could cause.

I don't think we should back down or be deterred by any threat. I think we should do what we must to defend this country, and the principles we have established in the last half century of dealing with these threats have been ones that have prevented war, preserved our peace, and strengthened this country economically and socially in its position of leadership in the world.

It would be a very dangerous precedent if we were to do, except as a very last resort, what no President in this country has done before, which is to start a war, which is to launch a preemptive attack against another country based on what it might in the future do to us. And I think we should consider what that precedent would mean if other nations were to follow that example. If we set a precedent in this "new world order," as it has been called, that a preemptive attack against a possible future threat is the way to resolve crises or standoffs, what will happen when other countries adopt that path?

We have seen now—and we have been forewarned—that the nuclear proliferation that we are seeing other countries undertake is the worst nightmare that many predicted years ago, decades ago if we didn't—the superpowers—bring to a halt the nuclear arms race and remove them from the shelves of the nations of the world. Now we are told that half a dozen countries—and more to come soon—will have them. That should be and must be a warning to us. What happens if we lead down a path on which we don't want other nations to follow?

If we set a precedent of preemptive attack, that path is one that the world will follow at its peril. I urge the President to take that into the most careful consideration as he makes this fateful decision.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Arizona is to be recognized for up to 60 minutes.

#### OMNIBUS APPROPRIATIONS

Mr. MCCAIN. Mr. President, usually I begin my diatribes on the appropriations bill by lifting up the appropriations bill for all to see; one, it hasn't been delivered and, two, I note by the

size of the existing copy down by the desk of the manager that it would be quite a task to pick up this year's appropriations bill. At my advanced age, I might be in danger of sustaining a hernia. But I still think that this probably is—if I may borrow a phrase from one of our longtime adversaries—the mother of all appropriations bills. It is some 5,000 pages.

I can safely say that I have not read it. My staff has been feverishly going through certain parts of it, each being parceled out. Clearly, we have a mammoth conference report on this omnibus appropriations legislation, which nobody has been able to review, examine, and debate. I say that not without sympathy for the Senator from Alaska, who is faced with a situation where negotiations—in fact, they are going on almost as we speak, or are being completed as we speak. Certainly, the reasons for the delay—some 4 months of delay—was not under his control. But I want to discuss this very briefly in context.

The context that we are looking at with this legislation is a huge looming deficit that is in front of us and growing in size almost as far as the eye can see. The eye used to be able to see for 10 years. Now we have changed the procedures where the eye can only see for 5 years. But only a short time ago, we were awash in huge surpluses. I will never forget when Alan Greenspan testified before Congress in favor of the 2001 tax cuts because we wanted to make sure we didn't spend down the debt too fast. We didn't want to spend down that debt too quickly because that would have some bad effects on our economy.

Well, we don't have to worry about spending the debt down too quickly now. In 2001, we had a \$127 billion surplus. We are living in a different time now. The Congressional Budget Office recently forecast a larger than expected deficit of \$199 billion for this year; and last week, with the result of the President's budget for 2004, the OMB projected record deficits of \$304 billion this year and \$307 billion next year.

I have, as chairman of the Commerce Committee, seen enough of our needs for security and safety at our airports, railway stations, ports, all over America, to tell you that we have very large expenditures ahead of us. Those expenditures are justified when we are talking about the security of this Nation. The funding for the Transportation Security Administration was justified. I am proud that we not only passed the legislation, but we funded that enormous effort to ensure the security of our airports, which is still not complete. But the fact is, we will soon run out of borrowing authority and might have to look to other sources of funding, such as the Social Security trust fund, in the absence of a legislated increase in the debt ceiling.

There are a lot of words that are not used anymore around here, but the one

that has completely and totally disappeared is the good old "lockbox." I wonder what happened to the good old lockbox. That was the one we were going to put Americans' payments into Social Security into and we were never going to touch it again.

Not only is our economy in distress, we are also one step closer to war. There are threats to national security that must be disposed of. Yet this appropriations bill, in my view, has not changed since last year. In fact, it is predictably about 11 times worse. The amounts associated with each earmark may not seem extravagant, but taken together they represent an incredible diversion away from Federal programs that have undergone the appropriate merit-based process.

I have two problems with this process. One, of course, is the appropriating of moneys that are really unnecessary and unauthorized and wasteful, very wasteful, but also in this legislation are many fundamental policy changes and, of course, I object, as chairman of the Commerce Committee, that it didn't go through my committee. But I object to it even more when we have not had the open debate and votes taken on matters that have national implications that are fundamental policy decisions.

Let's go back to some of the necessary earmarks: First, \$280,000 for asparagus technology and production in Washington; \$220,000 to research future foods in Illinois—only in Illinois, of course.

My colleagues may note, as usual, the need for these earmarks are nearly always geographically based.

Next is \$700,000 for the Midwest poultry consortium in Iowa; \$250,000 for research on the interaction of grapefruit juice and drugs. I always wondered what kind of experiments these are. One of our all-time favorites, made famous a number of years ago, is money that was spent to study the effect on the ozone layer of flatulence in cows. One always wondered about the testing procedures used to determine those effects on the ozone layer. This is another one that intrigues the observer. Regarding the interaction of grapefruit juice and drugs, of course, one's imagination can be stimulated by the prospect of the interaction of grapefruit juice and drugs.

Then we have \$600,000 for tristate joint peanut research in Alabama; \$500,000 for Missouri, Iowa, and Illinois Corn Growers Association for a pilot program to develop "production protocols."

Again, I have to sometimes display my ignorance. I didn't know that in order to grow corn, there was a particular requirement for a protocol regarding production.

I see that the Senator from Iowa just came on the floor. He may be able to illuminate me on the production protocols associated with corn growing. But whether he can or not, there will be \$500,000 being split up between his

State, Missouri, and Illinois to their corn growers associations. But this won't be an overall production protocol; this is only a pilot program. So I am sure there will be a great deal of additional money coming once we develop the pilot program for production protocols of growing corn.

Next is \$50,000 to combat "feral hogs" in Missouri. You know, somewhere I had a little depiction of feral hogs. I did not know that they were a threat to civilization as we know it, or at least enough to require \$50,000 to combat feral hogs. Sometimes one would get the impression that perhaps the people in Illinois could fund their own combat scenario with feral hogs. Nonetheless, we will be coming in with \$50 grand to combat those feral hogs, which I am sure are a serious scourge.

There is \$500,000 to continue hybrid poplar research in Wisconsin. I am sure next year we will have a continued program to develop production protocols for growing corn; \$2 million for the biomass gasification research facility in Birmingham, AL. Again, I look forward to seeing what that is all about.

And then, staying right on this important mission of gasification, we have another \$500,000 for the gasification of switchgrass in Iowa. Perhaps switchgrass can be part of the production protocol of corn. But one doesn't know; \$1 million for the National Agricultural Based Industrial Lubricant Center; \$10 million to develop a high-speed data transmission between the Library of Congress and education facilities, libraries, and networks serving western North Carolina. I did not know there was a special need in the western part of North Carolina, as there might have been for other parts of the country. But we will spend \$10 million to do that; \$500,000 to be split between the Alexandria Museum of Art and the New Orleans Museum of Art for activities relating to the celebration of the Louisiana Purchase bicentennial celebration; \$200,000 for the replacement of Minton tile in the Capitol complex; \$1 million for a company called Culpepper Glass in Warrenton, VA, that produces glass display cases for the Library of Congress. I assume, of course, there is no other company that could produce glass display cases for the Library of Congress. That is why the Culpepper Glass Company in Warrenton, VA, had to be designated in this legislation; \$3 million for an award to the National Technology Transfer Center for a coal slurry impoundment pilot project in southern West Virginia; \$1 million for an automated nursery project in Mississippi; \$500,000 for Vermillion Community College in Ely, MN, for the development of a professional forest harvester program.

Mr. President, if my colleagues will indulge me, I have to go back to my favorite from last time for just a moment. I know the hour is late, but this is too much. We were able to keep, through very serious contemplation and discussion among conferees, \$1 million for a DNA bear sampling study in

Montana; \$1 million will be spent to sample the DNA of bears in Montana.

Because these appropriations are never discussed with nonmembers of the Appropriations Committee, one can only imagine and conjure up an idea as to how this might be used. Approach a bear: That bear cub over there claims you are his father, and we need to take your DNA.

Approach another bear: Two hikers had their food stolen by a bear, and we think it is you. We have to get the DNA. The DNA doesn't fit, you got to acquit, if I might.

I think it is important to appreciate that this \$1 million for a DNA bear sampling study could solve a lot of crime in Montana. It is a pretty high-crime area. It seems to me that is, indeed, a very worthwhile expenditure of the taxpayers' dollars.

While we are at it, I want to jump out of line here a second: \$202,500 to the National Peanut Festival Fairgrounds for the construction of the National Peanut Festival Agriculture Arena in Dothan, AL. I was interested in the National Peanut Festival. I did not see it much on television or hear much about it. So I went to the Web site, and I think you will be comforted to know we are spending this \$202,500 for the 9-day celebration of the peanut harvest, which includes a variety of competitions, including recipe contests, beauty pageants, and tennis tournaments. Included for your viewing pleasure on this Web site is a very interesting picture. I am sorry my colleagues cannot see it, but I would be willing to provide them with copies, but there are three individuals standing by a contraption that I have not seen before, and it says farmers demonstrate antique peanut harvesting equipment at Pioneer Peanut Days. Again, it seems to me that is a worthwhile investment of \$202,500.

I have also one more that is kind of interesting: \$900,000 for the Show-me Aquatic Center for Development; \$900,000 for the Show-me Aquatic Center in Missouri. We found a picture of it. It says: "Please Touch Me Museum, 210 North 21st Street, Philadelphia"—this is the 270,000 Please Touch Me Museum, I apologize. That is for kids and grownups. Of course, I had that confused with the very important facility that is in Missouri. I certainly would not want to confuse the different States.

One of the more remarkable aspects of this bill is in the HUD section, under EDI. There are 885 individual earmarks. Some of them are very interesting. Of course, there is \$202,500 to continue the rehabilitation of the former Alaska Pulp Company mill site in Sitka, AK. I am reluctant to ask the Senator from Alaska how much that continuing rehabilitation is going to cost us overall.

We have a lot of important construction: \$45,000 for the city of Tusculumbia, AL, for construction of facilities associated with the Helen Keller Festival; \$90,000 for the city of Prattville, AL,

for the Boys and Girls Club of Prattville.

I mentioned the peanut festival. Here are a couple new ones: \$810,000 for the city of St. Louis, MO, for lighting sidewalks, curb, and street furniture along Kings Highway Boulevard and Chippewa Street. It must be a fairly serious situation there that we need to spend \$810,000 down there on Kings Highway Boulevard and Chippewa Street in St. Louis.

I mentioned the Show-Me Aquatic Center in Missouri; \$105,000 for the Food and Agriculture Policy Research Institute in Columbia, MO, to analyze commercial shipping alternatives; \$90,000 to the city of Natchez, MS, for a feasibility study to develop a slack water port. That is just for a feasibility study; \$135,000 to the Culinary and Hospitality Academy Center of Las Vegas, NV, for construction related to the expansion of an education training center. For those of you who have not visited Las Vegas lately, I can tell you it is a very depressed and deprived area, and I can certainly understand why the Culinary and Hospitality Academy Center would need \$135,000. I thought they could use some of mine.

For the arts, we have \$162,000 for facilities renovations and improvements for the Woolworth Theater in Glens Falls, NY; \$162,000 for the Catskill Mountain Foundation in Hunter, NY, for reconstruction of the Tannersville Theater; \$180,000 to the Bethel Performing Arts Center in Bethel, NY, for construction of a performing arts facility; \$225,000 to the village of East Syracuse, NY for the renovation of the Hanlan pool; \$270,000 to Garth Fagan Dance Studio in Rochester, NY, for construction of a new theater for the Garth Fagan Dance Studio; \$121,500 to the Bedford County Agricultural Society in Pennsylvania for facilities improvements at the Bedford County Fairground; \$202,000 to the New York Agricultural Society for facilities improvements to the New York Expo Center Arena and Livestock Expedition Hall, and I mentioned the Please Touch Museum in Philadelphia, PA.; \$810,000 to the City of Fort Worth, TX—another impoverished area—for waterfront facilities construction for the Trinity River Basin Project; \$180,000 to the Shenandoah Valley Discovery Museum for facilities expansion; \$216,000 to the Virginia Living Museum in Newport News, and the list goes on.

There is a certain common thread one will find throughout these 885 projects. I am sorry I did not have time to total it up, but it would have to be in the tens of millions of dollars. There is one common thread. About 95 percent of these projects that are earmarked belong to the States that are represented by members of the Appropriations Committee.

I joke a lot about this, and I will continue to do so, but that is not right. That is not the right thing to do.

I regret the conferees choose to adopt a special interest provision for one for-

eign cruise ship company at the expense of all other companies. The last time Congress meddled in this area with hollow promises of spurring the American shipbuilding industry, it ended up costing the American taxpayers \$185 million in loan guarantees. It was one of the most egregious I have seen of egregious things to take the money from a billionaire that—excuse me. We took no money from the billionaire who runs river boat casinos and who tried to build two ships in Pascagoula, MS, which every expert knows is not possible. The project failed and the American taxpayer was on the hook for \$185 million.

Not satisfied with costing the American taxpayer \$185 million, a Senator from Hawaii put into this bill a requirement that grants a subsidiary of the Malaysian-owned Norwegian Cruise Lines the exclusive right to operate three large foreign-built cruise vessels in the domestic cruise trade. This will be permitted notwithstanding the Passenger Vessel Services Act, which requires vessels transporting passengers between ports in the U.S. to be U.S.-owned, U.S.-built, U.S.-flagged and U.S.-crewed.

I am not a fan of those requirements. But why in the world do we make exception for a law in an appropriations bill when you know what the result is going to be? By granting exclusive rights to one cruise line, there will be no competition and the people who want to cruise Hawaii will pay much higher prices than for a commensurate cruise that people would take out of the East Coast.

I do not know if the Presiding Officer has ever been to Miami, but there are all kinds of ships cruising out of Miami, going all different places, for all different purposes, at very low cost. That is because they are all competing against each other.

The Senator from Hawaii puts in a violation of law, and an exclusivity which is going to cost people who want to cruise the Hawaiian Islands an enormously greater amount of money. Why? That is crazy. I would have thought the Senator from Hawaii, after costing the taxpayers \$185 million because of a provision he put in an appropriations bill—it never went through my committee which has oversight of it. It was never mentioned in my committee—after costing the taxpayers \$185 million, the Senator from Hawaii then pulls this one. I am angry about it, and I will continue to be angry about it because the citizens of my State of Arizona would like to cruise the Hawaiian Islands and they would like to do it at the cheapest possible cost. When there is no competition, there is not low cost.

There has been no analysis of granting this exclusive exemption from the Passenger Vessel Services Act to the "Norwegian Cruise Lines" owned by a Malaysian company. Nor have the committees of jurisdiction had an opportunity to consider the proposal.

I tell the Senator from Alaska and the Senator from Hawaii, we are going to have a hearing on this issue, we are going to have a GAO investigation, and we are going to find out why they lost \$185 million because of a provision put into this bill. We are also going to get an estimate of how much this exclusivity is going to cost my citizens who want to go on a cruise at the least possible cost. I will not quit on this issue. It is wrong, and it is the wrong way to treat this process. We will have hearings in the Commerce Committee, and we will expose this for what it is—disgraceful.

There are numerous other provisions in this conference report that circumvent the clear jurisdiction of the Commerce Committee. It incorporates almost wholesale a bill passed last year by the House of Representatives regarding air traffic control towers. The provision expands on the class of air traffic control towers that is eligible for Federal money. I am all for aviation safety and it may be a good provision. I am troubled by several aspects of it.

First, the provision does not make new towers eligible for reimbursement. It makes eligible towers that were built beginning in 1996, over 7 years ago. At least the provision passed last year by the House provided that an airport tower would be eligible for a grant under this program only if the Secretary certified that the selection of the tower for eligibility was based on objective criteria giving no weight to any congressional committee report, joint explanatory statement of a conference report, or statutory designation.

I wish to congratulate my House colleagues because they were concerned about the pork barrel projects practice and tried to insulate this particular program from such behavior. Guess what. That provision that eliminated no objective criteria giving no weight to any congressional committee report, joint explanatory statement of a conference committee, or statutory designation was eliminated. Why would that be eliminated, I wonder?

The conference report also includes a provision and implements a whole new funding scheme for airport security projects. I am very concerned about funding for airport security. This is a reauthorization year for aviation programs and the Senate Commerce Committee, the committee of jurisdiction, has already begun hearings of FAA issues. Yet the appropriators have taken it upon themselves to establish a brand new funding scheme that has never been vetted, discussed, or voted on by the authorizing committee. Some might start to wonder just what the Commerce Committee's role is in policy decisions regarding the programs under its jurisdiction.

This provision authorizes a new \$2.5 billion program over 5 years for airport security projects without any discussion that I am aware of. The TSA was

not consulted about this provision. It seems the special interest groups who were shopping this provision were the only ones that mattered. If this had gone through the regular legislative process, at least all parties could have been heard.

There are many different ways to fund security projects. This provision may be a good one. It mirrors a similar program set up at the FAA. However, the Department of Transportation Inspector General proposed several other ideas to our committee.

Another provision would allow airports to give airport improvement program money back to the FAA so the agency can hire staff to speed up environmental reviews of airport projects. This is an area in which the Commerce Committee took action last year and will continue to pursue this year. It should not be addressed in an appropriations bill.

I commend the conferees for their attempts to help protect the investment the American taxpayers continue to provide to Amtrak. The conference report, which provides Amtrak \$1.05 billion for fiscal year 2003, includes conditions that require the funding to be appropriated on a quarterly basis through formal grant agreements with DOT. The conferees worked to ensure that Amtrak reserved sufficient funds to meet its contractual obligations with State and local subdivisions for commuter and intercity corridor services. Amtrak should not be in a position to shut down commuter operations as it threatened last summer because it does not have sufficient funds to operate its entire network.

The conference committee has slightly reduced Amtrak's appropriation from that provided in the Senate-passed measure, but it has also postponed repayment of Amtrak's \$100 million loan from DOT.

The conferees authorized the Secretary of Commerce to award grants and make direct lump sum payments of up to \$50 million to support travel to the United States. To carry out this new authority, the appropriators established the United States Travel and Tourism Promotion Advisory Board and provided \$50 million. This tourism board has never been considered by the authorizing committee of jurisdiction. Nor did the Department of Commerce have any input on the creation of this new board. Who came up with \$50 million—and establish a new bureaucracy? The U.S. Travel and Tourism Promotion Advisory Board, and gives them \$50 million.

I am pleased to see the conferees appropriated money for election reform. The conference report on NOAA provides more than \$490 million in earmarks, and just for aquatic, not atmospheric programs of the National Oceanic and Atmospheric Administration, to go toward 150 earmarks. The administration did not request funding for these programs in the budget, and many programs they did request funding for are underfunded or zero funded.

The conference report appropriated an astounding \$100 million for fisheries disasters assistance. Of this amount, \$35 million is for direct assistance to the State of Alaska for any person, business, or town that has experienced an economic hardship even remotely related to fishing. This is in addition to the \$20 million they are also getting for developing an Alaskan seafood marketing program. Of the remainder, \$35 million is for the shrimp industries in the Gulf of Mexico and South Atlantic to provide far-reaching assistance for many aspects of these fisheries; \$20 million is provided for voluntary capacity reduction programs in the Northeast and west coast fisheries; \$5 million is for Hawaiian fishermen affected by fishing area closures and other management rules; and \$5 million is for blue crab fisheries affected by low harvests.

The conference report requires the Department of Commerce and Coast Guard to provide coordinated, routine support for fisheries monitoring and enforcement through use of remote-sensing aircraft and communications assets, with particular emphasis on Federal waters seaward to South Carolina and Georgia. Without review by the authorizing committee, we have no basis for knowing why this is a good use of Federal dollars and resources.

The conference report earmarks \$10 million to promote and develop fishery products and research pertaining to American fisheries funds to develop an Alaskan seafood marketing program. Ten million is a lot of money to be spending on a marketing program.

As far as the Coast Guard is concerned, managers earmark a total of \$83 million of the Coast Guard budget. That earmark is an increase of \$10 million over last year, and many of them have obviously never been proposed.

In HUD, as I mentioned, 885 targeted grants.

I also will talk for a minute about the lowly catfish, one of my favorite subjects. We know the lowly catfish has been the subject of a great deal of debate and discussion on the floor of the Senate due to the fact that in another appropriations bill, we changed the name of the catfish that comes from Vietnam to basa. But now the lowly catfish, those that are still named catfish because they are raised in the United States, we are now qualifying catfish for livestock compensation programs. Catfish are cows.

As my colleagues know, the livestock compensation program is a Federal farm program that compensates eligible livestock producers, such as owners of beef and dairy cattle, sheep, goats, or certain breeds of buffalo that have suffered losses or damages as a result of a severe drought. Now it is the catfish.

I often take issue with various farm policies that disproportionately benefit large agribusinesses or farms at the expense of farmers and taxpayers, and

those that compromise American agricultural trade commitments. This effort to compensate catfish farmers from a farm program that is intended for livestock stands out. I am certain that catfish proponents will offer a dozen different explanations to justify this provision. In fact, the last time we discussed this, one of my colleagues from Tennessee talked about in his State there are catfish that leave the water and travel in herds, so perhaps that is why we are now calling a catfish a cow. But not even hog, poultry, or horse producers are eligible under the livestock compensation program. Why should catfish then get livestock payments?

We know labeling continues to be a nationally significant agricultural issue. Again, the issue was addressed in the appropriations bill.

The Army Corps of Engineers is, of course, one of the favorite places. Not only are there a lot of earmarks, but there are significant changes in policy or law under the rubric of this appropriations bill. In this legislation, the administration is prevented from proposing or even studying changes to the Army Corps of Engineers civil works program, such as reorganizing aspects of the agency's management structure, without specific direction in an act of Congress. It seems to me that is remarkable micromanaging.

I guess I have taken enough of my colleagues' time at this late hour, and I know we should be voting on this bill and leaving. I point out again, this bill which the distinguished chairman of the Appropriations Committee described as the largest appropriations bill in the history—and I certainly take his word for it—in my now 17 years of monitoring these things, has the largest number of earmarks by far. I find that wrong for a variety of reasons, but one of them being that we are supposed to be in a war. We are about to ask young men and women to make sacrifices. In fact, some of them in the next few weeks may make the ultimate sacrifice. And here we are, business as usual, business as usual, larding on porkbarrel projects, running up the deficits to historic proportions in some respects. I imagine it is historic as far as the turnaround is concerned, from a \$127 billion surplus to a \$300 billion deficit. I mind that very much. I think it is wrong. I think it is the wrong signal to send to the American people about our seriousness of addressing the challenges of the war on terror.

But I am also disturbed about the policy changes that are made in appropriations bills which render authorizing committees nearly irrelevant. It is not the right thing to do. There are provisions in this bill—and I will be providing them for the record—of many policy changes that should have required hearings, debate, votes on specific issues. Instead, they are decided by a small group of Senators and House Members rather than all of us being able to exercise not only our privileges

but our responsibilities as we determine the policies that affect the future of our citizens in our respective States.

I ask unanimous consent that a document entitled "Commerce Committee Provisions" be printed in the RECORD.

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

COMMERCE COMMITTEE PROVISIONS

NCL PROVISION

Mr. President, I regret that the conferees chose to adopt a special interest provision for one foreign cruise ship company at the expense of all other competitors. The last time Congress meddled in this area with hollow promises of spurring the American ship building industry, it ended up costing the American taxpayers a whopping \$185 million. I shudder to think that we are meddling again.

The conference report grants a subsidiary of the Malaysian-owned "Norwegian Cruise Lines" (NCL) the exclusive right to operate three large foreign-built cruise vessels in the domestic cruise trade. This will be permitted notwithstanding the Passenger Vessel Services Act, which requires vessels transporting passengers between ports in the U.S. to be U.S.-owned, U.S.-built, U.S.-flagged, and U.S.-crewed. While I am not a fan of those requirements, I cannot support granting a waiver for one company.

This provision provides an unfair competitive advantage to NCL at the expense of all other cruise ship operators. No other company will be allowed to operate foreign-built U.S.-flag cruise vessels in the domestic market other than NCL. It effectively creates a de facto monopoly for this one foreign company to operate in the Hawaiian Islands, and West and East Coast cruise trades.

Again, I remind my colleagues, the last time we provided special treatment for one shipping company, it came at a price tag of \$185 million. American Classic Voyages' failed "Project America" venture was aided by special exemption language included in the 1998 Department of Defense Appropriation Bill. When American Classic Voyages filed for bankruptcy in October 2001, the American taxpayers paid the price. At what point are we going to say enough is enough, and put a halt to gambling away the hard-working Americans' tax dollars?

Mr. President, there has been no analysis of the value of granting this exclusive exemption from the Passenger Vessel Services Act to NCL, nor, more importantly, have the Committees of jurisdiction had an opportunity to consider the proposal and analyze its overall impact on the maritime industry.

The special interest provision represents yet another piecemeal approach to U.S. maritime policy. But instead of promoting a sound and reasoned U.S.-flag cruise vessel promotion proposal, the conference report rewrites maritime policy and grants one foreign-owned company a waiver from U.S. laws.

We should be working to promote competition in the domestic cruise market, and for that to take place, there needs to be a level playing field for all operators. But the special NCL provision may well severely hamper any effort to jump-start the U.S.-flag cruise market, leaving most coastal states with no regular U.S.-flag cruise ship service.

We learned the hard way from the failed "Project America" venture that domestic-built ships require far more capital investment than vessels built abroad. By giving NCL, and NCL alone, a free pass on U.S. laws, as provided under this conference report, will only keep all other competitors at bay because they have no incentive to even

attempt to secure the significant financing required to comply with the U.S.-build requirement for U.S.-owned cruise vessels.

This special provision for NCL will very likely lead to further economic difficulties for the domestic cruise industry, and places its future growth at risk.

AVIATION

Mr. President, there are numerous other provisions in this conference report that circumvent the clear jurisdiction of the Commerce Committee. For example, it incorporates almost wholesale a bill passed last year by the House of Representatives regarding air traffic control towers. The provision expands on the class of air traffic control towers that is eligible for federal money. While I'm all for aviation safety and this may be a good provision, I'm troubled by several aspects of it.

First, the provision doesn't just make new towers eligible for reimbursement, it also makes eligible towers that were built beginning in 1996—over seven years ago.

Things were very different seven years ago. Bill Clinton was President and I had more hair. I know President Clinton's theme song was "Don't Stop Thinking About Tomorrow," by Fleetwood Mac, but I find it very difficult to believe that airports that built towers in 1996 had any expectation they should get reimbursed by the federal government seven years later. It's awfully nice that we're willing to do that. I didn't know this omnibus bill was also the first economic stimulus package of the year. Had I known, I might have sought inclusion of a payroll tax holiday!

Secondly, at least the provision passed last year by the House provided that an airport tower would be eligible for a grant under this program only if the Secretary certified that the selection of the tower for eligibility was based on objective criteria, giving "no weight to any congressional committee report, joint explanatory statement of a conference report, or statutory designation." I wish to congratulate my House colleagues. Clearly, they were concerned about the pork barrel politics practiced by the appropriators and tried to insulate this particular program from such antics. However, the appropriations committee decided that this took away too much of their power and deleted the provision. I don't mean they rewrote the provision. They literally crossed it out in the conference report.

Mr. President, the conference report also includes a provision that implements a whole new funding scheme for airport security projects. I am very concerned about funding for airport security. This is a reauthorization year for aviation programs, and the Senate Commerce Committee, the committee of jurisdiction, has already begun hearings on FAA issues.

Yet the appropriators have taken it upon themselves to establish a brand new funding scheme that has never been vetted, discussed, or voted on by the authorizers. Some might start to wonder just what the Commerce Committee's role is in policy decisions regarding the programs under its jurisdiction.

This provision authorizes a new \$2.5 billion program over 5 years for airport security projects without any discussion that I am aware of. The TSA was not consulted about this provision. It seems that the special interest groups who were shopping this provision were the only ones that mattered. If this had gone through the regular legislative process, at least all parties could have been heard. There are many different ways to fund security projects. This provision may be a good one, it mirrors a similar program set up at the FAA. However, the DOT Inspector

General proposed several other ideas to our committee.

Another provision would allow airports to give Airport Improvement Program (AIP) money back to the FAA so the agency can hire staff to speed up environmental reviews airports projects. This is an area in which the Commerce Committee took action on last year and will continue to pursue this year. It should not be addressed in an appropriations bill.

While the earmarking in this legislation is as egregious as ever, the raiding of existing accounts for unrelated purposes is equally appalling. The AIP program is supposed to be devoted to the infrastructure needs of our nation's airports. Yet the conference report takes tens of millions of dollars out of AIP to pay for the FAA's costs of administering the EAS program, and the Small Community Air Service Development Pilot Program. These are worthy activities and programs, but it violates the long-established purpose of AIP to use monies for these things. This continual raiding of AIP which is also being encroached upon by the appropriation of security costs from it will slow the necessary development of the nation's infrastructure. We may be in an aviation funding crisis this year if this wholesale taking of money from accounts that are for capacity, infrastructure and modernization does not stop.

#### AMTRAK

I want to commend the conferees for their attempts to help protect the investment that the American taxpayers continue to provide to Amtrak, which since 1971, has received federal subsidies totaling \$26 billion—an enormous sum for a system that serves less than one percent of the traveling public.

The conference report, which provides Amtrak \$1.05 billion for FY 2003, includes conditions that require the funding to be appropriated on a quarterly basis through formal grant agreements with the Department of Treasury (DOT). Amtrak also will be required to spend its appropriated funds only on items identified in its business plan and approved by DOT. And, such funds may only be spent on existing plant and services, not on grandiose or far-fetched expansion plans. These controls are a step in the right direction.

The conferees also worked to ensure that Amtrak reserves sufficient funds to meet its contractual obligations with state and local subdivisions for commuter and intercity corridor services. Amtrak should not be in a position to shut down commuter operations, as it threatened last summer, because it does not have sufficient funds to operate its entire network. Commuter operations, such as those on the Northeast Corridor, are funded by state and local governments and clearly should continue to operate even if other Amtrak operations should cease. Further, Corridor trains that the states are helping subsidize also should also receive priority. Continuing to operate Northeast Corridor services, off-Corridor commuter service, and those trains financed in part by the states would preserve service for 93 percent of Amtrak's combined intercity and commuter ridership.

While the conference committee has slightly reduced Amtrak's appropriation from that provided in the Senate-passed measure, from \$1.2 billion to \$1.05 billion, it also has postponed repayment of Amtrak's \$100 million dollar loan from DOT, effectively providing Amtrak's \$1.15 billion, or only \$50 million less than the \$1.2 billion Amtrak requested. Although Amtrak may end the year with less than its targeted \$75 million in working capital, it should be able to continue operating while Congress considers the long-term future for intercity pas-

senger rail service. I look forward to a full and open debate on this issue.

#### TOURISM BOARD

Mr. President, the conferees authorize the Secretary of Commerce to award grants and make direct lump sum payments of up to \$50,000,000 to support ravel to the United States. To carry out this new authority, the appropriators establish the United States Travel and Tourism Promotion Advisory Board and provide \$50,000,000. This Tourism Board has never been considered by the authorizing committee of jurisdiction, nor did the Department of Commerce have any input on the creation of this new Board. This is another example of authorizing language in an appropriations bill and \$50,000,000 is an enormous amount of money for an initiative that has not yet been fully vetted.

#### NASA

Mr. President, I commend the conferees for their efforts to address the funding needs of the Space Shuttle Columbia accident investigation. Just yesterday, the Commerce Committee held a hearing on the investigation, and I agree that the Congress should be supportive of the *Columbia* Accident Investigation Board. We must find the cause of this horrible tragedy, and ensure that such an accident never happens again.

Unfortunately, other NASA provisions are included in the conference report that should be handled by the authorizing committee of jurisdiction. For example, the conference report establishes a NASA working capital fund for capital repairs, renovations, rehabilitation, sustainment, demolition, or replacement of NASA real property. As Chairman of the Senate Commerce Committee, which has jurisdiction over NASA, I am fully aware of NASA's declining infrastructure and the need to ensure safety of NASA missions. In light of the Space Shuttle *Columbia* accident, I think it would be a prudent course of action if we fully consider this provision in the context of an overall review of NASA, which is currently underway. No hearings have yet been held on this proposed working capital fund, nor has it been considered by the full Senate. I do not question the conferees' strong interest in addressing NASA funding needs, but I note this is yet another case of authorizing on an appropriations bill.

I am particularly concerned by provisions in the conference report that would establish a NASA demonstration project regarding an enhanced-use lease of real property. The Commerce Committee has not had a change to review this language, and no hearings have been held on this enhanced lease scheme. The leasing of public property deserves a public discussion.

#### ELECTION REFORM

I am pleased to see that the conferees appropriated almost \$1.5 billion to implement the election reform bill. This funding is a good start for a process to improve our system of election administration and renew the public's confidence in our election system. I am especially pleased that this conference report includes payments to help states to promote disabled voter access.

#### NOAA

The conference report provides more than \$490 million in earmarks and programs just for the aquatic—not atmospheric—programs of the National Oceanic and Atmosphere Administration. This funding will go toward more than 150 line items. The Administration did not request funding for these programs in their budget, in fact, many programs that they did request funding for are underfunded or zero-funded.

The conference report appropriates an astounding \$100,000,000 for fisheries disaster as-

sistance. Of this amount, \$35,000,000 is for direct assistance to the state of Alaska, for any person, business, or town that has experienced an economic hardship even remotely related to fishing. This money is in addition to the \$20,000,000 they are also getting for developing an Alaskan seafood marketing program.

Of the remainder:

\$35,000,000 is for the shrimp industries of the Gulf of Mexico and South Atlantic, to provide far-reaching assistance for many aspects of these fisheries;

\$20,000,000 is provided for voluntary capacity reduction programs in the Northeast and West Coast groundfish fisheries;

\$5,000,000 is for Hawaiian fishermen affected by fishing area closures and other management rules; and

\$5,000,000 is for blue crab fisheries affected by low harvests.

The report also provides these hand-outs without requiring any accountability for how the money is actually spent. These appropriations were made without offering any form of justification or rationale. How much federal money do these regions really need, if any? If these needs are legitimate, how do they compare to the needs of other regions? We'll never know, because these appropriations circumvented every stage of committee review, consultation, analysis, and authorization. We have no basis for determining how necessary this is or whether or not this is sound policy.

Furthermore, the conference report requires the Department of Commerce and Coast Guard to provide coordinated, routine support for fisheries monitoring and enforcement through use of remote sensing, aircraft, and communications assets, with particular emphasis on federal waters seaward of the costs of South Carolina and Georgia. Again, without any review by the authorizing committee, we have no basis or knowing why this is regional program is a good use of federal dollars and resources is this really the best use of limited Coast Guard resources, at a time when our country is under a heightened terror alert?

The conference report also earmarks \$10 million from the "Promote and Develop Fishery Products and Research Pertaining to American Fisheries" fund, to develop an Alaskan seafood marketing program. \$10 million is whole lot of money to be spending on a marketing program, yet we are given no details on exactly what this federal funding will be used.

#### COAST GUARD

The conference report and statement of managers earmarks a total of \$83.962 million of the Coast Guard budget. The level of Coast Guard earmarks increased over \$10 million compared to the enacted FY02 Coast Guard budget.

In this critical time when the Coast Guard is so hard pressed to carry out its Homeland Security missions, in addition to its many traditional missions, it is indefensible to be earmarking the Coast Guard's budget for pet products. Adding insult to injury, the Committee report takes the Coast Guard to task for devoting its scarce resources to homeland security at the expense of its other traditional missions, yet in the same report, they earmark critically needed resources for other projects. This type of micro-management serves only to tie the Coast Guard's hands and deny it the flexibility it needs to respond to very real threats.

We all know the Coast Guard is underfunded and definitely in need of additional personnel and resources. Our first step should be to give it is full budget without these unrequested and restrictive earmarks.

Here are just a few examples.

The statement of managers earmarks \$1,600,000 for enhanced oil spill prevention activities in the waters of Washington State. This earmark was not requested by the Administration and I think it should probably receive an award for the most creative language. It states, and I quote, "the Committee expects the Captain of the Port to use his professional judgment in allocating these funds to measures that he believes will best protect these waters. Such measures could include a cost sharing arrangement with the State of Washington for the hiring of a rescue tug at Neah Bay. However, these funds could be allocated to alternative measures if, in the view of the Captain of the Port, such alternative measures will provide a superior level of protection." Does anyone wonder what decision the Appropriations Committee expects this Coast Guard captain to make?

\$4 million is for LTS-101 helicopter engines.

The statement of managers earmarks \$10,000,000 of the Coast Guard's Acquisition, Construction, and Improvements budget for a new line item entitled "Security Surveillance and Protection." What does this mean? The Senate report vaguely stated that this provision is to develop and acquire equipment that will improve security surveillance and perimeter protection capabilities in the Nation's ports, waterways, and coastal zones. In other words, it could mean almost anything.

The statement of managers earmarks \$16,000,000 for costs associated with repairing and rebuilding the Coast Guard's Integrated Support Center at Pier 36 in Seattle. These funds are in addition to the \$10,000,000 earmarked for this project in the FY 2002 Transportation Appropriations bill. None of these are funds were requested by the Administration and this project is not one of the Coast Guard's highest priorities for shoreline construction. My question is, how much will be earmarked for this project in next year's budget?

Of particular note, the Conference report earmarks over 27 percent of the Coast Guard's research and development budget for specific projects. These earmarks will hinder the Coast Guard's efforts to better surveil our ports, create new technologies to detect explosives and weapons of mass destruction, and develop non-lethal technologies.

The statement of managers earmarks \$1,000,000 to support the continued development, demonstration, and evaluation of engineered wood composites at Coast Guard facilities. The statement of managers also earmarks \$1,000,000 for a pilot project to test automatic search and rescue spectral imaging technology for Coast Guard C-130 aircraft solely located at Kalaeloa, Hawaii.

Once again we are seeing an Appropriations Bill attempting to circumvent the authorization process. This bill would limit the funding for Coast Guard flag officers to 37. The Coast Guard is authorized under Title 14 to have 48 flag officers and currently has 37 flag officers on active duty. As the Coast Guard grows in size to meet its new homeland security missions it will not have any of its authorized flexibility to promote additional flag officers. If there is a concern that the Coast Guard has too many flag officers, then that concern should be raised through the Commerce Committee.

The bill authorizes the Coast Guard Yard at Curtis Bay, Maryland and other Coast Guard specialty facilities designated by the Commandant to enter into joint public-private partnerships and in doing so may enter into agreements, receive, and retain funds from and pay funds to such public and private entities, and may accept contributions of funds, materials, services, and the use of facilities from such entities. This provision

would enable the federally subsidized Yard to indirectly compete with private industry for shipbuilding contracts. This is authorization language pertaining to the Coast Guard Yard that is clearly within the jurisdiction of the Commerce, Science, and Transportation Committee. Nonetheless prior to the consideration of this legislation by the Appropriations Committee, it did not consult with or notify either the Commerce, Science, and Transportation Committee concerning the changes in law.

Mr. MCCAIN. I yield the floor.

Mr. STEVENS. Mr. President, the Senator from Nevada had an inquiry. I yield to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Just so the two leaders know, does the Senator from Illinois know for how long he wishes to speak?

Mr. DURBIN. I ask the Senator from Nevada what the plans are for this evening?

Mr. REID. What we are working toward is having final passage on the bill this evening, if all things work out right.

Mr. DURBIN. I certainly don't want to delay final passage.

Mr. REID. Why doesn't the Senator proceed.

The Senator from Georgia also wishes to speak for 3 minutes?

Mr. STEVENS. Yes.

Mr. REID. Why don't we have the Senator from Georgia speak first for 3 minutes, and then the Senator from Illinois speak. If the managers want to speak then, they can do so. I so ask unanimous consent.

Mr. STEVENS. It is 5 minutes and 3 minutes, is that correct?

Mr. REID. He's going to stop whenever you want him to.

Mr. STEVENS. All right.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I don't think I will take my full 3 minutes. I just want to rise and say that while, Mr. Chairman, I am going to vote for the omnibus bill, I am really disappointed with the agriculture disaster portion in this omnibus bill. On the Senate side, we debated and discussed this issue at length. The chairman of the Senate Agriculture Committee, who is also chairman of the Senate Agriculture Appropriations subcommittee, I thought did an excellent job of putting together a package that accomplishes the goal of getting funds immediately in the hands of farmers all across America. My farmers have had 5 rough years back to back, and they need money now.

Under the provisions that came out of the conference committee, which was basically the House provision, farmers across America are not going to be getting funds until probably August, September, or October. Farmers are going to be out of business if they don't get relief now. To pass this provision in this bill I think is the wrong approach. I don't like that provision in the bill. I do support it. I know the

chairman had a very difficult time with this particular issue as well as other issues, but I think that is wrong and I wanted to register my objection. I yield back my time.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, as a member of the Senate Appropriations Committee, I know the amount of labor and work that goes into the preparation of a bill of this magnitude. I also know when you postpone the orderly process of passing spending bills and wait an extra 4 or 5 months, there is an opportunity for mischief. I think only in time will we be able to sift through 1,600, 1,800, 2,000 pages of this bill to find out in painful detail what is included.

There are several things that have come to my attention. I would like to draw them to the attention of my colleagues here in the Senate.

Let me start by saying there is one issue most people don't like to talk about and I am going to raise this evening because I think it is critically important. The District of Columbia is a city which is governed by a mayor, a city council, and 535 wannabe mayors in the Congress.

It seems that every Member of the House or Senate who wanted to be a mayor at some time in their lives decided at some point to make a decision for the District of Columbia. I think that is unfortunate. The people of this city, like every city, have a right to govern themselves. Occasionally that intrusion of congressional mischief can reach a perilous state. Let me give an example.

The AIDS rate for the AIDS disease in our Nation's Capital is the highest in the country. It is 10 times the national average. More and more women are being diagnosed with AIDS in Washington, DC. DC health officials reported last October 616 new AIDS cases in 2001 alone, 33 percent among women. In 1981 women only accounted for 7 percent of AIDS cases.

City health officials in Washington estimate 40 percent of AIDS cases are associated with injected drugs.

The question is, how can we stop this AIDS epidemic in the Nation's Capital, which is not only infecting more and more women and children, but appears to be out of control. Frankly, there are programs that work. One of the programs is not popular to talk about. Most of my colleagues run away from it, but you cannot run away from reality. It is a needle exchange program. It is a program that invites addicts in, in an effort to try to first give them a needle that is clean, and then bring them into rehabilitation so they can stop their addiction.

There are those who say don't give them clean needles because they will just keep using them. But you know what they will use, they will use dirty needles and pass the AIDS epidemic on and on and on.

I am not expert in this area. I get squeamish talking about needles and

injections. But the fact is, the people who are experts, the American Medical Association and medical officials, have said it works. Put these programs on the street corners and in the storefronts of Washington, DC, and we can start reducing the AIDS infection rate in our Nation's Capital.

There is no reason in my mind why the people of the District of Columbia should not be able to use their own money to try this approach to reduce drug addiction and reduce the AIDS epidemic in their hometown.

Across the United States, there are programs in many States. But sadly enough, the Members of the House of Representatives have put in a provision that prohibits the District of Columbia from even using its own tax dollars to in any way support this kind of project.

Some of the very congressmen who beat on the desk and beat on their chest and talk about how they are going to fight these needle exchange programs represent districts and States where these programs take place today. This is a sad outcome in this bill. I hope those who reflect on it will realize they are taking some high and mighty moral position and people will die because of it.

Stand by the doctors, stand by the professionals. Stop playing mayor and city council for the District of Columbia. Sadly, this appropriation continues to do so.

Exhaustive scientific review has found that needle exchange programs are an effective way to slow the spread of HIV and AIDS. In a speech last September, Dr. Joseph O'Neill, Director of the Office of National AIDS policy indicated that the administration did not oppose the use of state and local funds to support needle exchange programs.

The American Medical Association, the American Nurses Association, the American Association of Pediatrics, and the American Public Health Association endorse these programs. The Institute of Medicine identified access to sterile syringes as one of four "unrealized opportunities" in HIV prevention in a publication issued last year. The IOM committee recommends that the Administration "rescind the existing prohibition against the use of Federal funds for needle exchange to allow communities that desire such programs to institute them using federal resources."

Former Surgeon General David Satcher, MD stated that:

There is conclusive scientific evidence that syringe exchange programs, as part of a comprehensive HIV prevention strategy, are an effective public health intervention that reduces transmission of HIV and does not encourage the illegal use of drugs.

Former Surgeon General C. Everett Koop, MD concluded that needle exchange programs are an "effective means of preventing the spread of the disease [HIV/AIDS] without increasing the used of illicit drugs." He called limiting the use of state and local

funds for these programs "counter-productive."

The Centers for Disease Control and Prevention estimated that there were 156 needle exchange programs operating in the United States in 81 cities and 31 States last year, many of which receive state and local financial support for their activities. None of these programs receive Federal support at this time.

The CDC publication also indicated that 95 percent of needle exchange programs in operation referred clients to substance use treatment and counseling programs, and over half provide on site voluntary HIV testing and more than a quarter also screen for hepatitis B and C.

In 2000, four needle exchange programs were functioning in my home state of Illinois.

In spite of the overwhelming support from public health and medical professionals, we here in Congress have once again prevented the District of Columbia from using its own local funds to finance these lifesaving programs. I was pleased that the Omnibus Appropriations bill passed by the Senate allowed the District of Columbia to use LOCAL funds to finance a needle exchange program. Washington, DC has one needle exchange program, Prevention Works, that is supported with private funding. Both the Mayor and Police Chief support the program.

However, I am deeply disappointed to learn that the conference report we are considering today maintains the irresponsible status quo, which prevents the District from using its own locally generated revenue to finance needle exchange programs.

This conference report disregards the expert opinions of former Surgeon Generals David Satcher and C. Everett Koop, leading medical and public health organizations, the Director of the Office of National AIDS policy and the Institute of Medicine.

It is my sincere hope that next year we will stop politicizing this issue and recognize that the District of Columbia, just like all of our home states and districts, deserves to have all possible resources at its disposal to combat this devastating public health crisis.

The same is true when it comes to attorneys' fees for special education. Think about this. In every school district in America, if you have a disabled child and want that child to have an education, you have a right to say to the school district: Here is my child who needs the education. If the school district contests it and says this child doesn't have a disability and we are not going to pay for a special ed teacher, you have a right to appeal that decision. That's the case across America.

Sometimes, because it is complicated and expensive, attorneys are involved to represent the parents and the school district and to resolve their differences. It happens every day across America.

In the District of Columbia it has gotten out of hand. Some law firms—

only a few—have exploited the parents of disabled children and turned in attorneys' fees requests to the District of Columbia public school system that are way out of line. Some of these firms have become shady operations that offer not only attorney counseling, but special education services, a package that raises many suspicions.

Senator KAY BAILEY HUTCHISON and I have debated this over and over again as to whether to cap the fees that can be paid to attorneys and what to do about it. In the Senate we raised the cap on attorneys' fees for DC special education to \$4,000 maximum per case. I hope that is enough to take care of these cases. But I will tell you I do not believe we should be imposing a cap on attorneys' fees. The parents of these poor children who are disabled should not be denied legal representation.

I am happy Senator HUTCHISON and I could agree on limiting the attorneys' activities so those questionable activities, those criminal activities will stop. But I think we should put an end to this cap on attorneys' fees and say to the DC public school system once and for all, for goodness sakes, offer kids with disabilities the kind of special education opportunities that are available across America. This provision capping attorneys' fees in this appropriation bill I think is a mistake.

Not only are such caps an intrusion on home rule and local spending prerogatives, I do not believe that imposing a cap on payment of attorneys' fees is the way to address significant and long-standing problems with the delivery of special education services to children in the District of Columbia. These fees arise because parents are forced to bring due process actions against the city school system—and the parents win their cases.

It is unacceptable for Congress to impose a dollar cap on how much the City may pay attorneys who win these cases, particularly after a judge has awarded a fee based on a reasonableness standard. However, I do support language in this bill which addresses concerns about particular attorneys who have shamelessly taken advantage of the system.

I support a complete bar on paying attorneys' cases in which the District's Chief Financial Officer, CFO, determines that an attorney, officer, or employee of the firm has a pecuniary interest in any special education diagnostic services, schools, or other special education service providers.

Furthermore, I believe the provisions in the Senate bill which mandate stronger ethical standards are appropriate.

I support the provisions in the bill dictating that the District's CFO require disclosure by attorneys in IDEA cases of any financial, corporate, legal, board membership, or other relationships with special education diagnostic services, schools, or other special education service providers before paying any attorneys' fees; that the CFO may

require certification by counsel that all services billed in special education were rendered; that the CFO report to Congress quarterly on the certifications and the amount paid by the government of the District of Columbia, including the District of Columbia Public Schools, to attorneys in cases brought under IDEA; and that the District's Inspector General may audit the certifications to ensure attorney compliance.

It is my hope that these provisions will produce needed accountability. I am glad they were retained in the final product.

I am disappointed, but not surprised, that the cap remains in this final version of the bill. I share the sentiment that abuses of this program need to stop. I want to work to address that problem and to figure out why the District has had such perennial problems with its ability to meet the needs of its children in special education.

But it is wrong for this Republican Congress to deprive children of legal recourse when they are denied services to which they are entitled. It is wrong for the Republican Congress to preclude the District of Columbia from using its own funds to make all legitimate payments in this critical special education program.

There is another provision that was slipped in this bill as it relates to the Bureau of Alcohol, Tobacco and Firearms and the Freedom of Information Act. This provision is an enormous setback to the efforts of State and local governments to combat illegal firearms trafficking. It undermines the very purpose of the Freedom of Information Act.

This act entitles citizens to open access to Government records, prevents the Government from shielding its activities from public scrutiny. The City of Chicago, which I represent, filed a Freedom of Information Act request to obtain information about the ATF trace database. The purpose, of course, is to determine which gun sellers and manufacturers were responsible for selling guns to criminals.

In response to these rulings, the gun industry went to the House Appropriations Committee and asked for a rider in this bill to prevent the ATF from complying with the FOIA request and telling the City of Chicago and the public what they were doing.

This provision sets a dangerous precedent because it essentially directs a Federal agency not to comply with the Federal court ruling, thus undermining the very purpose of FOIA. If litigants can be denied information under FOIA through legislative action—even when a Federal court has upheld this request—FOIA itself is in jeopardy.

There is no cost justification for this. This doesn't have anything to do with appropriations. This is an effort by the gun industry to stop cities that are ravaged by gun crime from going after the irresponsible gun dealers who are

selling guns to criminals. And the NRA and the gun industry are shielding them with this rider in the appropriations bill.

I was joined by Senators JACK REED and TED KENNEDY in urging that this provision not be included. Unfortunately, it was.

Let me acknowledge also, as has been said by some of my colleagues, that I am very concerned about the language of funding for homeland security in this bill. The Senate, in its version of this bill, added almost \$4 billion in homeland security funds to be sent back to the State and local governments to protect America. As I stand and speak on the floor of the Senate, we are warning families across America that we are in orange alert and that they have to take special precautions to protect themselves and their children from the possibility of biological and chemical warfare and dirty radioactive bombs.

Sadly enough, we are not providing the resources for the State and local governments to meet this challenge. Make no mistake, America is prepared to attack in the Middle East, but America is not prepared to defend itself at home. That is a sad reality. This bill cuts out almost \$4 billion that would have gone for some very important purposes: Additional money for the Transportation Security Administration for monitoring airports; additional money for the INS and border security to stop those from coming in this country who are bent on bad behavior; community policing grants to try to help communities have someone on the other end of the line when you dial 9-1-1, cut \$130 million; FEMA disaster recovery assistance, cut by \$1 billion; the Department of Justice Office of Domestic Preparedness, cut by \$1 billion; firefighter grants, cut by \$150 million; interoperable communications equipment grants, cut by \$235 million—the No. 1 priority in my State so that the police and firefighters and medical first responders can communicate, cut in this appropriations bill from the Senate level.

These cuts, frankly, came at the request and with the approval of the White House and the Office of Management and Budget.

Emergency Operation Center, cut nationwide by \$155 million; port container security, cut by \$45 million; port technology demonstration projects so that we can see dangerous cargo coming in these ships, cut by \$1 million; explosives training initiative, cut by \$7 million; and \$42 million from embassy security.

I pray to God that nothing happens to this country as a result of terrorism. But I think we have been derelict in our duty to provide the resources to State and local governments to protect families and to protect communities and businesses across America. This bill, with its \$4 billion in cuts off the Senate level, leaves us in a precarious situation and one that I hope does not

come back to haunt us in years to come.

Let me conclude on a positive note. I thank the Senator from Alaska. Despite these words of critique, I personally appreciate, as does Senator DEWINE, the personal interest and initiative he took in the global AIDS epidemic. His decision on the floor to approve an amendment which we offered is going to mean that thousands and maybe more will have their lives saved. I thank the Senator from Alaska. He has been a leader on this issue all the way. We have reached a 42-percent increase in funding to fight the global AIDS epidemic through his cooperation and leadership. I thank him very much.

I yield the floor.

I ask unanimous consent that a statement entitled "Underfunding Homeland Security" be printed in the RECORD.

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

#### UNDERFUNDING HOMELAND SECURITY

At a time when the Administration is ramping up for war overseas, one would think we would be doing everything possible to fortify our security at home as well.

That's certainly what the Administration has led us to believe, but oddly enough, we're poised to pass this 1100 plus page omnibus bill that slashes funding for the pillars of homeland security.

And after cutting funds for first responders, for airport security improvements, for community police officers and more, what do they propose? That Americans fortify their own homes with duct tape and plastic sheets. This Administration can and must do better to protect the safety of the American people.

This bill leaves significant gaps in funding for homeland security priorities.

The Republican-controlled conference committee rejected increases in homeland security funding that were approved unanimously last year by a Democratic-led Appropriations Committee. Instead, the Republican-controlled conference imposed an additional 0.65 percent across-the-board cut to all federal programs, leaving already cash-strapped initiatives in even greater need. The results of the cumulative cuts, which total more than \$4.4 billion, include:

**First Responders:** This bill cuts \$2.98 billion from activities designed to aid first responders. Cuts include a \$1.59 billion reduction for the Federal Emergency Management Agency (FEMA)—including a \$150 million cut to firefighter grants—as well as a \$235 million cut to funds for police and firefighters to purchase communications equipment and a \$155 million cut to fund emergency operations centers.

**Police/Law Enforcement:** The bill reduces funding for Community Oriented Policing (COPS) public safety and community policing grants by more than 40 percent—from \$330 million to \$200 million. This cut would completely eliminate funding needed to hire 1,360 community-based police officers.

**Aviation/Port Security:** The bill cuts \$170 million from Transportation Security Administration (TSA), impeding efforts to improve airport security, and cuts \$46 million from port security funds. The bill also makes cuts to the U.S. Customs Service, resulting in the loss of more than 200 employees and compromising the implementation of the Container Security Initiative and other homeland security efforts. The INS/border security budget is also reduced by approximately \$182 million.

Other Cuts: The bill also cuts programs to train state and federal law enforcement and security personnel by nearly \$50 million, including a \$7 million cut to the Explosives Training Initiative and \$42 million to embassy security.

A supplemental appropriations bill would be necessary to provide funding adequate to meet the homeland security needs of localities across the country in advance of any military action in Iraq.

## ILLINOIS

States and localities are still waiting for the funds promised to them. The States have legitimate concerns. There's a lot of brave talk about fighting terrorism, but when it comes to paying for it, this administration has not delivered.

In my home State of Illinois, we have an Illinois Terrorism Task Force (TTF). This is a collective body representing 50 agencies addressing emergency needs throughout the state of Illinois. They have told me that a minimum of \$100 million is required to cover security expenses in Illinois for FY03.

The Terrorism Task Force originally asked for \$320 million in federal funding and then scaled back its request to the current level (\$100 million) in anticipation of federal budget cuts.

According to the TTF director Mike Chamness, these funds are crucial to Illinois' ability to properly address the threat of terror.

Without these dollars, programs designed to secure Illinois will cease to exist.

First responders will be ill-equipped and prepared to address emergency situations.

Major items in the TTF's \$100 million request include:

\$25 million for first responders' respiration equipment upgrade (nuclear, biological, and chemical).

\$14.4 million for communication systems (interoperable communications equipment for police, firefighters, and state/local emergency operations centers).

Elite Terror Response Team: under current funding Federal monies have not been available to send teams for the "Elite Response" training.

It is imperative that my home state of Illinois—like every other State in this nation—provides their front-line first responders the best equipment, the essential tools, and the finest training available. We rely on their readiness and should expect nothing less. These funds are needed sooner, not later.

## CITY OF CHICAGO

Now let me tell you about the funding needs for Homeland Security in the City of Chicago.

The City of Chicago had made an assessment of total budget needs for homeland security at around \$175 million.

The top ticket item in Chicago is the Chicago public safety radio migration plan which is estimated to cost \$80 million.

The migration allows for all agencies to communicate in an interoperable manner on a daily basis without major equipment modification or complicated system changes.

Among other important needs are:

Emergency Responder Training and Equipment—\$7.9 million. CPD is requesting first responder training, first responder equipment and secondary responders unit training.

Emergency Operations Center Expansion—\$10 million. This expansion will provide incident manager with real-time live video, satellite imagery, building X, Y, and Z coordinates and other state of the art technologies.

Hazardous Materials Equipment—\$7 million. The Chicago Department of Environment is requesting hazardous materials response equipment for any large, widespread or egregious hazardous incident.

## NEED TO DO MUCH MORE THAN DUCT TAPE &amp; PLASTIC

We can't stand up and say we're truly doing everything we can to ensure that our cities and counties, bridges and roads, airplanes and trains are as secure as possible and that our fellow Americans are safe on our soil if this bill is what represents the level of our commitment to fund programs to ensure homeland security.

I fully expect the President to come back to Congress and ask for additional funds to support our military needs overseas. Without question, we must address these needs. But it would be unconscionable to increase funding for military activities in Iraq and neglect our security needs at home. If war comes with Iraq, the battle lines will be expanded to include our country. We simply cannot afford to leave American citizens unprotected.

## ATF/FREEDOM OF INFORMATION ACT PROVISION (RE: CITY OF CHICAGO LAWSUIT VS. GUN INDUSTRY)

Another provision slipped in to the appropriations bill at the last minute involves the Bureau of Alcohol, Tobacco and Firearms and the Freedom of Information Act.

This provision would be an enormous setback to the efforts of state and local governments to combat illegal firearms trafficking and would undermine the very purpose of the Freedom of Information Act.

The Freedom of Information Act entitles citizens to open access to government records and prevents the government from shielding its activities from public scrutiny.

The City of Chicago filed a FOIA request to obtain information from an ATF trace database. A U.S. District Court and the U.S. Court of Appeals for the Seventh Circuit ordered the ATF to release these records.

In response to these rulings, the gun industry went to the House Appropriations Committee and asked for a rider to prevent the ATF from complying with this FOIA request.

This provision sets a dangerous precedent because it essentially directs a federal agency not to comply with a federal court ruling, thus undermining the very purpose of FOIA. If litigants can be denied information under FOIA through legislative action—even when a federal court has upheld the request—FOIA itself is in jeopardy.

There is no cost justification for this provision. The City of Chicago demonstrated in its litigation that it would take the ATF less than 10 minutes to assemble and release the data it has requested.

I was joined by Senators Reed and Kennedy in urging that this provision not be included, and I am disappointed that it was.

In the past, I have challenged the Senate and the President to back up the high priority we have placed on the global AIDS pandemic with adequate resources.

[Senator DeWine has even called me a "bull dog" on this issue. I took that as a great compliment.]

This 2003 appropriations process demonstrated that the Senate does indeed recognize the need for increased resources to fight global AIDS.

In December, I, and 15 other Senators, sent a letter to appropriators asking them to increase overall AIDS spending by 50 percent over 2002 levels. At the time we were looking for an increase of \$236 million.

While facing \$9-\$10 billion in cuts throughout the FY 2003 appropriations bill, the Foreign Operations Subcommittee responded to this request, and managed to find an additional \$41 million for global AIDS.

The Senate Labor, Health and Human Services Subcommittee agreed to match House approved levels, increasing the funds going to the CDC's Global AIDS Program by about \$15 million.

While this increase of \$56 million was welcome, unfortunately, it was not enough.

Senator Mike DeWine and I set out to achieve that 50 percent increase, and through a floor amendment to the omnibus bill, sought another \$180 million to bring overall spending on Global AIDS to \$1.525 billion.

This amendment was accepted—its success demonstrates the Senate's sincere commitment to fighting global AIDS.

\$100 million of these funds were slated for the U.S. contribution to the Global Fund—the world's primary organization to monitor and support worldwide AIDS prevention, treatment and care programming.

And the remaining \$80 million would go to USAID global AIDS programs.

Well, during conference, we lost \$80 million of the \$180 million total. But, nevertheless, I count this as a victory for the global AIDS pandemic.

In the end, an additional \$50 million was secured for the Global Fund, bringing the U.S. contribution up to \$350 million for 2003, and an additional \$50 million went to bilateral programs.

This omnibus bill designates \$1.2 billion for global AIDS. That is a 46 percent increase over what Congress appropriated in 2002.

The President's 2003 budget request suggested an increase in funding of global AIDS funding of 29 percent. I would say we have come a long way.

We will need this type of increase—at least a 50 percent increase—each year until we can close the gap between expenditures and resources necessary to fight this pandemic.

The President's FY04 budget request amounts to an increase of only 32 percent over the \$1.4 billion the U.S. will spend overall on global AIDS in 2003.

[This bull dog] I will be back, asking that at a minimum we achieve a 50 percent increase in global AIDS funding each year for the next few years.

We must continue to do more for the 42 million people worldwide who are living with HIV/AIDS and prevent a good portion of those that will become newly infected in 2003.

During the last ten minutes I have been speaking, approximately 58 people have died from AIDS, 11 of those were children.

A 15-year-old boy in Botswana faces an 80 percent chance of dying of AIDS.

By 2010, it is estimated that sub-Saharan Africa alone will be home to 20 million AIDS orphans; that's 20 million children who have lost one or both parents due to AIDS.

We must act now to help those who today suffer from the impact of HIV/AIDS as well as to change the future of today's children.

We know the situation is dire. We have data to support what program work. Now its time to fund the programs that work.

The 2003 appropriations bill helps us to take yet another tiny step forward in fighting global AIDS.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, I ask unanimous consent, under the previous

consent request, that the Senate proceed to the consideration of the conference report on H.J. Res. 2 and that it be considered under the following limitation: 20 minutes of debate equally between myself and the distinguished Senator from West Virginia, the ranking member of the Appropriations Committee; 10 minutes under the control of Senator DODD; 15 under the control of Senator BOXER; further, that following the use or yielding back of the time, the Senate proceed to a vote on adoption of the conference report, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object.

Mr. CONRAD. Mr. President, reserving right to object, I would like 3 minutes before final passage of this bill.

Mr. STEVENS. I am pleased to add that addition to my request. I am pleased to modify the request so the Senator's request is complied with.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, I was talking to someone here. The Senator wants 3 minutes.

The PRESIDING OFFICER. The Senator from North Dakota has 3 minutes. Is there objection?

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. Mr. President, I withdraw my unanimous consent request for the time being, and I ask unanimous consent that my right to be recognized to call up the report remain the same.

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

The Senator from North Dakota.

#### OMNIBUS APPROPRIATIONS

Mr. CONRAD. Mr. President, it has been very interesting to me to review the budget document that is now before us that has the omnibus appropriations for 2003, which provides funding for all the discretionary programs and activities outside the Department of Defense.

For months last year, our Republican colleagues prevented completion of the remaining 2003 appropriations bills, arguing that that level for appropriations was too high and the President would not accept appropriations bills that exceeded \$750.5 billion in total.

The President's veto threat persisted even with the Senate Appropriations Committee having voted out all 13 appropriations bills on unanimous 29-to-0 votes.

After delaying the 2003 appropriations process for 5 months, and forcing

most of the Federal Government to operate under a series of continuing resolutions, our Republican colleagues have produced a bill that, when combined with the already enacted defense and military construction bills, exceeds the President's level by more than \$12 billion.

Republicans provide total discretionary budget authority for 2003 of \$762.7 billion, and highway obligational authority of \$31.8 billion, for a total of \$794.5 billion.

Last year, they railed against the Senate Budget Committee reported spending level of \$797 billion.

My friends, that is a difference of three-tenths of 1 percent, a \$2.5 billion difference. Five months of delay over a difference of three-tenths of 1 percent. Levels they said were fiscally irresponsible they have now adopted.

Most interesting—most interesting—when the bill was here on the floor, some of our colleagues on the other side ran up a debt meter on amendments offered by some Democrats that had a total cost over 10 years of \$37 billion.

We are poised to vote now on their proposal which is \$62 billion above what was offered on the floor at the time. So if they still have their debt meter chart, they had better get it out. And they ought to put another \$25 billion on their tote board because they are running up the debt—and it is their spending. They are in charge, and all their talk about Democratic spending, and that that is the problem with fiscal responsibility, is shown for what it was. It was all talk.

The reason we are in the deficit ditch is the tax cuts that were unaffordable that they have put in place and the additional tax cuts this President is seeking that are going to drive us deep into deficit and debt.

Mr. President, the numbers do not lie. I have been waiting for this moment for 5 months, to see if the rhetoric matched the reality. And now we see. In just a few moments we are going to have a chance to vote, and then we are going to see who stands with their words, and who stands with their rhetoric, and who votes to spend the money.

This has been a very interesting year, but this is just the beginning. Because we are going to see, in the coming months, who is serious about fiscal responsibility, who is serious about having budgets that add up, who is serious about paying down debt, who is serious about exploding deficits and debt—right on the eve of the retirement of the baby boom generation. I hope very much that the rhetoric matches the reality because we have not seen that in the last 5 months.

I thank the Chair and yield the floor. The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I rise to address the issue of our fiscal year 2003 omnibus appropriations conference report.

Let me begin by, first of all, commending Senator STEVENS and Senator BYRD. Conferencing these bills is no easy task. Each of us has pieces of these bills that we care about deeply. And the Chair and Ranking Member have the awesome responsibility of trying to pull all of this together.

Although I am disappointed by many parts of the conference report, I also want to begin by paying tribute to the chairman and the ranking member and their staffs for the tremendous effort they put into this bill and to try to accommodate the many requests they received and the tremendous demands made of them.

Certainly, in many respects this bill is an improvement over the budget that was submitted to us by the President. Unfortunately, that is not a very high standard, by this Senator's calculation.

The standard that we must meet in each year's appropriations is to address the needs of the American people. Unfortunately, this bill neither reflects the priorities of the American people, nor does it do nearly enough to address our national needs.

I will begin by discussing education. There are many other parts to this bill, but education is a particular priority and source of debate and contention for the American public. Regardless of where you live, any constituency will tell you that one of their major concerns is the quality of our public education at the elementary, secondary, and higher education levels. It is critically important when you consider how significant this is to the American public that this bill should reflect to the greatest extent possible the interests of the American people in improving the quality of education.

I thank the committee for something they did in the bill on education, instead of just sounding like a critic on everything. We exempted under this bill, thanks to the leadership of Senator STEVENS and others, Head Start from the across-the-board cuts. I am grateful to them for that. That is going to make a difference to a lot of kids in the country who count on Head Start. I thank him and his staff for doing that for these young people. That would have lost somewhere around 12- to 22,000 kids, had we applied the across-the-board cut to the existing funds on Head Start. We serve thousands more than that, about 800,000, but 22,000 kids being dropped off the rolls of Head Start would have been a great tragedy. I thank them for that.

Again, I thank my colleague from Alaska on special education. He managed to work out a way with me, at least coming out of this Chamber, to put an additional \$1.5 billion into special education, which would have been a major step forward. It would not have gotten us to the 40 percent that ultimately we will have to reach, but it would have taken us a substantial part of the way down that road.

The Senator from Alaska can't win every battle, but I would be remiss if I

did not report to my colleagues that in this conference report, instead of coming back with that \$1.5 billion, we are coming back with \$400 million. We lost \$1.1 billion when the House and the conferees from this body met to work out the differences.

This is such a priority. I don't care where you go in the country. For every county, every community, this is a major issue. It is a major fiscal responsibility. Local governments don't get to do the things we do at the national level or the State level. They have to meet these responsibilities. We have mandated it; we have required it. So whether you live in the great State of Colorado, as the Presiding Officer does, or the State of Connecticut, I will guarantee you, if you were to ask local people what are some of the priorities you have, this is one that would always come up.

I am very disappointed, despite the efforts of Senator STEVENS and others, that apparently the House leadership did not see the wisdom of maintaining the \$1.5 billion. They cut it by \$1.1 billion so we get a \$400 million increase over the President's budget. You could argue that is certainly an improvement but still far short of what I had hoped we would be able to do.

I wish to address the issue of title I. That was a source of lengthy debate in this Chamber during consideration of the legislation. Senator KENNEDY of Massachusetts offered an amendment to try to make up the shortfall between what the President's budget submitted on title I funding and what would have been needed in order to meet the promise the President and the Congress made last year when the President signed the No Child Left Behind Act. How many times have you heard people talk about this bill, the importance of title I, getting resources to these children and their families, those who are in the poorest conditions in both rural and urban communities?

We all signed on to the bill, which, by the way, if you are troubled by special education because of a mandate from the Federal Government, brace yourselves because the No Child Left Behind Act has significant mandates in it. We require localities to do many things under title I. It is going to be costly to do them, including mandatory testing. But instead of providing the resources in the first year of this new Elementary and Secondary Education Act, the President actually came back and sought to reduce the funding dedicated to meet those commitments.

The difference in the conference report between the promise and the reality is \$4.25 billion rather than \$4.65 billion. So coming back from conference the disparity is not quite as bad as it was, but the fact is, \$4.3 billion was still missing for title I. I am terribly saddened by that.

I know how hard the conferees have to work, but you can't mandate things on local governments and not be will-

ing to come up with the resources. If you are going to vote as we did overwhelmingly for the No Child Left Behind Act and then within the same calendar year refuse to provide funding for it, well, you get some sense of why there is so much outrage at the local level. You are seeing it in special education. Now you will see it in title I. That is regrettable. But, again, I thank the Members for their efforts and what they have done in this area.

Lastly, on higher education, when the bill left the Senate, it had increased Pell grants by \$100 a student. Since the purchasing power of Pell grants has been cut in half since 1975 and in most cases the average student loan indebtedness has tripled since 1987, I didn't think that was nearly enough. Our Republican colleagues defeated an amendment to increase the grant by \$400, but we sent over at least \$100. Now it is coming back with an increase of \$50. I don't need to tell you wherever you go, whether it is special education, title I, or college education, the idea that a \$50 increase in a Pell grant is going to make much of a difference for these low-to-moderate income families who are trying to meet the cost of higher education, just doesn't make sense.

Again, I understand that conferees must establish priorities. But I am deeply saddened that we couldn't do better and hold at least to the \$100 that we had in the Senate bill and try to at least relieve a small amount of that additional burden that these families are going to face.

Just to put this all in perspective, I know there is divided opinion on these issues, but these are about priorities. The President has placed a very high priority obviously on the \$674 billion tax cut; \$320 billion of which will go to the wealthiest 5 percent of Americans. Think of that. Here you have a tax cut for the top 5 percent that is going to be some 75 times larger than the cost of meeting the promise to low-income schools, and apparently the President values that tax cut about 230 times more than increasing Pell grants for low-income students by \$400.

Those are choices. I understand people make them. But the American public has a right to know that when the choice came to doing something about Pell grants for struggling families, working families, doing something about special education needs for our local communities, or doing something about title I funds which are critically important to improve the quality of education at the elementary school level, we made the choice to provide tax cuts for the wealthiest Americans.

I represent the most affluent State in the country. I probably have a larger percentage of constituents who would benefit from this tax cut proposal than most other States. Yet I can tell you, there are very few who believe these kinds of priorities are their priorities. Most of them, in fact, based on what I have heard from them, believe we

should be making these critical investments in the quality of education in our country—special education, title I funding, and Pell grants.

I am glad the conference report retained the language from my amendment approved on the Senate floor to exempt Head Start from any across the board cut contained in the bill. Head Start reaches only 60 percent of eligible 3- and 4-year-olds and only 3 percent of eligible infants and toddlers. The conference report provides a modest increase for Head Start that will barely cover inflation. While it is good that Head Start was not subject to an across the board cut and was allowed a modest increase, we should be fully funding the program. If we truly want to leave no child behind, then we need to ensure that every child starts school ready to learn. This would have been a good opportunity to expand Head Start, but instead, we are just holding it harmless. That's not good enough.

And, while the omnibus legislation continues to provide funding for a range of programs critical to the public health of our Nation, it falls far short of meeting the true healthcare needs of American citizens. When this bill was before the Senate, I was pleased to support amendments offered by Senator MURRAY and MIKULSKI that were adopted and will support care for the uninsured and nurse training. I am pleased that the conference agreement supports lifesaving research conducted by the National Institutes of Health and removes a scheduled reimbursement reduction for physicians that treat elderly Medicare beneficiaries. However, I am disappointed that this agreement fails to sufficiently broaden further many of the health provisions contained within the original bill. Amendments regrettably rejected by the Senate during consideration of this measure include an amendment offered by Senator KENNEDY that would have provided more than \$500 million to public health programs that serve minority communities and an amendment offered by Senator CLINTON that would have bolstered funding to Medicare providers service elderly Americans by more than \$4 billion.

Because more than 130 million Americans continue to breathe unhealthy air, I believe the President's proposal to eliminate protections that control pollution from powerplants and other industries is unwise. I supported Senator EDWARDS' amendment during Senate debate called for an independent, scientific analysis of the regulations before they go into effect. Unfortunately, this amendment was defeated. Language was added in conference to allow more logging for commercial purposes and prevent legal challenges to the 1997 Tongass forest management plan.

Further, at a time when energy markets are so volatile, when heating oil inventories in the Northeast are 35 percent below the 10-year average, when crude oil is at \$35 per barrel, and when

the Northeast is experiencing an unusually cold winter, this bill cuts funding for the Northeast Heating Oil Reserve from \$8 million to \$6 million.

Under the cuts imposed by the administration and the majority here in Congress, the Department of Housing and Urban Development will provide housing services to fewer families and communities will suffer. These cuts come on top of HUD's recently announced plans to cut its operating support for public housing authorities by as much as 30 percent. In letters to the Secretary of Housing and Urban Development, I have urged the administration to work with Congress to meet the Nation's housing priorities. Unfortunately, this appropriations bill is simply not adequate.

I am also disappointed that this legislation cuts funding for the Federal FIRE grant initiative from \$900 million in the previously approved Senate bill to \$750 million in this final bill. FIRE grants provide local firefighters with absolutely essential equipment and training. I firmly believe the FIRE grant program should have been fully funded. Now more than ever, the Federal Government should be striving to be an effective partner with cities and towns across the country.

Unfortunately, this final bill reduced funding not only for the FIRE grants, but for a myriad of other homeland security activities. In total, this final omnibus bill cuts nearly \$4.5 billion in homeland security spending from the fiscal year 2003 bills written by the Senate Appropriations Committee last year. Homeland security spending was cut in order to stay within the President's spending limits—limits that were imposed not because domestic spending is out of control, but because we have cut tax revenue irresponsibly. At a time when the Federal Government is running record deficits, we are being asked to economize on the safety of local law enforcement, firefighters, emergency medical technicians, and the public.

This bill also fails to provide adequate funding to help state and local governments improve their election and balloting systems. The conference report provides \$1.5 billion for election and balloting modernization. This is a significant first step, but it is substantially below the amount authorized in the Help America Vote Act. I am concerned that state and local governments will not have the resources they need to prepare for the upcoming election and ensure that we do not have a repeat of the 2000 Presidential election fiasco. I am hopeful that we will find the additional resources necessary to make sure that every vote is accurately counted. I hope we will find the additional resources at the earliest opportunity.

In the end, I believe this bill reflects a very troubling attitude that seems to be taking hold here in Washington, which is to talk about helping working families, improving healthcare and

education, keeping our homeland safe, and other priorities, but not to do enough follow-through. The American people deserve better than that.

Again, I thank my colleague from Alaska. He fought hard on some of these issues. Unfortunately, we were not able to prevail as successfully as I hoped we could. But, I thank him publicly for his efforts, and I regret deeply we could not have held onto the Senate provisions during the conference negotiations.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I thank the Senator from Connecticut for his nice comments. I can only say I regret deeply that I will not have the privilege he will have tonight, to go home to that beautiful young child. We know he protects children because of his great interest in children at this time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, I ask unanimous consent to proceed, according to the previous order, to the consideration of conference report to accompany H.J. Res. 2, that it be considered under the following limitation: 15 minutes under the control of Senator BOXER, 20 minutes between the chairman and ranking member of the Appropriations Committee; further, I ask that following the yielding back or use of the time, the Senate proceed to a vote on the adoption of the conference report with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object.

Mr. HARKIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS. Mr. President, I withdraw the request.

Mr. REID. Mr. President, will the Senator from Alaska yield for a question?

Mr. STEVENS. Yes.

Mr. REID. Would the Senator allow the Senator from California to proceed with her part of the evening's debate?

Mr. STEVENS. Certainly.

Mrs. BOXER. I will be ready in a moment.

Mr. STEVENS. Is there some limitation?

Mr. REID. She is going to speak as I have indicated to the Senator.

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

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

Mr. REID. Mr. President, I ask unanimous consent to reiterate the request of the Senator from Alaska, absent the last paragraph, and Senator BOXER be recognized for up to 15 minutes.

Mr. STEVENS. That is all?

Mr. REID. Yes.

Mr. STEVENS. Mr. President, I am not ready to lay down the bill. I have no objection to the Senator having 15 minutes, as the rest of us have, in terms of morning business.

The PRESIDING OFFICER. The Chair understands the Senator from California is to be recognized for 15 minutes and that is the only request.

Mr. STEVENS. That's correct.

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

The Senator from California is recognized.

#### NATIONAL FORESTS

Mrs. BOXER. I thank the Senator from Alaska. I also thank my friend from Nevada for the time.

Mr. President, normally I have fancy charts. I have not had time to develop those because we just saw some of the riders of the bill.

I take the floor to make the point that I have many problems with this bill in the area of homeland security—as we are told to take duct tape and plastic and get ready for a chemical or biological attack. God forbid. We have shorted homeland security in this bill. We have shorted port security as it relates to inspecting containers at the ports. We have shorted border security, firefighter grants, community policing grants; and in education, we are leaving many children behind. That breaks a promise to them.

To me, this bill is wanting in many ways. In the area of the environment, which I will talk about, brownfield cleanups have been reduced, and the meaning of organic meat has been turned on its head.

It breaks my heart to tell the Senate tonight that I think America's forests are under major attack. It is unbelievable to me that without any debate or discussion, a pilot program has been expanded massively and, in my opinion, it is going to lead to the ruination of our national forests—our forests that belong to the American people. The program I am talking about is called the Forest Stewardship Program, which started 3 years ago. The idea was to allow limited logging on national forest land for the purpose of maintaining healthy forests in accordance with the forest management plan. Now, as I said, this program has been massively extended.

Let me tell you why I think this stewardship project that is in the bill is an attack on American values. I know the hour is late and I do not intend to take a lot of time tonight. But when riders are placed into a bill as massive as this, I can tell you, when the American people wake up in the morning and learn they are going to lose a lot of the old growth trees in this beautiful land of ours, they are not going to be happy.

I think America's forests belong to the people and I don't like to see a giveaway of taxpayer property. I don't like to see an open invitation to destroy our forests. I don't like to see no limits at all on old growth trees. Timber companies will now pick the trees they want, with no veto from the Forest Service on these projects. This also applies to BLM lands. We could see 70 million acres of national forest land open to logging here. That would also include 10 million acres in my home State of California and millions and millions of acres of BLM land.

In my opinion, the very purpose of this rider is it tries to overrule forest land management plans. I argue that the forest land management plans take precedence. But I can assure you, they are going to start these projects. I only hope, since the only way this could be stopped is in court, that it will be stopped in court. There are limits on public participation in these projects.

Let me show you what they did in the dead of night, if I might say, without anyone watching, without any debate, without any discussion, without any public participation. I don't know that anybody can read this chart, but I am going to go through it.

Under current law, we see that 70 million of 191 million acres of national forests and grasslands are affected.

Under this omnibus bill, we would see the same number of acres affected, plus 200 million acres of 260 million acres of BLM land. We are talking about massive amounts of land.

The number of projects now under the Stewardship Program number 28 projects a year. Now there is no limit, no limit at all.

Who is in charge of the projects? Now under the Stewardship Program, it is the Forest Service. They come in and they will tell a private sector commercial logger: This is what you can cut, but do not cut this tree down and do not cut that tree down because they may be old growth, or whatever, for whatever reason. Now we give it away to the timber companies.

We are seeing in the red the differences between the current projects where they were limited to 28 projects a year to no limit.

Let me say to my friends in California who may be watching this debate tonight, 10 million of our 20 million acres of national forests that we love in our State could be under the ax here. I hope you wake up to this because this was done in the dead of night.

There are, under current law, many reasons we allow logging on these 28 projects a year: soil productivity, watershed restoration. There are many reasons why today in these pilot projects you can log. It is very carefully controlled. Mostly it is to reduce fire hazards, promote healthy forest standards, road and trail maintenance, grading a road to maintain a camp site. These are all allowable in this small number of pilot projects. This is what has been added.

Now after the Forest Service turns over this particular part of the forest to a commercial logger, they can actually log for commercial purposes, such as providing wood to lumber mills.

Let me explain this. Where we had a project before that was aimed at keeping the forest healthy, it has been turned on its head, and now it says we are going to turn it over to the commercial loggers. The Forest Service cannot even have any say in it. It is completely up to the commercial loggers what trees they will cut down. Building a new road is allowed, not just maintaining a road.

I am stunned, frankly, that this could happen in a conference without one word of debate. This is a shock to anyone in this country who believes the national forests belong to the people of our country because this is—and I will put this back again to say in summary how I feel about it—this is an attack on American values. We all know that our precious environment is just that. We see a giveaway of taxpayer property. Not one slim dime will come into the Treasury; not one slim dime.

We have an open invitation to destroy our forests without getting anything back for it. There are no limits on old-growth forest logging. Timber companies will pick the trees they want with no veto from the Forest Service, a complete change from what we have had before. We could impact 70 million acres of national forest lands, including 10 million acres in my home State of California and millions of acres of BLM land.

This is clearly an attempt—I underscore—an attempt to overrule forest land management plans, an attempt I hope will not succeed.

Mr. DURBIN. Will the Senator yield for a question?

Mrs. BOXER. Yes.

Mr. DURBIN. I would like to ask the Senator a question. I have only been in the Senate 6 years. She has been here slightly longer. Isn't it curious some of the worst environmental provisions are included in the appropriations bill at the last minute without any hearing, without any review? One would think that the people who were supporting this—the timber industry and those who support these provisions—would not be so afraid of their positions that they have to put them in a stealthy situation where, frankly, it is a "take it or leave it" bill, a "take it or leave it" 2,000-page bill that includes this rider.

If I understand what the Senator has said, this provision, so-called stewardship contract, could open more than 70 million acres of national forest currently owned by the taxpayers of America to logging by private companies, and that until this time, we only allowed them to test this in 28 different projects, and only 10 of those projects have actually been activated and tested. So it is an untested theory which the logging industry, the timber industry has now tried to capitalize on with this anti-environment rider to open up more than 70 million acres to logging; is that the situation?

Mrs. BOXER. I say to my friend, he is right, but there is more. For the first time they have now opened up BLM land as well; that is, 200 million acres of the Nation's 260 million acres of BLM land is also opened, and we are talking about no limit on the number of projects.

Under the current law, it is 28 projects a year. It is extraordinary. Who is in charge? As my friend points out, the timber companies.

Mr. DURBIN. If I may ask my friend from California, I am sure she has read this, but the Los Angeles Times editorial said it best today:

Since the days of Teddy Roosevelt, Forest Service responsibility has been to manage the forests on behalf of all Americans, not to make sure the lumber mills grind out as many board feet as the world wants to buy.

That is from the L.A. Times editorial today.

It seems from what I can gather that many who support this provision believe these national treasures, these national forests are there for the exploitation of private companies rather than the legacy which we owe to our children and future generations.

To allow these companies to come in and run roughshod over millions of acres of America's national forest land for their own profit and to do this at the last minute in an anti-environment rider strikes me as a harsh commentary on the values that this Senate is putting in this bill for the appropriations process.

I salute the Senator from California. Thank you for having the political courage to stand up and make a point about an issue that really is going to have an impact on America for generations to come.

Mrs. BOXER. I thank my friend very much. I know my time is running short. There is nothing I can do here except take a few minutes to call this to the attention of my colleagues and the American people because, as my colleague knows, we cannot amend this report. It is up or down. This is what makes it so egregious to me.

I am ready to go to battle toe to toe any day on this issue, and I am sure my colleagues would give me a fight on it. We would have a vote and take our lumps if we lost and be very happy if we won.

We have a situation where taxpayer property is being given away without 1

cent back to the Treasury. Here we have a situation where, instead of the Forest Service saying, OK, you can cut down a few of these trees, we need it for certain public purposes, they are out of the game. They give it to the logger, and the logger decides what tree to cut down.

I think this is a stunning reversal of a program that started out to be one that was in the public interest.

In closing, I will give you one last example.

Under this new rule—and, again, I apologize for the crudeness of these charts, but we did not know about this until a few hours ago. It is now a stewardship goal, if the Forest Service so states, to provide wood to lumber mills. That becomes a forest stewardship goal. It is unreal.

Our people think we are protecting our forests, but our new goal is to invite the loggers in, with no limits on these projects. I am distraught and disturbed about this. I only hope that the courts will do what they have done in the past and say this is in violation of the forest plans. Maybe they will save us from ourselves. This is miserable.

I wish I could offer an amendment to strip this out. I am prohibited from doing it, but I will bring this back to my colleagues at a time when we have more opportunity to discuss it in detail.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

#### MAKING FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 2003—CONFERENCE REPORT

Mr. STEVENS. I ask unanimous consent that the Senate proceed to consider the conference report to accompany H.J. Res. 2 under the previous agreement.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The clerk will report the conference report.

The legislative clerk read as follows: The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the joint resolution (H.J. Res. 2) making further continuing appropriations for the fiscal year 2003, and for other purposes, having met have agreed that the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment and the Senate agree to the same, signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of February 13, 2003.)

Mr. STEVENS. Mr. President, this is probably a historic occasion because we are presenting to the Senate—as my colleague, Chairman BILL YOUNG, presented to the House—11 appropriations bills in one omnibus bill, a bill that covers the balance of this fiscal year, fiscal year 2003.

We are in this position because of considerations of the last Congress. I will not take the time of the Senate to try to discuss why we did not pass those bills last year, but when we commenced this year and I became chairman of the Appropriations Committee once again, it was my determination that we should proceed with those bills and make sure we had them completed and to the President for his signature before we were forced to enter into the budget process for fiscal year 2004.

It was a very difficult process. I want to thank my good friend and Chairman BILL YOUNG in the House, who did as we requested to get the Senate to adopt two continuing resolutions. One we passed and it has extended the time for consideration of these bills. That time will expire on February 20. We will soon get another continuing resolution to take us over to, I believe, February 24, so the President will have a chance to review these bills before he must sign them. I do believe the President will sign this bill when it is received by him.

It was early this morning that the conference report on H.J. Res. 2 was filed in the House. I was discussing with other Members of Congress as early as 2 a.m. this morning some of the provisions of this bill. It is a very controversial bill, I know. There are many portions of this bill that if I were alone and had the sole right to write the bill, I would not incorporate in this bill. This bill includes 11 separate appropriations bills. The conference report includes 16 divisions. It is a long bill.

I see my friend from Arizona in the Chamber. I acknowledge it is a very difficult bill to go through in a very short period of time. I appreciate the consideration he and his staff are giving to the bill, as he usually gives to our appropriations bills.

I see my colleague from West Virginia is in the Chamber, and when he is ready we will ask that the Senate turn to the consideration of the bill. I want to talk about some of the background of the bill before we begin making statements on the bill and what is in it.

This has been a very difficult process for all of us. I want to say to the Senate that following the election, I outlined to our staff, and our staff director Steve Cortese, a process I hoped we would follow to get these bills passed. The Senate Appropriations Committee staff has been working on these 11 separate bills since the end of the year. We have had bipartisan cooperation. The process we followed in the Senate was that we had 11 teams. They were made up of the 11 subcommittees that would have handled the bills had they been handled individually. These bills were primarily the result of the interaction of the staff director of each of those subcommittees with the staff and the membership of the subcommittee.

We took the product of those 11 teams and put them together into the

omnibus amendment I offered to H.J. Res. 2, the one that was brought before the Senate. I might add that in addition, the conference report contains \$10 billion in addition to the funds for the Department of Defense and intelligence community for the global war on terrorism. These were added to the bill. This was a reserve that was set aside by my great friend from West Virginia when he was chairman, a reserve for Defense pursuant to the request of the President as he presented the budget for the fiscal year 2003.

It would be my intention to ask the Senate to proceed with statements pertaining to H.J. Res. 2 before it is actually received, before we go on the bill. I hope that meets with everyone's approval. Right now it is a matter of discussing the various provisions of the bill.

There are several other legislative initiatives in the bill. They include \$3.1 billion for drought and other agricultural disasters. These funds are offset by reductions in mandatory programs. Medicare and the TANF short-term extensions would give the Finance Committee time to address their matters in a reconciliation bill later this year. There is a .65 percent across-the-board cut to all discretionary accounts in this bill to assure that the total remains within the top line that was agreed to by myself, House Chairman BILL YOUNG, and the President. That is an arbitrary line, I will admit, but in order to get the bill signed, if we joined them together, it was my judgment we could not risk a final veto from the President of the United States after working so hard to put them all through in one package. So we have worked as closely as possible with all concerned to try and make certain that the bills will be in a form the President could sign it.

I have to admit I am sure he will be as disturbed about some of the provisions as I am myself, but I do believe all in all the bill is one the President should be able to sign because we have kept the agreement. We have stayed within the line of the requests made by the President of the United States for funds for fiscal year 2003.

I will take a moment to address the total spending levels in the bill. Last November, Chairman BILL YOUNG and I met with the President to discuss how we might complete the work on these fiscal year 2003 bills. At that time, the President asked that we would hold to the total provided in his budget request, as amended by him. We asked that funds needed for the western firefighting be added to that total to address that emergency. We also agreed at that time there would be no emergency money per se—no amounts added to the bill above the President's request. The President agreed to our request that he would send in a supplemental request for the monies needed for the western fires.

In addition, we discussed the need to fund the election reform bill enacted

by the last Congress and respond to the severe drought facing Midwestern and Western States.

To accommodate all these competing pressures, the bill I presented to the Senate in the form of an amendment to the second continuing resolution sent to the House included a 1.6 percent across-the-board cut to ensure the total spending did not exceed the new total we then faced, which was \$751.325 billion.

During consideration by the Senate, amendments were adopted that necessitated increasing that across-the-board cut to 2.85 percent of the total of the bill. That level could not be sustained, and it became a driving factor in our conference with the House and with the administration. We understood that as we went to conference. We took those across-the-board cuts so in conference we could discuss all the programs with the House and with the administration and work out an acceptable compromise.

The challenge facing the conferees was to integrate all the priorities of both the Houses and the administration within the top line of the total requested by the President of the United States. Each of the subcommittee chairmen and ranking members managed to negotiate to resolve their portion of the bill. In other words, as they got to conference, the 11 teams were still involved with working primarily with their portion of this bill. Both the House and the Senate worked to accommodate a set of allocations that would ensure we stay within our fiscal goals.

By allocations, I mean the amount of money available to each subcommittee for the portion of this bill and the portion of the budget that pertained to matters under their jurisdiction.

During the course of these negotiations, we turned on several occasions to the Vice President for his counsel, consideration, and leadership in bridging the gaps between the Congress and the administration. This has been one of the most interesting periods of my life as a Senator, being able to work this closely with the Vice President, who undertook, despite the problems facing the Nation, to give us his attention whenever I called and whatever time I called. In every case, the Vice President worked hard with us to find solutions to the problems that beset this conference.

The conference report, based on the give and take between the House and the Senate, between the Congress and the White House, meets the fiscal targets agreed to by both the House and the Senate. Discretionary spending for fiscal year 2003 will be a total now of \$762.713 billion. That total reflects our original base of \$751.325 billion, in addition to \$1.5 billion for election reform, which the President endorsed over the base request, and the \$10 billion for the defense reserve.

The White House also accepted \$2.241 billion in advance appropriations for

the 2004 education programs, which was an initiative we began on the floor as we tried to increase the moneys allocated to education under the President's No Child Left Behind education program.

In short, we set a target which was the total amount requested by the administration. We met the target and we bring this bill to the Senate, reflecting the priorities of the administration, the House, and the Senate. A great deal of hard work went into this final agreement, with all parties making compromises—and, I must say, sacrifices—to get the job done.

On my own account, as I mentioned earlier today, I was disappointed that a more complete resolution of the Alaska timber problem could not be included in this bill. There have been comments made about my trying to add something behind the scenes and some sort of dark way of moving an amendment that should not have been considered by the conference. There was a provision in this bill as it went to conference dealing with the Tongass Forest in Alaska. We tried to resolve the total dispute over that forest. That has not been possible. As I said this afternoon, I will address the Senate again and again and again until it is resolved.

At the conference meeting, I was compelled to ask Senator BOND to withhold a more comprehensive proposal on the Missouri River, a goal he has sought, and sought very hard, and on which he has worked very hard. I know it was a very difficult thing for my great friend from Missouri.

The House advocated language on coal company compensation that the Senate could not agree to. The House also accepted compromises on Amtrak from the positions advocated by the subcommittee chairman.

The toughest portion to resolve was the drought relief package. I am deeply grateful to the efforts and leadership of Senator COCHRAN in resolving this matter and meeting the needs of those farmers devastated by recent droughts. His joint role as chairman of the agriculture subcommittee and the authorizing committee made him a pivotal figure in this process and brought before the Senate a proposal which I hope will be acceptable to all involved in farm matters.

I know many others wish to speak at this conference report, and I will reserve any time that might be allocated to me. I thank the distinguished ranking member and our former chairman of the Appropriations Committee, Senator BYRD, for his partnership and assistance in preparing this bill for the Senate. I know he did not agree with the process. I know he wished we had more time to deal with these individuals bills. But without the work undertaken by Senator BYRD in the committee, reporting all the 13 bills last year, we could not have completed our work under the timetable we faced. It was because of the work he led last

year that gave us the ability to deal with 11 different bills that had a prior approval by the Senate and past Congress and gave a jumping off point to play catchup with this process.

I have the deepest respect for the House chairman, Congressman YOUNG, and the ranking member, Congressman OBEY. Their constructive approach and determination to finish the work, these 2003 bills, were vital to the conclusion of this conference.

It is with a great deal of humbleness that I come before the Senate and ask the Senate to approve this conference report because I know it is a difficult process. We will approve the largest appropriations bill in the history of the United States because there are 11 together in one package. It is very difficult. There will be portions of this bill with which some people disagree; they could disagree with 1 and love the other 10.

But the process here is such that if we are to do our work for the remainder of this year, if we are going to be able to address the year 2004 appropriations bills, if we are going to be prepared to deal with the possibility of a supplemental for our men and women in uniform who are being deployed throughout the world, if we are going to be able to be partners with the administration in dealing with the crises that face this country in Iraq and Korea, we have to clear this deck.

We have to make up our mind to vote for this bill. I urge every Member to search his or her soul about this process. It is not a perfect process. It is absolutely not perfect. This bill is certainly far from perfect, but it is the best we can do under the circumstances that face us. There are many people here disappointed, as I am, about provisions that affect their own personal State. All I can say is, there will be another day and perhaps we can address some of those provisions on an individual basis as the year goes by.

I deeply thank the staff of the Appropriations Committee on a bipartisan basis. I will later ask to put all their names in the RECORD because every one of them has been involved. My staff director sent me an e-mail last night at 2:45. I am surprised he thought I was still awake to get it—but I was. But the real problem is this has been a product of hard labor. I hope the Senate realizes that as we proceed tonight.

It is my deep hope that we will vote on this bill tonight because it will add 1 more day to the time that the President has to review the bill. It will take at least 2 days, maybe 3 days, for the enrolling process of this bill to take place. In all probability the President cannot receive this bill, if we pass it tonight, until Monday night or Tuesday of next week. He is entitled the time to review this; all of the staff have to review this before he will sign it.

Having been part of the administration one time, I know what they call the "enrolled bill process" in the administration. Each department gets its

time to review a bill passed by the Congress and present their recommendations to the Office of Management and Budget to be put together and given to the President for his consideration before he will sign a bill. That process must have time. We should accord the President of the United States the respect due his office, to give him time to review this bill. I regret deeply I did not get more time for my friend from Arizona to review the bill.

As the years have gone by, we have come to appreciate each other more in terms of the roles we play in this process. The Senator from Arizona is the watchdog of the Treasury as far as this process is concerned. I admire and respect that as far as the Senator is concerned, and I look forward to comments he will make tonight.

Mr. MCCAIN. I see the Senator from West Virginia. I appreciate the indulgence of the Senator from West Virginia. I will take just a minute.

I thank the Senator from Alaska for the hard work he and his staff have done. I also hope Members understand that we did not receive this bill until sometime late morning and it is, as the Senator from Alaska pointed out, the largest bill in the history of Congress. I see it sitting to his right. I think it is several thousand pages. I believe, in all candor, in order to review it, my staff would have to stay up all night.

I understand the urgency of voting tonight, but I hope the Senator will indulge me and my staff another hour and a half for us to get through at least a majority of the bill, and then I would be asking for an hour, but I will not use a complete hour to comment on the bill. That way, I hope it can accommodate Members so we could have a vote relatively early this evening.

We are not finished by a long shot reviewing the bill. It is the largest appropriation in the history of this country. At least in my mind, it deserves scrutiny and comment.

I thank the Senator from Alaska. I thank the Senator from West Virginia. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, as the ranking member on the Committee on Appropriations, I thank my friend, the chairman of the Senate Appropriations Committee, TED STEVENS, and I also thank House Appropriations Committee Chairman BILL YOUNG as well as the ranking member of the House Appropriations Committee, Representative DAVID OBEY, for their hard work in bringing H.J. Res. 2, a joint resolution making consolidated appropriations for fiscal year 2003, to the floor. I thank all of the conferees on both sides of the aisle and in both Houses for their hard work on this legislation.

I join with my chairman in paying our respects to and thanking our staff people, on both sides of the aisle, who have worked long hours for long weeks and for long months on this bill. We are now over 4 months into the fiscal

year and the domestic agencies of our Government have had to operate under eight continuing resolutions. Unfortunately, the House of Representatives has not passed a regular appropriations bill since July—since July of last year. That is over 29 weeks without sending a regular appropriations bill to the Senate for consideration.

I have been in these premises for more than 50 years. I have never seen such a performance in this half century in which I served in this body and the other body. I have never seen such a dismal performance.

When Democrats were in the majority in the Senate, we produced 13 responsible bipartisan bills. I owed, always owed and sought to give due credit to my distinguished colleague, the Senator from Alaska, because he was always so helpful, so cooperative, always so courteous in his treatment toward me and I have always recognized that and always sought to assign due credit, proper credit to him and to his colleagues on that side of the aisle.

The President's budget for fiscal year 2003 was seriously deficient in a number of critical domestic programs such as homeland security, education, veterans medical care, highway construction, and Amtrak. In the bills that were approved in the Senate Appropriations Committee by unanimous votes last summer—the votes of every Republican and Democrat, all 29, 15 Democrats at that time and 14 Republicans, all 29 votes voted unanimously—we added about \$11 billion or about 3 percent to the President's request to respond to these shortfalls.

Regrettably, the conference agreement that the House and Senate Republican leadership bring before us this evening cuts back domestic spending by nearly \$8 billion, with cuts in homeland security, land conservation programs, Head Start, State and local law enforcement, water infrastructure grants, mass transit, the National Park Service, embassy security, and many other programs.

I am particularly troubled about the cuts in homeland security programs, given the increased threat level under which we are all now living. My colleagues, the security of this Nation is on thin ice. This administration has held back support for critical investments in homeland security, in police officers, in firefighters, in border, airport, and seaport security. As a result of this White House's intransigence, America is woefully unprepared to prevent or respond to another terrorist attack.

In this conference report, spending for our Nation's first responders has been cut by \$1.6 billion from the levels approved by the Senate Appropriations Committee last summer. Funding has also been cut for border security by \$182 million, embassy security by \$42 million, and for hiring COPS on the beat by \$130 million, enough to hire 1,360 police officers and other personnel.

The American people should know that if there is a chemical or biological attack in their neighborhood, the odds are that the police, the firemen, the medical personnel who will respond may not have either the equipment or the training necessary to help when that help is needed most.

For example, the National Fire Protection Association and FEMA estimate that only 13 percent of the fire departments around the country have fire personnel with the specialized training and equipment to handle chemical or biological attacks.

Why is America so vulnerable? Because this White House is hoping to protect the American people on a shoestring homeland security budget, held together with duct tape.

Since September 11, 2001, the President, with great fanfare, has signed legislation to authorize improvements in security at our airports, security at our ports, and on our borders. The President also announced a plan for State and local governments to vaccinate 10 million first responders for a potential smallpox attack. But the President has not funded that effort, nor has he requested money for it in his budget.

Time after time after time, the administration has talked about homeland security, but time after time after time the administration has failed to invest in homeland security.

Add it up. Add it up. The President turned his back to \$2.5 billion in emergency homeland security funds last August. This past fall the President forced \$1.5 billion in cuts to homeland security initiatives in the appropriations bills that unanimously passed the Senate Appropriations Committee last July. Just last month the administration opposed two homeland security funding amendments which I offered on this floor, one for \$5 billion, another for \$3 billion, and the administration labeled these funds as "extraneous."

Those are billions of dollars in homeland security protections that could be at work right now. Those are billions of dollars that could be in place today for new police and firefighter training, for expanded border security, for vaccines against smallpox. Those are billions of dollars that could be helping to protect American lives today. But time after time after time after time, this administration said no, calling those homeland security funds "extraneous" and "wasteful."

Now, when the President signs the omnibus bill, the administration will proclaim with great fanfare that it held a hard line on Federal spending. I hope that the White House hard line will not result in Americans becoming hard targets for terrorists.

No longer can we nickel-and-dime our first responders. These firemen and police officers and emergency medical teams simply cannot do the job we expect them to do, and that the American people expect them to do, without enough financial support from the Federal Government.

We should not accept the alarming deficiencies in our seaport security—an area that many experts have identified as perhaps the Nation's single greatest vulnerability. We should not accept the fact that first responders and local doctors and nurses do not have sufficient training and equipment to handle wide-ranging threats involving madmen who may have gotten their hands on weapons of mass destruction. With these looming gaps, what is the administration's great homeland security plan?

What will protect the American people? Will it be duct tape, plastic sheeting, and a new federal bureaucracy? We did not create a new Department of Homeland Security just to be told to buy duct tape and plastic.

When it comes to fighting overseas, this Administration's attitude is to spare no expense. In fact, the Vice President interceded personally over the weekend to include billions of new dollars for Defense Department efforts in this omnibus bill. That is all well and good. But when it comes to fighting the war here at home, this administration relies on duct tape and plastic.

We are in new and dangerous times. No threat can be ignored. The men and women who send us here demand that we protect them. The fathers and mothers who send their children to school each morning expect us to invest their hard-earned dollars to keep their little ones safe. That is a solemn duty. It is a basic and sacred duty. When the people ask for our best efforts to protect them from madmen, we must not respond with duct tape.

Chairman Stevens and House Appropriations Committee Chairman Young did all they could to produce an omnibus bill that meets the needs of the American people within the low spending level imposed by the administration.

I believe that the most damaging result of the 2003 appropriations process for the Nation and for our States would be for our domestic agencies to be forced to operate under a continuing resolution for the entire fiscal year. Such a full year continuing resolution would reduce domestic spending by up to another \$14 billion below the levels in the omnibus.

Chairman STEVENS of the Senate Appropriations Committee, Chairman BILL YOUNG of the House Appropriations Committee, and Mr. OBEY, my counterpart on the House side, did everything they could to avoid operating their Government on a continuing resolution that would go to the end of the fiscal year.

Therefore, I am going to support passage of this legislation. However, I must raise a concern about how this legislation was produced. Over the past several weeks, the Appropriations Committee has worked to craft a conference report to include the eleven spending bills for fiscal year 2003 that were not concluded during the 107th Congress. The Appropriations Committee takes great pride in the bipar-

tisan approach we have maintained over the years to produce bills to fund this nation's necessary programs. The bipartisan spirit of this Committee enables us to carefully balance the needs of all Americans and to successfully craft bills that, with few exceptions, are signed into law.

We all recognize the unusual circumstances surrounding passage of most of the fiscal year 2003 appropriations bills. Still, I am pleased to report that the general rule of bipartisan cooperation among the members and staff of this Committee has continued to prevail and, thereby, we have before us now a conference report that strives to provide fair treatment for all Senators, at least in terms of the regular 2003 appropriations provisions.

However, notwithstanding the bipartisanship exhibited at the subcommittee level, there have been some serious problems encountered in the formulation of the conference agreement on the omnibus appropriations legislation.

Today's headline in *The Washington Post* reads, "GOP Wraps Up Spending Package." There is some truth to that statement. Behind closed doors, the Senate Majority Leader, the Speaker of the House of Representatives, and the Chairmen of the House and Senate Appropriations Committees met and settled on a number of the big issues. Vice President Cheney provided the administration's views.

At these partisan meetings, decisions were made on such issues as the overall top line total of the omnibus appropriations legislation, the size of the across-the-board cut, the matter of environmental riders and the substance of the \$3.1 billion drought package, along with the offsets from the previously enacted farm bill that were included at the insistence of the White House. These farm bill offsets became necessary when the White House refused to raise the top line by \$3.1 billion to accommodate the mandatory spending in the drought package.

More specifically, Division N of omnibus legislation includes a title to provide disaster assistance for farmers and ranchers due to drought and related conditions. This item was included in the bill passed by the Senate in January. However, when this bill went to conference, this item was not made part of the normal bipartisan conference process. In fact, no appropriations subcommittee was even involved in the conference negotiation on disaster assistance. Rather, it seems, the entire negotiation was conducted by the majority authorization committees, and no discussions with minority appropriations or authorization committee staff ever occurred until the final product was presented to the Appropriations Committee just as the finishing touches to the overall omnibus appropriations legislation were being made.

In summary, with no Democrats in the room, the House and Senate Repub-

lican leadership designed a program that assessed the \$3.1 billion offset against a farm program which one of our colleagues had labored for 5 years to get enacted. The House and Senate Republican leadership chose to cut domestic programs by nearly \$8 billion from the bi-partisan bills approved by the Appropriations Committee last summer. There also was no discussion of the decision to include an arbitrary across-the-board cut on domestic programs.

The package was approved by the House and Senate Republican leadership and given to the Appropriations Committees to be laid into the omnibus legislation. The conferees never met to approve the final conference report.

This is no way to develop legislation. When minority Senators are excluded from discussions, it has the effect of disenfranchising the millions of American citizens who are represented by those Senators like myself.

There is not much we can do about this problem now. We are faced with the alternative of operating on a continuing resolution for the rest of the year—which I don't want to do, which Chairman STEVENS, Chairman YOUNG, and Mr. OBEY have labored valiantly to avoid—which would have the effect of reducing domestic spending by up to another \$14 billion below the levels in the omnibus legislation.

It is my hope that in the future there will be a resumption of full bipartisan cooperation for all items that are included in any appropriations bill. If members want to add items to an appropriations bill that are the product of an authorization committee, that committee must adhere to the bipartisan standards of the Appropriations Committee. If they choose not to do so, I strongly suggest that they find a legislative vehicle other than an appropriations bill on which to attach their measure.

Again, I thank the truly distinguished chairman of the Senate Appropriations Committee, Mr. STEVENS, for his cooperation, for his many courtesies towards me and towards my colleagues on this side of the aisle, and for his friendship and the friendship of all members of the Appropriations Committee on both sides of the aisle.

I also thank the staff of the committee. I cannot find the words to adequately express my deep appreciation to the staff people on this committee. They work hard. They work long hours. They work long weeks. They work weekends and are away from their families. And they labor under very difficult conditions in order to help to bring to the chairman and the ranking member of the full committee a measure which can then be brought to the floor and voted on. These staff people performed admirably under tight deadlines, especially during the last 6 weeks.

I look forward to working with my colleague, Mr. STEVENS, on the fiscal

year 2004 appropriations process which will begin very soon.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, before he leaves the floor, I commend the distinguished Senator from West Virginia for an excellent statement and associate myself with his remarks. They were extremely well put.

Mr. BYRD. Mr. President, I thank my distinguished friend for his comments. And I thank him always for his statecraft, for his handiwork in the development of legislation on the floor, and for his courage and ability to stand up for what he believes.

Mr. WYDEN. Mr. President, I thank the distinguished Senator from West Virginia, who really is a role model for so many of us. I thank him.

Mr. President, I come to the floor today to discuss the provisions in the omnibus spending bill, adopted unanimously by the Senate earlier, that will protect the privacy and civil liberties of each and every law-abiding American citizen.

I am going to discuss this over the next few minutes. I see the distinguished chairman of the full committee, Senator STEVENS, in the Chamber. Before I begin my remarks, I wish to express my appreciation to the chairman of the Appropriations Committee. He and his staff have been so gracious and so kind with respect to this issue.

The program I am going to discuss, the Total Information Awareness Program, is the most far-reaching and most expansive program of surveillance ever proposed. Senator STEVENS and Senator INOUE, in particular, with the help of Senator BYRD and Senator FEINSTEIN, and Senator GRASSLEY, colleagues on both sides of the aisle, worked very closely with me.

But we simply would not have this amendment in the legislation, it would not be bipartisan, if Senator STEVENS had not been working with us. Because he is in the Chamber, I particularly thank my colleague for all his help.

Mr. President, and colleagues, the amendment I am going to discuss tonight would prohibit spending for technology research and development in the Total Information Awareness Program, or TIA, unless the Department of Defense reports to the Congress on its plans for the technology.

The provision also establishes proper congressional oversight of this surveillance program by requiring explicit congressional approval for deployment of any Total Information Awareness technology that would be used to spy on U.S. citizens on U.S. soil.

The Defense Department itself has had a virtual database—and I will quote—that was described as “a new kind of extremely large, omnimedia, virtually centralized and semantically rich information repository.” In my mind, such a novel and broadly proposed program—a program that has

fingers snaking into so many areas of Americans’ lives—is a textbook case of a program that needs vigorous congressional oversight.

In recent days, the Department of Defense and the Defense Advanced Research Project Agency, or DARPA, have announced the formation of two oversight boards for the TIA Program—one within the Total Information Awareness Program and another Federal advisory board. In my view, this is a positive development. It indicates that they understand the growing concern of the American people about the Total Information Awareness Program.

But I am very pleased that Chairman STEVENS and the conferees shared my view, and that is that the establishment of these panels in no way reduces the need for congressional oversight of the Total Information Awareness Program. The conferees understood that these oversight boards, while useful, are not an argument for abdicating the responsibility of the Congress on this issue.

As I mentioned, this has been a bipartisan effort with Senators FEINSTEIN and REID—the distinguished Senator from Nevada is in the Chamber, Mr. REID—who have been very helpful. Suffice it to say, not one Member of Congress—no one in the Senate, no one in the other body, Democrat or Republican—has disagreed with the proposition of our amendment, and that is that it is the responsibility—indeed, the duty—of this Congress to insist on oversight of the Total Information Awareness Program. Not one Senator said: Look, Congress does not need to put brakes on the most far-reaching Government surveillance effort ever proposed.

On the contrary, what Congress said was: We are going to insist that this program is not going to be allowed to grow unchecked and unaccountable. In fact, it is the duty of the Congress to protect the civil liberties and privacy of the people we represent. The call for strong safeguards has come through loud and clear, and that call has been recognized in the conference.

One publication in my home State, the Newport News-Times, put it very well. I will quote it. That publication said:

Just visiting the web site of what is affectionately billed as [the Total Information Awareness Program] is a trip into a future we hope not to meet. If our government still believes in the sanctity of the constitution this week, let’s hope for the President’s signature.

All across the Nation, Americans have said that while a vigorous response to terror is necessary, a system designed to spy on Americans in America is not. It is not only unnecessary, it is contrary to the freedoms that the war on terror aims to protect.

The total information awareness concept requires keeping track of individuals and understanding how they fit into models. For instance, does a seem-

ingly innocent individual conduct himself or herself according to a pattern that terrorists have exhibited in the past?

To find out whether any current U.S. citizens fit the model of a terrorist living among us, the Total Information Awareness Program would develop a way to integrate the databases that already track our daily lives—bank records, online purchases, and travel plans, for instance. Once integrated, these disparate databases would serve as one giant repository of information on most or all of the computer-linked transactions an individual makes. Then you run the models, then you make a judgment of who looks like a terrorist. TIA’s technology would give any Federal agency the capability to develop risk profiles for millions of Americans as they look for questionable conduct.

When I first heard about this program—I am sure there are many others who came to think this as well—when you hear this initially, you say, this sounds like a good idea. If you snoop on everybody all the time, you are more likely to spot a few criminal someones at the moment they are up to no good. But the fact is, the police can’t just stop someone on the street and frisk them for no reason. Current privacy law is supposed to prohibit private companies and the Government from rummaging through your online records.

Unfortunately—and this is what you learn when you look at the total information proposal in depth—as it stands, the Total Information Awareness Program would use technology to pick regular Americans up by the ankles and shake them to see if anything funny falls out.

Now, I understand that terrorists are not going to hang a shingle outside their hideaways announcing they have set up shop. They are not technological simpletons. And I know, as a member of the Intelligence Committee, that extraordinary times such as this call for extraordinary measures to track down these terrorists. I do not take a back seat to anyone with respect to tracking down terrorists.

I believe one of the most important things I have been able to do as a Member of this body is to write the Terrorist Identification Classification System, a bipartisan effort, that became law in the last session, that allows us, on an ongoing basis, to watchdog terrorists, the Mohammed Attas of the world. But there is a clear line between something that allows for tracking individuals where there is a known track record of terrorist activity—suspicious activity linked to terrorism—and, in effect, standing by while the Government shines an indiscriminate spotlight into the private lives and dealings of law-abiding Americans in this country on their own soil.

It is a question of striking a balance. The Terrorist Identification Classification System is an appropriate approach

for the Government to take in seeking to weed out terrorism.

The Total Information Awareness Program is over the line. It is invading the civil liberties of law-abiding Americans on U.S. soil. That is why the conferees have wisely chosen to impose checks on it. The intention of the Total Information Awareness Program and those who support it is undoubtedly to protect the America that we love. But the reality is that the program as proposed encroaches on the freedoms that make us love America in the first place.

Millions of Americans understand that. They have made it clear that they don't want this program to move forward unchecked and unaccountable, and that is why there has been such an outcry about it.

A few weeks ago I stood with a coalition in a room not far from this sacred Chamber that does not flock together all that often: Americans for Tax Reform, the Eagle Forum two groups that are certainly conservative by anybody's calculus stood with the American Civil Liberties Union and a variety of groups that would be considered liberal, as they supported efforts to put vigorous oversight in place over this program. Suffice it to say, in my time in the Congress, I have never seen a program that has generated more ideological concern across the political spectrum. We have seen Democrats, Republicans, liberals, and conservatives all saying this is a program that warrants vigorous oversight and scrutiny by elected officials.

Just because the administration has promised in recent days to institute oversight panels and to not use their awesome power for nefarious purposes, does not mean that future leaders would not abuse this program. So what we have said is that we are not going to let this program move forward without first ensuring permanent safeguards and protections that without them would threaten Americans not just today but many years in the future.

Some who advocate this program will say that the concerns of Members of Congress and others are overblown. Some say the program will not do what I described and it doesn't threaten the privacy of American citizens in the way that first appears. I hope that is the case. If that is the case, if in fact the Total Information Awareness Program does not threaten the civil liberties and privacy rights of the American people, then the folks over at the Defense Department need to come to the Congress and make that clear.

They need to do what they have not done to date, and that is to explain more about what this program will do and how it will do it.

The fact is, this body is in the dark about the Total Information Awareness Program, the most expansive and far-reaching surveillance program ever proposed. Congress has not been informed as to what safeguards and constitutional protections would be in

place when this program goes forward. Therefore, my view is this Congress has no choice but to pursue answers and explanations before allowing the program to proceed. That is what our amendment to the omnibus spending bill does, and that is what the conferees have wisely chosen to do.

My view is that these are reasonable provisions. The amendment calls on the Department of Defense to explain in a report to be delivered to the Congress within 90 days what technology they intend to develop and what they intend to do with it. Then the amendment further states that when any technology is developed for this program, it may not be developed without the express approval of the Congress. If the Total Information Awareness Program is something that is less invasive or smaller in scope or different than I have described, then the administration will have an opportunity to tell us.

This amendment does not prevent those who support the program as initially outlined to have the chance to come back and show why additional threats warrant additional action. What this amendment does is ensure that if this program moves forward, it does so in a fashion that is sensitive to American freedoms, sensitive to constitutional protections and safeguards, while still ensuring that our country can fight terrorism.

Finally, it all comes down to how we come forward and address a special task. What we must do now is to be vigilant, to make sure we are doing what is necessary to fight terrorism, but not approve actions or condone actions that could compromise the bedrock of this Nation—our Constitution.

I thank my colleagues, particularly Senators STEVENS, INOUE, FEINSTEIN, GRASSLEY, REID, and others, who said repeatedly that Congress should not shirk its obligation. The conferees who were appointed to reconcile this spending bill had a unique opportunity to defend the Constitution and the United States. That is what we are elected to do. That is what we get election certificates for. They answered that call. For that, I offer the thanks of Oregonians and all Americans for whom civil liberties remain so special and precious tonight.

I yield the floor.

TELECOMMUNICATIONS TRAINING INSTITUTE

Mr. LEAHY. Madam President, I want to speak about the United States Telecommunications Training Institute (USTTI).

The statement of the managers accompanying the fiscal year 2003 Omnibus Appropriations Act, H.J. Res. 2, recommends \$500,000 for USTTI compared to \$1,000,000 that was included in the Senate bill. However, this funding level is the result of a misunderstanding between my office, Senator MCCONNELL's office, and Senator INOUE's office. The Foreign Operations Subcommittee was under the impression that Senator INOUE want-

ed \$500,000 for USTTI, as had been the case in prior years. However, Senator INOUE is sure that he had informed the Subcommittee that he wanted \$1,000,000 for this organization. Does the senior Senator from Hawaii agree with my recollection?

Mr. INOUE. I do. I would add that I have strongly supported USTTI for a number of years, and have worked successfully with this subcommittee to get funding for it. I would ask the Senator from Vermont if the amount that is provided for USTTI in H.J. Res. 2 is a ceiling, or is it his understanding that USAID may provide additional funding for this organization if it is justified?

Mr. LEAHY. USAID could provide additional funding to USTTI, if it is justified. Moreover, members of the House and Senate subcommittee give great weight to the views of the senior Senator from Hawaii, and I have little doubt that additional accommodation could have been made at the conference if this misunderstanding had not occurred.

Mr. INOUE. I am informed that USTTI is in need of additional funds to accommodate a range of important training programs that it implements. Would Chairman MCCONNELL and Senator LEAHY support the provision of additional funds to USTTI?

Mr. LEAHY. I would support additional funding, and would encourage USTTI to discuss their specific needs with USAID. I have a short note from Chairman MCCONNELL, also indicating his support for this project, and I ask unanimous consent that it be printed in the RECORD.

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

U.S. SENATE,  
Washington, DC, February 13, 2003.

Hon. PATRICK LEAHY,  
U.S. Senator,  
Washington, DC.

DEAR PAT: Please know that I support additional funding to the United States Telecommunications Training Institute (USTTI)—at the Senate reported level of \$1,000,000.

I would appreciate your conveying my support for this funding level to our friend and colleague from Hawaii.

Thank you for your kind consideration.

Sincerely,

MITCH MCCONNELL,  
United States Senator.

TECHNICAL CLARIFICATION

Ms. MIKULSKI: Madam President, I would like to bring to his attention an inaccuracy in the manager's statement, and ask for a technical clarification. As the Senator is aware, the manager's statement includes language on a project within the Department of Commerce/National Oceanic and Atmospheric Administration/National Marine Fisheries Service/Habitat Conservation Research and Management Services account: "Chesapeake Bay Oyster Research" for \$2 million.

Will the chair recognize that \$2 million included in the Department of

Commerce/National Oceanic and Atmospheric Administration (NOAA)/National Marine Fisheries Service/Habitat Conservation Research and Management Services account for "Chesapeake Bay Oyster Research" is actually for "oyster restoration" activities in the Chesapeake Bay?

Mr. GREGG. The Senator from Maryland is correct. The committee included these funds in the National Marine Fisheries Service account to, in part, further oyster restoration and replenishment efforts in the Chesapeake Bay. It is the committee's expectation that NOAA will use the sums indicated for oyster restoration efforts in the Chesapeake Bay.

INTENT OF SECTION 211

Mr. INOUE. Madam President, I want to take a moment to clarify an issue that may lead to some confusion with respect to the intent of section 211 of the Commerce, Justice, State title of this bill. The Statement of Managers incorrectly states that two foreign cruise ships will be allowed to reflag under U.S. registry for operations in the U.S. coastwise trade. This was a drafting error and should have stated, to reflect the bill language, that three ships will be allowed to reflag under U.S. registry. I simply want to confirm with my friend from Alaska that the bill language is controlling.

Mr. STEVENS. My friend from Hawaii is correct. The bill language is the law and controls the operation of the provision. I regret that the Statement of Managers was incorrectly drafted. It should have reflected that three cruise ships will be allowed to reflag under U.S. registry.

Mr. INOUE. I thank my friend for that clarification and for all of his hard work on this bill.

Mr. HARKIN. One of the key provisions of the bipartisan Farm Security and Rural Investment Act of 2002 signed into law by President Bush last year was a significant new conservation initiative called the Conservation Security Program (CSP) which will, if properly implemented, significantly improve conservation practices and result in cleaner air and water.

I want to clarify the intent of provisions related to this program included in this conference report and actions that will be taken to preserve current law provisions. First, it is my understanding that it was the intention of the conferees that the CSP be implemented and operated according to the terms of the 2002 farm bill. Second, it is my understanding that the provisions in this conference report were only intended to apply to years following expiration of this measure and were not intended in any way to modify operation of the program prior to the beginning of fiscal year 2008. Third, it is my understanding that as soon as possible this year a conference report that is expected to become law will be brought before the Senate that contains provisions that assure that the CSP will operate as established and intended in

the 2002 farm bill for the duration of that bill.

Mr. COCHRAN. I understand the Senator from Iowa's concerns. I intend that the provisions of the conference report relative to this program would not have any effect on the operation of the program during the life of this farm bill. I would be pleased to work with him to insure that the program funding is restored.

Mr. STEVENS. I also concur with the statements of the chair and ranking member of the Agriculture Committee about the intent of provisions included in this conference report related to the CSP. It was not our intention, in any way, to modify the operation of this program prior to the beginning of fiscal year 2008. I join Senator COCHRAN in my determination to resolve this matter in an appropriate conference report this year. He has my commitment to work with my colleagues to assure that the Senate acts at the earliest possible date this year on a conference report that is expected to become law that will assure that the CSP operates as established and intended in the 2002 farm bill for the duration of that bill.

Mr. DASCHLE. The Conservation Security Program was an important part of the 2002 farm bill. It holds tremendous potential to help our farmers and ranchers clean up the environment. I, too, concur that the Senator from Iowa's statements about the intent of this conference report. I truly appreciate the bipartisan commitments of my colleagues to ensure that the CSP is implemented and operated as we intended.

Mr. FRIST. I look forward to working with my colleagues in this regard.

FUNDING FOR THE OGLALA SIOUX TRIBE

Mr. DASCHLE. Madam President, it is my understanding that the omnibus appropriations bill includes \$300,000 for the Oglala Sioux Tribe to automate the functions of the tribe's court system. I would like to enter into a colloquy with my colleague from South Carolina regarding this funding, which is included in the Omnibus Appropriations bill.

It is my understanding that the funding in question is intended to be used by Cangleska, Inc., a non-profit organization located on the Pine Ridge Indian Reservation in South Dakota that is dedicated to the prevention of domestic violence and sexual assault, to help enhance the capacity of the Oglala Sioux Tribe to arrest, prosecute, and rehabilitate offenders.

Mr. HOLLINGS. Yes, that is correct.

Mr. DASCHLE. I thank the Senior Senator from South Carolina for his clarification regarding this matter.

Mr. JOHNSON. Madam President, I rise today to express my deep disappointment with the so-called drought aid provisions included by the White House and Republican leadership in the fiscal year 2003 omnibus appropriations bill.

Coincidentally, 1 year ago the Senate first adopted drought aid—as part of

the Senate farm bill—to cover losses experienced by farmers and ranchers in 2001. At that time, 68 Senators joined me and voted in bipartisan cooperation to support the victims of drought. However, one year ago was also the first time the administration voiced in the strongest possible terms their opposition to emergency aid for farmers and ranchers. The White House declared that assistance to farmers and ranchers had to be cannibalized from the farm bill—a position never before taken by any administration with respect to a natural disaster. As Mother Nature turned the hands of time in 2002, the drought conditions became even more persistent. By autumn, more than half the counties in the U.S. were affected by drought conditions and "ground zero" unfortunately was the Northern Plains of South Dakota and our neighboring states. In fact, the drought dealt so much damage to the South Dakota economy that South Dakota State University estimated the total economic loss to reach nearly \$2 billion. Senator DASCHLE and I led an effort in the Senate to enact emergency legislation providing at least \$6 billion for farmers and livestock producers who experienced crop and forage losses in 2001 and 2002. Our drought relief plan was consistent with the approach Congress would always take with respect to the aftermath of a natural disaster—our relief was emergency in nature because droughts, floods, fires, and hurricanes are historically addressed by emergency assistance. Despite the clear need for emergency aid, the White House hard-line prevailed last year and multiple efforts to enact drought relief were defeated by White House foot soldiers in Congress.

I firmly believe that in order to help agricultural producers coping with the drought, the relief must be comprehensive. But the plan advanced in the omnibus today shortchanges producers in a number of ways. First, the relief plan written by Vice President CHENEY and House and Senate Republicans provides inadequate aid for losses occurring in either 2001 or 2002, but not both. Second, the \$3.1 billion offered in the omnibus does not adequately cover the severe crop and forage losses producers suffered as a result of the drought. Third, cutting the new Conservation Security Program (CSP) in the farm bill to pay for the disaster aid is a terrible precedent to set. When a hurricane damages the Gulf Coast or an earthquake occurs in California, the Federal Emergency Management Agency (FEMA) budget is not raided, rather emergency aid is provided to natural disaster victims. A drought is no different, and it's a crippling mistake to cut the farm bill in order to pay for a drought emergency. Fourth, the special-interest provisions slipped into the omnibus drought plan by Republican authors leaves much to be desired. While the proposal that Senator DASCHLE and I advanced would cover

all crop losses, the omnibus makes special grants to cotton and tobacco farmers. Moreover, the omnibus contains a special section to address hurricane losses and \$10 million to the State of Texas. This simply is not fair.

How did White House and Republican negotiators find the farm bill funds to pay for this woefully inadequate disaster aid? I am told they asked the Congressional Budget Office (CBO) to revise the estimated cost of the CSP. CBO's re-estimate reportedly grew the cost of the new conservation program to around \$6.8 billion over ten years. This level is substantially above CBO's initial estimate of the cost of the CSP—\$2 billion over 10 years. I am very disappointed that Republicans employed a budget gimmick to inflate the cost of the CSP in order to launder funds through the program and pay for disaster aid. This entire process is a dis-service to farmers, ranchers, and conservationists and is sure to create hard feelings among these groups. According to the Congressional Research Service (CRS), not in three decades has a program in the farm bill been cut in order to pay for a natural disaster. This historically outrageous move to eliminate money from a conservation program in the farm bill to address a drought emergency may prove a precedent that hurts farmers, ranchers, and the environment for years to come. It is terribly short-sighted and I cannot support such a step.

Less than 6 months ago, 77 Senators joined Senator DASCHLE and I in support of \$6 billion in drought aid for farmers and ranchers suffering losses in 2001 and 2002. Today, it appears producers will get less than half of what they need and pay the price in the long run with a cut to the farm bill. I am disappointed that nearly thirty of my colleagues in the Senate dropped their support for comprehensive and emergency drought aid totaling \$6 billion in order to satisfy the White House for half that much.

My record on drought relief for farmers and ranchers is clear. On three occasions in the last Congress, the Senate passed relief that would have compensated all drought victims for their loss. Unfortunately, each time objections from the White House and the House Republican leadership stopped this aid from making it to producers. South Dakota's farmers and ranchers deserve better and for this reason I will not support the so-called drought aid in the omnibus.

Mrs. MURRAY. Madam President, the Senate is now considering and will soon adopt the omnibus conference report on H.J. Res. 2. I will vote for the conference report. I know from my work on the Appropriations Committee that this bill represents a genuine effort by many in both bodies to finally finish the fiscal year 2003 appropriations bill.

I want to begin my remarks by thanking our leader on this side, Senator ROBERT BYRD. Senator BYRD was

the chairman of the Appropriations Committee when the fiscal year 2003 appropriations process began. He steered all 13 appropriations bills through the committee with bipartisan support from every member of the committee. Senator BYRD was instrumental in putting this conference report together. I know the Senator has many concerns about this bill. I share many of his concerns and particularly those regarding the many cuts to homeland security in this bill. The Senator has been a leading voice for homeland security funding and I look forward to working closely with him in the days ahead as this body works on this important issue.

I also want to acknowledge and thank the chairman of the Appropriations Committee. We are here tonight because of the determined leadership of Senator TED STEVENS. I know many of my colleagues did not want to see the Congress agree to fund the government with a continuing resolution for the rest of the fiscal year. This would have represented a huge failure on the part of the Congress, setting a dangerous precedent for the legislative branch's working relationship with the Executive Branch. Chairman STEVENS is a tough but fair chairman. I appreciate the work he has put in to manage and successfully complete this very unusual process.

I appreciate the inclusion of funding for many projects and programs that directly benefit the environment and natural resources in my beautiful home State. The bill includes funding for salmon recovery work from the Elwha River in northwest Washington to the Snake River in southeast Washington and nearly every community between. Funding is also provided to fight the Spartina infestation in Willapa Bay and to acquire important ecological lands around the State. However, while I am very grateful for my colleagues willingness to support my work to secure this funding, I must express my dismay over anti-environmental provisions included in the bill and its failure to adequately fund the conservation trust fund created 3 years ago.

The conference considered many different provisions related to the Tongass National Forest which sought to strip away environmental considerations in the management of the forest. I appreciate the conference removing these provisions, but wish the one remaining provision could have also been deleted.

Also of concern to me is a provision retained in the omnibus that significantly expands the Forest Service's stewardship contracting program. This had been a pilot project intended to see if the stewardship contracts were a constructive tool in addressing forest health issues. The problem with the provision in the bill is that it creates a permanent program before we have received any data from the pilot projects already authorized. There is simply no data yet in upon which to make the de-

cision to provide unlimited expansion of the program. I want to make clear that I support the pilot program and believe stewardship contracting could be a valuable tool in addressing forest health issues, but in order for this to be a valuable tool, it must be one that has the trust of Congress and citizens. There is simply not enough data to have created that trust yet.

There are many great accomplishments in this bill. I am particularly proud of the work we did in the transportation title. The Senate worked very hard to keep my amendment to fund the Community Action Program or CAP at \$120 million for the fiscal year. I appreciate the Senate's hard work to stand for this small program that is making a difference all across the country. This bill provides increased funding for a number of education programs. Importantly, education programs like Head Start are exempted from any across the board cuts associated with this bill.

As we conclude the fiscal year 2003 appropriations process, I hope we can move forward on the coming fiscal year with a renewed commitment to finish all 13 appropriations bills on time. We will need the help of our House colleagues and of course, the administration is an important contributor to the appropriations process too. We must avoid a repeat performance of fiscal year 2003.

Mr. NELSON of Florida. Madam President, I rise today to thank the conferees for helping the City of Boca Raton, FL, and the County of Palm Beach, FL, begin to deal with the bio-terrorist attack on the American Media Building in October of 2001, and the death of Robert Stevens, who worked in the building, due to anthrax.

That building remains closed off with 24-hour security, still infested with anthrax, within a short distance of homes, schools, and other office buildings. But, now the U.S. Congress has authorized the General Service Administration to receive title to the building within 12 months of enactment of the omnibus bill.

The residents of Boca Raton and the surrounding communities will be relieved to know that, with this language in the omnibus bill help is on the way. I am confident that the General Service Administration, the Florida Congressional Delegation and the owners of the American Media Building will be able to carry out the language in the omnibus bill and transfer the building to GSA or another appropriate agency to rid south Florida of this public health hazard.

The omnibus language provides for a report by GSA to Congress within 270 days of enactment of the bill describing the expected agreement between GSA and the owners of the American Media Building regarding the transfer of the property to the Federal Government.

The language further requests that a public health risk be shown. The local

public health officials and the Governor of Florida both have acknowledged that the AMI Building poses a public health threat. And since it is the first attack of its kind in the United States, the amount of danger posed is still unknown.

Another provision talks about the liability of the owner of the property. It is logical that the owner of the building would remain liable until title is transferred to the Federal Government.

All of these provisions can be easily worked out to reach an agreement on the transfer of this building to the Federal Government.

And, as this process moves forward, I know that each party will carry out their responsibilities under this language with the utmost integrity and with the concerns of the residents of Palm Beach County in mind. I look forward to monitoring the parties' progress toward an agreement.

In fact, I encourage the parties to meet on a regular basis with members of the Florida delegation so that this issue is resolved in the most efficient manner.

As we all live with the increased threat of a chemical or biological attack, we need to keep in mind that a biological attack is not a mere threat to south Florida and it is not something that occurred in the past and was taken care of—the anthrax attack remains.

Let us employ the powers of the Federal Government as the Founding fathers intended.

In Federalist Paper No. 23, Alexander Hamilton outlined the four principal reasons why the Federal Government was formed.

And the very first reason was for the common defense—national security. An attack from an unknown source was perpetrated on this community and the Federal Government has the power and the expertise to protect and safeguard these citizens.

I look forward to the day when I can walk on the Senate floor and declare that this community is finally free of anthrax.

Mr. LEAHY. Madam President, I want to alert you and my fellow Senators to a particularly egregious rider that was included in the omnibus appropriations conference report. After the conference committee met and behind closed doors, this special interest rider will gut the organic standards just recently enacted by U.S. Department of Agriculture.

I understand this special interest provision was inserted into the bill on behalf of a single producer who essentially wants to hijack the "organic" certification label for his own purposes. He wants to get a market premium for his products, without actually being an organic product.

This provision will allow producers to label their meat and dairy products "organic" even though they do not meet the strict criteria set forth by USDA, including the requirement that

the animals be fed organically grown feed. This approach was considered and outright rejected by USDA last June. The entire organic industry opposed this weakening of the organic standards. If beef, poultry, pork and dairy producers are able to label their products as "organic" without using organic feed, which is one of the primary inputs, then what exactly is organic about the product?

This provision is particularly galling because so many producers have already made the commitment to organic production. For most, this is a huge financial commitment on their part. I have already heard from some large producers General Mills, Tyson Foods—around the country who are enraged by this special loophole included for one company that does not want to play by the rules.

I am also very disappointed that just because one company could not create this loophole to the organic rule in public during the USDA process, the Republican leadership decided to bury it within the 2-foot tall spending bill. It was done behind closed doors after the conference committee met in public.

I will be introducing legislation today to strike this rider from the Omnibus Appropriations Act and I hope to move it through Congress quickly before it does gut the organic meat and dairy industry. We need to send a message to all producers that if you want to benefit from the organic standards economically, you must actually meet them. When I included the "The Organic Foods Production Act" in the 1990 farm bill, it was because farmers recognized the growing consumer demand for organically produced products, but needed a tool to help consumers know which products were truly organic and which were not. The act directed USDA to set minimum national standards for products labeled "organic" so that consumers could make informed buying decisions. The national standard also reassured farmers selling organically produced products that they would not have to follow separate rules in each state, and that their products could be labeled "organic" overseas.

The new standards have been enthusiastically welcomed by consumers, because through organic labeling they now can know what they are choosing and paying for when they shop. This proposal to weaken the organic standards would undermine public confidence in organic labeling, which is less than a year old.

Getting the organic standards that are behind the "USDA Organic" label right was a long and difficult process, but critically important to the future of the industry. Along the way, some tried to allow products treated with sewer sludge, irradiation, and antibiotics to be labeled "organic." The public outcry against this was overwhelming. More than 325,000 people weighed in during the comment period,

as did I. The groundswell of support for strong standards clearly showed that the public wants "organic" to really mean something. Those efforts to hijack the term were defeated and this one should be too.

Consumers and producers rely on the standard. I hope members will cosponsor my bill and send a message to special interests that they cannot hijack the organic industry through a rider on the spending bill. This provision is an insult to organic producers and to consumers around the country.

Mr. HOLLINGS. Madam President, I would like to express my concerns about a provision that has been buried in the fiscal year 2003 spending package. The language would make contract air traffic control (ATC) tower construction costs eligible for Airport Improvement Program (AIP) funding.

On the face of it, this provision looks acceptable. The concept of making contract ATC towers eligible for Federal assistance under AIP has wide support in Congress. Many small and rural airports lack an ATC tower and do not share the safety benefits of having an air traffic controller to assist aircraft on takeoff and landing. Pilots at these airports are on their own, responsible for seeing and avoiding traffic. A number of smaller airports would like to use AIP funding to build a tower but are barred under current law. If these airports can make critical safety upgrades with this funding, they should have that option.

The problem with the provision included in the fiscal year 2003 omnibus bill is that while it would properly allow small airports to use AIP money to build new or replacement FAA contract towers, it would also allow airports that built contract ATC towers after October 1, 1996, to be eligible for reimbursement of their construction costs. The Federal Government already pays to operate these towers, and as a condition of this assistance, these airports agreed that the government would not pay the cost of constructing them.

This reimbursement would affect at least 21 contract towers that were previously built and provide up to \$25 million in total for these airports from current AIP funding. In this era of having our Federal resources limited by reduced revenues and the expense of ensuring the security of our homeland, it is irresponsible for this Congress to provide funds from the AIP program to reimburse these airports for costs that have already been accounted for.

The AIP program is vital to the safety, security and capacity needs of our Nation's airways. I am hopeful that we will carefully consider the potential ramifications of this issue as we proceed later this year with the reauthorization of the Federal Aviation Administration.

Mr. REID. Madam President, I want to recognize the hard work of my Senate colleagues, especially Senator STEVENS, for putting together a conference report for our consideration tonight.

Last year the Senate Appropriations Committee under the leadership of my distinguished colleague from West Virginia, Senator BYRD, reported all 13 appropriations bills. Those bills formed the basis of the omnibus bill we are considering tonight. Unfortunately, this bill makes unwise reductions in many of the most important areas of our Federal Government, including education and homeland security. This bill also includes a provision that would make reckless changes to our Nation's forest management policy. This rider—which would provide the long-term authorization to contract the management and unfettered harvesting of national forests to timber companies—was so controversial when it was proposed in the farm bill that Democrats removed the entire forestry title rather than take it.

Rather than write individual timber contracts, the Forest Service has engaged in pilots of this stewardship idea for the last few years. It is a process by which the normal limits on contracting are avoided and timber companies are given broad leeway to harvest;

Some 84 stewardship contract pilots have so far been approved; none are complete; none have been evaluated to see if they meet the claim that the timber industry "stewards" are managing the pilots well;

Despite the fact that pilots haven't been evaluated, this rider contains a broad authorization for stewardship contracting;

It allows the Forest Service to pay contractors with trees rather than appropriated money, hence increasing incentive for harvest of large trees and making the Forest Service more directly dependent on timber sales.

Currently the Forest Service supervises sales, marking trees for cut; under this proposal, oversight is gone. It would be up to the timber company to decide what to cut. The rider enables the Forest Service to allow timber companies to take over large swaths of public forests by affording giving them long term management authority as part of these contracts. This is an important issue that deserves the full debate and consideration of the Senate. I am disappointed that it was included in this must-pass spending measure.

I also want to discuss in detail some of the funding priorities in this bill. This funding bill provides \$4.5 billion less in funding for homeland security and emergency responders than the appropriations bills passed by the Senate last year. Just last year, we passed a bill to create a new Department of Homeland Security. Republicans and Democrats came together to approve the largest reorganization of the Federal Government in decades. Without sufficient funding that new agency won't translate into improved safety on the ground, in our neighborhoods, cities and rural areas. This is an issue that is particularly important for my State of Nevada. We have one of the

most important facilities and some of the most talented personnel for training emergency responders.

Just today, one of the managers of this program spoke to me about how many trainers they would be able to train this year with the \$35,000,000 approved by the Senate. He told me that he could train 8,000 emergency responders this year. This facility at the Nevada Test Site is one of five counterterrorism training facilities that formed a consortium several years ago. Together these five facilities could train nearly 35,000 first responders with the amount of money the Senate provided. Every \$4,000 less we spend is one less first responder we train. These are the police and firefighters in communities throughout the country. These are the emergency responders who are already overworked by the increased threat level we are experiencing. These are the first responders who still are not sure how to change their patrols and activities in response to the elevated orange threat level. They need to know. They need to be trained.

Instead of the \$35 million approved by the Senate, the final conference report agreed to provide \$20 million for the training. While this is a large amount of funding, it will only meet a small portion of the need for training. I hope as the year continues that the administration will request additional funds to ensure that at least one member of every police, fire and emergency response unit in the country receives homeland security training.

I also want to comment on the funding this bill provides for education. Every person who wants to get an education in Nevada, and throughout the country, deserves to have the opportunity to get one. Whether we are talking about the 230,000 students in the Clark County Public Schools or the 11,000 students who attend Truckee Meadows Community College, every person who wants an education in Nevada, and throughout the country, deserves one.

During the last Congress, we worked together in a bipartisan fashion to pass a sweeping education reform bill. This bill showed the best of what the Congress can do when Republicans and Democrats work together. This omnibus bill does not live up to the promise of that crucial bill. Instead of ensuring that we leave no child behind, this bill leaves much to fund.

In summary, I again want to thank my colleagues for their tireless effort to complete this conference report for our consideration this evening. This bill does not do enough to ensure every American can live up to his or her potential. We have an obligation to provide our states with a clean, safe environment, a secure homeland, and the ability to educate every person. This bill could do more to accomplish these goals, and next year, I hope we will do that.

Mr. KENNEDY. Madam President, America is on high alert. This is no

time to shortchange our security at home. Yet, that is precisely what this bill does.

Simply creating a new bureaucracy for homeland security is not enough. We must increase protection at our borders, provide the Coast Guard with additional resources, and provide more security at our ports. We must also assist local authorities to prepare for the worst. Our homes will not stay safe with duct tape alone. Our communities need help to fund law enforcement personnel, firefighters, rescue workers, and medical personnel.

Today, I asked mayors in Massachusetts whether the Federal Government is doing its share to help local communities with homeland security. Not one—not one—has received sufficient help from the Bush administration to meet local homeland security needs. Mayor Fred Kalisz of New Bedford tells me that since the Bush administration declared a Code Orange emergency last week, he has posted a 24-hour police presence at his small local airport. And he ordered round-the-clock security for a tanker that is docked in New Bedford's harbor. The budget crisis in Springfield, MA, forced Mayor Michael Albano to cut 76 police officers and 57 firefighters from the city payroll. Police, fire, and rescue officers in Springfield are stretched to the limit to cover continuing duties with fewer officers. Springfield simply cannot afford the additional duties of homeland security without federal help. The same is true in Worcester, where Mayor Timothy Murray is facing cuts to his police and firefighting force by more than ten percent. And his officers not only fight crime in Worcester, but they have protection duties with a strategic reservoir near Worcester as well as major rail hub. And the city of Boston has already spent \$2.6 million in scarce city funds for homeland security.

These local officials care about their communities. They are doing all they can amid an avalanche of budget cuts just to meet the ongoing needs of their citizens. It is unfair of the Bush administration and the federal government to leave them high and dry in the face of terrorist threats at home. Despite promises of funding from Washington to help with these urgent needs, he has received nothing—and this bill provides no new money beyond what administration promised long ago, and has yet to deliver. Washington must do more—much more—to be a real partner with our local cities and communities to protect our citizens.

I am also deeply concerned that this bill is yet another leap in the Republican campaign to undermine years of progress in protecting our environment. This bill contains provisions that allow the indiscriminate logging of irreplaceable forests, and lays the seeds for the destruction of one of our country's greatest natural treasures, the Arctic National Wildlife Reserve.

In addition, while I commend the fact that this bill represents a step forward

on education, and rejects the administration's anti-education budget, I believe that parents and teachers and students across the country will agree that more should have been done. Education is about fulfilling the hopes and dreams of the next generation. And it is about the security and economic future of America.

For these reasons I oppose this bill.

I ask that unanimous consent that a recent Boston Globe article that describes what our mayors are doing with little or no Federal help to meet homeland security needs in their communities be printed in the RECORD.

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

[From The Boston Globe, Feb. 9, 2003]

SECURITY COSTS RISE FOR LOCAL OFFICIALS,  
TERRORISM ALERT PUTS A STRAIN ON BUDGETS

(By Megan Tench and Jenna Russell)

With the nation on heightened alert for terrorist attacks, Massachusetts officials said yesterday that the added responsibility will tax local budgets already facing a fiscal crisis.

The Bush administration hiked the terror alert to the second-highest level on Friday as Attorney General John Ashcroft cited an "increased likelihood" that the Qaeda terror network would attack Americans, noting that hotels and apartment buildings were possible targets.

However, Congress's failure in the last session to provide additional funding for security for cities and towns prompted criticism from several Massachusetts mayors as they attempted to cope with increased security mandates at a time of state aid reductions.

"Obviously there are targets that need to get additional attention, but the fact of the matter is that this is a major concern," Worcester's Mayor, Timothy P. Murray, said yesterday.

"We have thousands of police and firefighters out there, yet the president and the Congress failed to supply, equip, and fund these departments," Murray said.

Like other municipal leaders around the state, Salem Mayor Stanley Usovich Jr. said cities and towns are on the front line in the war on terrorism, but have not received the money they need to keep up the fight.

"I think everybody is willing and quite able to do their jobs, but no one at the federal and the state level understands that there is a bill to be paid," he said. "We are at war, and . . . I don't know how anyone can fight a war without giving money to the front lines. They cannot continue to ask for more without paying for it."

Still, few residents voiced concern yesterday over the possibility of attacks, which officials said could target Jewish communities or institutions.

"We heard about that on the news, but we are not afraid. We feel safe," said George Ullevinov, a Reading resident who was touring the Holocaust Memorial in Boston yesterday with his family.

Authorities believe that terrorists connected to Al Qaeda could be planning to time an attack or attacks with the end of the five-day Muslim holy period of the Hajj, the pilgrimage to Mecca, which began yesterday.

Officials have been particularly concerned about the use of a "dirty bomb," which would use conventional explosives to disperse radioactive material, but they also cited the possibility of suicide bombings and assassinations.

"Well, we can't run and hide under the bed," said Boston resident Philip West, as he checked his luggage with American Airlines at Terminal B at Logan Airport yesterday. West, a helicopter pilot, was headed to Dallas for a pilot's convention.

"We have to go out," he said. "I believe if it's our time to go, it's our time to go."

At Logan, tighter security was visible, with more State Police and trained dogs on patrol and more car inspections on entry to airport garages, during curbside stops, and an additional roadblocks on airport roads.

The increased presence seemed to comfort Dorchester resident Marlene Francis, who, along with her 4- and 10-year old children, was preparing for a flight to Jamaica.

"I believe in the security people here, and I try not to think about these things because I am traveling with my children," Francis said, as she waited in line at a security checkpoint. "What's meant to be will be."

At malls and hotels in and around Boston, security directors were reluctant to discuss what precautions they were taking. Law enforcement and transportation officials also were reticent about the heightened alert.

FleetCenter managers urged ticket holders to arrive an hour early for a Bruins game yesterday to comply with added security procedures, including the use of metal detectors at entrances. And the Massachusetts Bay Transportation Authority also increased security to reflect the orange alert, according to spokesman Joseph Pesaturo.

The Coast Guard also stepped up patrols around Boston, a spokeswoman said, and the Massachusetts Water Resources Authority increased security and patrols at key spots around the state's water supplies.

Bridges also became a focus of attention. "We've instructed our maintenance people who patrol the roads on a daily basis to be extra vigilant and keep an eye out for any stalled vehicles, particularly near bridges," said Jon Carlisle, a spokesman for the Executive Office of Transportation and Construction.

Boston's mayor, Thomas M. Menino, could not be reached for comment on the terrorism response yesterday. However, Menino, who also serves as president of the US Conference of Mayors, expressed concerns about the cost of the fight against terrorism during his address to the Greater Boston Chamber of Commerce two months ago.

There, Menino announced that he is assembling a national coalition of state and local officials to urge Congress to pass the security funding measure as part of Bush's federal budget proposal when lawmakers return next month.

Boston has spent \$2.6 million in extra security since Sept. 11 terror attacks, Menino said. It's unclear how much the city would reap if the federal package were approved.

"This is money we were promised for police and fire and terrorism protection," he said in his address. "We cannot allow Congress to keep fiddling while the states and cities burn their reserves and exhaust their funds."

Other local officials echoed that sentiment.

"It's a very difficult situation. There are no additional dollars," said New Bedford's mayor, Frederick M. Kalisz, whose city is bracing for substantial cuts.

"The alert requires a certain level of patrol visibility at our airport and waterfronts, and the federal dollars just haven't come down to local governments yet," he said. "In a time of taxed dollars, we have to increase the patrols with local patrol officers that we use in our neighborhoods."

In Springfield, Mayor Michael Albano said 57 firefighters will receive layoff notices by Monday, in addition to the 76 police officers

he just laid off. Albano said the state budget cuts hurt more than the failure of the federal government to fund local security.

Downsizing police and fire departments "is inconsistent with national policy, and it should be inconsistent with state policy," he said. "The governor has weakened our front lines during a national alert."

Eric Fehrstrom, a spokesman for Governor Mitt Romney, said federal, state, and local governments "should spend whatever is necessary" to protect local cities and towns. "There has to be more federal involvement," he said. "Governor Romney will stand shoulder to shoulder with the state's mayors in making sure they receive adequate federal dollars to respond to the needs of our local communities."

After the boost in the national alert, Romney flew back to Boston two days early from an Olympic anniversary celebration in Utah, to make sure he would be here in the event of an emergency, Fehrstrom said.

Mr. DASCHLE. Madam President, I rise in opposition to the fiscal year 2003 omnibus appropriations bill. I oppose this bill because it is a significant step backward from the bills that the Appropriations Committee reported last year unanimously.

The most troubling departure from these committee-passed bills is in the critical area of homeland security. Compared to the levels unanimously approved last year by the Senate Appropriations Committee, this bill makes deep cuts in the Transportation Security Administration, the Immigration and Naturalization Service, community policing, FEMA disaster assistance, the DOT Office of Domestic Preparedness, firefighter grants, port security, American embassy security, and many other homeland security needs.

The agricultural disaster assistance provisions in bill are also of great concern to my State of South Dakota and many other States. The provisions provide limited assistance to producers by cutting important conservation assistance in the Farm Bill. The provisions provide only half the assistance needed to address the scope of natural disaster across the country. Finally, the provision provides assistance to select producers who did not suffer from natural disasters. The Senate voted three times last year for a measure that would have compensated all drought victims for their loss. Unfortunately, objections by the White House and the House Republican leadership stopped this aid from making it to producers.

I am also very concerned about the anti-environmental provisions in the bill. One provision would dramatically expand the forest stewardship contracting program until 2013. This provision would eliminate the current cap on pilot projects and require the Forest Service and the Bureau of Land Management to open up more than 70 million acres to potential logging. The timber companies, not the Forest Service, would pick the trees to be harvested. In addition, the bill would eliminate judicial review for the Tongass National Forest land management plan; remove language protecting the Arctic National Wildlife Refuge;

exempt the Trans-Alaska Pipeline System from environmental review; and cut funding for important conservation programs.

For these reasons, I oppose this conference report and urge my colleagues to oppose it as well.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I ask unanimous consent that following the remarks of the distinguished majority leader, the Senate proceed to vote on the adoption of the conference report with no intervening action or debate.

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

The majority leader.

Mr. FRIST. Madam President, before we vote I will take a minute to outline the schedule. This will be the last vote prior to the Presidents Day recess. The Senate will be in session tomorrow. However, no rollcall votes will occur during Friday's session.

At the conclusion of Friday's business, we will adjourn until Monday, February 24, under the order. At noon on Monday, February 24, Senator CHAMBLISS will deliver George Washington's Farewell Address. Following the address, the Senate will resume consideration of the Estrada nomination. In addition, on February 24, we will consider S. 151, the Protect Act. Members should expect to vote on passage of that bill at approximately 5:30. I will notify all Members when the exact time is locked in.

I thank all Members for their cooperation during this busy period. Again, this will be the last vote before the recess. The vote will be conducted in a few minutes, and the Senate will be in session tomorrow.

Mr. STEVENS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. REID. Madam President, will the majority leader yield for a question?

Mr. FRIST. Yes.

Mr. REID. Can Members be assured that there will be no vote prior to 5:30 on the Monday we come back?

Mr. FRIST. That assurance will be given.

The PRESIDING OFFICER. Is all time yielded back for debate on the conference report?

Mr. REID. Madam President, I ask that the time of the ranking member be yielded back.

Mr. STEVENS. I yield back all time.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FRIST. I announce that the Senator from Kentucky (Mr. MCCONNELL) is necessarily absent.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Vermont (Mr. LEAHY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "no".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 76, nays 20, as follows:

[Rollcall Vote No. 34 Leg.]

YEAS—76

Akaka	DeWine	Mikulski
Alexander	Dole	Miller
Allard	Domenici	Murkowski
Allen	Dorgan	Murray
Baucus	Ensign	Nelson (FL)
Bayh	Enzi	Nelson (NE)
Bennett	Feinstein	Nickles
Biden	Frist	Reed
Bond	Graham (SC)	Roberts
Breaux	Grassley	Santorum
Brownback	Gregg	Schumer
Bunning	Hagel	Sessions
Burns	Harkin	Shelby
Byrd	Hatch	Smith
Campbell	Hollings	Snowe
Cantwell	Hutchinson	Specter
Carper	Inhofe	Stabenow
Chafee	Inouye	Stevens
Chambliss	Johnson	Sununu
Clinton	Kohl	Talent
Cochran	Kyl	Thomas
Coleman	Landrieu	Voinovich
Collins	Lincoln	Lott
Cornyn	Lincoln	Lott
Craig	Lugar	Warner
Crapo	McCain	Wyden

NAYS—20

Bingaman	Durbin	Levin
Boxer	Edwards	Lieberman
Conrad	Feingold	Pryor
Corzine	Fitzgerald	Reid
Daschle	Jeffords	Rockefeller
Dayton	Kennedy	Sarbanes
Dodd	Lautenberg	

NOT VOTING—4

Graham (FL)	Leahy
Kerry	McConnell

The conference report was agreed to.

Mr. FRIST. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### MORNING BUSINESS

Mr. FRIST. Madam President, I ask unanimous consent that the Senate proceed to a period for morning business.

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

#### SALTONSTALL-KENNEDY GRANT PROGRAM AND CREATION OF THE ALASKA FISHERIES MARKETING BOARD

Mr. STEVENS. Madam President, the Saltonstall-Kennedy (S-K) Grant Program is a competitive program administered by the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration, NOAA, Department of Commerce. The S-K program was established by the Saltonstall-Kennedy Act of 1954 to promote U.S. seafood products around the world and generally support our Nation's fisheries. For the first time in 1979, S-K receipts from import duties on fishery products were transferred to NOAA's base budget to fund an indus-

try/government partnership. However, without my amendment in fiscal year 2003 NOAA would transfer \$75 million to its base budget, leaving only \$220,000 for the original purposes of this program—promoting domestic seafood production. This provision ensures that a little less than 15 percent of those receipts transferred to NOAA will be used for their intended purpose—promoting domestic seafood from Alaska, home to half of the U.S. domestic seafood production.

This bill includes \$10 million from the S-K program to market Alaska seafood products and creates the Alaska Fisheries Marketing Board to administer these funds. This program will help develop and promote high-value fresh and fresh-frozen Alaskan seafood products, allowing Alaska fishermen to better compete in the global and domestic markets.

The Secretary of Commerce will appoint the members of the board and the executive director. In appointing members to the board, the Secretary shall fully consult with and seek recommendations from the Governor of Alaska. The membership should reflect the various aspects of seafood production, distribution, State oversight and the retail of Alaska seafood products. This would include three individuals with experience in harvesting Alaska seafood, two individuals with experience in fish processing, one individual from the Alaska transportation industry, one individual from the Alaska State legislature—preferably with experience on the State of Alaska's Salmon Task Force, one individual with experience in mass market food distribution, one individual with experience in mass market food retailing, one individual with experience in niche marketing of Alaska seafood products, and one individual recommended by the Alaska Seafood Marketing Institute.

The board will solicit grant proposals for marketing Alaska seafood from the public, review them, and fund those that will do the most to help reinvigorate struggling sectors of the Alaska seafood industry. These proposals can promote region-specific or species-specific marketing programs that do not undermine existing statewide "Alaska Seafood" marketing efforts.

The board may choose to promote the development of new processing technologies to insure the commercial viability of Alaska seafood and improve related transportation costs in delivering these products to market, and will work to improve the overall marketability of Alaska seafood.

I look forward to working with the Secretary of Commerce on establishing the Alaska Fisheries Marketing Board and helping the Alaska seafood industry get its message out to the world.

#### HAPPY 100TH ANNIVERSARY TO THE DEPARTMENT OF COMMERCE

Mr. HOLLINGS. Madam President, tomorrow the smallest of our Cabinet

agencies, the Department of Commerce, will celebrate the biggest of big anniversaries, and as the ranking member of the Commerce, Science and Transportation Committee, I rise to salute them on 100 years.

We have a whole list of their accomplishments, starting with the development of the Gross Domestic Product in the 1930s, the measure that gave us for the first time a true picture of our economy. Commerce houses the Census, the top statistical agency in the world. It is home to the Patent Office, which has witnessed an incredible amount of American history, issuing more than 6 million patents, be it to Orville and Wilbur Wright for a flying machine, or for the development of television, transistors, and computers.

In the last century, Commerce created the first atomic clock, fostered the development of public television; assisted more than half a million minority-owned businesses; and helped thousands of economically-distressed communities generate commercial development in every Senators' States. Having a hand in creating NOAA, I will always remember the last 100 years for the great advancements made in weather predicting and the saving of the gray whale and dolphin.

When Teddy Roosevelt wrote to this body a century ago, he asked us to create the Department for the "purpose of broadening our markets . . . and making firm our new position in the international industrial world" William Redfield, the first Secretary of Commerce, set a clear goal: "We are going out into the markets of the world to get our share."

This Senator knows that times change and situations change, but that for our long-term economic well being no words hold truer. We need our share to bring back jobs into this country. I wish the good people at Commerce a happy birthday. Most of all, I hope President Bush and Secretary Evans set their mark on the Department's next 100 years with trade policies that can truly build our economic potential in global markets.

#### RULES OF PROCEDURE OF THE SENATE RULES COMMITTEE

Mr. LOTT. Madam President, today the Committee on Rules and Administration approved the following rules for the committee. I ask that they be printed in the RECORD.

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

#### RULES OF PROCEDURE OF THE SENATE COMMITTEE ON RULES AND ADMINISTRATION (Adopted Feb. 13, 2003)

##### TITLE I—MEETINGS OF THE COMMITTEE

1. The regular meeting dates of the committee shall be the second and fourth Wednesdays of each month, at 9:30 a.m., in room SR-301, Russell Senate Office Building. Additional meetings may be called by the chairman as he may deem necessary or pursuant to the provisions of paragraph 3 of rule XXVI of the Standing Rules of the Senate.

2. Meetings of the committee, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the committee on the same subject for a period of no more than 14 calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in subparagraphs (A) through (F) would require the meeting to be closed followed immediately by a recorded vote in open session by a majority of the members of the committee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(A) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) will relate solely to matters of the committee staff personnel or internal staff management or procedure;

(C) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(D) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(E) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(1) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(F) may divulge matters required to be kept confidential under the provisions of law or Government regulations. (Paragraph 5(b) of rule XXVI of the Standing Rules.)

3. Written notices of committee meetings will normally be sent by the committee's staff director to all members of the committee at least a week in advance. In addition, the committee staff will telephone reminders of committee meetings to all members of the committee or to the appropriate staff assistants in their offices.

4. A copy of the committee's intended agenda enumerating separate items of legislative business and committee business will normally be sent to all members of the committee by the staff director at least 1 day in advance of all meetings. This does not preclude any member of the committee from raising appropriate non-agenda topics.

5. Any witness who is to appear before the committee in any hearing shall file with the clerk of the committee at least 3 business days before the date of his or her appearance, a written statement of his or her proposed testimony and an executive summary thereof, in such form as the chairman may direct, unless the Chairman and the Ranking Minority Member waive such requirement for good cause.

##### TITLE II—QUORUMS

1. Pursuant to paragraph 7(a)(1) of rule XXVI of the Standing Rules, a majority of the members of the committee shall constitute a quorum for the reporting of legislative measures.

2. Pursuant to paragraph 7(a)(1) of rule XXVI of the Standing Rules, one-third of the

members of the committee shall constitute a quorum for the transaction of business, including action on amendments to measures prior to voting to report the measure to the Senate.

3. Pursuant to paragraph 7(a)(2) of rule XXVI of the Standing Rules, 2 members of the committee shall constitute a quorum for the purpose of taking testimony under oath and 1 member of the committee shall constitute a quorum for the purpose of taking testimony not under oath; provided, however, that in either instance, once a quorum is established, any one member can continue to take such testimony.

4. Under no circumstances may proxies be considered for the establishment of a quorum.

##### TITLE III—VOTING

1. Voting in the committee on any issue will normally be by voice vote.

2. If a third of the members present so demand, a record vote will be taken on any question by roll call.

3. The results of roll call votes taken in any meeting upon any measure, or any amendment thereto, shall be stated in the committee report on that measure unless previously announced by the committee, and such report or announcement shall include a tabulation of the votes cast in favor of and the votes cast in opposition to each such measure and amendment by each member of the committee. (Paragraph 7(b) and (c) of rule XXVI of the Standing Rules.)

4. Proxy voting shall be allowed on all measures and matters before the committee. However, the vote of the committee to report a measure or matter shall require the concurrence of a majority of the members of the committee who are physically present at the time of the vote. Proxies will be allowed in such cases solely for the purpose of recording a member's position on the question and then only in those instances when the absentee committee member has been informed of the question and has affirmatively requested that he be recorded. (Paragraph 7(a) (3) of rule XXVI of the Standing Rules.)

##### TITLE IV—DELEGATION OF AUTHORITY TO COMMITTEE CHAIRMAN

1. The Chairman is authorized to sign himself or by delegation all necessary vouchers and routine papers for which the committee's approval is required and to decide in the committee's behalf all routine business.

2. The Chairman is authorized to engage commercial reporters for the preparation of transcripts of committee meetings and hearings.

3. The Chairman is authorized to issue, in behalf of the committee, regulations normally promulgated by the committee at the beginning of each session.

##### TITLE V—DELEGATION OF AUTHORITY TO COMMITTEE CHAIRMAN AND RANKING MINORITY MEMBER

The Chairman and Ranking Minority Member, acting jointly, are authorized to approve on behalf of the committee any rule or regulation for which the committee's approval is required, provided advance notice of their intention to do so is given to members of the committee.

#### RULES OF THE COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. GREGG. Madam President, pursuant to the requirements of paragraph 2 of Senate rule XXVI, I ask unanimous consent to have printed in the RECORD the rules of the Committee on Health, Education, Labor, and Pensions for the

108th Congress adopted by the Committee on February 12, 2003.

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

RULES OF THE COMMITTEE AND HEALTH,  
EDUCATION, LABOR, AND PENSIONS  
(Adopted February 12, 2003)  
RULES OF PROCEDURE (AS AGREED TO  
FEBRUARY 12, 2003)

Rule 1.—Subject to the provisions of Rule XXVI, paragraph 5, of the Standing Rules of the Senate, regular meetings of the committee shall be held on the second and fourth Wednesday of each month, at 10:00 a.m., in room SD-430, Dirksen Senate Office Building. The chairman may, upon proper notice, call such additional meetings as he may deem necessary.

Rule 2.—The chairman of the committee or of a subcommittee, or if the chairman is not present, the ranking majority member present, shall preside at all meetings. The chairman may designate the ranking minority member to preside at hearings of the committee or subcommittee.

Rule 3.—Meetings of the committee or a subcommittee, including meetings to conduct hearings, shall be open to the public except as otherwise specifically provided in subsections (b) and (d) of rule 26.5 of the Standing Rules of the Senate.

Rule 4.—(a) Subject to paragraph (b), one-third of the membership of the committee, actually present, shall constitute a quorum for the purpose of transacting business. Any quorum of the committee which is composed of less than a majority of the members of the committee shall include at least one member of the majority and one member of the minority.

(b) A majority of the members of a subcommittee, actually present, shall constitute a quorum for the purpose of transacting business: provided, no measure or matter shall be ordered reported unless such majority shall include at least one member of the minority who is a member of the subcommittee. If, at any subcommittee meeting, a measure or matter cannot be ordered reported because of the absence of such a minority member, the measure or matter shall lay over for a day. If the presence of a member of the minority is not then obtained, a majority of the members of the subcommittee, actually present, may order such measure or matter reported.

(c) No measure or matter shall be ordered reported from the committee or a subcommittee unless a majority of the committee or subcommittee is actually present at the time such action is taken.

Rule 5.—With the approval of the chairman of the committee or subcommittee, one member thereof may conduct public hearings other than taking sworn testimony.

Rule 6.—Proxy voting shall be allowed on all measures and matters before the committee or a subcommittee if the absent member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. While proxies may be voted on a motion to report a measure or matter from the committee, such a motion shall also require the concurrence of a majority of the members who are actually present at the time such action is taken.

The committee may poll any matters of committee business as a matter of unanimous consent; provided that every member is polled and every poll consists of the following two questions:

- (1) Do you agree or disagree to poll the proposal; and
- (2) Do you favor or oppose the proposal.

Rule 7.—There shall be prepared and kept a complete transcript or electronic recording adequate to fully record the proceedings of each committee or subcommittee meeting or conference whether or not such meetings or any part thereof is closed pursuant to the specific provisions of subsections (b) and (d) of rule 26.5 of the Standing Rules of the Senate, unless a majority of said members vote to forgo such a record. Such records shall contain the vote cast by each member of the committee or subcommittee on any question on which a “yea and nay” vote is demanded, and shall be available or inspection by any committee member. The clerk of the committee, or the clerk’s designee, shall have the responsibility to make appropriate arrangements to implement this rule.

Rule 8.—The committee and each subcommittee shall undertake, consistent with the provisions of ruler XXVI, paragraph 4, of the Standing Rules of the Senate, to issue public announcement of any hearing it intends to hold at least one week prior to the commencement of such hearing.

Rule 9.—The committee or a subcommittee shall require all witnesses heard before it to file written statements of their proposed testimony at least 24 hours before a hearing, unless the chairman and the ranking minority member determine that there is good cause for failure to so file, and to limit their oral presentation to brief summaries of their arguments. The presiding officer at any hearing is authorized to limit the time of each witness appearing before the committee or a subcommittee. The committee or a subcommittee shall, as far as practicable, utilize testimony previously taken on bills and measures similar to those before it for consideration.

Rule 10.—Should a subcommittee fail to report back to the full committee on any measure within a reasonable time, the chairman may withdraw the measure from such subcommittee and report that fact to the full committee for further disposition.

Rule 11.—No subcommittee may schedule a meeting or hearing at a time designated for a hearing or meeting of the full committee. No more than one subcommittee executive meeting may be held at the same time.

Rule 12.—It shall be the duty of the chairman in accordance with section 133(c) of the Legislative Reorganization Act of 1946, as amended, to report or cause to be reported to the Senate, any measure or recommendation approved by the committee and to take or cause to be taken, necessary steps to bring the matter to a vote in the Senate.

Rule 13.—Whenever a meeting of the committee or subcommittee is closed pursuant to the provisions of subsection (b) or (d) of rule 26.5 of the Standing Rules of the Senate, no person other than members of the Standing Rules of the Senate, no person other than member of the committee, members of the staff of the committee, and designated assistants to members of the committee shall be permitted to attend such closed session, except by special dispensation of the committee or subcommittee or the chairman thereof.

Rule 14.—The chairman of the committee or a subcommittee shall be empowered to adjourn any meeting of the committee or a subcommittee if a quorum is not present within fifteen minutes of the time schedule for such meeting.

Rule 15.—Whenever a bill or joint resolution repealing or amending any statute or part thereof shall be before the committee or a subcommittee for final consideration, the clerk shall place before each member of the committee or subcommittee a print of the statute or the part or section thereof to be amended or replaced showing by stricken-through type, the part or parts to be omitted

and in italics, the matter proposed to be added, if a member makes a timely request for such print.

Rule 16.—An appropriate opportunity shall be given the minority to examine the proposed text of committee reports prior to their filing or publication. In the event there are supplemental, minority, or additional views, an appropriate opportunity shall be given the majority to examine the proposed text prior to filing or publication. Unless the chairman and ranking minority member agree on a shorter period of time, the minority shall have no fewer than three business days to prepare supplemental, minority or additional views for inclusion in a committee report from the time the majority makes the proposed text of the committee report available to the minority.

Rule 17.—(a) The committee, or any subcommittee, may issue subpoenas, or hold hearings to take sworn testimony or hear subpoenaed witnesses, only if such investigative activity has been authorized by majority vote of the committee.

(b) For the purpose of holding a hearing to take sworn testimony or hear subpoenaed witnesses, three members of the committee or subcommittee shall constitute a quorum: provided, with the concurrence of the chairman and ranking minority members of the committee or subcommittee, a single member may hear subpoenaed witnesses or take sworn testimony.

(c) The committee may, by a majority vote, delegate the authority to issue subpoenas to the chairman of the committee or a subcommittee, or to any member designated by such chairman. Prior to the issuance of each subpoena, the ranking minority member of the committee or subcommittee, and any other member of the committee or subcommittee, and any other member so requesting, shall be notified regarding the identity of the person to whom it will be issued and the nature of the information sought and its relationship to the authorized investigative activity, except where the chairman of the committee or subcommittee, in consultation with the ranking minority member, determines that such notice would unduly impede the investigation. All information obtained pursuant to such investigative activity shall be made available as promptly as possible to each member of the committee requesting same, or to any assistant to a member of the committee designated by such member in writing, but the use of any such information is subject to restrictions imposed by the rules of the Senate. Such information, to the extent that it is relevant to the investigation shall, if requested by a member, be summarized in writing as soon as practicable. Upon the request of any member, the chairman of the committee or subcommittee shall call an executive session to discuss such investigative activity or the issuance of any subpoena in connection therewith.

(d) Any witness summoned to testify at a hearing, or any witness giving sworn testimony, may be accompanied by counsel of his own choosing who shall be permitted, which the witness is testifying, to advise him of his legal rights.

(e) No confidential testimony taken or confidential material presented in an executive hearing, or any report of the proceedings of such an executive hearing, shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the members of the committee or subcommittee.

Rule 18.—Presidential nominees shall submit a statement of their background and financial interests, including the financial interests of their spouse and children living in their household, on a form approved by the

committee which shall be sworn to as to its completeness and accuracy. The committee form shall be in two parts—

(I) information relating to employment, education and background of the nominee relating to the position to which the individual is nominated, and which is to be made public; and

(II) information relating to financial and other background of the nominee, to be made public when the committee determines that such information bears directly on the nominee's qualification to hold the position to which the individual is nominated.

Information relating to background and financial interests (parts I and II) shall not be required of (a) candidates for appointment and promotion in the Public Health Service Corps; and (b) nominees for less than full-time appointments to councils, commissions or boards when the committee determines that some or all of the information is not relevant to the nature of the position. Information relating to other background and financial interests (part II) shall not be required of any nominee when the committee determines that it is not relevant to the nature of the position.

Committee action on a nomination, including hearings or meetings to consider a motion to recommend confirmation, shall not be initiated until at least five days after the nominee submits the form required by this rule unless the chairman, with the concurrence of the ranking minority member, waives this waiting period.

Rule 19.—Subject to statutory requirements imposed on the committee with respect to procedure, the rules of the committee may be changed, modified, amended or suspended at any time; provided, not less than a majority of the entire membership so determine at a regular meeting with due notice, or at a meeting specifically called for that purpose.

Rule 20.—When the ratio of members on the committee is even, the term "majority" as used in the committee's rules and guidelines shall refer to the party of the chairman for purposes of party identification. Numerical requirements for quorums, votes and the like shall be unaffected.

Rule 21.—First degree amendments must be filed with the chairman at least 24 hours before an executive session. The chairman shall promptly distribute all filed amendments to the members of the committee. The chairman may modify the filing requirements to meet special circumstances with the concurrence of the ranking minority member.

Rule 22.—In addition to the foregoing, the proceedings of the committee shall be governed by the Standing Rules of the Senate and the provisions of the Legislative Reorganization Act of 1946, as amended.

[Excerpts from the Standing Rules of the Senate]

#### RULE XXV

##### STANDING COMMITTEES

1. The following standing committees shall be appointed at the commencement of each Congress, and shall continue and have the power to act until their successors are appointed, with leave to report by bill or otherwise on matters within their respective jurisdictions:

\* \* \* \* \*

(m)(1) Committee on Health, Education, Labor and Pensions, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Measures relating to education, labor, health, and public welfare.

2. Aging.

3. Agricultural colleges.
4. Arts and humanities.
5. Biomedical research and development.
6. Child labor.
7. Convict labor and the entry of goods made by convicts into interstate commerce.
8. Domestic activities of the American National Red Cross.
9. Equal employment opportunity.
10. Gallaudet College, Howard University, and Saint Elizabeths Hospital.
11. Individuals with disabilities. (Effective Jan. 21, 1999, pursuant to the Committee Reorganization Amendments of 1999 (S. Res. 28), is amended by striking "Handicapped individuals", and inserting "Individuals with disabilities.")
12. Labor standards and labor statistics.
13. Mediation and arbitration of labor disputes.
14. Occupational safety and health, including the welfare of miners.
15. Private pension plans.
16. Public health.
17. Railway labor and retirement.
18. Regulation of foreign laborers.
19. Student loans.
20. Wages and hours of labor.

(2) Such committee shall also study and review, on a comprehensive basis, matters relating to health, education and training, and public welfare, and report thereon from time to time.

#### RULE XXVI

##### COMMITTEE PROCEDURE

1. Each standing committee, including any subcommittee of any such committee, is authorized to hold such hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Senate, to require by subpoena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to take such testimony and to make such expenditures out of the contingent fund of the Senate as may be authorized by resolutions of the Senate. Each such committee may make investigations into any matter within its jurisdiction, may report such hearings as may be had by it, and may employ stenographic assistance at a cost not exceeding the amount prescribed by the Committee on Rules and Administration. (Pursuant to section 68c of title 2, United States Code, the Committee on Rules and Administration issues Regulations Governing Rates Payable to Commercial Reporting Forms for Reporting Committee Hearings in the Senate." Copies of the regulations currently in effect may be obtained from the Committee.) The expenses of the committee shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman.

\* \* \* \* \*

5. (a) Notwithstanding any other provision of the rules, when the Senate is in session, no committee of the Senate or any subcommittee thereof may meet, without special leave, after the conclusion of the first two hours after the meeting of the Senate commenced and in no case after two o'clock postmeridian unless consent therefor has been obtained from the majority leader and the minority leader (or in the event of the absence of either of such leaders, from his designee). The prohibition contained in the preceding sentence shall not apply to the Committee on Appropriations or the Committee on the Budget. The majority leader or his designee shall announce to the Senate whenever consent has been given under this subparagraph and shall state the time and place of such meeting. The right to make such announcement of consent shall have the same priority as the filing of a cloture motion.

(b) Each meeting of a committee, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by a committee or a subcommittee thereof on the same subject for a period of no more than fourteen calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in clauses (1) through (6) would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the members of the committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of committee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets of financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

(c) Whenever any hearing conducted by any such committee or subcommittee is open to the public, that hearing may be broadcast by radio or television, or both, under such rules as the committee or subcommittee may adopt.

(d) Whenever disorder arises during a committee meeting that is open to the public, or any demonstration of approval or disapproval is indulged in by any person in attendance of any such meeting, it shall be the duty of the Chair to enforce order on his own initiative and without any point of order being made by a Senator. When the Chair finds it necessary to maintain order, he shall have the power to clear the room, and the committee may act in closed session for so long as there is doubt of the assurance of order.

(e) Each committee shall prepare and keep a complete transcript or electronic recoding adequate to fully record the proceeding of each meeting or conference where or not such meeting or any part thereof is closed under this paragraph, unless a majority of its members vote to forgo such a record.

\* \* \* \* \*

GUIDELINES OF THE SENATE COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS WITH RESPECT TO HEARINGS, MARKUP SESSIONS, AND RELATED MATTERS

##### HEARINGS

Section 133A(a) of the Legislative Reorganization Act requires each committee of the

Senate to publicly announce the date, place, and subject matter of any hearing at least one week prior to the commencement of such hearing.

The spirit of this requirement is to assure adequate notice to the public and other Members of the Senate as to the time and subject matter of proposed hearings. In the spirit of section 133A(a) and in order to assure that members of the committee are themselves fully informed and involved in the development of hearings:

1. Public notice of the date, place, and subject matter of each committee or subcommittee hearing should be inserted in the Congressional Record seven days prior to the commencement of such hearing.

2. At least seven days prior to public notice of each committee or subcommittee hearing, the majority should provide notice to the minority of the time, place and specific subject matter of such hearing.

3. At least three days prior to the date of such hearing, the committee or subcommittee should provide to each member a list of witnesses who have been or are proposed to be invited to appear.

4. The committee and its subcommittee should, to the maximum feasible extent, enforce the provisions of rule 9 of the committee rules as it relates to the submission of written statements of witnesses twenty-four hours in advance of a hearing. When statements are received in advance of a hearing, the committee or subcommittee (as appropriate) should distribute copies of such statements to each of its members.

#### EXECUTIVE SESSIONS FOR THE PURPOSE OF MARKING UP BILLS

In order to expedite the process of marking up bills and to assist each member of the committee so that there may be full and fair consideration of each bill which the committee or a subcommittee is marking up the following procedures should be followed:

1. Seven days prior to the proposal data for an executive session for the purpose of marking up bills the committee or subcommittee (as appropriate) should provide written notice to each of its members as to the time, place, and specific subject matter of such session, including an agenda listing each bill or other matters to be considered and including:

(a) two copies of each bill, joint resolution, or other legislative matter (or committee print thereof) to be considered at such executive session; and

(b) two copies of a summary of the provisions of each bill, joint resolution, or other legislative matter to be considered at such executive session; and

2. Three days prior to the scheduled date for an executive session for the purpose of marking up bills, the committee or subcommittee (as appropriate) should deliver to each of its members two copies of cordon print or an equivalent explanation of changes of existing law proposed to be made by each bill, joint resolution, or other legislative matter to be considered at such executive session.

3. Insofar as practical, prior to the scheduled date for an executive session for the purpose of marking up bills, the committee or a subcommittee (as appropriate) should provide each member with a copy of the printed record or a summary of any hearings conducted by the committee or a subcommittee with respect to each bill, joint resolution, or other legislative matter to be considered at such executive session.

#### RULES OF THE SENATE COMMITTEE ON THE BUDGET

Mr. NICKLES. Madam President, pursuant to paragraph 2 of Rule XXVI

of the Standing Rules of the Senate, I ask unanimous consent to print in the RECORD, the rules of the Committee on the Budget for the 108th Congress as adopted by the committee.

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

#### RULES OF THE COMMITTEE ON THE BUDGET

##### I. MEETINGS

(1) The committee shall hold its regular meeting on the first Thursday of each month. Additional meetings may be called by the chair as the chair deems necessary to expedite committee business.

(2) Each meeting of the Committee on the Budget of the Senate, including meetings to conduct hearings, shall be open to the public, except that a portion or portions of any such meeting may be closed to the public if the committee determines by record vote in open session of a majority of the members of the committee present that the matters to be discussed or the testimony to be taken at such portion or portions—

(a) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(b) will relate solely to matters of the committee staff personnel or internal staff management or procedure;

(c) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(d) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement; or

(e) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(i) an act of Congress requires the information to be kept confidential by Government officers and employees; or

(ii) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person.

(f) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

(3) Notice of, and the agenda for, any business meeting or markup shall be provided to each member and made available to the public at least 48 hours prior to such meeting or markup.

##### II. QUORUMS AND VOTING

(1) Except as provided in paragraphs (2) and (3) of this section, a quorum for the transaction of committee business shall consist of not less than one-third of the membership of the entire committee: Provided, that proxies shall not be counted in making a quorum.

(2) A majority of the committee shall constitute a quorum for reporting budget resolutions, legislative measures or recommendations: Provided, that proxies shall not be counted in making a quorum.

(3) For the purpose of taking sworn or unsworn testimony, a quorum of the committee shall consist of one Senator.

(4)(a) The Committee may poll—

(i) Internal Committee matters including those concerning the Committee's staff, records, and budget;

(ii) steps in an investigation, including issuance of subpoenas, applications for immunity orders, and requests for documents from agencies; and

(iii) other Committee business that the Committee has designated for polling at a meeting, except that the Committee may not vote by poll on reporting to the Senate any measure, matter, or recommendation, and may not vote by poll on closing a meeting or hearing to the public.

(b) To conduct a poll, the Chair shall circulate polling sheets to each member specifying the matter being polled and the time limit for completion of the poll. If any Member requests, the matter shall be held for a meeting rather than being polled. The chief clerk shall keep a record of polls; if the committee determines by record vote in open session of a majority of the members of the committee present that the polled matter is one of those enumerated in rule I(2) (a)–(e), then the record of the poll shall be confidential. Any Member may move at the Committee meeting following a poll for a vote on the polled decision.

##### III. PROXIES

When a record vote is taken in the committee on any bill, resolution, amendment, or any other question, a quorum being present, a member who is unable to attend the meeting may vote by proxy if the absent member has been informed of the matter on which the vote is being recorded and has affirmatively requested to be so recorded; except that no member may vote by proxy during the deliberations on Budget Resolutions.

##### IV. HEARINGS AND HEARING PROCEDURES

(1) The committee shall make public announcement of the date, place, time, and subject matter of any hearing to be conducted on any measure or matter at least 1 week in advance of such hearing, unless the chair and ranking member determine that there is good cause to begin such hearing at an earlier date.

(2) In the event that the membership of the Senate is equally divided between the two parties, the ranking member is authorized to call witnesses to testify at any hearing in an amount equal to the number called by the chair. The previous sentence shall not apply in the case of a hearing at which the Committee intends to call an official of the Federal government as the sole witness.

(3) A witness appearing before the committee shall file a written statement of proposed testimony at least 1 day prior to appearance, unless the requirement is waived by the chair and the ranking member, following their determination that there is good cause for the failure of compliance.

##### V. COMMITTEE REPORTS

(1) When the committee has ordered a measure or recommendation reported, following final action, the report thereon shall be filed in the Senate at the earliest practicable time.

(2) A member of the committee who gives notice of an intention to file supplemental, minority, or additional views at the time of final committee approval of a measure or matter, shall be entitled to not less than 3 calendar days in which to file such views, in writing, with the chief clerk of the committee. Such views shall then be included in the committee report and printed in the same volume, as a part thereof, and their inclusions shall be noted on the cover of the report. In the absence of timely notice, the committee report may be filed and printed immediately without such views.

##### VI. USE OF DISPLAY MATERIALS IN COMMITTEE

(1) Graphic displays used during any meeting or hearing of the committee are limited to the following:

Charts, photographs, or rendering:

Size: no larger than 36 inches by 48 inches.

Where: on an easel stand next to the Senator's seat or at the rear of the committee room.

When: only at the time the Senator is speaking.

Number: no more than two may be displayed at a time.

#### RULES OF THE COMMITTEE ON ARMED SERVICES

Mr. WARNER. Madam President, pursuant to the requirements of paragraph 2 of Senate Rule XXVI, I ask unanimous consent to have printed in the RECORD the rules of the Committee on Armed Services for the 108th Congress adopted by the committee on February 13, 2003.

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

#### RULES OF PROCEDURE OF THE COMMITTEE ON ARMED SERVICES

(ADOPTED FEBRUARY 13, 2003)

1. REGULAR MEETING DAY.—The Committee shall meet at least once a month when Congress is in session. The regular meeting days of the Committee shall be Tuesday and Thursday, unless the Chairman, after consultation with the Ranking Minority Member, directs otherwise.

2. ADDITIONAL MEETINGS.—The Chairman, after consultation with the Ranking Minority Member, may call such additional meetings as he deems necessary.

3. SPECIAL MEETINGS.—Special meetings of the Committee may be called by a majority of the members of the Committee in accordance with paragraph 3 of Rule XXVI of the Standing Rules of the Senate.

4. OPEN MEETINGS.—Each meeting of the Committee, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the Committee or a subcommittee thereof on the same subject for a period of no more than fourteen (14) calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated below in clauses (a) through (f) would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the members of the Committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(a) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(b) will relate solely to matters of Committee staff personnel or internal staff management or procedure;

(c) will tend to charge an individual with a crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy or will represent a clearly unwarranted invasion of the privacy of an individual;

(d) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(e) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(1) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(f) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

5. PRESIDING OFFICER.—The Chairman shall preside at all meetings and hearings of the Committee except that in his absence the Ranking Majority Member present at the meeting or hearing shall preside unless by majority vote the Committee provides otherwise.

6. QUORUM.—(a) A majority of the members of the Committee are required to be actually present to report a matter or measure from the Committee. (See Standing Rules of the Senate 26.7(a)(1).)

(b) Except as provided in subsections (a) and (c), and other than for the conduct of hearings, eight members of the Committee, including one member of the minority party; or a majority of the members of the Committee, shall constitute a quorum for the transaction of such business as may be considered by the Committee.

(c) Three members of the Committee, one of whom shall be a member of the minority party, shall constitute a quorum for the purpose of taking sworn testimony, unless otherwise ordered by a majority of the full Committee.

(d) Proxy votes may not be considered for the purpose of establishing a quorum.

7. PROXY VOTING.—Proxy voting shall be allowed on all measures and matters before the Committee. The vote by proxy of any member of the Committee may be counted for the purpose of reporting any measure or matter to the Senate if the absent member casting such vote has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. Proxy must be given in writing.

8. ANNOUNCEMENT OF VOTES.—The results of all roll call votes taken in any meeting of the Committee on any measure, or amendment thereto, shall be announced in the Committee report, unless previously announced by the Committee. The announcement shall include a tabulation of the votes cast in favor and votes cast in opposition to each such measure and amendment by each member of the Committee who was present at such meeting. The Chairman, after consultation with the Ranking Minority Member, may hold open a roll call vote on any measure or matter which is before the Committee until no later than midnight of the day on which the Committee votes on such measure or matter.

9. SUBPOENAS.—Subpoenas for attendance of witnesses and for the production of memoranda, documents, records, and the like may be issued, after consultation with the Ranking Minority Member, by the Chairman or any other member designated by him, but only when authorized by a majority of the members of the Committee. The subpoena shall briefly state the matter to which the witness is expected to testify or the documents to be produced.

10. HEARINGS.—(a) Public notice shall be given of the date, place, and subject matter of any hearing to be held by the Committee, or any subcommittee thereof, at least 1 week in advance of such hearing, unless the Committee or subcommittee determines that good cause exists for beginning such hearings at an earlier time.

(b) Hearings may be initiated only by the specified authorization of the Committee or subcommittee.

(c) Hearings shall be held only in the District of Columbia unless specifically authorized to be held elsewhere by a majority vote of the Committee or subcommittee conducting such hearings.

(d) The Chairman of the Committee or subcommittee shall consult with the Ranking Minority Member thereof before naming witnesses for a hearing.

(e) Witnesses appearing before the Committee shall file with the clerk of the Committee a written statement of their proposed testimony prior to the hearing at which they are to appear unless the Chairman and the Ranking Minority Member determine that there is good cause not to file such a statement. Witnesses testifying on behalf of the Administration shall furnish an additional 50 copies of their statement to the Committee. All statements must be received by the Committee at least 48 hours (not including weekends or holidays) before the hearing.

(f) Confidential testimony taken or confidential material presented in a closed hearing of the Committee or subcommittee or any report of the proceedings of such hearing shall not be made public in whole or in part or by way of summary unless authorized by a majority vote of the Committee or subcommittee.

(g) Any witness summoned to give testimony or evidence at a public or closed hearing of the Committee or subcommittee may be accompanied by counsel of his own choosing who shall be permitted at all times during such hearing to advise such witness of his legal rights.

(h) Witnesses providing unsworn testimony to the Committee may be given a transcript of such testimony for the purpose of making minor grammatical corrections. Such witnesses will not, however, be permitted to alter the substance of their testimony. Any question involving such corrections shall be decided by the Chairman.

11. NOMINATIONS.—Unless otherwise ordered by the Committee, nominations referred to the Committee shall be held for at least seven (7) days before being voted on by the Committee. Each member of the Committee shall be furnished a copy of all nominations referred to the Committee.

12. REAL PROPERTY TRANSACTIONS.—Each member of the Committee shall be furnished with a copy of the proposals of the Secretaries of the Army, Navy, and Air Force, submitted pursuant to 10 U.S.C. 2662 and with a copy of the proposals of the Director of the Federal Emergency Management Agency, submitted pursuant to 50 U.S.C. App. 2285, regarding the proposed acquisition or disposition of property of an estimated price or rental of more than \$50,000. Any member of the Committee objecting to or requesting information on a proposed acquisition or disposal shall communicate his objection or request to the Chairman of the Committee within thirty (30) days from the date of submission.

13. LEGISLATIVE CALENDAR.—(a) The clerk of the Committee shall keep a printed calendar for the information of each Committee member showing the bills introduced and referred to the Committee and the status of such bills. Such calendar shall be revised from time to time to show pertinent changes in such bills, the current status thereof, and new bills introduced and referred to the Committee. A copy of each new revision shall be furnished to each member of the Committee.

(b) Unless otherwise ordered, measures referred to the Committee shall be referred by the clerk of the Committee to the appropriate department or agency of the Government for reports thereon.

14. Except as otherwise specified herein, the Standing Rules of the Senate shall govern the actions of the Committee. Each subcommittee of the Committee is part of the

Committee, and is therefore subject to the Committee's rules so far as applicable.

15. **POWERS AND DUTIES OF SUBCOMMITTEES.**—Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the full Committee on all matters referred to it. Subcommittee chairmen, after consultation with Ranking Minority Members of the subcommittees, shall set dates for hearings and meetings of their respective subcommittees after consultation with the Chairman and other subcommittee chairmen with a view toward avoiding simultaneous scheduling of full Committee and subcommittee meetings or hearings whenever possible.

## RULES OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Madam President, in accordance with Rule XXVI, paragraph 2, of the Standing Rules of the Senate, I ask unanimous consent to have printed in the RECORD, the Rules of the Committee on Energy and Natural Resources.

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

### RULES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

#### GENERAL RULES

Rule 1. The Standing Rules of the Senate, as supplemented by these rules, are adopted as the rules of the Committee and its Subcommittees.

#### MEETINGS OF THE COMMITTEE

Rule 2. (a) The Committee shall meet on the third Wednesday of each month while the Congress is in session for the purpose of conducting business, unless, for the convenience of Members, the Chairman shall set some other day for a meeting. Additional meetings may be called by the Chairman as he may deem necessary.

(b) Business meetings of any Subcommittee may be called by the Chairman of such Subcommittee. Provided, That no Subcommittee meeting or hearing other than a field hearing, shall be scheduled or held concurrently with a full Committee meeting or hearing, unless a majority of the Committee concurs in such concurrent meeting or hearing.

#### OPEN HEARINGS AND MEETINGS

Rule 3. (a) All hearings and business meetings of the Committee and its Subcommittees shall be open to the public unless the Committee or Subcommittee involved, by majority vote of all the Members of the Committee or such Subcommittee, orders the hearing or meeting to be closed in accordance with paragraph 5(b) of Rule XXVI of the Standing Rules of the Senate.

(b) A transcript shall be kept of each hearing of the Committee or any Subcommittee.

(c) A transcript shall be kept of each business meeting of the Committee or any Subcommittee unless a majority of all the Members of the Committee or the Subcommittee involved agrees that some other form of permanent record is preferable.

#### HEARING PROCEDURE

Rule 4. (a) Public notice shall be given of the date, place, and subject matter of any hearing to be held by the Committee or any Subcommittee at least one week in advance of such hearing unless the Chairman of the full Committee or the Subcommittee involved determines that the hearing is non-controversial or that special circumstances

require expedited procedures and a majority of all the Members of the Committee or the Subcommittee involved concurs. In no case shall a hearing be conducted with less than twenty-four hours notice. Any document or report that is the subject of the hearing shall be provided to every Member of the Committee or Subcommittee involved at least 72 hours before the hearing unless the Chairman and Ranking Member determine otherwise.

(b) Each witness who is to appear before the Committee or any Subcommittee shall file with the Committee or Subcommittee, at least 24 hours in advance of the hearing, a written statement of his or her testimony in as many copies as the Chairman of the Committee or Subcommittee prescribes.

(c) Each member shall be limited to five minutes in the questioning of any witness until such time as all Members who so desire have had an opportunity to question the witness.

(d) The Chairman and Ranking Minority Member or the ranking Majority and Minority Members present at the hearing may each appoint one Committee staff member to question each witness. Such staff member may question the witness only after all Members present have completed their questioning of the witness or at such other time as the Chairman and the ranking Majority and Minority Members present may agree. No staff member may question a witness in the absence of a quorum for the taking of testimony.

#### BUSINESS MEETING AGENDA

Rule 5. (a) A legislative measure, nomination, or other matter shall be included on the agenda of the next following business meeting of the full Committee or any Subcommittee if a written request for such inclusion has been filed with the Chairman of the Committee or Subcommittee at least one week prior to such meeting. Nothing in this rule shall be construed to limit the authority of the Chairman of the Committee or Subcommittee to include a legislative measure, nomination, or other matter on the Committee or Subcommittee agenda in the absence of such request.

(b) The agenda for any business meeting of the Committee or any Subcommittee shall be provided to each Member and made available to the public at least three days prior to such meeting, and no new items may be added after the agenda is so published except by the approval of a majority of all the Members of the Committee or Subcommittee. The Staff Director shall promptly notify absent Members of any action taken by the Committee or any Subcommittee on matters not included on the published agenda.

#### QUORUMS

Rule 6. (a) Except as provided in subsections (b), (c), and (d), eight Members shall constitute a quorum for the conduct of business of the Committee.

(b) No measure or matter shall be ordered reported from the Committee unless twelve Members of the Committee are actually present at the time such action is taken.

(c) Except as provided in subsection (d), one-third of the Subcommittee Members shall constitute a quorum for the conduct of business of any Subcommittee.

(d) One Member shall constitute a quorum for the purpose of conducting a hearing or taking testimony on any measure or matter before the Committee or any Subcommittee.

#### VOTING

Rule 7. (a) A rollcall of the Members shall be taken upon the request on any Member. Any Member who does not vote on any rollcall at the time the roll is called, may vote (in person or by proxy) on that rollcall at

any later time during the same business meeting.

(b) Proxy voting shall be permitted on all matters, except that proxies may not be counted for the purpose of determining the presence of a quorum. Unless further limited, a proxy shall be exercised only upon the date for which it is given and upon the items published in the agenda for that date.

(c) Each Committee report shall set forth the vote on the motion to report the measure or matter involved. Unless the Committee directs otherwise, the report will not set out any votes on amendments offered during Committee consideration. Any Member who did not vote on any rollcall shall have the opportunity to have his position recorded in the appropriate Committee record or Committee report.

(d) The Committee vote to report a measure to the Senate shall also authorize the staff of the Committee to make necessary technical and clerical corrections in the measure.

#### SUBCOMMITTEES

Rule 8. (a) The number of Members assigned to each Subcommittee and the division between Majority and Minority Members shall be fixed by the Chairman in consultation with the ranking Minority Member.

(b) Assignment of Members of Subcommittee shall, insofar as possible, reflect the preferences of the Members. No Member will receive assignment to a second Subcommittee until, in order of seniority, all Members of the Committee have chosen assignments to one Subcommittee, and no Member shall receive assignment to a third Subcommittee until, in order of seniority, all Members have chosen assignments to two Subcommittees.

(c) Any Member of the Committee may sit with any Subcommittee during its hearings and business meetings but shall not have the authority to vote on any matters before the Subcommittee unless he is a Member of such Subcommittee.

#### NOMINATIONS

Rule 9. At any hearing to confirm a Presidential nomination, the testimony of the nominee and, at the request of any Member, any other witness shall be under oath. Every nominee shall submit a statement of his financial interests, including those of his spouse, his minor children, and other members of his immediate household, on a form approved by the Committee, which shall be sworn to by the nominee as to its completeness and accuracy. A statement of every nominee's financial interest shall be made available to the public on a form approved by the Committee, unless the Committee in executive session determines that special circumstances require a full or partial exception to this rule.

#### INVESTIGATIONS

Rule 10. (a) Neither the Committee nor any of its Subcommittees may undertake an investigation unless specifically authorized by a majority of all the Members of the Committee.

(b) A witness called to testify in an investigation shall be informed of the matter or matters under investigation, given a copy of these rules, given the opportunity to make a brief and relevant oral statement before or after questioning, and be permitted to have counsel of his or her choosing present during his or her testimony at any public or closed hearing, or at any unsworn interview, to advise the witness of his or her legal rights.

(c) For purposes of this rule, the term "investigation" shall not include a review or study undertaken pursuant to paragraph 8 of Rule XXVI of the Standing Rules of the Senate or an initial review of any allegation of wrongdoing intended to determine whether

there is substantial credible evidence that would warrant a preliminary inquiry or an investigation.

#### SWORN TESTIMONY

Rule 11. Witnesses in Committee or Subcommittee hearings may be required to give testimony under oath whenever the chairman or Ranking Minority Member of the Committee or Subcommittee deems such to be necessary. If one or more witnesses at a hearing are required to testify under oath, all witnesses at that hearing shall be required to testify under oath.

#### SUBPOENAS

Rule 12. No subpoena for the attendance of a witness or for the production of any document, memorandum, record, or other material may be issued unless authorized by a majority of all the Members of the Committee, except that a resolution adopted pursuant to Rule 10(a) may authorize the Chairman, with the concurrence of the Ranking Minority Member, to issue subpoenas within the scope of the authorized investigation.

#### CONFIDENTIAL TESTIMONY

Rule 13. No confidential testimony taken by or any report of the proceedings of a closed Committee or any Subcommittee, or any report of the proceedings of a closed Committee or Subcommittee hearing or business meeting, shall be made public, in whole or in part or by way of summary, unless authorized by a majority of all the Members of the Committee at a business meeting called for the purpose of making such a determination.

#### DEFAMATORY STATEMENTS

Rule 14. Any person whose name is mentioned or who is specifically identified in, or who believes that testimony or other evidence presented at, an open Committee or Subcommittee hearing tends to defame him or otherwise adversely affect this reputation may file with the Committee for its consideration and action a sworn statement of facts relevant to such testimony or evidence.

#### BROADCASTING OF HEARINGS OR MEETINGS

Rule 15. Any meeting or hearing by the Committee or any Subcommittee which is open to the public may be covered in whole or in part by television broadcast, radio broadcast, or still photography. Photographers and reporters using mechanical recording, filming, or broadcasting devices shall position their equipment so as not to interfere with the seating, vision, and hearing of Members and staff on this dais or with the orderly process of the meeting or hearing.

#### AMENDING THE RULES

Rule 16. These rules may be amended only by vote of a majority of all the Members of the Committee in a business meeting of the Committee: Provided, That no vote may be taken on any proposed amendment unless such amendment is reproduced in full in the Committee agenda for such meeting at least three days in advance of such meeting.

### LAW ENFORCEMENT NEEDS A NATIONAL BALLISTICS IMAGING NETWORK

Mr. LEVIN. Madam President, last Sunday the news program "60 Minutes" reported on an exciting new technology called ballistic fingerprinting, which is currently underutilized by our Nation's law enforcement organizations. Each time a gun is fired, it inscribes a unique pattern on each bullet. This marking is referred to as a ballistic fingerprint. The "60 Minutes" re-

port presented the case of a New York City double homicide in which the New York Police Department developed little evidence to work with besides the bullet shells and casings from the crime scene. After exhausting all other efforts to solve the case, detectives took those shells and casings to the NYPD ballistics lab to be scanned into the Integrated Ballistic Identification System, a database of ballistic fingerprints maintained by the Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives. The ballistics lab was able to connect the gun used in the double homicide to the one used three months later in an armed robbery. An arrest was made and the man was convicted of both crimes. Without ballistics fingerprinting this case might have never been solved.

Through its National Integrated Ballistic Information Network or NIBIN Program, the Bureau of Alcohol, Tobacco, Firearms, and Explosives deploys Integrated Ballistic Identification System equipment to State and local law enforcement agencies, such as the one in New York City, for their use in imaging and comparing crime gun evidence. This state-of-the-art equipment allows firearms technicians to acquire digital images of the markings made by a firearm on bullets and shells, like was done in the New York case. Unfortunately, at this point, only weapons that are confiscated in crimes are included in this database. Expanding this database to include newly manufactured and imported guns would enhance law enforcement's ability to investigate and reduce gun-related crime.

I believe that the ATF's ballistic fingerprinting network should be expanded, and that is why I have cosponsored the Technological Resource for Assisting Criminal Enforcement Act or TRACE Act. Under this bill, manufacturers and importers would be required to test fire firearms and capture ballistics images of the fired bullets and casings of new firearms. Expanding NIBIN to include these ballistics images would increase the crime gun tracing capabilities of the ATF and local law enforcement. Law enforcement could identify firearms by using the ballistics images of cartridge cases and bullets recovered at crime scenes even when criminals had removed the serial number. In fact, this technology would allow investigators to identify the firearm used in the crime without actually recovering that firearm. The legislation also contains strict provisions stating that the ballistics information regarding individual guns may not be used for prosecutorial purposes unless law enforcement officials have a reasonable belief that a crime has been committed and that ballistics information would assist in the investigation of that crime.

I believe this is sensible legislation that will strengthen law enforcement's ability to effectively track down criminals. This technology has worked for

both the NYPD and in the investigation of the Washington area sniper attacks. I urge my colleagues to support it.

### LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Madam President, I rise today to speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred March 9, 2002 in Huntington Beach, CA. Aris Gaddvang, 25, a Filipino-American store manager, was beaten in a parking lot. The attackers, three teenagers, shouted racial slurs and "white power" before beating Gaddvang with metal pipes. After the attack, Gaddvang said he received a phone call from someone who identified himself as one of the attackers. Gaddvang said that the caller used racial slurs and threatened him.

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 is 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.

### SUPPORTING THE USE OF ETHANOL

Mr. VOINOVICH. Madam President, I rise today to express my support for the ethanol legislation that is being introduced today.

I am pleased to join my colleagues, Senators HAGEL, LUGAR, DASCHLE, and JOHNSON, in this effort to develop an ethanol package that addresses the concerns of a variety of stakeholders in the energy debate while providing a tangible benefit for the American people. I believe that increasing our use of renewable fuels such as ethanol and biodiesel is a key element in our effort to construct a viable energy policy.

As I have often stated, we face an incredible challenge in putting together an energy policy for our Nation. In my view, the Senate has a responsibility to develop a policy that harmonizes energy and environmental policies, and to acknowledge that the economy and the environment are vitally intertwined.

As I has to be a policy that broadens our base of energy resources to create stability, guarantee reasonable prices, and protect America's security. It has to be a policy that will keep energy affordable. Finally, it has to be a policy that won't cripple the engines of commerce that fund the research that will yield future environmental protection technologies.

I believe the passage of an ethanol bill will protect our energy independence, our economy, and our environment.

Increasing the use of renewable fuels such as ethanol will protect our energy independence. Given the current situation in the Middle East, perhaps our greatest energy challenge is to reduce our reliance on foreign sources to meet our energy needs. As my colleagues know, the United States currently imports about 58 percent of our crude oil. President Bush has stated repeatedly that energy security is a cornerstone for national security and it is crucial that we become less dependent on foreign sources of oil and look more to domestic sources to meet our energy needs. Ethanol is an excellent domestic source—it is a clean burning, home-grown renewable fuel that we can rely on for generations to come.

Creating a greater market for ethanol will protect our economy. Ethanol is good for our Nation's economy and, in particular, good for Ohio's economy. Ohio is sixth in the Nation in terms of corn production, and an increase in the use of ethanol across the Nation means an economic boost to thousands of farm families across my State. Ohio is one of the Nation's leading consumers of ethanol, with 40 percent of the gasoline consumed in the State containing ethanol. Because of the economic benefits of increasing consumption of ethanol, Ohio has placed a tremendous emphasis on expanding its use and is actively pursuing opportunities to build ethanol production plants.

Expanding the use of ethanol will protect our environment. Increasing the use of ethanol will help reduce auto emissions, which will clean the air and improve public health.

The language that is being introduced today is identical to the ethanol title passed by the Senate in last year's comprehensive energy bill. It is important to note that while this body overwhelmingly supported inclusion of an ethanol title in that bill, there were some significant issues raised during debate on this provision.

As chairman of the Clean Air Subcommittee, I intend to hold hearings on, and to mark up, this legislation so that it can be included in this Congress' version of comprehensive energy legislation. I know that Senator INHOFE, Chairman of the Environment and Public Works Committee, has some strong issues with the way that MTBE is dealt with in this legislation, and I intend to work closely with him to see that those issues are resolved before we move forward with this bill.

I was delighted that the Senate was able to come together and craft a bipartisan agreement on ethanol during the last Congress. It is my hope that that spirit of bipartisanship will continue throughout this Congress and that we can finally enact a comprehensive national energy policy that includes ethanol as one of its key provisions.

#### DEPLOYMENT OF TROOPS IN EUROPE

Mr. SMITH. Madam President, I rise today to speak for a few moments about, what I feel, is a very important issue—regarding NATO and the deployment of great armed forces in Europe.

I, like many of my colleagues, have watched and listened with concern to some of our European allies' thoughts and actions regarding the inspections in Iraq.

It has caused many in this town, both in this Chamber and in the government to ponder the merits of some of our allies that are new members of NATO . . . and the fine job they have done in supporting this Nation on fledgling budgets but with the heart of gold and fervor of patriotism often found in new democracies.

I believe that it is high time that we consider the merits of a limited redeployment of some U.S. forces either on a permanent or rotating basis from Germany to alternative locations in Eastern and Southern Europe.

The current alignment of U.S. forces in Europe, particularly their concentration in Germany, reflects a geopolitical reality that no longer exists. There has not been significant enough realignment of capabilities and assets since the fall of the Berlin Wall.

We no longer expect Soviet tanks to come rolling over the Folda Gap. Why are U.S. forces, therefore, still on a cold war footing?

During the 1990s, America and its allies agonized over the future of NATO. Now that we have reaffirmed that NATO will continue to exist and grow, and that the U.S. will remain engaged in Europe, we should ask ourselves what it should look like and how it can best serve our national and common security interests.

As attention turns to the Middle East, we should be thinking about where our troops should be stationed over the longer term. Given that the military flashpoints in the future are likely to revolve around the Caucasus, Iraq, the Middle East and North Africa, closer proximity of U.S. troops is of the utmost necessity.

Since Berlin has long ceased to be the fault line for military conflict, I urge my colleagues and the Administration to consider redeploying U.S. troops from Germany in a direction, and in a manner, that reflects the challenges of the future rather than the past.

I was proud to support the inclusion of Czech Republic, Hungary and Poland into NATO. I am also supportive of the aspiration of others to join that Alliance and to make the democratic and budgetary reforms necessary to bolster their candidacy.

I am proud that seven other nations, including Bulgaria and Romania, are candidates for membership.

By deploying U.S. forces to new locations to the East or South of Germany, to nations that enjoy new or prospective membership in NATO, we would

demonstrate our firm commitment to those countries.

Doing so would also reflect new geopolitical realities: first, we have cooperative and constructive relations with Russia, and secondly, points to the south of Europe will continue to require more of our attention.

As Secretary Rumsfeld has noted, while ties between the people of Germany and America remain strong, on a governmental level, our bilateral relations are increasingly out of sync.

I couldn't agree more.

Well before Mr. Schroeder began his attacks on President Bush and before the incessant German criticism of the administration's efforts to combat terrorism and the threat posed by Iraq—Germany had imposed increasing and burdensome restrictions on the way the U.S. military could maneuver and train in Germany.

Basing and operating costs in Germany one of the most industrialized and rich nations of Europe are high. Though start-up costs of relocating some U.S. forces to countries such as Poland or Romania might be high, over time such relocation would present savings.

Some Eastern or Southern European countries would be keen to host U.S. forces, either permanently or on a rotating basis.

They would welcome a U.S. military presence for the strategic and political dividends involved, and not least for the positive economic impact that this would entail. They would welcome us in the spirit of friendship.

In particular, I think the administration should strongly consider redeploying NATO forces to Poland, Romania and Bulgaria. Poland has bases and training grounds well-suited for U.S. military training, while Romania and Bulgaria are both in the process of upgrading their bases under the terms of their NATO membership.

Operating with fewer restrictions than on German bases will allow American troops to train more effectively, thus maintaining military readiness at the highest possible level.

Redeployment of U.S. forces to Romania and/or Bulgaria would ease strategic pressure on Turkey, a vital American ally.

With its location near the center of the world's least stable regions, we should not leave Ankara to stand as the sole pressure point when the U.S. projects forces eastward and southward from Europe.

Someday the political situation might force even a generally friendly Turkish government to resist America using Turkey as a staging point. American bases in Bulgaria and Romania would shift some of the burden from this hard-pressed American friend.

Likewise, bases in Bulgaria and Romania would provide the Turks, who will remain key partners in the new era, the diplomatic cover to continue to assist the U.S.

Nations that have escaped the yoke of communism in Central and Southern

I was proud to support the inclusion of Czech Republic, Hungary and Poland into NATO. I am also supportive of the aspiration of others to join that Alliance and to make the democratic and budgetary reforms necessary to bolster their candidacy.

I am proud that seven other nations, including Bulgaria and Romania, are candidates for membership.

By deploying U.S. forces to new locations to the East or South of Germany, to nations that enjoy new or prospective membership in NATO, we would demonstrate our firm commitment to those countries.

Doing so would also reflect new geopolitical realities: first, we have cooperative and constructive relations with Russia, and secondly, points to the south of Europe will continue to require more of our attention.

As Secretary Rumsfeld has noted, while ties between the people of Germany and America remain strong, on a governmental level, our bilateral relations are increasingly out of sync.

I couldn't agree more.

Well before Mr. Schroeder began his attacks on President Bush and before the incessant German criticism of the administration's efforts to combat terrorism and the threat posed by Iraq—Germany had imposed increasing and burdensome restrictions on the way the U.S. military could maneuver and train in Germany.

Basing and operating costs in Germany one of the most industrialized and rich nations of Europe are high. Though start-up costs of relocating some U.S. forces to countries such as Poland or Romania might be high, over time such relocation would present savings.

Some Eastern or Southern European countries would be keen to host U.S. forces, either permanently or on a rotating basis.

They would welcome a U.S. military presence for the strategic and political dividends involved, and not least for the positive economic impact that this would entail. They would welcome us in the spirit of friendship.

In particular, I think the administration should strongly consider redeploying NATO forces to Poland, Romania and Bulgaria. Poland has bases and training grounds well-suited for U.S. military training, while Romania and Bulgaria are both in the process of upgrading their bases under the terms of their NATO membership.

Operating with fewer restrictions than on German bases will allow American troops to train more effectively, thus maintaining military readiness at the highest possible level.

Redeployment of U.S. forces to Romania and/or Bulgaria would ease strategic pressure on Turkey, a vital American ally.

With its location near the center of the world's least stable regions, we should not leave Ankara to stand as the sole pressure point when the U.S. projects forces eastward and southward from Europe.

Someday the political situation might force even a generally friendly Turkish government to resist America using Turkey as a staging point. American bases in Bulgaria and Romania would shift some of the burden from this hard-pressed American friend.

Likewise, bases in Bulgaria and Romania would provide the Turks, who will remain key partners in the new era, the diplomatic cover to continue to assist the U.S.

Nations that have escaped the yoke of communism in Central and Southern Europe have been among the most active and outspoken supporters of U.S. policy particularly the global war on terrorism and U.S. efforts to contain Iraq and North Korea.

Perhaps that is because these nations, unlike their continental neighbors to the West, know what it is like to live without security, freedom and democracy.

As we move forward on this critical issue, Congress should authorize and the Administration should thoroughly study, the military and financial implications of European redeployment.

It is also an issue to broach with the Russian Federation, as it may require renegotiation of the Treaty Conventional Armed Forces in Europe. We must emphasize that it is not directed at Moscow but rather can form the basis of a closer NATO-Russia relationship.

I would note that a few days ago, Senators SHELBY, BUNNING, ALLARD, COLLINS, SESSIONS, BROWNBACK, MCCAIN, KYL, HUTCHINSON, CRAIG, ENSIGN, SANTORUM, WARNER and I sent a letter to Secretary of Defense Rumsfeld requesting that the Department of Defense undertake an immediate study of U.S. bases in Europe that should be geared to U.S. national interests.

We asked that issues considered in such a study include, but not be limited to: force structure, length of deployment, infrastructure, dependents and dependent housing and services, and costs regardless of category.

I believe that was a good first step toward thinking about the issue of deployment of our forces in Europe. I think that we should do more on this issue and I will work towards that end.

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#### THE MEDICARE INCENTIVE PAYMENT PROGRAM IMPROVEMENT ACT OF 2003

Mr. THOMAS. Madam President, I am pleased to introduce S. 379, the Medicare Incentive Payment Program Improvement Act of 2003, with my distinguished colleague, Senator BINGAMAN. This legislation makes important improvements to the current Medicare Incentive Payment (MIP) Program. These refinements will go a long way in ensuring eligible rural physicians receive the Medicare bonus payment to which they are entitled.

The Medicare Incentive Payment Program was created in 1987 under the Omnibus Budget Reconciliation Act to

serve as an incentive tool to recruit physicians to practice in Health Professional Shortage Areas (HPSAs) by providing a 10 percent Medicare bonus payment. There are approximately 2,800 federally designated HPSAs—75 percent of which are located in rural areas. In my State of Wyoming, over half of the counties are designated as a Health Professional Shortage Area and have a difficult time recruiting physicians.

Unfortunately, this well-intended program has not worked well due to the burden it places on providers. Under the current MIP programmatic structure, physicians are required to determine if the patient encounter occurred in designated underserved areas, they must attach a code modifier to the billing claim and must undergo a stringent audit. Additionally, there is evidence that many physicians who would be eligible are not even aware of the program.

The legislation we are introducing today alleviates the administrative burden on rural physicians by requiring Medicare carriers to determine eligibility. The Medicare Incentive Payment Program Improvement Act of 2003 also requires the Centers for Medicare and Medicaid Services to establish a MIP education program for providers and establishes ongoing analysis of the MIP program's ability to improve access to physician services for Medicare beneficiaries.

All physicians are struggling with last year's Medicare payment reduction of 5.4 percent and with the possibility of another 4.4 percent reduction on March 1 of this year. These payment cuts combined with an ever-increasing regulatory burden to participate in the Medicare program and escalating medical malpractice premiums have begun to impact seniors' access to care. As rural providers tend to be disproportionately impacted by Medicare payment cuts, it has never been more important to ensure that the few rural physician incentive programs that exist have a positive effect on the stability of our rural health care delivery system. I strongly urge all my Senate colleagues interested in rural health to cosponsor the Medicare Incentive Payment Improvement Act of 2003

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#### CONSERVATION SECURITY PROGRAM

Mr. HARKIN. Mr. President, I came to Congress in 1975 and served in the House until 1984, when I was elected to the Senate. As a member of the House Agriculture Committee and later the Senate Agriculture Committee I have always known the importance of agriculture conservation. My home State of Iowa is rich in agriculture and also rich in the tradition of conservation.

But even in Iowa, we recognize the need for more conservation. For decades we had cost-share money available for producers through the Agriculture Conservation Program. But, it was not

until 1990 that a farm bill took the next critical step toward conservation by including my Water Quality Incentives Program. This program, for the first time in agriculture history, included incentive payments for producers. The basic concepts and principles of WQIP were the foundation for the Environmental Quality Incentives Program, EQIP, included in the 1996 farm bill. EQIP, which expanded beyond water quality to all natural resources, was a fundamental advancement for conservation on working lands.

However, even with these advances we were still spending over 90 percent of conservation dollars on land retirement programs, namely CRP and WRP. While these two programs are critically important, it became abundantly clear that conservation on working lands needed to be addressed. EQIP was hugely popular among farmers and ranchers, but the dollars were limited and many, many producers were left stranded—unable to access this program.

Moreover, a growing resentment from good conservationists was brewing over the EQIP funding. Too many good stewards of their lands were left out of the conservation programs. Those who worked hard, using their own resources and ingenuity, were not recognized by USDA agriculture conservation programs.

As I traveled the countryside, it became abundantly clear that change was necessary. I heard from many producers that we finally needed a good strong conservation program open to all producers, not just a few select producers. And, they told me that we needed a conservation program that rewarded those committed stewards of the land, instead of excluding them.

During the development of the farm bill, I continued to press for an expanded conservation title. To expand and improve the existing conservation programs and to finally add a new conservation program which I called the Conservation Security Program—a program to secure the right of all American farmers and ranchers to access conservation dollars to adopt and maintain conservation practices on their lands. We did not put a cap on the CSP so that all producers who would carry out conservation and meet the requirements could enroll in it. The CSP was a novel approach to conservation—it adopted the well-accepted full participation principle in our commodity programs. That is the most unique factor of CSP. I first proposed CSP in 1999 and over the next three years CSP evolved into the groundbreaking program that was included in the 2002 farm bill. Prior to the final product, the CSP was introduced in a bipartisan manner on both the House and the Senate in 2001.

Senator SMITH of Oregon and I worked hard on developing this important program. It took long hours of negotiation involving staff together with

major commodity groups, like the American Farm Bureau Federation, the American Soybean Association, National Corn Growers Association, Sustainable Agriculture Coalition, Defenders of Wildlife, Sierra Club and many others. Moreover, we worked extensively with the USDA. Eventually, we developed a program embraced by both commodity and conservation groups alike.

But, the evolution of CSP continued through the development of the farm bill. As the Senate worked on the farm bill, Senator LUGAR, Senator SMITH and I continued to modify the CSP to ensure that the environmental benefits were maximized and that farmer access was paramount. Senator LUGAR and I developed joint principles on the farm bill, including for the conservation title. While both Senator LUGAR and I vocally supported a strong conservation title, we took time to refine the CSP. As a result of our bipartisan work, the conservation title, including a CSP without an arbitrary funding limit of the Senate Agriculture Committee unanimously.

But, our work on the CSP was far from over. As we moved into conference with the House, we again worked to improve CSP. We worked tirelessly and carefully to refine the CSP and make sure that it was acceptable to all members of conference. This was not a simple process. The Farm bill conference took months, and the conservation title was debated during the entire process. I personally engaged in weeks of negotiations on the CSP. Because I understood the critical importance of including a CSP without a funding cap in the final bill, I made many concessions on the farm bill.

Finally, after months of debate, the conference agreed to include CSP as an uncapped program—one open to all producers who meet requirements of the program and one that would have a budget baseline in the future as the program grew. The farm bill was a carefully negotiated bill that required a delicate balancing of all concerns.

When President Bush signed the 2002 farm bill last May, we all celebrated the historic increase in conservation spending for existing and new programs. For the first time ever, the farm bill took a monumental step forward toward truly addressing conservation of natural resources on our farms and ranches in the form of the CSP.

The CSP, by its uncapped nature, ensured for the first time that all farmers and ranchers who meet the requirements may participate in an agriculture conservation program. Again, it was uncapped nature of this program that provided for this program that provided for this giant step for conservation—for both our farmers and ranchers and the environment.

I must restate that the CSP will generate real environment benefits. The design of CSP mandate these benefits. Producers are required to maintain or adopt conservation practices at the

highest level of all conservation programs.

Why else is CSP so important? For many reasons—It is the first program that provides a comprehensive approach covering the full range of conservation and environmental issues related to working lands, and enables participation based on one unified, site-specific conservation plan.

CSP helps rebalance conservation funding in support of incentives for land in production so that producers don't have to retireland and stop farming in order to benefit. CSP is open to producers of all types of crops and all parts of the country. CSP, for the first time, pays producers in recognition of the public nature resource and environmental benefits provided on working farms and ranches, including maintenance payments for active management of already adopted practices. And, CSP is compatible with our trade obligations under WTO.

That is why major commodity and conservation groups support CSP. Groups including, Cotton Council, American Farm Bureau Federation, American Soybean Association, National Association of Wheat Growers, National Corn Growers Association, National Farmers Union, National Milk Producers Federation, United Fresh Fruits & Vegetables, U.S. Rice Producers, American Farmland Trust, Defenders of Wildlife, National Association of Conservation Districts, National Audubon Society, Pheasants Forever, Sierra Club, Trout Unlimited, Union of Concerned Scientists and many more. Despite the Administration's contention that it supports voluntary conservation programs in the farm bill, we have found that their words are not matched by their actions. In fact, the Administration has actively worked to undermine conservation programs.

Just recently, the Administration described CSP as having "a unique role among USDA conservation programs. It identifies and rewards those farmers and ranchers who meet the highest standards of conservation and environmental management on their operations, creates powerful incentives for other producers to meet those same standards of conservation performance on their operations, and provides public benefits for generations to come."

Despite this glowing endorsement, the Administration has attacked CSP—by proposing to cut back CSP to a strict \$2 billion for 10 years in the FY04 budget and by pushing to cap CSP to only \$3.77 billion in this omnibus appropriations bill. The manner in which the CSP was capped was unfair. It began with a small provision in the House agriculture appropriations bill by limiting CSP as a pilot program in FY03 in my home state of Iowa.

But as time went on and the majority developed an inadequate disaster bill—one that doesn't provide the necessary support farmers need, they decided they needed an offset for the program. So, for the first time, we have

now created a horrible precedent of requiring an offset for disaster payments. And, where did the Administration go for this offset? The farm bill which was just passed nine months ago. And, more importantly, what did the Administration attack first—the conservation title.

During the farm bill, the CSP was scored by CBO for \$2 billion, but as the popularity and producer support and excitement for this program grew, CBO rescored this program for significantly more. In fact, the most recent score for CSP is \$6.8 billion. Instead of seeing a wonderful vehicle to accomplish conservation on the ground, the Bush Administration viewed CSP as a cash cow—one to attack to pay for disaster payments. So, without any ability for debate, in the quiet of the night behind closed doors the Administration undermined the most important conservation program ever authorized—a conservation program open to all producers and capped the CSP. This cap fundamentally changes the CSP.

No longer can all producers have the security of knowing they can participate in a conservation program, no longer can the promised environmental benefits of the conservation title of the farm bill guaranteed. By capping this program—unintended restrictions on participation will follow and the baseline we worked so hard to develop and so carefully negotiated in the farm bill is gone. And, we have greatly hindered the most promising program we had for meeting our WTO obligations in the future.

It is clear today that the Administration is bent on undermining conservation practices and the CSP. It is clear that its words of praise for conservation cannot be reconciled with its destructive measures.

The colloquy between Senator STEVENS, Senator COCHRAN, Senator DASCHLE, Senator FRIST and me entered into on passage of the Omnibus Appropriations bill on February 13, will hopefully lead to correcting this mistake on the next supplemental appropriations bill.

I ask unanimous consent that a statement by Congressman GOODLATTE be printed in the RECORD.

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

[From the House Agriculture Committee,  
Feb. 13, 2003]

CHAIRMAN GOODLATTE'S STATEMENT CONCERNING THE FINAL OMNIBUS SPENDING BILL AND THE DROUGHT ASSISTANCE PROVISION

"We are pleased that the final drought assistance provision provides targeted disaster relief to those farmers who need it the most. It is my hope that this approach will help countless American farmers avoid devastating financial circumstances. I am pleased that it is paid for.

"However, the Committee is greatly concerned that it is paid for out of a carefully negotiated Farm Bill, and would have preferred that the funds had been found elsewhere. Breaking open the Farm Bill, before it has even been implemented, is a very seri-

ous matter. This is a dangerous precedent, which we strongly opposed throughout the course of these negotiations.

"This is a warning to farm legislators and the farm community at large to be vigilant. It will be a constant effort to ensure that the Farm Bill remains a valuable asset to America's farmers and ranchers. While this legislation will help farmers who are hurting right now, we must make certain that in providing this assistance, we don't harm American agriculture in the long term."

UNINSURED AMERICANS

Mr. SMITH. Madam President, as I rise today to speak before my colleagues in the 108th session of the US Congress, I have a sense of *deja vu*. While I have only been a member of the Senate since 1997, I have already seen the issues of prescription drugs for seniors and health care for the uninsured come and go—unresolved—a number of times. And while we continue to discuss the issues to death, people are dying.

According to a recent report by the Institute of Medicine, an estimated 18,000 people die every year because they don't have health insurance, and don't get the care they need in a timely fashion. Eighteen thousand deaths a year. And millions more people suffer unnecessarily due to delays in care, or lack of access to care. We need to do something substantial, and we need to do it now.

We have all heard the numbers, but they are so staggering that I have to mention them again. Today—right now as I speak—41 million Americans are living, working, and going to school without health insurance. That's one in every six Americans or 17 percent of our hard-working citizens who do not have health insurance. They are our friends, our neighbors, our children, our parents.

Many—more than 35 million of these uninsured Americans—are in low-income working families. Many people who work in small businesses are not offered health insurance, and those who are often cannot afford the skyrocketing premiums. My family owns a business, and I know what small businesses go through.

We want to provide health care to our hard working employees as much as they want us to offer it, but it is becoming so expensive and so bureaucratic, it grows more difficult every year. This Congress has its work cut out—strengthening the economy, fighting a war, creating a prescription drug benefit for our Nation's seniors. These are just a few of the important pieces of business before us this year. But the problem of the uninsured will not go away—to the contrary, the ranks of the uninsured are growing by millions every year.

A crisis of this magnitude is going to require fundamental change, either through a series of incremental steps, such as helping lower income Americans buy insurance or by spreading insurance risk, or by adopting a bold new

approach, such as that advocated by Senator BREAUX.

We in Congress should consider it a moral imperative to help everyone get access to affordable health coverage.

The number of uninsured people in America is an outrage, and every unnecessary death is a tragedy. If 18,000 Americans died in terrorist incidents each year, there would be widespread outrage.

Yet tens of thousands of uninsured Americans are at risk of dying each year from cancers diagnosed too late, or stroke from uncontrolled high blood pressure. These can be slow, painful deaths.

They are preventable deaths. We can help prevent these deaths. We should help prevent these deaths. With the help of my colleagues, we will help prevent these deaths by committing ourselves to substantial reform this congress.

ADDITIONAL STATEMENTS

HISTORIC DEERFIELD CELEBRATES ITS 50TH ANNIVERSARY

• Mr. KENNEDY. Madam President, 2002 marked the 50th anniversary of the incorporation of Historic Deerfield. Founded in 1952 by Mr. and Mrs. Henry Needham Flynt of Greenwich, Crt, the western Massachusetts museum complex is located within the 330-year-old village of Deerfield, called "the gem of rural New England" by the National Trust for Historic Preservation. Cited often as the best documented small community in America, Deerfield attracts scholars, curators, and students to study the history of New England using the village's rich manuscript and research holdings. And, tourists and travelers from throughout the world encounter the story of early America in the parlors and kitchens of Deer Field's old houses and along its mile-long thoroughfare simply called, "The Street."

Surrounded by more than 1,000 acres of actively farmed meadows, Historic Deer Field's museum houses and decorative art galleries are filled with more than 30,000 objects made or used in America between 1650 and 1850. This carefully preserved community of 18th and 19th century houses and the renowned collections of antiques within them are framed by working farms in a quintessential New England village that travelers are delighted to discover.

In 1936 Henry and Helen Flynt enrolled their son at Deerfield Academy, a college preparatory school founded in 1797. The couple was amazed at the remarkable but fragile state of preservation of the village's houses and buildings dating back to the early 18th century. Many were ghosts of their former selves, but still lived in by descendants of the proud families that had survived the infamous Deerfield Massacre of 1704. In those years preceding World

War II, Henry Flynt's great passion for America was stirred as he realized that this little village, founded by English settlers in 1669 and whose meadows were inhabited by native peoples for thousands of years before, had witnessed the great events of this country's history.

Encouraged by Deerfield Academy's legendary Headmaster Frank Learoyd Boyden, the Flynts began to purchase several of the old houses and restore their ells and early additions as dormitory space for the school's growing student body. Their interest in every American history and the decorative arts blossomed simultaneously and soon the Flynts were restoring the old houses not as dormitories but as museums filled with their growing collection of the finest antiques then available.

In 1945 the Flynts purchased the 1994 Deerfield Inn and restored it for use by parents visiting Deerfield Academy students. In that same year they bought an old house for themselves and furnished it as their Deerfield residence. By 1948 Historic Deerfield's first museum house—the Parson Jonathan Ashley House—was opened to the public and in the ensuing 25 years 13 more houses were furnished as museums welcoming growing numbers of visitors. Shortly before Henry Flynt's death in 1970, a new research library was opened that also administers the extensive collection of early Deerfield manuscripts owned by the village historical society, The Pocumtuck Valley Memorial Association. Founded in 1880, this repository of local history and art still opens its doors to visitors each year from May to October.

In 1998 a long held dream was realized when a new, 27,000-square-foot decorative arts museum—the Flynt Center of Early New England Life—was opened. With galleries for changing exhibitions, a unique storage display of more than 3000 objects appropriately called the Museum's Attic, and expanded lecture and public program space, the Flynt Center was the culmination of a \$12 million capital campaign that attracted gifts from more than 800 individuals, foundations, and corporations throughout America and abroad.

I congratulate Historic Deerfield on the occasion of its 50th anniversary, and I send my best wishes for 50 more great years.●

#### OREGON COMMUNITY HERO

● Mr. Smith. Madam President, as we celebrate Valentine's Day by sharing our love with those dear to our hearts, I find it fitting today to honor a man who has given his love, time, and dedication to all those he serves. Mr. Dale Hilding of my home town of Pendleton, OR, is an exemplary civil servant, community volunteer, and family man. Both literally and figuratively, he is a hero in every sense of the word.

Dale serves as the manager of the Pendleton Social Security office. As-

sisting the residents of eastern Oregon with such tasks as Social Security retirement, disability and supplemental income benefits; Medicare enrollment; and trouble shooting problems is a gargantuan task. In each of these endeavors, Dale is superb.

Besides supervising employees and managing an office, Dale is also the point of contact for congressional staff. Dale is at the head of the class of Oregon congressional liaisons. He is efficient, effective, and positive in helping me serve my eastern Oregon constituents. Dale has gone beyond the call of duty numerous times helping my staff answer Social Security questions and solving problems for my constituents. He is a true civil servant hero.

Beyond his work as a Federal employee, Dale finds time to serve his community. Taking the example of his father, also a civil servant, Dale says: "If you're an employee of the Federal Government, you have an obligation to be active in the community it serves."

Dale took this advice to heart by spearheading the Combined Federal Campaign, CFC, in eastern Oregon. CFC is the annual fundraising drive conducted by Federal employees in their workplace. These dollars raised benefit thousands of nonprofit charities.

Dale's performance was so phenomenal, in 2001 he was awarded with the civilian CFC Hero Award. This national award is presented to only three winners annually, representing the three areas of Federal service—civilian, military, and postal. He is a true community hero.

Despite these activities, Dale still finds time to be an active family man to his wife and three children. In order to spend more time with his kids, he decided to become involved in their favorite activities. That led Dale to serve as an assistant scout master with the Boy Scouts and an assistant troop leader with the Girl Scouts. Dale also volunteers with the Umatilla County United Way. He is a true family hero.

Exemplary civil servant. Community volunteer. Family man. These are just a few of the many characteristics that make Dale Hilding an exceptional citizen of Oregon. It is with great respect that I, too, call Dale "hero."●

#### FBLA-PBL WEEK

● Mr. BROWNBACK. Madam President, I rise today to acknowledge Future Business Leaders of America-Phi Beta Lambda, (FBLA-PBL), and its work to improve the America in which we live.

Over the past 60 years, FBLA-PBL has been training America's business leaders. This week—February 9-15—over a quarter million FBLA-PBL members observe FBLA-PBL Week in their local chapters and communities all over America. Through partnering with businesses and performing community service projects, FBLA-PBL members gain an understanding of the rights and responsibilities in becoming tomorrow's business leaders.

Certainly, in light of recent corporate scandals, FBLA-PBL's dedication to promoting business ethics is of great importance.

Business cannot advance without such virtues as cooperation, courage, honesty, industry, innovation, practicality, and realism. It needs the rule of law, respect for the truth, and an educated populace. No matter how strong the business model, a loss of confidence in these basic values can be catastrophic—not just to individual investors, but to the company or institution. This is exactly what happened in the collapse of Enron and problems with WorldCom and others. Now, more than ever, America needs strong, moral leaders.

I wish FBLA-PBL well as they continue in the effort of helping to train and instill the values of corporate citizenship for America's Future Business Leaders.●

#### IOWA WESLEYAN: ONE MILLION HOURS OF SERVICE

● Mr. HARKIN. Madam President, this month, Iowa Wesleyan College is marking an important milestone—1 million hours of service by their students to the community. As we celebrate National Volunteer Month, I would like to take a few moments to recognize this extraordinary achievement.

Iowa Wesleyan is a 161 year old liberal arts college located in Mount Pleasant, IA. The college is affiliated with the Methodist Church and "Learning in Community" has been the central mission since its inception in 1842. This mission was formally integrated in 1968 with the establishment of the Responsible Social Involvement, RSI, program. Initially begun as a way to channel the strong desire of students to become socially active, RSI was adopted as a requirement for graduation in 1971.

Students must contribute a minimum of 160 hours of service to a nonprofit organization. They record their experiences in a journal, write a paper reflecting on the experience and make an oral presentation to a faculty committee. Students receive 6 hours of college credit for their service.

For 35 years, Iowa Wesleyan students have served in all types of jobs and all kinds of communities. Students have served as mentors with Big Brother/Big Sister and volunteered for organizations including the American Red Cross, Habitat for Humanity and Special Olympics. Students have served in schools, orphanages and hospitals around the world. They have contributed their time and talent in communities from Mount Pleasant, IA to Jakarta, Indonesia.

Since 1968, Wesleyan students have provided companionship to nursing home residents, tutored children on Indian reservations, coached athletic teams and the list goes on. Over the years, 5000 Wesleyan students have logged 1 million hours of service—or

more than 114 years of service. The RSI program has been a life changing experience for many and has prompted many alumni to continue their volunteer efforts after graduation. It is impossible to calculate the total impact of the program around the State, Nation and world.

In the first of its kind survey of U.S. households, the National Bureau of Labor Statistics reported that 59 million Americans over the age of 16 volunteered between September 2001 and September 2002. Although nearly 30 percent of our citizens are currently serving their communities, the need for more volunteers is vast and I encourage every person to get involved. Volunteer work is the most rewarding experience you will ever find.

I am reminded of this fact every week as a volunteer for the Everybody Wins! Program where I spend the lunch hour reading with a student at Brent Elementary. This is one of the most enjoyable parts of my week and I wouldn't miss it for the world. Unfortunately, there are too many children and not enough volunteers, so please get involved.

You can check your local newspaper, contact nonprofit organizations in your areas or log on to the Internet to find out about volunteer opportunities in your community. There are millions of volunteer jobs that need you. The best way to recognize this milestone of 1 million hours of service by the students of Iowa Wesleyan College is to join them.

Congratulations to the students, alumni and staff of Iowa Wesleyan College for reaching this milestone. You have made a real difference to your communities bullet. •

#### TRIBUTE TO DONALD FRIARY

• Mr. KENNEDY. Madam President, Donald R. Friary, Executive Director and Secretary at Historic Deerfield since 1975, who has been on staff since 1965, will retire from his present position on December 31, as the western Massachusetts museum concludes a year-long celebration of its 50th anniversary. Friary, who announced his retirement in early 2001, has been named Director Emeritus and on January 1, 2003 will begin work as Historic Deerfield's Senior Research Fellow. In announcing Donald Friary's retirement, Henry N. Flynt, Jr., Chairman of the museum's Board of Trustees and son of the museum's founders said, "Historic Deerfield is profoundly grateful for Don Friary's energy, imagination and strong leadership throughout his remarkable twenty-seven years as Executive Director. The successful completion of the campaign that made the Flynt Center of Early New England Life a reality, exemplifies his extraordinary skills as both a leader and a fundraiser. I reflect the Board's deep appreciation for Don's strong and steady hand through the years. We are particularly pleased that he has agreed

to accept an important new position at Historic Deerfield upon his retirement as Executive Director, namely that of Senior Research Fellow."

Commenting on his plans to step down as Executive Director Friary said, "Guiding and fostering the development of Historic Deerfield over these past twenty-seven years has been an extraordinary experience. The ability of this institution to raise the funds necessary to make possible the steady growth of the museum and library collections, the expansion of programs, the increase in both the quality and number of staff, and one of the museum's crowning achievements to date—the creation of the Flynt Center of Early New England Life—has been deeply rewarding for me during my tenure as Director. Deerfield has been home to me and to my family, it has shaped our lives and given much to us, as we have given much to it. Now, I greatly anticipate doing what I have hoped to do since I first came here as a graduate student nearly forty years ago—undertake the research that will allow me to write and lecture about the history of Deerfield and the Historic Deerfield collections. I look forward to keeping in contact with our varied constituencies—our staff, our members and supporters, our Summer Fellows, and all who make this such a unique and exciting place to live and work."

Donald Friary is one of the longest serving directors of a major American museum. He completed his twenty-seventh year at Historic Deerfield's helm and thirty-seventh year on staff when he stepped down as the museum's CEO at the end of 2002. He was a graduate student in 1965 when he accepted the position of Head Tutor of the Historic Deerfield Summer Fellowship Program in Early American History and the Decorative Arts. A native of Boston, and a graduate of the Boston Latin School and Brown University, he holds a Ph.D. in American Civilization from the University of Pennsylvania. He served as the museum's first Director of Academic Programs from 1971 to 1973 and was named Assistant Director and then Executive Director in 1975.

Friary has been honored by election to the American Antiquarian Society, the Colonial Society of Massachusetts, and the Massachusetts Historical Society. He has served on the Boards of the Bay State Historical League, the Dublin Seminar for New England Folklife, the Massachusetts Foundation for the Humanities, the Winterthur Museum's Education Committee, and the Hill-Stead Museum. He was a Trustee and then President of the Williamstown Art Conservation Center where an endowed conservation fellowship bears his name.

Over the last three decades, Friary has brought together a staff of curators, conservators, and other highly skilled professionals in a variety of fields to manage, market and interpret Deerfield's nationally renowned collec-

tions of decorative arts and the 18th and 19th century houses in which they are displayed. Under his direction the museum has developed a reputation for excellence in programming, interpretation, and the preservation of the historic buildings and the open space entrusted to its care. Friary was instrumental in forging an agreement of affiliation for teaching and research between Historic Deerfield and the Five College consortium in 1986 and has, himself, taught several courses at Smith College through that affiliation. In 1990 he was actively involved as a founder of the Deerfield Land Trust, which has, to date, saved more than 1600 acres of town farmland from development.

As Historic Deerfield's major fundraiser, Friary, with some Historic Deerfield Trustees and the museum's development office staff, raised the more than \$12 million needed to design, build and endow the Flynt Center of Early New England Life, which opened in 1998. In 2000, on the occasion of his twenty-fifth anniversary as Executive Director, the Center's major exhibition space was named the Donald R. Friary Exhibition Gallery recognizing the role his leadership played in bringing this ambitious project to a successful conclusion.

Friary began the Friends of Historic Deerfield in 1976 and today 2000 members in 44 States and 7 foreign countries contribute a significant amount to the museum's operating budget each year. When the Deerfield Inn burned in 1979, Friary led the Board of Trustees in raising the \$1.5 million necessary to repair, refurbish, and modernize the original 19th century building, which remains today a centerpiece of the 333-year-old village for the thousands of tourists and travelers who come to Deerfield each year from throughout the world.

Donald Friary's colleagues and students note that among his many accomplishments at Historic Deerfield has been his adherence to the highest standards of excellence in the conservation and presentation of the museum's nationally renowned collections for the benefit of all who visit and study at Historic Deerfield each year. Friary summed up his personal hope for the institution's future in the inaugural issue of the museum's semi-annual magazine, published in Winter 2001, when he said, "Historic Deerfield must and will maintain the standards of excellence that inspired our founders Henry and Helen Flynt, that have guided our staff and Trustees, and that continue to assure our visitors that at Historic Deerfield they have access to the story of New England's and America's past."

Friary brought the endowment phase of the museum's capital campaign to a successful conclusion at the end of 2001 and has spent time in 2002 traveling across the country celebrating Historic Deerfield's 50th anniversary with hundreds of constituents in several states.

In the last several months he has overseen preparations to launch a new campaign to fund a Children's Discovery Center, which is scheduled to open in 2004. And, he is working on several collaborative initiatives as the town of Deerfield prepares to commemorate the tercentenary of its infamous 1704 French and Indian attack, which will take place during 2004.

On the occasion of his well-deserved retirement, I salute Donald Friary for his dedication and outstanding service to Historic Deerfield, to the Commonwealth of Massachusetts and to the nation.●

#### CONGRATULATING MISSOURI WINNERS FOR THE NATIONAL ENGINEERS WEEK REGIONAL FUTURE CITY COMPETITION.

● Mr. BOND. Madam President, I rise today to congratulate three outstanding eighth grade students from Nipher Middle School in Kirkwood, MO: Rebecca Peterson, Roger Alessi, and Cait Hafer. These three students won National Engineers Week Regional Future City Competition.

The National Engineers Week Future City Competition provides a fun and exciting educational engineering program for seventh and eighth-grade students that combines a stimulating engineering challenge with a hands-on application to present their vision of a city of the future. As a part of the competition these students designed a city of the future which included decisions on population, waste management and how the city would be run. After they designed the city, they constructed a model of the city from recycled materials, completed an essay, and presented an oral presentation.

These students have not only shown great leadership and team work, but they have also exemplified excellence in problem solving and creativity. They have demonstrated merit in math, science, and computer knowledge and I commend these exemplary students on their hard work and this well deserved honor.●

#### IN MEMORIAM: LOU HARRISON

● Mrs. BOXER. Madam President, one of our great American composers, Lou Harrison, died recently at the age of 85. Mr. Harrison lived most of his life, including the last 50 years, in California. He taught at a number of universities and had been honored in many ways in recent years, including by a festival of his music at the San Francisco Conservatory of Music. He was en route to another festival of his music, sponsored by Ohio State University and the Columbus Symphony Orchestra, when he died. The San Francisco Chronicle recently published a thoughtful obituary written by its chief classical music critic, Joshua Kosman. I would like to print it in the RECORD in honor of this great man and his rich legacy.

The obituary follows:

Composer Lou Harrison, who delighted Bay Area audiences for decades with his tuneful, spangly music as well as his exuberantly generous personality, died of a heart attack Sunday night in Lafayette, Ind. He was 85.

Mr. Harrison, a resident of Aptos (Santa Cruz County) since 1953, was on his way to Columbus, Ohio, for a weeklong festival of his music sponsored by the Columbus Symphony Orchestra and Ohio State University. According to Professor Donald Harris, Mr. Harrison, who disliked flying, was being transported in a university van from the Chicago train station to Columbus on Sunday night. The van had stopped at a roadside diner when he was stricken. He died at a local hospital shortly afterward.

"He was just such a great friend to music, to our planet and to everybody," said San Francisco Symphony music director Michael Tilson Thomas, an advocate who commissioned an orchestral piece from Mr. Harrison to inaugurate his first concert season in 1995. "We're going to miss him greatly."

"This was an irreplaceable guy," said composer Charles Amirkhanyan, executive director of the Other Minds Festival, which honored Mr. Harrison in 2000. "The East Coast had (Aaron) Copland, and we had Lou."

#### UNABASHEDLY BEAUTIFUL MUSIC

Spirited, rhythmically vibrant and unabashedly beautiful, Mr. Harrison's music incorporated elements of Asian and Western styles in a highly personal synthesis. He had a fondness for the jangly, percussive sounds of Asian music, and in addition to traditional instruments, his scores often included such devices as flowerpots, porcelain rice bowls, garbage cans and oxygen tanks.

Many of these instruments were built in collaboration with his life partner William Colvig, who died in 2000. Together, the two men created a large orchestra of idiosyncratic metal percussion instruments for which Mr. Harrison wrote dozens of pieces.

He wrote copiously in traditional Western forms as well, including symphonies, operas, chamber and choral music.

What united all his music, though, was its essentially melodic nature. Whether shaped by medieval French dance rhythms, Javanese modes or Korean harmonies, melody always was Mr. Harrison's primary building block.

"These are melodies that stick with you and are useful for everyday life," Thomas said. "There are tunes by Lou Harrison that are ideal for walking up a steep ridge, and some that are good for falling asleep in a hammock. He had the gift for finding the tune that had the essence of a particular experience."

And in the face of orthodoxies favoring structural integrity and fearless dissonance, Mr. Harrison was never afraid to write music that celebrated beauty for its own sake.

"He was one of the very first composers to bring back the pleasure principle," said composer John Adams. "For those of us who came of age during the bad old days when rigor and theory and the atomization of musical elements was so in vogue, Lou provided a model of expressivity and sheer beauty."

Mr. Harrison also was the last living link to a tradition of American experimental music that reached back to Charles Ives—whose Third Symphony had its premiere in 1946 with Mr. Harrison conducting—and included such influential figures as Henry Cowell, Harry Partch and John Cage.

Lou Silver Harrison was born on May 14, 1917, in Portland, Ore., and moved frequently as a child throughout the Pacific Northwest and the Bay Area. By the time he graduated from Burlingame High School in 1934, he said, he had attended 18 different schools,

"so I never really put down roots or had a peer group."

He studied music briefly at San Francisco State University, then began private lessons with Cowell, who encouraged his interest in world music and nontraditional instrumental techniques. Cowell also introduced him to Cage, who would be a lifelong friend and artistic collaborator.

After a brief stint at UCLA, where he enrolled in Arnold Schoenberg's composition seminar, Mr. Harrison moved to New York in 1943. There he wrote music criticism for the New York Herald Tribune under the aegis of Virgil Thomson and edited and premiered Ives' Third Symphony, which won the composer a Pulitzer Prize.

But Mr. Harrison found New York life too stressful, and after a two-year teaching engagement at Black Mountain College in North Carolina, he settled in Aptos for good in 1953. In subsequent years, he taught at Stanford University, San Jose State University, Cabrillo College and Mills College. In 1963, he was one of the founders of the Cabrillo Music Festival, which continues as an annual celebration of new music.

His nearest survivors are his sister-in-law, Dorothy Harrison, and two nephews. His body was cremated, but other arrangements are incomplete.

In recent years, Mr. Harrison's music was a frequent feature of San Francisco Symphony programs, with the composer himself, in his trademark red flannel shirt and snow-white beard, beaming from a loge box. In addition to "A Parade for M.T.T.," premiered in 1995, the Symphony has performed the Third Symphony, the Cantic No. 3 and the Organ Concerto.

His music is amply represented on the San Francisco record label New Albion.

In 1998, Barry Jekowsky and the California Symphony released a disc of his music, including the Fourth Symphony with jazz vocalist Al Jarreau as narrator.

Mr. Harrison's interests extended far beyond music. He was a published poet and a painter, and as a young man had been a dancer as well—a fact he enjoyed relating to audiences in his later years, when his girth made the idea seem incongruous.

#### COMMITTED TO GAY RIGHTS

He was committed to gay rights long before the subject was common; his 1971 puppet opera "Young Caesar" focused on a gay love affair of Julius Caesar's. He was an ardent pacifist and political activist.

And he had more exotic passions as well—Esperanto, bio-diesel, kenaf (a fiber related to the hibiscus that he touted as an ecologically sound alternative to paper), calligraphy, American Sign Language and especially straw-bale construction. His straw-bale house in the Mojave Desert near Joshua Tree National Park, completed last year, was a joyful retreat in his final months.

That spirit of all-embracing receptivity and openness to experience was evident everywhere in his music. As he once told an interviewer, "There are so many musics that I'm attracted to. I'm fortunate that I laid out my toys on a very large acreage when I was very young."●

#### REPORT CONCERNING THE JUSTIFICATION OF THE AUSTRALIA GROUP AND THE CONVENTION ON THE PROHIBITION OF THE DEVELOPMENT, PRODUCTION, STOCKPILING AND USE OF CHEMICAL WEAPONS AND ON THEIR DESTRUCTION—PM 16

The PRESIDING OFFICER laid before the Senate the following message from the President of the United

States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

*To the Congress of the United States:*

Consistent with the resolution of advice and consent to ratification of the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction, adopted by the United States Senate on April 24, 1997, I hereby certify pursuant to Condition 7(C)(i), Effectiveness of the Australia Group, that:

Australia Group members continue to maintain equally effective or more comprehensive controls over the export of: toxic chemicals and their precursors; dual-use processing equipment; human, animal, and plant pathogens and toxins with potential biological weapons applications; and dual-use biological equipment, as that afforded by the Australia Group as of April 25, 1997; and

The Australia Group remains a viable mechanism for limiting the spread of chemical and biological weapons-related materials and technology, and the effectiveness of the Australia Group has not been undermined by changes in membership, lack of compliance with common export controls and nonproliferation measures, or the weakening of common controls and nonproliferation measures, in force as of April 25, 1997.

The factors underlying this certification are described in the enclosed statement of justification.

GEORGE W. BUSH,  
THE WHITE HOUSE, February 12, 2003.

#### MESSAGES FROM THE HOUSE

At 7:11 p.m., a message from the House of Representatives, delivered by M. Niland, one of its reading clerks, announced that the House agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment to the Senate to the joint resolution (H.J. Res. 2) making further continuing appropriations for the fiscal years 2003, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4. An act to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes.

H.R. 346. An act to amend the Federal Trade Commission Act to increase civil penalties for violations involving certain prescribed acts or practices that exploit popular reaction to an emergency or major disaster declared by the President, and to authorize the Federal Trade Commission to seek civil penalties for such violations in actions brought under section 13 of that Act.

H.R. 395. An act to authorize the Federal Trade Commission to collect fees for the implementation and enforcement of a "do-not-call" registry, and for other purposes.

#### ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

S. 141. An act to improve the calculation of the Federal subsidy rate with respect to certain small business loans, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

At 7:54 p.m. a message from the House of Representatives, delivered by Mr. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 35. Concurrent Resolution directing the Clerk of the House of Representatives to make a technical correction in the enrollment of H.J. Res. 2.

H. Con. Res. 41. Concurrent Resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

#### MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated.

H.R. 4. An act to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; to the Committee on Finance.

H.R. 346. An act to amend the Federal Trade Commission Act to increase civil penalties for violations involving certain prescribed acts or practices that exploit popular reaction to an emergency or major disaster declared by the President, and to authorize the Federal Trade Commission to seek civil penalties for such violations in actions brought under section 13 of that Act; to the Committee on Commerce, Science, and Transportation.

The Committee on Small Business and Entrepreneurship was discharged from further consideration of the following measure which was referred to the Committee on Rules and Administration.

S. Res. 55. Resolution authorizing expenditures by the Committee on Small Business and Entrepreneurship.

#### 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-1182. A communication from the Acting Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the 2001 Annual Report describing the activities and operations of the Public Integrity Section, Criminal Division; to the Committee on the Judiciary.

EC-1183. A communication from the General Counsel, Department of Defense, transmitting, pursuant to law, the report of proposed legislation for the inclusion in the National Defense Authorization for Fiscal Year 2004; to the Committee on Armed Services.

EC-1184. A communication from the Chief General Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Rules Governing Availability of Information—31 CFR part 501" received on February 5, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-1185. A communication from the Attorney/Advisor, Department of Transportation, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary for Transportation Policy, received on February 10, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1186. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 14-590 "Standard Valuation and Nonforfeiture Temporary Amendment Act of 2002" received on February 10, 2003; to the Committee on Governmental Affairs.

EC-1187. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 14-591 "Unemployment Compensation Services Temporary Act of 2002" received on February 10, 2003; to the Committee on Governmental Affairs.

EC-1188. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 14-584 "Cady's Alley Designation Act of 2002" received on February 10, 2003; to the Committee on Governmental Affairs.

EC-1189. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 14-577 "Hotel Development Projects Labor Peace Agreement Act of 2002" received on February 10, 2003; to the Committee on Governmental Affairs.

EC-1190. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 14-589 "Towing Vehicles Rulemaking Authority Continuation Temporary Act of 2002" received on February 10, 2003; to the Committee on Governmental Affairs.

EC-1191. A communication from the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a designation of acting officer for the position of Solicitor General, received on February 10, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC-1192. A communication from the Deputy White House Liaison, Department of Education, transmitting, pursuant to law, the report of a nomination withdrawn for the position of Assistant Secretary, Department of Education, received on February 10, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC-1193. A communication from the Assistant Secretary, Legislative Affairs, Department of Defense, transmitting, pursuant to law, the report of a modification to Section 609(b) of Public Law 101-162, received on February 10, 2003; to the Committee on Commerce, Science, and Transportation.

EC-1194. A communication from the Hawaiian Congressional Delegation, transmitting, the report of the intent to address the impact of the Compact of Free Association (P.L. 99-239) between the United States and the Republic of the Marshall Islands (RMI) and the Federated States of Micronesia (FSM); to the Committee on Energy and Natural Resources.

## PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-49. A resolution adopted by the City of Traverse City, Michigan relative to supporting men and women of armed forces; to the Committee on Armed Services.

## RESOLUTION

Whereas, the United States citizens, property, and armed forces personnel have been attacked by terrorists on numerous occasions including the U.S.S. Cole in Yemen; American embassies in East Africa; the Khobar Towers in Saudi Arabia; the World Trade Center in New York; the Pentagon in Washington, D.C.; and

Whereas, in the past, present and future, thousands of men and women in the Armed Forces of the United States, including many from the Traverse City area, have been and continue to be engaged in defending against terrorist attacks worldwide; and

Whereas, these men and women have taken an oath to defend the Constitution of the United States against all enemies, foreign and domestic; and

Whereas, these men and women have demonstrated their dedication to defining our freedoms with their personal sacrifices, in some cases the ultimate sacrifice of their lives, in order for us to enjoy the freedoms so often taken for granted; and

Whereas, especially in this holiday season, these men and women serve in faraway and lonely places, separated from homes and families, without the comforts and joys of this season of peace; and

Whereas, through this resolution, the City Commission will be extending due respect to all our men and women in the Armed Forces of the United States and a greater sense of national gratitude to those who are preserving our liberties: Now, therefore, be it

*Resolved*, That the City Commission of the City of Traverse City expresses its support and appreciation to the men and women of the Armed Forces of the United States in the War on Terrorism in this holiday season; and further, be it

*Resolved*, That copies of this resolution be transmitted to the Office of the President of the United States, the President of the United States Senate, and the Speaker of the United States House of Representatives.

POM-50. A resolution adopted by the House of the Legislature of the State of Michigan relative to expanding Medicare to include a prescription pharmaceutical plan for low-income seniors; to the Committee on Finance.

## HOUSE RESOLUTION NO. 597

Whereas, As the costs of medicine rise and as more seniors face great difficulties in paying for prescription medications, there is a genuine need to expand the coverages provided under Medicare. For an increasing number of our older citizens, the choice between spending limited financial resources on food or medicine creates a strain that can in itself be damaging to a person's health and well-being; and

Whereas, Beyond the financial considerations of proposals to offer a prescription drug plan under Medicare, implementing a program will elevate the level of health care for many people. Clearly, this will benefit not only the seniors who participate, but their families as well; and

Whereas, It is significant to note that, even as our country faces the expensive task of fighting terrorism and even as we battle recession, the issue of low-income seniors needing prescription drug coverage remains

critical. For those who face the painful realities of being unable to pay for vitally needed medication, this is a crisis of its own: Now, therefore, be it

*Resolved by the House of Representatives*, That we memorialize the Congress of the United States to expand Medicare to include a prescription pharmaceutical plan for low-income seniors; and be it further

*Resolved*, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-51. A resolution adopted by the House of the Legislature of the State of Michigan relative to allow taxpayers to deduct fully the cost of their health insurance premiums; to the Committee on Finance.

## HOUSE RESOLUTION NO. 601

Whereas, A key factor in a person's overall quality of life is access to health care. Having health insurance contributes to better health for individuals and families. On a larger scale, people with health insurance benefit society because they are far less likely to need public resources when health problems arise; and

Whereas, Through our state and federal tax policies, our nation has made decisions on what types of behavior benefit our society. There are many examples of this. Our tax laws encourage people to save for retirement, invest in business enterprises, make donations for charitable purposes, and own homes. A great number of specific expenses are deductible, although some require different thresholds to qualify; and

Whereas, Given the clear public benefits to our society that derive from those who purchase health insurance, it would be a sound public policy to take every step to encourage the purchase of health insurance. It seems not only eminently fair, but also in the best interests of the country to amend federal tax laws to provide that an individual's premium costs for health insurance are fully deductible. By taking this step to encourage people to secure insurance, we will be addressing a fundamental need, reducing some public costs, and helping our citizens help themselves and their families: Now, therefore, be it

*Resolved by the House of Representatives*, That we memorialize Congress to enact legislation to provide that taxpayers can deduct fully the cost of their health insurance premiums; and be it further

*Resolved*, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-52. A resolution adopted by the House of the Legislature of the State of Michigan relative to removing "use it or lose it" restrictions on flexible spending accounts to permit participants to roll over unused funds to the next year, to the Committee on Finance.

## HOUSE RESOLUTION NO. 602

Whereas, Flexible spending accounts have proven to be effective tools for helping people cope with necessary expenses, such as dependent care and medical costs. Like many aspects of tax policies that encourage behavior that ultimately benefits both individuals and our entire society, flexible spending accounts reflect sensitivity to the challenges people face in providing for themselves and their families; and

Whereas, Under the current provisions of the laws governing taxes, flexible spending

accounts are subject to tight restrictions. While most of the provisions are very productive in ensuring fairness, one of the policies in place is proving to be counterproductive. Currently, a participant with a flexible spending account must use all the money in the account by the end of each year or forfeit the remaining funds. This is a serious disincentive to participation. This requirement not only presumes a person can predict exactly how much money will be spent on the covered activity in a year, but it also ignores the fact that the money set aside for the intended purposes still belongs to the participant; and

Whereas, It would be far more appropriate to permit a participant to transfer unused funds in a flexible spending account to the next year rather than losing the unused money; Now, therefore, be it

*Resolved by the House of Representatives*, That we memorialize the Congress of the United States to enact legislation to remove the "use it or lose it" restrictions on flexible spending accounts to permit participants to roll over unused funds to the next year; and be it further

*Resolved*, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-53. A resolution adopted by the House of the Legislature of the State of Michigan relative to providing more flexibility for participants in medical care spending accounts; to the Committee on Finance.

## HOUSE RESOLUTION NO. 603

Whereas, Medical care spending accounts are an effective tool for people to use to prepare for medical expenses and minimize overall costs. These flexible spending accounts help individuals and families dealing with the increasing costs of health care; and

Whereas, All measures that encourage people to plan for medical expenses also bring benefits through the increased number of people seeking and paying for medical services without relying on governmental programs. For participants, medical care spending accounts can bring significant savings, especially since major health care expenses are often unforeseen; and

Whereas, While medical care spending accounts have been helpful to many American families, there is much more that could be done to increase the rate of participation. The nature of medical expenses argues strongly for increased flexibility to meet unforeseen health costs. With the ever-increasing cost of medical services, every effort should be made to increase participation in medical care spending accounts by removing the barriers and restrictions that keep many people from taking advantage of this idea Now, therefore, be it

*Resolved by the House of Representatives*, That we memorialize the Congress of the United States to enact legislation to provide more flexibility for participants in medical care spending accounts; and be it further

*Resolved*, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-54. A resolution adopted by the City of Miami, Florida relative to the United Nations convention on the elimination of all forms of discrimination against women; to the Committee on Foreign Relations.

## RESOLUTION NO. 02-803

*Be it resolved by the Commission of the City of Miami, Florida:*

Section 1. The Miami City Commission's support of the United Nations' Convention on the Elimination of all Forms of Discrimination Against Women as stated in Resolution No. 00-917, adopted October 26, 2000, attached and incorporated, is restated.

Section 2. The United States Congress is urged to immediately ratify said Convention.

Section 3. The City Clerk is directed to transmit a copy of this Resolution to President George W. Bush, Vice-President Richard B. Cheney, Speaker of the House J. Dennis Hastert, Senators Bill Nelson and Bob Graham, all the members of the United States House of Representatives for Miami-Dade County, and the United States Senate Foreign Relations Committee.

Section 4. This Resolution shall become effective immediately upon its adoption and signature of the Mayor.

POM-55. A resolution adopted by the City of Ann Arbor, Michigan relative to opposition to war in Iraq; to the Committee on Foreign Relations.

#### RESOLUTION

Whereas, A United States war against Iraq could have significant impact on the Citizens of Ann Arbor, in terms of the potential loss of life and disability among our members of the armed forces, as well as an economic impact as our local tax dollars are diverted to the costs of war, not returned to our State and our community to be spent on needed social, health and education services;

Whereas, The United States has declared this decade, 2000-2010 as the "International Decade for a Culture of Peace and Non-Violence for the Children of the World" (UN Declaration 53/25, November 10, 1998), urging all people and all levels of government to seek non-violent approaches to conflict resolution and wider education about international law and alternative to war;

Whereas, A unilateral preemptive war would be a radical change in the principles of international law and custom that the United States has always followed;

Whereas, All war brings destruction and loss of lives, both of combatants and civilians, to all involved countries;

Whereas, Our U.S. Congressional Delegation, Senators Carl Levin and Debbie Stabenow and House Representatives Lynn Rivers and John Dingell, voted against unilateral war by the United States against Iraq and have urged the United States to cooperate with the United Nations in any decision on military action against Iraq, and would be encouraged by our support; and

Whereas, The Ann Arbor City Council cannot speak for all residents, but has been asked by many residents to speak out on this momentous issue facing our nation; therefore, be it

*Resolved*, That the Ann Arbor City Council joins with the communities of Washington, D.C.; Seattle, Washington; Albuquerque, New Mexico; Takoma Park, Maryland; Arcata, California; Santa Barbara, California; Santa Cruz, California; Ithaca, New York; Santa Fee, New Mexico; Danby, New York; Sebastopol, California; New Haven, Connecticut; Oakland, California; Carrboro, North Carolina; Haines Township, Pennsylvania; Madison, Wisconsin; Burlington, Vermont; and Detroit, Michigan; and with our U.S. Congressional Delegation, Senators Carl Levin and Debbie Stabenow and Representatives Lynn Rivers and John Dingell, in opposing a war with the country of Iraq, particularly prior to taking all available measures to cooperate with the United Nations in removing all weapons of mass destruction.

POM-56. A resolution adopted by the City of Palm Bay, Florida relative to completely

banning human cloning; to the Committee on the Judiciary.

#### RESOLUTION NO. 2003-06

Whereas, human cloning is a manufacturing process in which a human being is created in a laboratory; human cloning indicates a utilitarian view in which a human being is created merely for usefulness with no respect for the dignity of that human being; and human cloning creates a human being who is the twin of a parent, has no other biological parent, and is the child of the grandparents thereby causing serious moral, social, and legal issues, and

Whereas, current human cloning attempts pose a substantial risk of producing human beings with unpredictable but potentially devastating health problems, and

Whereas, such human cloning attempts are grossly irresponsible and unethical, and

Whereas, on July 31, 2001, the United States House of Representatives passed the Human Cloning Prohibition Act of 2001, a complete human cloning ban; and the President of the United States has called for a complete human cloning ban; and

Whereas, the United States Senate failed to act on the bill passed by the United States House of Representatives before the end of the 107th Congress, and

Whereas, a complete human cloning ban is achieved by the passage of the Human Cloning Prohibition Act of 2003 as introduced in the United States House of Representatives by Congressman Dave Weldon, M.D. (H.R. 234) and is not achieved by the passage of other human cloning prohibition acts that allow the creation of human embryos by cloning so long as they are killed for research: Now, therefore, be it

*Resolved by the City Council of the City of Palm Bay, Brevard County, Florida, as follows:*

Section 1. The above recitals are true and correct and by this reference are hereby incorporated into and made an integral part of this resolution.

Section 2. The City Council of the City of Palm Bay strongly urges the United States House of Representatives to pass the Human Cloning Prohibition Act of 2003 introduced by Congressman Dave Weldon, M.D.; that the United States Senate is strongly urged to pass a complete human cloning ban; that the Florida House and Senate are urged to provide identical protection for life in this state, and that the President of the United States is strongly urged to sign a complete human cloning ban.

Section 3. This resolution shall take effect immediately upon the enactment date.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. WARNER, without amendment:

S. Res. 57. An original resolution authorizing expenditures by the Committee on Armed Services.

#### EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. HATCH for the Committee on the Judiciary.

Jeffrey S. Sutton, of Ohio, to be United States Circuit Judge for the Sixth Circuit.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

#### 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. DASCHLE (for himself, Mr. LUGAR, Mr. HAGEL, Mr. DORGAN, Mr. JOHNSON, Mr. VOINOVICH, Mr. HARKIN, Mr. BOND, Mr. NELSON of Nebraska, Mr. GRASSLEY, Mr. DURBIN, Mr. TALENT, Mr. DAYTON, Mr. FITZGERALD, Mr. COLEMAN, and Mr. CONRAD):

S. 385. A bill to amend the Clean Air Act to eliminate methyl tertiary butyl ether from the United States fuel supply, to increase production and use of renewable fuel, and to increase the Nation's energy independence, and for other purposes; to the Committee on Environment and Public Works.

By Mr. CORZINE (for himself, Mr. FITZGERALD, Mr. SARBANES, and Mr. AKAKA):

S. 386. A bill to establish a grant program to enhance the financial and retirement literacy of mid-life and older Americans and to reduce financial abuse and fraud among such Americans, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. LINCOLN (for herself, Mr. REID, Ms. SNOWE, Mr. BREAUX, Mr. GRAHAM of Florida, Mr. BINGAMAN, Ms. LANDRIEU, Mrs. MURRAY, Ms. MIKULSKI, Mr. SARBANES, Mr. REED, Mr. KENNEDY, and Ms. COLLINS):

S. 387. A bill to amend title XVIII of the Social Security Act to extend the eligibility periods for geriatric graduate medical education, to permit the expansion of medical residency training programs in geriatric medicine, to provide for reimbursement of care coordination and assessment services provided under the medicare program, and for other purposes; to the Committee on Finance.

By Mr. ROBERTS (for himself, Mrs. HUTCHISON, Ms. COLLINS, and Mr. JEFFORDS):

S. 388. A bill to amend the Internal Revenue Code of 1986 to expand the dependent care tax credit, to accelerate the child tax credit, and to promote dependent care assistance programs; to the Committee on Finance.

By Mr. ROBERTS (for himself, Ms. COLLINS, and Mr. JEFFORDS):

S. 389. A bill to increase the supply of quality child care; to the Committee on Finance.

By Mr. LEVIN:

S. 390. A bill to amend title 18, United States Code, to provide retroactive effect to a sentencing safety valve provision; to the Committee on the Judiciary.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. 391. A bill to enhance ecosystem protection and the range of outdoor opportunities protected by statute in the Skykomish River valley of the State of Washington by designating certain lower-elevation Federal lands as wilderness, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. REID (for himself, Mr. MCCAIN, Mr. AKAKA, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Ms. CANTWELL, Mrs. CLINTON, Mr. CORZINE, Mr. DASCHLE, Mr. DAYTON, Mr. DORGAN, Mr. DURBIN, Mrs. FEINSTEIN, Mr. GRASSLEY, Mr. HAGEL, Mr. INOUE, Mr. JOHNSON, Ms. LANDRIEU, Mr. LEAHY, Mr. LEVIN, Mrs. LINCOLN, Mr. MILLER, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SMITH,

Ms. SNOWE, Mr. CAMPBELL, Mr. LIEBERMAN, and Mr. COCHRAN);

S. 392. A bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability; to the Committee on Armed Services.

By Mr. ALLEN:

S. 393. A bill to amend the Internal Revenue Code of 1986 to allow employers a credit against income tax with respect to employees who participate in the military reserve components and to allow a comparable credit for participating reserve component self-employed individuals, and for other purposes; to the Committee on Finance.

By Mr. ALLEN:

S. 394. A bill to amend the Internal Revenue Code of 1986 to expand the combat zone income tax exclusion to include income for the period of transit to the combat zone and to remove the limitation on such exclusion for commissioned officers; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. CONRAD, Mr. CRAPO, Mr. BREAUX, Mr. LEAHY, Mr. HARKIN, Mr. DURBIN, Mr. CRAIG, Mr. JOHNSON, Mr. CHAFEE, Ms. SNOWE, and Mr. KERRY):

S. 395. A bill to amend the Internal Revenue Code of 1986 to provide a 3-year extension of the credit for producing electricity from wind; to the Committee on Finance.

By Mr. BAUCUS (for himself and Mr. GRASSLEY):

S. 396. A bill to amend the Internal Revenue Code of 1986 to exempt small manufacturers from the firearms excise tax; to the Committee on Finance.

By Mr. ENSIGN (for himself and Mrs. HUTCHISON):

S. 397. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for the old-age, survivors, and disability insurance taxes paid by employees and self-employed individuals, and for other purposes; to the Committee on Finance.

By Mr. ALLEN:

S. 398. A bill to provide that members of the Armed Forces performing services at Guantanamo Bay Naval Station, Cuba, and in the Horn of Africa in support of Operation Enduring Freedom shall be entitled to tax benefits in the same manner as if such services were performed in a combat zone, and for other purposes; to the Committee on Finance.

By Mr. CAMPBELL:

S. 399. A bill to authorize grants for the establishment of quasi-judicial campus drug courts at colleges and universities modeled after State drug courts programs; to the Committee on the Judiciary.

By Mr. SCHUMER (for himself and Mrs. CLINTON):

S. 400. A bill to amend the Internal Revenue Code of 1986 to allow for the expansion of areas designated as renewal communities based on 2000 census data; to the Committee on Finance.

By Ms. LANDRIEU:

S. 401. A bill to amend title 10, United States Code, to increase to parity with other surviving spouses the basic annuity that is provided under the uniformed services Survivor Benefit Plan for surviving spouses who are at least 62 years of age; and for other purposes; to the Committee on Armed Services.

By Mr. FEINGOLD:

S. 402. A bill to abolish the death penalty under Federal law; to the Committee on the Judiciary.

By Mr. BAUCUS (for himself, Mrs. LINCOLN, Mr. CONRAD, and Mrs. MURRAY):

S. 403. A bill to lift the trade embargo on Cuba, and for other purposes; to the Committee on Finance.

By Mr. BUNNING (for himself and Mr. BROWNBACK):

S. 404. A bill to protect children from exploitive child modeling, and for other purposes; to the Committee on the Judiciary.

By Mr. DEWINE (for himself and Mr. DODD):

S. 405. A bill to amend the Higher Education Act of 1965 to improve the loan forgiveness program for child care providers, including preschool teachers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE (for himself and Mr. LIEBERMAN):

S. 406. A bill to provide grants to States and outlying areas to encourage the States and outlying areas to encourage existing or establish new statewide coalitions among institutions of higher education, communities around the institutions, and other relevant organizations or groups, including anti-drug or anti-alcohol coalitions, to reduce underage drinking and illicit drug-use by students, both on and off campus; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE (for himself and Mr. ROCKEFELLER):

S. 407. A bill to amend the Higher Education Act of 1965 to provide loan forgiveness for attorneys who represent low-income families or individuals involved in the family or domestic relations court systems; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE:

S. 408. A bill to establish a grant program to enable institutions of higher education to improve schools of education; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE (for himself and Mr. ROCKEFELLER):

S. 409. A bill to provide loan forgiveness to social workers who work for child protective agencies; to the Committee on Health, Education, Labor, and Pensions.

By Mr. EDWARDS:

S. 410. A bill to establish the Homeland Intelligence Agency, and for other purposes; to the Select Committee on Intelligence.

By Mr. BINGAMAN:

S. 411. A bill to amend title 49, United States Code, to establish a university transportation center to be known as the "Southwest Bridge Research Center"; to the Committee on Environment and Public Works.

By Mr. KYL (for himself, Mr. MCCAIN, Mr. DOMENICI, Mrs. FEINSTEIN, Mr. CORNYN, and Mr. SCHUMER):

S. 412. A bill to amend the Balanced Budget Act of 1997 to extend and modify the reimbursement of State and local funds expended for emergency health services furnished to undocumented aliens; to the Committee on Finance.

By Mr. NICKLES:

S. 413. A bill to provide for the fair and efficient judicial consideration of personal injury and wrongful death claims arising out of asbestos exposure, to ensure that individuals who suffer harm, now or in the future, from illnesses caused by exposure to asbestos receive compensation for their injuries, and for other purposes; to the Committee on the Judiciary.

By Mr. LIEBERMAN:

S.J. Res. 6. A joint resolution expressing the sense of Congress with respect to planning the reconstruction of Iraq; to the Committee on Foreign Relations.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WARNER:

S. Res. 57. An original resolution authorizing expenditures by the Committee on Armed Services; from the Committee on Armed Services; to the Committee on Rules and Administration.

By Mr. ALLEN:

S. Res. 58. A resolution expressing the sense of the Senate that the President should designate the week beginning June 1, 2003, as "National Citizen Soldier Week"; to the Committee on the Judiciary.

By Mr. WYDEN (for himself and Mr. SMITH):

S. Res. 59. A resolution congratulating the University of Portland women's soccer team for winning the 2002 NCAA Division I national championship; considered and agreed to.

By Mr. GRASSLEY (for himself, Mr. DURBIN, Mr. KOHL, Mr. COLEMAN, Mr. FEINGOLD, and Mr. HARKIN):

S. Con. Res. 5. A concurrent resolution expressing the support for the celebration in 2004 of the 150th anniversary of the Grand Excursion of 1854; to the Committee on the Judiciary.

By Ms. LANDRIEU:

S. Con. Res. 6. A concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of Daniel "Chappie" James, the Nation's first African-American four-star general; to the Committee on Governmental Affairs.

By Mr. CAMPBELL (for himself, Mr. SMITH, and Mrs. CLINTON):

S. Con. Res. 7. A concurrent resolution expressing the sense of Congress that the sharp escalation of anti-Semitic violence within many participating States of the Organization for Security and Cooperation in Europe (OSCE) is of profound concern and efforts should be undertaken to prevent future occurrences; to the Committee on Foreign Relations.

## ADDITIONAL COSPONSORS

S. 10

At the request of Mr. DASCHLE, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 10, a bill to protect consumers in managed care plans and other health coverage, to provide for parity with respect to mental health coverage, to reduce medical errors, and to increase the access of individuals to quality health care.

S. 204

At the request of Mr. BINGAMAN, the names of the Senator from Arkansas (Mr. PRYOR) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 204, a bill to amend title XIX of the Social Security Act to increase the floor for treatment as an extremely low DSH State to 3 percent in fiscal year 2003.

S. 219

At the request of Mr. BAUCUS, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 219, a bill to amend the Tariff Act of 1930 to clarify the adjustments to be made in determining export price and constructed export price.

S. 253

At the request of Mr. CAMPBELL, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 253, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.

S. 254

At the request of Mr. AKAKA, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 254, a bill to revise the boundary of the Kaloko-Honokohau National Historical Park in the State of Hawaii, and for other purposes.

S. 267

At the request of Mr. MCCAIN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 267, a bill to amend the Internal Revenue Code of 1986 to provide for a deferral of tax on gain from the sale of telecommunications businesses in specific circumstances or a tax credit and other incentives to promote diversity of ownership in telecommunications businesses.

S. 274

At the request of Mr. GRASSLEY, the names of the Senator from Ohio (Mr. VOINOVICH), the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Kentucky (Mr. MCCONNELL) were added as cosponsors of S. 274, a bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

S. 289

At the request of Mr. GRASSLEY, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 289, a bill to amend the Internal Revenue Code of 1986 to improve tax equity for military personnel, and for other purposes.

S. 300

At the request of Mr. CAMPBELL, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 300, a bill to further the protection and recognition of veterans' memorials, and for other purposes.

S. 335

At the request of Mr. JOHNSON, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 335, a bill to expand the calling time restrictions on telemarketing telephone calls to include the period from 5:30 p.m. to 7:30 p.m., and for other purposes.

S. 357

At the request of Mrs. LINCOLN, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 357, a bill to amend the Internal Revenue Code of 1986 to modify the credit for the production of fuel from nonconventional sources to include production of fuel from agricultural and animal waste.

S. 379

At the request of Mr. BINGAMAN, the names of the Senator from Arkansas (Mrs. LINCOLN), the Senator from South Dakota (Mr. JOHNSON) and the

Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 379, a bill to amend title XVIII of the Social Security Act to improve the medicare incentive payment program.

S. CON. RES. 4

At the request of Mr. LIEBERMAN, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. Con. Res. 4, a concurrent resolution welcoming the expression of support of 18 European nations for the enforcement of United Nations Security Council Resolution 1441.

S. RES. 24

At the request of Mr. BYRD, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 24, a resolution designating the week beginning May 4, 2003, as "National Correctional Officers and Employees Week".

S. RES. 48

At the request of Mr. AKAKA, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. Res. 48, a resolution designating April 2003 as "Financial Literacy for Youth Month".

S. RES. 52

At the request of Mr. CAMPBELL, the names of the Senator from Alaska (Ms. MURKOWSKI) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. Res. 52, a resolution recognizing the social problem of child abuse and neglect, and supporting efforts to enhance public awareness of the problem.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DASCHLE (for himself, Mr. LUGAR, Mr. HAGEL, Mr. DORGAN, Mr. JOHNSON, Mr. VOINOVICH, Mr. HARKIN, Mr. BOND, Mr. NELSON of Nebraska, Mr. GRASSLEY, Mr. DURBIN, Mr. TALENT, Mr. DAYTON, Mr. FITZGERALD, Mr. COLEMAN, and Mr. CONRAD):

S. 385. A bill to amend the Clean Air Act to eliminate methyl tertiary butyl ether from the United States fuel supply, to increase production and use of renewable fuel, and to increase the Nation's energy independence, and for other purposes; to the Committee on Environmental and Public Works.

Mr. DASCHLE. Madam President, headlines in daily papers all across the country underscore our economy's vulnerability to foreign oil.

Today, a new generation is learning what many Americans have known since the 1970s—our economic security and our national security depend on our energy security.

Today I, along with a number of my colleagues, am introducing the Fuels Security Act of 2003.

This bill responds directly to our Nation's unhealthy reliance on imported oil by establishing greater flexibility in our gasoline regulations, and by tripling the use of domestic, renewable fuels over the next 10 years.

This legislation is identical to the fuels agreement included in last year's Senate-passed energy bill.

Based on the experience we have gained over the last seven years with the reformulated gasoline program, the Fuel Security Act bill makes a number of important changes in Federal law.

It bans MTBE in 4 years, authorizes funding to cleanup MTBE contamination and fix leaking underground tanks, allows the most polluted states to opt into the reformulated gasoline program, and provides all States with additional authority under the Clean Air Act to address air quality concerns.

It eliminates the oxygen requirement from the RFG program, a change that is very important to states that are planning to remove MTBE from their gasoline supplies in the near future.

To preserve the hard-fought air quality gains that have resulted from the implementation of that requirement, the bill creates a renewable fuels standard that will nearly triple the use of renewable fuels like ethanol and biodiesel over the next 10 years.

Finally, the bill also provides special encouragement to biomass-based ethanol, which holds great promise for converting a variety of organic materials into useful fuel, while substantially reducing greenhouse gas emissions.

Ethanol comes from American farmers and producers, passes through American refiners, and fuels American energy needs. No soldier has to fight overseas to protect it. And no international cartel could turn off the spigot.

For years, we talked about those benefits with a sense of *resignation*. After all, these aren't new arguments, and yet there were a lot of people who still saw ethanol as a boutique fuel, not a real answer to our energy problems.

With this legislation, we intend to change that preception—and get America moving toward energy independence.

The renewable fuels standard will be a win-win-win. It will help the environment, it will help the rural economies which are hurting right now, and it will help reduce America's dangerous dependence on foreign oil.

I believe we can make it law. During consideration of the Energy Bill last summer, the Senate endorsed the Renewable Fuels Standard package by a vote of 69 to 30.

Overall, this legislation is a careful balance of often disparate and competing interests—and a compromise in the finest tradition of the U.S. Senate.

Just look at some of the organizations whose active support is helping to make this legislation possible: The Northeast States Coordinated Air Use Management Agency, the American Petroleum Institute, the Clean Fuels Development Coalition, the American Lung Association, the American Coalition for Ethanol, the Renewable Fuels Association, the Governor's Ethanol Coalition, the National Farmers Union, the American Farm Bureau, the National Corn Growers Association, and the American Corn Growers Association.

That support across the political and ideological spectrum is reflected within the Senate as well.

I particularly want to thank Senator LUGAR. The seeds for this comprehensive legislation were planted a few years ago when he and I first introduced legislation to establish a renewable fuels standard and provide flexibility in producing reformulated gasoline. Senator LUGAR'S enthusiastic support gave this idea needed momentum and helped lay the groundwork for agreement on this legislation last year.

In addition, Senators TIM JOHNSON and CHUCK HAGEL deserve enormous credit for legislation they introduced last year to establish a very ambitious renewable fuels standard, and for their work in promoting this concept.

And there are many others—Senators BEN NELSON, TOM HARKIN, CHUCK GRASSLEY, BYRON DORGAN, MARK DAYTON, DICK DURBIN, MAX BAUCUS, KIT BOND, GEORGE VOINOVICH, and others—who all deserve recognition for the progress we have made on this issue.

Look at America's energy situation today: gasoline prices are high, farm income is low and America is importing close to 60 percent of the oil we use.

At the same time, our substantial appetite for energy continues to grow every year. Over the next ten years, the United States is expected to consume roughly 1.5 trillion gallons of gasoline. At the same time, we hold only three percent of the known world oil reserves.

It has been said that "we are all continually faced with a series of great opportunities, brilliantly disguised as insolvable problems."

Meeting our energy challenges is a difficult problem, but it is also a great opportunity to demonstrate American strength, and American ingenuity.

By increasing the use of renewable fuels, preserving clean air gains and moving us toward energy independence, that is what I believe this bill does.

Mr. LUGAR. Madam President, I am pleased to join with my colleague, Senator DASCHLE, in reintroducing the Renewable Fuels Act. I am thankful for this opportunity to remind my colleagues about the importance of this legislation, and the benefits it brings to the American people.

In the 107th Congress, the Senate voted in favor of a comprehensive energy bill establishing a renewable fuels standard. This provision would triple the amount of renewable fuel America consumes, displacing nearly 600,000 barrels of oil per day. The bipartisan renewable fuels agreement is a culmination of years of effort and enjoys strong support from a broad spectrum. Regrettably, disagreements on other provisions in the comprehensive energy legislation stranded the renewable fuels provision in a House-Senate conference committee last year.

Senator DASCHLE and I first introduced a bill creating a renewable fuels standard three years ago. Like that

earlier bill, this bill represents an important first step toward reducing our dependence on foreign oil and improving our nation's energy security. At the same time, this proposal goes far toward protecting the environment, stimulating rural economic development, and increasing the flexibility of the national fuel supply to reduce the impact of future price spikes.

This bill will also form the basis for a solution to the MTBE problem that will be acceptable to all regions of the nation. MTBE, a carcinogen that contaminates drinking water, is on its way out. This proposal addresses public concerns regarding water pollution while considering all of the environmental and energy security issues involved. It requires the EPA Administrator to end the use of MTBE within four years in order to protect public health and the environment. And it establishes strict "anti-backsliding" provisions to capture all of the air quality benefits of MTBE and ethanol as MTBE is phased down and then phased out.

Those of us who recall the energy crises of the 1970s—and recognize the current political instability in oil-rich regions around the world—remain committed to the development of cheap, plentiful renewable sources of energy. For years, tax incentives supporting ethanol production have helped foster the creation of a strong domestic ethanol industry. But more needs to be done to reduce the cost of ethanol and make this plant-based commodity more competitive with fossil fuels.

Energy and agriculture are closely tied topics that have been of interest to me for several years. Since 1996, I have chaired five hearings in the Agriculture Committee regarding energy security and renewable fuels. These hearings were designed to inform the public that our reliance on imported oil is growing, making the U.S. and the world increasingly dependent on the unstable nations of the Persian Gulf and the Caspian Sea. At the same time, the hearings convinced many in Washington that a greater reliance on renewable fuels like ethanol could have major energy security, air quality and rural development benefits.

As we look to the future, major new scientific and technical breakthroughs are making ethanol more economical. As a result of the Biomass Research and Development Act, federal agencies are now coordinating research activities focused on making ethanol out of virtually any plant in the world. New biocatalysts—genetically engineered enzymes, yeasts, and bacteria—are reducing the cost of so-called cellulosic ethanol to the point where petroleum products may one day face vigorous competition.

The legislation we are introducing today will build on these efforts by offering an incentive to producers of cellulosic ethanol. Like our previous proposals, this bill gives a special credit to users of cellulosic ethanol for the purpose of fulfilling requirements of the renewable fuels standard.

This legislation will go far toward strengthening our national security, improving our rural communities, protecting our natural environment and, ultimately, substituting carbohydrates for hydrocarbons.

Thank you for joining me in supporting ethanol, a domestic form of clean, renewable energy.

Mr. HAGEL. Madam President, I come to the floor this morning to speak briefly about an important, comprehensive fuels bill that I will introduce today, along with Senators DASCHLE, LUGAR, JOHNSON, VOINOVICH, GRASSLEY, and others. This bill aims to enhance air and water quality, reduce supply and distribution challenges in the gasoline market, and increase energy security by expanding the use of clean, domestically produced renewable fuels.

Specifically, our bill follows the advice of the EPA's Blue Ribbon Panel on Oxygenates by repealing the Federal oxygenate mandate and phasing out the use of MTBE nationwide. It also contains a reasonable Renewable Fuel Standard, RFS, which would gradually increase the nation's use of renewable fuel to 5 billion gallons a year by 2012. All of this while protecting the environmental gains already made by the reformulated gasoline program.

This legislation mirrors the bipartisan fuels agreement in last year's Senate energy bill, which gained the votes of 69 Senators. This year, we have worked to build an even broader, bipartisan coalition of cosponsors.

Much has happened since the Senate passed its energy bill last year. The renewable fuels industry has expanded considerably to meet growing demand. The ethanol industry opened 12 new plants last year, with 10 additional plants now under construction. Sixteen of these new plants are farmer-owned co-operatives. By the end of 2003, annual ethanol production capacity is expected to exceed 3 billion gallons. In December the ethanol industry wrapped up a record year—2.13 billion gallons in 2002, up by more than 20 percent over 2001.

Also, ChevronTexaco announced last month that it will switch from blending MTBE to blending ethanol in the southern California market—making Chevron the last of the large California refiners to make the switch to ethanol. This means that more than 80 percent of California's federally-reformulated gasoline will be blended with ethanol by May 2003.

We should not forget that biodiesel, made primarily from soybeans and still a developing fuel technology, has grown enough that it is now used in more than 200 State and Federal automobile fleets—using a 20-percent blend or higher.

Today, 16 States have already banned MTBE. With State MTBE bans will come increased challenges to fuel distribution and supply. The national phase-down of MTBE proposed in this bill will help us meet these challenges.

And a national Renewable Fuels Standard with a credit and trading program will ensure that renewable fuels are used where they make the most sense. In fact, according to a recent analysis, enacting this fuels bill would even reduce refiner costs, .2 cents, per gallon compared to current law.

The Standard in our legislation is a fair and workable compromise new crafted nearly a year ago—after months of work the American Petroleum Institute, the environmental community, the Northeast air directors, agricultural groups, DOE, EPA and others. Senator DASCHLE and I helped facilitate those talks. We crafted the language of last year's fuels agreement—the same language in this bill.

This is not a per-gallon mandate. It will not force a specific level of compliance in places where compliance may be difficult.

Our Nation needs a broader, deeper and more diverse energy portfolio. Today, less than one percent of America's transportation fuel comes from renewable sources. Under this energy bill, renewable fuel use would increase to approximately 3 percent of our total transportation fuel supply—tripling the amount of renewable fuel we now use.

Today, America imports nearly sixty percent of the crude oil it consumes. This amount is estimated to climb to 70 percent by 2002. Almost a fourth of America's oil imports come from the Persian Gulf. Last year, the United States imported nearly half-a-million barrels of oil a day from Iraq. Overall, petroleum imports cost the United States more than \$100 billion a year—around 25 percent of our trade deficit.

This country consumes more than 300 billion gallons of crude oil a year—of that, 165 billion gallons is refined into gasoline and diesel. Our legislation says that by 2012, not less than 5 billion gallons of that 165 billion gallons shall come from renewable sources. By enacting this legislation, we would replace 66 billion gallons of foreign crude oil by 2012; reduce foreign oil purchases by \$34 billion; create more than 200,000 jobs nationwide; and boost U.S. farm income by more than \$6 billion a year.

As the new Congress prepares to resume deliberations on a new national energy plan, I ask my colleagues to seriously consider this legislation—which will assist our efforts to modernize the Nation's transportation fuel system and address the environmental, energy and security concerns for today and tomorrow.

Mr. DORGAN. Madam President, I am pleased to join my colleagues, Senator DASCHLE, as well as Senator LUGAR, Senator HAGEL, Senator JOHNSON and others in introducing this bipartisan piece of legislation today.

This bill is extremely important—from an environmental perspective and from an energy security perspective.

This bill increase the use of ethanol as an additive in gasoline. That means

that we will be increasing the use of renewable sources in the fuel that we pump into our gas tanks. Transportation is the sector that uses the greatest amount of imported oil. By replacing some of the petroleum products in gasoline, we will help reduce our dependence on foreign oil. The White House recognizes that: "America imports 55 percent of the oil it consumes; that is expected to grow to 68 percent by 2025. Nearly all of our cars and trucks run on gasoline, and they are the main reason America imports so much oil. Two-thirds of the 20 million barrels of oil Americans use each day is used for transportation."

Let me point out the top countries from whom we import crude oil: our top supplier is Saudi Arabia. Almost one-third of our oil comes from the Middle East—and Iraq is our fifth largest supplier. Venezuela is our fourth largest supplier. Their country has been rocked by crisis for the last couple of years. So, it is in our best interest to reduce the amount of oil we import from these nations.

This bill is also important because it will phase-out MTBE nationally. MTBE has been shown to contaminate water supplies and to have the ability to cause potentially harmful side effects. This is important. We have attempted to do this here in Congress for several years. We should not be exposing ourselves and our children to such harmful contaminants. Now is the time to act to remove this from our gasoline and from our water supplies. No more delays. I urge my colleagues to work with me to move this important legislation in a timely manner.

Today, ethanol reduces the demand for oil and MTBE imports by 98,000 barrels per day. To me, this just makes good sense: take starch from corn or wheat, break it down into simple sugars, then ferment it to produce ethanol that can be used for energy. The by-products can be used, too.

#### RENEWABLE FUELS PROVISION IN THE BILL

The renewable fuels provision has been carefully negotiated over a period of months and years. Now, 20 groups, including the Nation Corn Growers Association, Renewable Fuels Association, American Farm Bureau Federation, and the National Farmers Union, have sent a letter expressing their support for this legislation. 1.8 billion gallons of pure ethanol are currently produced each year. This provision would add 3.2 billion new gallons over a period of years for a total of 5 billion gallons by 2012. And, this provision will ensure that the ethanol industry continues to grow.

This translates to a new market for 1.19 billion bushels of corn and other agricultural products. This also means new opportunities for farmers to invest in value-added processing of a product they're already growing. While we are seeing mergers and acquisitions in the petroleum and other industries, the ethanol industry is diversifying, as farmers invest in local processing.

#### NORTH DAKOTA

I am excited about the wide range of opportunities ethanol presents. One unique opportunity is being created in my home state of North Dakota. The aerospace program at the University of North Dakota and the Environment and Energy Research Center (EERC) are researching the potential for using ethanol as aviation fuel.

Aviation fuel is the last fuel in the U.S. that still contains lead. UND is now teaming up with South Dakota State University and the Federal Aviation Administration on a program to get ethanol approved and certified to help replace this lead-based aviation fuel.

And we are working on building E85 (blended ethanol fuel) stations in North Dakota.

#### ECONOMIC BENEFITS

According to some estimates, the ethanol industry is responsible for more than 40,000 direct and indirect jobs, creating more than \$1.3 billion in increased household income annually, and more than \$12.6 billion over the next five years.

During the past year, industry has built 12 new facilities. Ten new facilities are under construction, and dozens more are in the planning stages. The ethanol industry adds—directly and indirectly—more than \$6 billion to our economy each year.

I am excited by the opportunities this sector presents for my State, the region, and the entire Nation.

Mr. JOHNSON. Madam President, I am pleased that we are reintroducing renewable fuels legislation and that we are taking time today to talk about the benefits and importance of this bill.

I want to acknowledge the extraordinary leadership of Senator DASCHLE and also Senator BYRON DORGAN of North Dakota who was on the floor to speak to this issue but was called away for another critical responsibility and will not be able to be in the Chamber this morning.

There has been a great deal of discussion about the nation's energy situation. The increasing volatility in gasoline and diesel prices, the growing tension in the world from the terrorist attacks, and the possibility of war with Iraq have affected all of us. The more we depend on oil from the Middle East, the more our stability is inextricably tied to governments and factions in that region. There is a critical need for finding new sources of energy that will move the country away from dependence of a natural resource available in increasingly volatile regions of the world. Dependence on foreign oil in the unstable Middle East and South America makes us less stable. The use of domestic, clean, renewable energy sources can increase our energy security and increase the nation's security. It must be a critical part of our nation's energy strategy.

To this end, last year I introduced a bill with Sen. CHUCK HAGEL of Nebraska that would ensure future

growth for ethanol and biodiesel. The bill would create a new, renewable fuels content standard in all motor fuel produced and used in the United States. Last year, the Senate passed a comprehensive energy bill which included the framework of our legislation. Today, ethanol and biodiesel comprise less than one percent of all transportation fuel in the U.S. This consensus language would require that five billion gallons of transportation fuel be comprised of renewable fuel by 2012—nearly a tripling of the current ethanol production.

The consensus language was agreed to last year after productive negotiations between the renewable fuels industry, farmers' groups, the oil industry and environmentalists. Unlike many of the disputes during consideration of the energy bill last year, this issue had a relatively wide range of agreement. The basis for this agreement is still viable, and it is under this framework that we are reintroducing the bill today.

The people of South Dakota and the neighboring states understand the benefits of ethanol to the economies of rural communities. Increased renewable fuel production lowers our dependence upon foreign oil, strengthens energy security, increases farm income and creates jobs. The growth of farmer-owned ethanol plants in South Dakota demonstrates the hard work and commitment needed to serve a growing market for clean domestic fuels.

Based on current projections, construction of new plants will generate \$900 million in capital investment and tens of thousands of construction jobs to rural communities. For corn farmers, the price of corn would rise 20-30 cents per bushel.

Combine this with the provisions of the bill and the potential economic impact for rural states is tremendous. In South Dakota, seven ethanol plants are operating to produce approximately 156 million gallons per year. Three other ethanol projects are under construction, with a combined capacity to produce an additional 180 million gallons of ethanol annually. With the enactment of a renewable fuels standard, the production in South Dakota now could grow substantially, with at least 5000 farmers owning ethanol plants and producing over 500 million gallons of ethanol per year.

An important but under-emphasized fuel is biodiesel, which is chiefly produced from excess soybean oil. Soybean prices are hovering near historic lows. Biodiesel production is small but has been growing steadily. The renewable fuels standard would greatly increase the prospects for biodiesel production, benefitting soybean farmers from South Dakota and other states.

While the energy bill was not enacted last year, two-thirds of the Senate voted against amendments that would have weakened or eliminated the renewable fuels provision. For the first time in recent memory, Congress's ac-

tions reflect the knowledge that value-added agriculture and ethanol production are critical to the nation's energy needs and to the future of family-farm agriculture and rural America. The prospects for farmers in South Dakota and other rural states have brightened considerably. Moreover, we have a unique opportunity to help reduce our use of foreign oil and make our nation more stable. I am pleased that we are reintroducing the bill and urge its swift passage.

Mr. NELSON of Nebraska. Madam President, I thank you for the opportunity to speak about what is clearly a bipartisan issue. I would like to add to what my colleague from Minnesota said about the Fuels Security Act offered by Senators DASCHLE and LUGAR on a bipartisan basis.

I am here today to support the Fuels Security Act of 2003. This important renewable fuels legislation is one of the pillars for economic development for rural—America one segment of the population that has lagged behind during the economic surge of the 1990's and is suffering under the combined effects of the current economic slowdown and a two-year devastating drought which I had the audacity to name "Drought David."

This legislation is important for rural America. Last year, we completed the farm bill—the first part of the economic revitalization plan for rural America. For the last several months, we have been struggling over the most important short-term economic stimulus plan for rural America—comprehensive drought assistance. Though I believe what the Senate passed and what we hear will be included in the omnibus is insufficient to adequately compensate for the drought, it might provide some initial assistance to farmers and ranchers.

In addition to the farm bill and disaster assistance, I believe we need to craft a comprehensive rural development plan that will spur investment in agri-business and promote economic activity in the agriculture center. We need to consider opening new markets like Cuba—to ensure American products can be sold and farmers and ranchers can earn a living.

The Fuels Security Act of 2003, is the latest piece of the puzzle.

It is clear that use of ethanol, as part of a renewable fuels standard is a win-win-win situation: a win for farmers, a win for consumers, and a win for the environment. That is why I rise as an original co-sponsor and strong supporter this renewable fuels legislation.

If passed, the Fuels Security Act will establish a 2.3 billion gallon renewable fuels standard in 2004, growing every year until it reaches 5 billion gallons by 2012. There are many benefits to this legislation.

It will displace 1.6 billion barrels of oil over the next decade; reduce our trade deficit by \$34.1 billion; increase new investment in rural communities by more than \$5.3 billion; boost the de-

mand for feed grains and soybeans by more than 1.5 billion bushels over the next decade; create more than 214,000 new jobs throughout the U.S. economy; and it will expand household income by an additional \$51.7 billion over the next decade

It is quite apparent that increased use of ethanol will do much to boost a struggling U.S. agriculture economy, and will help establish a more sound national energy policy.

The greater production of ethanol will also be beneficial to the environment. Studies show ethanol reduces emissions of carbon monoxide and hydrocarbons by 20 percent and particulates by 40 percent in 1990 and newer vehicles. In 2001 ethanol reduced greenhouse gas emissions by 3.6 million tons, the equivalent of removing more than 520,000 vehicles from the road.

A choice for ethanol is a choice for America, and its energy consumers, its farmers, and its environment.

Enactment of the Fuel Security Act will help us to reverse our 100-year-old near total reliance on fossil fuels; a more pressing concern than ever given the possibility of military conflict in the Mid East and the continuing economic turmoil in Venezuela.

It was recently reported we are currently exporting about 80,000 gallons of fuel to Venezuela right now to help in their shortfall because of the turmoil in that part of our world.

I am unabashedly proud of what my home State has accomplished in this area. Within the State of Nebraska, during the period from 1991 to 2001, seven ethanol plants were constructed and several of these facilities were expanded more than once during the decade.

Specific benefits of the ethanol program in Nebraska include: \$1.15 billion in new capital investment in ethanol processing plants. They include 1,005 permanent jobs at the ethanol facilities and 5,115 induced jobs directly related to plant construction, operation, and maintenance. The permanent jobs alone generate an annual payroll of \$44 million. And more than 210 million bushels of corn and grain sorghum is processed at the plants annually. These economic benefits and others have increased each year during the past decade due to plant expansion, employment increases, and additional capital investment.

If each State produces 10 percent of its own domestic, renewable fuel, as Nebraska does, America will have turned the corner away from dependence on foreign sources of energy.

And it is possible because ethanol and biodiesel can be made from biomass from other than corn or sorghum or other row crops. It can be produced from garbage. It can be produced from switch grass and all kinds of other biomass.

When you take a hard look at the facts, you will see that this legislation is nothing but beneficial for America. The Fuels Security Act is balanced,

comprehensive, and is the result of the dedication of so many, especially Senator DASCHLE and Senator LUGAR.

So now I ask my colleagues to join me in promoting new opportunities for the technologies that will put our Nation and the world's transportation fuels on solid, sustainable, and environmentally enhancing ground. We owe it to our country now—and to future generations—to pass this legislation without any further delay.

Mr. COLEMAN. Madam President, if I may, in contrast to the very partisan tone of the Estrada filibuster and this partisan divide that is stopping us from moving forward, I want to spend a few minutes talking about an issue in which we come together and perhaps which should be a model.

I am pleased to join my distinguished colleagues, Senator HAGEL and minority leader DASCHLE, as an original cosponsor of this landmark renewable fuels legislation.

Senator DASCHLE is from our neighboring State. We have mutual interests. We understand the needs of our farmers.

We are looking at working together, which I think is such a good thing.

The Minnesota AgriGrowth Council points out renewable fuels like ethanol and biodiesel promote the 3 E's: economic development, environmental protection, and energy independence.

Let me talk briefly about the economic development benefit first. I ran for the Senate on jobs. The best welfare program is a job. The best housing program is a job—creating jobs—and economic development. That is what mayors do. That is what they understand is important to moms and dads. We get results. There were 18,000 more jobs in St. Paul when I left than when I began.

The legislation we introduce today means economic development—it means jobs, revitalization, and new businesses—particularly for rural Minnesota.

Minnesota is a leader in renewable fuels. Not only do the people of my State make Minnesota the top 10 among States of nearly every agriculture commodity that can be produced in our climate, but Minnesota leads the way in renewable fuels, and I am proud of that.

Today, Minnesota has 14 ethanol plants in production—more than any other State in the Nation. Preliminary planning is underway for at least a couple of biodiesel production facilities in my State as well. So the importance of this legislation to my State and to the health of the people in my State and to the lives of our farmers and their economic opportunity is clear.

But, let's take a look nationally to see what every American has to gain through this legislation. According to at least one economic analysis, the renewable fuels standard we propose today would, over the next decade:

Reduce America's trade deficit by more than \$34 billion;

Increase America's Gross Domestic Product by \$156 billion;

create more than 214,000 jobs throughout the entire economy, including places important to me like Little Falls and Winnebago, MN; and

increase net farm income by nearly \$6 billion per year.

That the renewable fuels standard legislation we introduce today promotes the first "E" of the 3 "Es"—economic development—is evident.

The second "E" I want to talk a little about is energy independence.

As a member of both the Governmental Affairs Committee and the Foreign Relations Committee, I have had the opportunity, in my first month in the Senate, to hear from a number of experts on homeland security and on conditions around the world that affect our security. And, with this experience as a backdrop, I can say I am not comfortable at all with America's level of reliance on oil imports—now at 56 percent of our supply, and expected to be about 70 percent by 2020 unless something is done to turn things around.

Back on September 19, 2001, former CIA Director James Woolsey, former Joint Chiefs of Staff Chairman Admiral Thomas Moorer, and former National Security Advisor Robert McFarlane all wrote the Senate on this very issue, stating:

One of the critical actions that must be taken now is to advance America's energy security through transportation fuels like ethanol [and] slow the dollars to the Middle East, where too many of those dollars have been used to buy weapon and fund terrorist activities.

The legislation we offer today takes to heart the admonition of Director Woolsey, Admiral Moorer, and Mr. McFarlane by advancing renewable fuels to reduce our dependence on foreign oil.

And, finally, but not least, is the "E" for environmental protection that got the whole reformulated gasoline ball rolling in the first place.

Ethanol is an important tool for improving air quality in America's cities by reducing carbon monoxide, hydrocarbons, NO<sub>x</sub>, toxics, and particulates.

Proof of ethanol's clear air benefits was seen in Chicago last year where exclusive use of ethanol reformulated gasoline helped the city attain federal ozone standards—the only area under such standards to see this kind of improvement.

What is more, ethanol continues to be the only liquid transportation fuel that can help to reduce global warming. In 2002 alone, ethanol use in the United States reduced greenhouse gas emissions by 4.3 million tons—the equivalent of removing more than 636,000 vehicles from the road.

These are the 3 "Es"; economic development, energy independence, and environmental protection—all three worthy objectives furthered by the legislation we offer today.

Naturally, there are places here and there where this bill can and should be improved, and we can work on it. But, this is a good starting place. It is a bi-

partisan effort. I am pleased to be an original cosponsor.

By Mr. CORZINE (for himself, Mr. FITZGERALD, Mr. SARBANES, and Mr. AKAKA):

S. 386. A bill to establish a grant program to enhance the financial and retirement literacy of mid-life and older Americans and to reduce financial abuse and fraud among such Americans, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. CORZINE. Mr. President, I rise today with my colleagues, Senators FITZGERALD, SARBANES, and AKAKA to introduce the Education for Retirement Security Act of 2003. This bill will provide access to badly needed financial and retirement education for millions of mid-life and older Americans whose retirement security is at stake.

Improving financial literacy has been a top priority for me in Congress. I believe it is a critical and complex task for Americans of all ages, but it is especially crucial for Americans as they approach retirement. In fact, low levels of savings and high levels of personal and real estate debt are serious problems for many households nearing retirement. Although today's older Americans are generally thought to be doing well, nearly one-out-of-five, 18 percent, were living below 125 percent of the poverty line in 1995, which was a year of tremendous economic prosperity in our Nation. And, only 53 percent of working Americans have any form of pension coverage. In addition, financial exploitation is the largest single category of abuse against older individuals, and this population comprises more than one-half of all telemarketing victims in the United States.

While education alone cannot solve our Nation's retirement woes, financial education is vital to enabling individuals to avoid scams and bad investment, mortgage, and pension decisions, and to ensuring that they have access to the tools they need to make sound financial decisions and prepare appropriately for a secure future. Indeed, the more limited time frame that mid-life and older Americans have in which to assess the realities of their individual circumstances, recover from bad economic choices, and to benefit from more informed financial practices makes this education all the more critical. Financial literacy is also particularly important for older women, who are more likely to live in poverty and be dependent upon Social Security.

The Education for Retirement Security act would create a competitive grant program that would provide resources to State and area agencies on aging and nonprofit community based organizations to provide financial education programs to mid-life and older Americans. The goal of these programs is to enhance these individuals' financial and retirement knowledge and reduce their vulnerability to financial

abuse and fraud, including telemarketing, mortgage, and pension fraud.

My legislation also authorizes the creation of a national technical assistance program that would designate at least one national nonprofit organization that has substantial experience in the field of financial education to provide training and make available instructional materials and information that promotes financial education.

Over the next thirty years, the percentage of Americans aged 65 and older is expected to double, from 35 million to nearly 75 million. Ensuring that these individuals are better prepared for retirement and are more informed about the economic decisions they face during retirement will have an important impact on the long term economic and social well-being of our Nation.

I hope that as the Senate moves to address pension reform, my colleagues will work to address the issues outlined in this legislation. The recent rash of corporate and accounting scandals and the declining stock market have jeopardized the retirement savings of millions of Americans, making the need for financial literacy even more clear.

In closing, I would like to acknowledge the expertise and assistance that AARP, the Older Women's League, OWL, and the Women's Institute for a Secure Economic Retirement, WISER, offered to me in drafting this legislation.

I ask unanimous consent that the text of my legislation be printed in the RECORD.

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

S. 386

*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 "Education for Retirement Security Act of 2003".

#### SEC. 2. FINDINGS.

Congress finds the following:

(1) Improving financial literacy is a critical and complex task for Americans of all ages.

(2) Low levels of savings and high levels of personal and real estate debt are serious problems for many households nearing retirement.

(3) Only 53 percent of working Americans have any form of pension coverage. Three out of four women aged 65 or over receive no income from employer-provided pensions.

(4) The more limited timeframe that mid-life and older individuals and families have to assess the realities of their individual circumstances, to recover from counter-productive choices and decisionmaking processes, and to benefit from more informed financial practices, has immediate impact and near term consequences for Americans nearing or of retirement age.

(5) Research indicates that there are now 4 basic sources of retirement income security. Those sources are social security benefits, pensions and savings, healthcare insurance coverage, and, for an increasing number of older individuals, necessary earnings from working during one's "retirement" years.

(6) The \$5,000,000,000,000 loss in stock market equity values since 2000 has had a signifi-

cantly negative effect on mid-life and older individuals and on their pension plans and retirement accounts, affecting both individuals with plans to retire and those who are already in retirement.

(7) Although today's older individuals are generally thought to be doing well, nearly ¼ (24 percent) of such individuals had annual incomes of less than 14,000 (or 150 percent of the Federal poverty line) between 1998 and 2000.

(8) Over the next 30 years, the number of older individuals in the United States is expected to double, from 35,000,000 to nearly 75,000,000, and long-term care costs are expected to skyrocket.

(9) Financial exploitation is the largest single category of abuse against older individuals and this population comprises more than ½ of all telemarketing victims in the United States.

(10) The Federal Trade Commission (FTC) Identity Theft Data Clearinghouse has reported that incidents of identity theft targeting individuals over the age of 60 increased from 1,821 victims in 2000 to 5,802 victims in 2001, a threefold increase.

#### SEC. 3. GRANT PROGRAM TO ENHANCE FINANCIAL AND RETIREMENT LITERACY AND REDUCE FINANCIAL ABUSE AND FRAUD AMONG MID-LIFE AND OLDER AMERICANS.

(a) AUTHORITY.—The Secretary is authorized to award grants to eligible entities to provide financial education programs to mid-life and older individuals who reside in local communities in order to—

(1) enhance financial and retirement knowledge among such individuals; and

(2) reduce financial abuse and fraud, including telemarketing, mortgage, and pension fraud, among such individuals.

(b) ELIGIBLE ENTITIES.—An entity is eligible to receive a grant under this section if such entity is—

(1) a State agency or area agency on aging; or

(2) a nonprofit organization with a proven record of providing—

(A) services to mid-life and older individuals;

(B) consumer awareness programs; or

(C) supportive services to low-income families.

(c) APPLICATION.—An eligible entity desiring a grant under this section shall submit an application to the Secretary in such form and containing such information as the Secretary may require, including a plan for continuing the programs provided with grant funds under this section after the grant expires.

(d) LIMITATION ON ADMINISTRATIVE COSTS.—A recipient of a grant under this section may not use more than 4 percent of the total amount of the grant in each fiscal year for the administrative costs of carrying out the programs provided with grant funds under this section.

(e) EVALUATION AND REPORT.—

(1) ESTABLISHMENT OF PERFORMANCE MEASURES.—The Secretary shall develop measures to evaluate the programs provided with grant funds under this section.

(2) EVALUATION ACCORDING TO PERFORMANCE MEASURES.—Applying the performance measures developed under paragraph (1), the Secretary shall evaluate the programs provided with grant funds under this section in order to—

(A) judge the performance and effectiveness of such programs;

(B) identify which programs represent the best practices of entities developing such programs for mid-life and older individuals; and

(C) identify which programs may be replicated.

(3) ANNUAL REPORTS.—For each fiscal year in which a grant is awarded under this section, the Secretary shall submit a report to Congress containing a description of the status of the grant program under this section, a description of the programs provided with grant funds under this section, and the results of the evaluation of such programs under paragraph (2).

#### SEC. 4. NATIONAL TRAINING AND TECHNICAL ASSISTANCE PROGRAM.

(a) AUTHORITY.—The Secretary is authorized to award a grant to 1 or more eligible entities to—

(1) create and make available instructional materials and information that promote financial education; and

(2) provide training and other related assistance regarding the establishment of financial education programs to eligible entities awarded a grant under section 3.

(b) ELIGIBLE ENTITIES.—An entity is eligible to receive a grant under this section if such entity is a national nonprofit organization with substantial experience in the field of financial education.

(c) APPLICATION.—An eligible entity desiring a grant under this section shall submit an application to the Secretary in such form and containing such information as the Secretary may require.

(d) BASIS AND TERM.—The Secretary shall award a grant under this section on a competitive, merit basis for a term of 5 years.

#### SEC. 5. DEFINITIONS.

In this Act:

(1) FINANCIAL EDUCATION.—The term "financial education" means education that promotes an understanding of consumer, economic, and personal finance concepts, including saving for retirement, long-term care, and estate planning and education on predatory lending and financial abuse schemes.

(2) MID-LIFE INDIVIDUAL.—The term "mid-life individual" means an individual aged 45 to 64 years.

(3) OLDER INDIVIDUAL.—The term "older individual" means an individual aged 65 or older.

(4) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

#### SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated to carry out this Act, \$100,000,000 for each of the fiscal years 2004 through 2008.

(b) LIMITATION ON FUNDS FOR EVALUATION AND REPORT.—The Secretary may not use more than \$200,000 of the amounts appropriated under subsection (a) for each fiscal year to carry out section 3(e).

(c) LIMITATION ON FUNDS FOR TRAINING AND TECHNICAL ASSISTANCE.—The Secretary may not use less than 5 percent or more than 10 percent of amounts appropriated under subsection (a) for each fiscal year to carry out section 4.

By Mrs. LINCOLN (for herself, Mr. REID, Ms. SNOWE, Mr. BREAUX, Mr. GRAHAM of Florida, Mr. BINGAMAN, Ms. LANDRIEU, Mrs. MURRAY, Ms. MIKULSKI, Mr. SARBANES, Mr. REED, Mr. KENNEDY, and Ms. COLLINS):

S. 387. A bill to amend title XVIII of the Social Security Act to extend the eligibility periods for geriatric graduate medical education, to permit the expansion of medical residency training programs in geriatric medicine, to provide for reimbursement of care coordination and assessment services

provided under the medicare program, and for other purposes; to the Committee on Finance.

Mrs. LINCOLN. Madam President, today I am pleased to introduce the Geriatric Care Act of 2003, a bill to increase the number of geriatricians in our country through training incentives and Medicare reimbursement for geriatric care. I am proud to be joined in this effort today by Senators REID, SNOWE, BREAUX, GRAHAM, BINGAMAN, LANDRIEU, MURRAY, MIKULSKI, SARBANES, REED, KENNEDY, and COLLINS.

Our country teeters on the brink of revolutionary demographic change as baby boomers begin to retire and Medicare begins to care for them.

As a member of the Finance Committee and the Special Committee on Aging, I have a special interest in preparing health care providers and Medicare for the inevitable "aging of America." By improving access to geriatric care, the Geriatric Care Act of 2003 takes an important first step in modernizing Medicare for the 21st century.

By the year 2030, 70 million Americans will be 65 and older. The elderly will soon represent one-fifth of the United States population, the largest proportion of older persons in our Nation's history. Our Nation's health care system will face an unprecedented strain as our population grows older. Our Nation is simply ill-prepared for what lies ahead.

Demand for quality care will increase, and we will need physicians who understand the complex health problems that aging inevitably brings. As seniors live longer, they face much greater risks of disease and disability. Conditions such as heart disease, cancer, stroke, diabetes and Alzheimer's disease occur more frequently as people age.

The complex problems associated with aging require a supply of physicians with special training in geriatrics. Geriatricians are physicians who are first board certified in family practice or internal medicine and then complete additional training in geriatrics.

Geriatric medicine provides the most comprehensive health care for our most vulnerable seniors. Geriatrics promotes wellness and preventive care, helping to improve patients' overall quality of life by allowing them greater independence and preventing unnecessary and costly trips to the hospital or other institutions.

Geriatricians also have a heightened awareness of the effects of prescription drugs. Given our seniors' growing dependence on prescriptions, it is increasingly important that physicians know how, when, and in what dosages to prescribe medicines for seniors. That's because frequently, older patients respond to medications in different ways than younger patients.

In fact, 35 percent of Americans 65 years and older experience adverse drug reactions each year. According to the National Center for Health Statis-

tics, medication problems may be involved in as many as 17 percent of all hospitalizations of seniors annually.

Care management provided by a geriatrician will not only provide better health care for our seniors, but will also save costs to Medicare in the long term by eliminating more costly medical care in hospitals and nursing homes.

Quite clearly, geriatrics is a vital thread in the fabric of our health care system, especially in light of our looming demographic changes.

Yet today, there are fewer than 9,000 certified geriatricians in the United States. Of the approximately 98,000 medical residency and fellowship positions supported by Medicare in 1998, only 324 were in geriatric medicine and geriatric psychiatry. Only three medical schools in the country, the University of Arkansas for Medical Sciences, UAMS, being one of them, has a Department of Geriatrics. This is incredible considering that all 125 medical schools in our country have departments of pediatrics.

As if that weren't alarming enough, the number of geriatricians is expected to decline dramatically in the next several years. In fact, most of these doctors will retire just as the Baby Boomer generation becomes eligible for Medicare. We must reverse this trend and provide incentives to increase the number of geriatricians in our country.

Unfortunately, there are barriers preventing physicians from entering geriatrics. These include insufficient Medicare reimbursements for the provision of geriatric care, inadequate training dollars, and too few positions for geriatricians.

Many practicing geriatricians find it increasingly difficult to focus their practice exclusively on older patients because of insufficient Medicare reimbursement. Unlike most other medical specialties, geriatricians depend almost entirely on Medicare revenues. A recent MedPAC report identified low Medicare reimbursement levels as a major stumbling block to recruiting new geriatricians.

Currently, the reimbursement rate for geriatricians is the same as it is for regular physicians. But the services geriatricians provide are fundamentally different.

Physicians who assess younger patients simply don't have to invest the same time that geriatricians must invest assessing the complex needs of elderly patients. Moreover, chronic illness and multiple medications make medical decision-making more complex and time consuming. Additionally, planning for health care needs becomes more complicated as geriatricians seek to include both patients and caregivers in the process.

We must modernize the Medicare fee schedule to acknowledge the importance of geriatric assessment and care coordination in providing health care for seniors. Geriatric practices cannot flourish and these trends will not im-

prove until we adjust the system to reflect the realities of senior health care.

The Geriatric Care Act I am introducing today addresses these shortfalls. This bill provides Medicare coverage for the twin foundations of geriatric practice—geriatric assessment and care coordination.

The bill authorizes Medicare to cover these essential services for seniors, thereby allowing geriatricians to manage medications effectively, to work with other health care providers as a team, and to provide necessary support for caregivers.

The Geriatric Care Act also will remove the disincentive caused by the Graduate Medical Education cap established by the 1997 Balanced Budget Act. As a result of this cap, many hospitals have eliminated or reduced their geriatric training programs.

The Geriatric Care Act corrects this problem by allowing for additional geriatric training slots in hospitals. By allowing hospitals to exceed the cap placed on their training slots, this bill will help increase the number of residents in geriatric training programs.

Finally, the Geriatric Care Act contains a new provision that ensures Graduate Medical Education payments for the second year of geriatric fellowship training. A one-year fellowship may be adequate for training clinical geriatricians but a two-year fellowship is essential for training academic geriatricians who will teach geriatrics to primary care and specialty physicians-in-training. Academic geriatricians are critical in preparing the next generation of doctors to care for our growing elderly population.

My home State of Arkansas ranks sixth in the Nation in percentage of population 65 years and older. In a decade, we will rank third. In many ways, our population in Arkansas is a snapshot of what the rest of the United States will look like in the near future.

We are blessed in Arkansas to have the Donald W. Reynolds Department of Geriatrics and the Center on Aging at the University of Arkansas for Medical Sciences. It is my hope that the Geriatric Care Act will make it easier for our medical school and others across the country to train more physicians in geriatrics.

As our parents, grandparents, friends, and loved ones cope with the challenges that aging brings, we must ensure that physicians skilled in caring for their special needs are there to help them. I ask my colleagues to join me in support of this effort to modernize Medicare to support crucial geriatric services for our Nation's seniors.

I ask unanimous consent that following my statement there be a printed list of organizations that support the Geriatric Care Act of 2003.

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

ORGANIZATIONS SUPPORTING THE GERIATRIC CARE ACT OF 2003  
Alzheimer's Association.

American Association for Geriatric Psychiatry.

American Association of Homes and Services for the Aging.

American College of Physicians-American Society of Internal Medicine.

American Geriatrics Society.

Association of Professors of Medicine.

Association of Program Directors in Internal Medicine.

Association of Subspecialty Professors.

Catholic Health Association.

International Longevity Center—USA.

National Chronic Care Consortium.

National Committee to Preserve Social Security and Medicare.

National Council on the Aging.

National PACE Association.

National Family Caregivers Association.

By Mr. ROBERTS (for himself, Mrs. HUTCHISON, Ms. COLLINS, and Mr. JEFFORDS):

S. 388. A bill to amend the Internal Revenue Code of 1986 to expand the dependent car tax credit, to accelerate the child tax credit, and to promote dependent care assistance programs; to the Committee on Finance.

By Mr. ROBERTS (for himself, Ms. COLLINS, and Mr. JEFFORDS):

S. 389. A bill to increase the supply of quality child care; to the Committee on Finance.

Mr. ROBERTS. Mr. President, I am pleased and honored to join with my colleagues to introduce two pieces of legislation to help meet the child care challenges facing families around the Nation. These bills entitled the "Caring for Children Act" and "A Boost for Child Care Act", or the ABC's Act.

Child care, in the home when possible and outside the home when both parents work, goes right to the heart of keeping families strong. Unfortunately, finding quality, affordable child care is one of the most pressing problems for families in Kansas and around the country. It is estimated that quality child care can cost as much or more than college tuition in some areas.

The "Caring for Children Act" and "A Boost for Child Care Act" take the first steps in addressing this challenge through a responsible approach. This legislation expands child care opportunities without increased government costs or intrusion in our lives. This legislation builds into the existing network adding more government intervention or mandates. This legislation will help families that have two working parents and families that have a stay-at-home parent. This legislation will help to increase the supply of quality child care.

First, in order to provide additional tax relief and increased affordability of child care, the ABC's Act expands the Dependent Care Tax Credit by raising the income level to \$30,000 at which families become eligible for the maximum tax credit. This legislation also raises the maximum percentage of child care expenses that parents can deduct to 50 percent. These changes make the Dependent Care Tax Credit more realistic for families that face in-

creasing child care costs. Additionally, the ABC's Act accelerates and makes permanent the child tax credit at \$1,000 for qualifying taxpayers in order to further ease the financial burden on families.

Increasing the income level and the percentage of child care expenses that are deductible will help families where both parents work. But, we must also recognize that families who choose to have one parent remain at home have child care expenses as well. Therefore, this legislation extends eligibility for the Dependent Care Tax Credit to families with a stay-at-home parent. This provides greater options to more families and leaves child care choices where they should be—with the family. In order to target this credit to parents who need it the most and meet our fiscal responsibilities, the credit is phased out for higher income wage earners.

The "Caring for Children Act" recognizes that small businesses play a critical role in providing child care options to millions of working parents. Unfortunately, small businesses generally do not have the resources required to start up and support a child care center. This legislation includes a short-term flexible grant program to encourage small businesses to work together to provide child care services for employees. This program is more of a demonstration project that will sunset at the end of three years. In the meantime, small businesses will be eligible for grants up to \$100,000 for start-up costs, training scholarships, or other related activities. Business must continue to meet state quality and health standards. Businesses will be required to match Federal funds to encourage self-sustaining facilities well into the future.

Parental access to child care information and technical assistance to child care providers both play a strong role in increasing the supply of quality child care. The Caring for Children Act includes a grant program to allow entities to develop and operate technology-based child care training infrastructures to enable child care providers to receive the training, education and support they need to improve the quality of child care. The legislation also provides funds for the Department of Health and Human Services to collect and disseminate state of the art information on topics related to child care health and safety, as well as early childhood development. This information could be distributed through brochures, the internet, a toll-free information hotline, or resource and referral organizations.

Child care is an issue that impacts each and every one of us. While parents continue to struggle to meet the constant demand of work and family, we must continue to do our part to expand child care options and protect our nation's most valuable resource, our children. I look forward to working with all of my colleagues in this important effort.

I ask unanimous consent that the text of the "Caring for Children Act" and "A Boost for Child Care Act" be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 388

*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 "A Boost for Child Care Act".

#### SEC. 2. EXPANSION OF DEPENDENT CARE TAX CREDIT.

(a) PERCENTAGE OF EMPLOYMENT-RELATED EXPENSES DETERMINED BY TAXPAYER STATUS.—Paragraph (2) of section 21(a) of the Internal Revenue Code of 1986 (relating to credit for expenses for household and dependent care services necessary for gainful employment) is amended to read as follows:

"(2) APPLICABLE PERCENTAGE DEFINED.—For purposes of paragraph (1), the term 'applicable percentage' means 50 percent reduced (but not below zero) by 1 percentage point for each \$1,500, or fraction thereof, by which the taxpayer's adjusted gross income for the taxable year exceeds \$30,000."

(b) MINIMUM CREDIT ALLOWED FOR STAY-AT-HOME PARENTS.—Section 21(e) of the Internal Revenue Code of 1986 (relating to special rules) is amended by adding at the end the following new paragraph:

"(1) MINIMUM CREDIT ALLOWED FOR STAY-AT-HOME PARENTS.—Notwithstanding subsection (d), in the case of any taxpayer with 1 or more qualifying individuals described in subsection (b)(1)(A) under the age of 4 at any time during the taxable year, such taxpayer shall be deemed to have employment-related expenses with respect to such qualifying individuals in an amount equal to the greater of—

"(A) the amount of employment-related expenses incurred for such qualifying individuals for the taxable year (determined under this section without regard to this paragraph), or

"(B) \$150 for each month in such taxable year during which such qualifying individual is under the age of 4."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

#### SEC. 3. ACCELERATION OF CHILD TAX CREDIT.

(a) IN GENERAL.—Subsection (a) of section 24 of the Internal Revenue Code of 1986 (relating to child tax credit) is amended to read as follows:

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year with respect to each qualifying child of the taxpayer an amount equal to \$1,000."

(b) CONFORMING AMENDMENTS.—

(1) REPEAL OF AMENDMENT.—Section 201(a) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(2) REPEAL OF SUNSET.—Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset of provisions of such Act) shall not apply to section 201 (other than subsection (a) of such section) of such Act.

#### SEC. 4. PROMOTION OF DEPENDENT CARE ASSISTANCE PROGRAMS.

(a) IN GENERAL.—The Secretary of Labor shall establish a program to promote awareness of the use of dependent care assistance programs (as described in section 129(d) of the Internal Revenue Code of 1986) by employers.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to

carry out the program under subsection (a) \$1,000,000 for each of fiscal years 2004, 2005, 2006, and 2007.

S. 389

*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 "Caring for Children Act".

#### TITLE I—DISSEMINATION OF INFORMATION ABOUT QUALITY CHILD CARE

##### SEC. 101. COLLECTION AND DISSEMINATION OF INFORMATION.

(a) COLLECTION AND DISSEMINATION OF INFORMATION.—The Secretary of Health and Human Services shall, directly or through a contract awarded on a competitive basis to a qualified entity, collect and disseminate—

(1) information concerning health and safety in various child care settings that would assist in—

(A) the provision of safe and healthful environments by child care providers; and

(B) the evaluation of child care providers by parents; and

(2) relevant findings in the field of early childhood learning and development.

(b) INFORMATION AND FINDINGS TO BE GENERALLY AVAILABLE.—

(1) SECRETARIAL RESPONSIBILITY.—The Secretary of Health and Human Services shall make the information and findings described in subsection (a) generally available to States, units of local governments, private nonprofit child care organizations (including resource and referral agencies), employers, child care providers, and parents.

(2) DEFINITION OF GENERALLY AVAILABLE.—In paragraph (1), the term "generally available" means that the information and findings shall be distributed through resources that are used by, and available to, the public, including such resources as brochures, Internet web sites, toll-free telephone information lines, and public and private resource and referral organizations.

##### SEC. 102. GRANTS FOR THE DEVELOPMENT OF A CHILD CARE TRAINING INFRASTRUCTURE.

(a) AUTHORITY TO AWARD GRANTS.—The Secretary of Health and Human Services shall award grants to eligible entities to develop distance learning child care training technology infrastructures and to develop model technology-based training courses for child care providers and child care workers, to be provided through distance learning programs made available through the infrastructure. The Secretary shall, to the maximum extent possible, ensure that such grants are awarded in those regions of the United States with the fewest training opportunities for child care providers.

(b) ELIGIBILITY REQUIREMENTS.—To be eligible to receive a grant under subsection (a), an entity shall—

(1) develop the technological and logistical aspects of the infrastructure described in this section and have the capability of implementing and maintaining the infrastructure;

(2) to the maximum extent possible, develop partnerships with secondary schools, institutions of higher education, State and local government agencies, and private child care organizations for the purpose of sharing equipment, technical assistance, and other technological resources, including—

(A) developing sites from which individuals may access the training;

(B) converting standard child care training courses to programs for distance learning; and

(C) promoting ongoing networking among program participants; and

(3) develop a mechanism for participants to—

(A) evaluate the effectiveness of the infrastructure, including the availability and affordability of the infrastructure, and the training offered through the infrastructure; and

(B) make recommendations for improvements to the infrastructure.

(c) APPLICATION.—To be eligible to receive a grant under subsection (a), an entity shall submit an application to the Secretary at such time and in such manner as the Secretary may require, and that includes—

(1) a description of the partnership organizations through which the distance learning programs will be made available;

(2) the capacity of the infrastructure in terms of the number and type of distance learning programs that will be made available;

(3) the expected number of individuals to participate in the distance learning programs; and

(4) such additional information as the Secretary may require.

(d) LIMITATION ON FEES.—No entity receiving a grant under this section may collect fees from an individual for participation in a distance learning program funded in whole or in part under this section that exceed the pro rata share of the amount expended by the entity to provide materials for the program and to develop, implement, and maintain the infrastructure (minus the amount of the grant awarded under this section).

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as requiring a child care provider to subscribe to or complete a distance learning program made available under this section.

##### SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title \$50,000,000 for each of fiscal years 2003 through 2007.

#### TITLE II—REMOVAL OF BARRIERS TO INCREASING THE SUPPLY OF QUALITY CHILD CARE

##### SEC. 201. SMALL BUSINESS CHILD CARE GRANT PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (referred to in this section as the "Secretary") shall establish a program to award grants to States, on a competitive basis, to assist States in providing funds to encourage the establishment and operation of employer operated child care programs.

(b) APPLICATION.—To be eligible to receive a grant under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including an assurance that the funds required under subsection (e) will be provided.

(c) AMOUNT OF GRANT.—The Secretary shall determine the amount of a grant to a State under this section based on the population of the State as compared to the population of all States receiving grants under this section.

(d) USE OF FUNDS.—

(1) IN GENERAL.—A State shall use amounts provided under a grant awarded under this section to provide assistance to small businesses located in the State to enable the small businesses to establish and operate child care programs. Such assistance may include—

(A) technical assistance in the establishment of a child care program;

(B) assistance for the startup costs related to a child care program;

(C) assistance for the training of child care providers;

(D) scholarships for low-income wage earners;

(E) the provision of services to care for sick children or to provide care to school aged children;

(F) the entering into of contracts with local resource and referral or local health departments;

(G) assistance for care for children with disabilities; or

(H) assistance for any other activity determined appropriate by the State.

(2) APPLICATION.—To be eligible to receive assistance from a State under this section, a small business shall prepare and submit to the State an application at such time, in such manner, and containing such information as the State may require.

(3) PREFERENCE.—

(A) IN GENERAL.—In providing assistance under this section, a State shall give priority to applicants that desire to form a consortium to provide child care in a geographic area within the State where such care is not generally available or accessible.

(B) CONSORTIUM.—For purposes of subparagraph (A), a consortium shall be made up of 2 or more entities that may include businesses, nonprofit agencies or organizations, local governments, or other appropriate entities.

(4) LIMITATION.—With respect to grant funds received under this section, a State may not provide in excess of \$100,000 in assistance from such funds to any single applicant.

(e) MATCHING REQUIREMENT.—To be eligible to receive a grant under this section a State shall provide assurances to the Secretary that, with respect to the costs to be incurred by an entity receiving assistance in carrying out activities under this section, the entity will make available (directly or through donations from public or private entities) non-Federal contributions to such costs in an amount equal to—

(1) for the first fiscal year in which the entity receives such assistance, not less than 50 percent of such costs (\$1 for each \$1 of assistance provided to the entity under the grant);

(2) for the second fiscal year in which the entity receives such assistance, not less than 66% percent of such costs (\$2 for each \$1 of assistance provided to the entity under the grant); and

(3) for the third fiscal year in which the entity receives such assistance, not less than 75 percent of such costs (\$3 for each \$1 of assistance provided to the entity under the grant).

(f) REQUIREMENTS OF PROVIDERS.—To be eligible to receive assistance under a grant awarded under this section a child care provider shall comply with all applicable State and local licensing and regulatory requirements and all applicable health and safety standards in effect in the State.

(g) ADMINISTRATION.—

(1) STATE RESPONSIBILITY.—A State shall have responsibility for administering a grant awarded for the State under this section and for monitoring entities that receive assistance under such grant.

(2) AUDITS.—A State shall require each entity receiving assistance under the grant awarded under this section to conduct an annual audit with respect to the activities of the entity. Such audits shall be submitted to the State.

(3) MISUSE OF FUNDS.—

(A) REPAYMENT.—If the State determines, through an audit or otherwise, that an entity receiving assistance under a grant awarded under this section has misused the assistance, the State shall notify the Secretary of the misuse. The Secretary, upon such a notification, may seek from such an entity the repayment of an amount equal to the amount of any such misused assistance plus interest.

(B) APPEALS PROCESS.—The Secretary shall by regulation provide for an appeals process with respect to repayments under this paragraph.

(h) REPORTING REQUIREMENTS.—

(1) 2-YEAR STUDY.—

(A) IN GENERAL.—Not later than 2 years after the date on which the Secretary first awards grants under this section, the Secretary shall conduct a study to determine—

(i) the capacity of entities to meet the child care needs of communities within States;

(ii) the kinds of partnerships that are being formed with respect to child care at the local level to carry out programs funded under this section; and

(iii) who is using the programs funded under this section and the income levels of such individuals.

(B) REPORT.—Not later than 28 months after the date on which the Secretary first awards grants under this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the results of the study conducted in accordance with subparagraph (A).

(2) 4-YEAR STUDY.—

(A) IN GENERAL.—Not later than 4 years after the date on which the Secretary first awards grants under this section, the Secretary shall conduct a study to determine the number of child care facilities funded through entities that received assistance through a grant awarded under this section that remain in operation and the extent to which such facilities are meeting the child care needs of the individuals served by such facilities.

(B) REPORT.—Not later than 52 months after the date on which the Secretary first awards grants under this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the results of the study conducted in accordance with subparagraph (A).

(i) DEFINITION.—In this section, the term “small business” means an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year.

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, \$60,000,000 for the period of fiscal years 2004 through 2006.

(2) EVALUATIONS AND ADMINISTRATION.—With respect to the total amount appropriated for such period in accordance with this subsection, not more than \$5,000,000 of that amount may be used for expenditures related to conducting evaluations required under, and the administration of, this section.

(k) TERMINATION OF PROGRAM.—The program established under subsection (a) shall terminate on September 30, 2007.

By Mr. LEVIN:

S. 390. A bill to amend title 18, United States Code, to provide retroactive effect to a sentencing safety valve provision; to the Committee on the Judiciary.

Mr. LEVIN. Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 390

*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 “Safety Valve Fairness Act of 2003”.

**SEC. 2. EXTENSION OF APPLICATION OF LIMITATION ON STATUTORY MINIMUMS IN CERTAIN CASES.**

(a) IN GENERAL.—Section 3553(f) of title 18, United States Code, is amended by inserting “whether or not the sentence for that offense was imposed before, on, or after the date of the enactment of this subsection,” before “the court shall impose a sentence”.

(b) EFFECT ON EXISTING CONVICTIONS.—The amendment made by this section shall apply with respect to sentences imposed before the date of enactment of this Act but not yet completed. A prisoner may who was sentenced may petition for reconsideration of that sentence.

By Mr. REID (for himself, Mr. MCCAIN, Mr. AKAKA, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Ms. CANTWELL, Mrs. CLINTON, Mr. CORZINE, Mr. DASCHLE, Mr. DAYTON, Mr. DORGAN, Mr. DURBIN, Mrs. FEINSTEIN, Mr. GRASSLEY, Mr. HAGEL, Mr. INOUE, Mr. JOHNSON, Ms. LANDRIEU, Mr. LEAHY, Mr. LEVIN, Mrs. LINCOLN, Mr. MILLER, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SMITH, Ms. SNOWE, Mr. CAMPBELL, Mr. LIEBERMAN, and Mr. COCHRAN):

S. 392. A bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability; to the Committee on Armed Services.

Mr. REID. Madam President, over the last several years, I have tried to correct a long-standing injustice impacting our Nation’s veterans. Under a law that is now over 110 years old, most veterans who retire with 20 years of honorable service, and who also have a service-related disability, cannot collect both their retirement and their disability pay.

In 2001, I was joined by 82 cosponsors in introducing S. 170, the “Retired Pay Restoration Act of 2001.” Our bill sought to lift the restrictions to allow veterans the “concurrent receipt” of both retirement compensation and disability benefits. Although we were successful in getting the language approved in the National Defense Authorization Act of 2002, now codified at 10 U.S.C. 1414, the authorization was made contingent upon the passage of further appropriations. No funds were ever appropriated and concurrent receipt remained another unfulfilled promise to our veterans.

In 2002, I introduced S. 2051, the “Retired Pay Restoration Act of 2002” to repeal the contingency language and make concurrent receipt a reality. The Senate again overwhelmingly passed this measure. Unfortunately, the White House threatened a veto of the National Defense Authorization Act of

2003, and therefore, the Conference Committee conceded to a compromise proposal, see Section 636 of Conference Report 107-772. This compromise was a much scaled-back version of concurrent receipt. Senator WARNER correctly referred to it as a “beachhead”, but we all acknowledged there was much work remaining.

Under last year’s compromise, only a small number of veterans—estimated to be between 15 to 30 thousand—would stand to benefit. The compromise left the contingency language for full concurrent receipt in place, but created a new category of special compensation, now codified at 10 U.S.C. 1413(a). In this new category, retirees that had at least a 60 percent disability rating that was a direct result of armed conflict, hazardous service, performance of duty under conditions simulating war, or through an instrumentality of war, would be eligible to collect both retirement compensation and disability benefits. Thus, the current law excludes approximately 500,000 disabled veterans who have served their country honorably. To exclude these veterans assumes that they are less deserving of fair compensation because they did not incur their injury in combat. The law also creates an unnecessary bureaucracy for the VA and the Department of Defense, which currently do not make distinctions based on the specific cause of a service-connected disability.

Therefore, I rise today with Mr. MCCAIN, to introduce the “Retired Pay Restoration Act of 2003”, along with our colleagues Mr. AKAKA, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BIDEN, Mr. BINGAMAN, Ms. Boxer, Mr. BREAUX, Mr. BROWNBACK, Mr. CAMPBELL, Ms. CANTWELL, Mrs. CLINTON, Mr. CORZINE, Mr. DASCHLE, Mr. DAYTON, Mr. DORGAN, Mr. DURBIN, Ms. Feinstein, Mr. GRASSLEY, Mr. HAGEL, Mr. INOUE, Mr. JOHNSON, Ms. LANDRIEU, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Ms. Lincoln, Mr. MILLER, Mr. NELSON of Nebraska, Mr. NELSON of Florida, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SMITH, and Ms. SNOWE, to correct this inequity for veterans who have retired from our Armed Forces with a service-connected disability.

Our bill removes the contingency language for full concurrent receipt currently found at 10 U.S.C 1414(a) and (f), and repeals the Special Compensation programs codified at 10 U.S.C. 1413 and 1413(a). The effect would be to finally implement full concurrent receipt, thereby ending the 110 year inequity.

Passage and implementation of this bill is long overdue. I am sure many of my colleagues would be interested to learn that Congress imposed these restrictions on concurrent receipt just after the Civil War, when the standing army of the United States was extremely limited. At that time, only a small portion of our armed forces consisted of career soldiers.

Today, nearly one and a half million Americans dedicate their lives to the

defense of our Nation. The United States' military force is unmatched in terms of power, training and ability. Our Nation's status as the world's only superpower is largely due to the sacrifices our veterans made during the last century. Rather than honoring their commitment and bravery by fulfilling our obligations, the federal government has chosen instead to perpetuate a longstanding injustice. Quite simply, this is disgraceful, and we must correct it.

Once again our Nation is calling upon the members of the Armed Forces to defend democracy and freedom in Afghanistan, in the Persian Gulf and throughout the world. We must send a signal to the men and women currently in uniform that our government takes care of those that make sacrifices for our Nation. We must demonstrate to veterans that we are thankful for their dedicated service.

Military retirement pay and disability compensation are earned and awarded for entirely different purposes. Current law ignores the distinction between these two entitlements. Military retired pay is earned compensation for the extraordinary demands and sacrifices inherent in a military career. It is a reward promised for serving two decades or more under conditions that most Americans find intolerable. Veterans' disability compensation, on the other hand, is paid to recompense pain, suffering, and lost future earning power caused by a service-connected illness or injury. Few retirees can afford to live on their retired pay alone, and a severe disability only makes the problem worse by limiting or denying any post-service working life.

Career military retired veterans are the only group of Federal retirees who are required to waive their retirement pay in order to receive VA disability benefits. All other Federal employees receive both their civil service retirement and VA disability with no offset. Simply put, the law discriminates against career military men and women. It assumes, in effect, that disabled military retirees neither need nor deserve the full compensation they earned for their 20 or more years served in uniform.

This inequity is absurd. How do we explain it to the men and women who sacrificed their own safety to protect this great nation? How do we explain this inequity to those members currently risking their lives to defeat terror?

We are currently losing over one thousand World War II veterans each day. Every day we delay acting on this legislation means continuing to deny fundamental fairness to thousands of men and women. They will never have the ability to enjoy their two well-deserved entitlements.

This bill represents an honest attempt to correct an injustice that has existed for far too long. Allowing disabled veterans to receive military retired pay and veterans disability com-

ensation concurrently will restore fairness to Federal retirement policy.

This legislation is supported by numerous veterans' service organizations, including the Military Coalition, the National Military/Veterans Alliance, the American Legion, the Disabled American Veterans, the Veterans of Foreign Wars, the Fleet Reservists Association, the Military Officer's Association, the Paralyzed Veterans of America and the Uniformed Services Disabled Retirees.

Passing this bill will finally eliminate a grossly inequitable 19th century law and ensure fairness within the Federal retirement policy. Our veterans have heard enough excuses. Now it is time for them to hear our gratitude. I urge my colleagues to join me in supporting this legislation to finally end this disservice to our retired military men and women.

Our veterans have earned this and now is our chance to honor their service to our Nation.

I ask unanimous consent that the text of this legislation be printed in the RECORD.

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

S. 392

*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 "Retired Pay Restoration Act of 2003".

**SEC. 2. FULL PAYMENT OF BOTH RETIRED PAY AND COMPENSATION TO DISABLED MILITARY RETIREES.**

(a) RESTORATION OF FULL RETIRED PAY BENEFITS.—Section 1414 of title 10, United States Code, is amended to read as follows:

**"§ 1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation**

**"(a) PAYMENT OF BOTH RETIRED PAY AND COMPENSATION.**—Except as provided in subsection (b), a member or former member of the uniformed services who is entitled to retired pay (other than as specified in subsection (c)) and who is also entitled to veterans' disability compensation is entitled to be paid both without regard to sections 5304 and 5305 of title 38.

**"(b) SPECIAL RULE FOR CHAPTER 61 CAREER RETIREES.**—The retired pay of a member retired under chapter 61 of this title with 20 years or more of service otherwise creditable under section 1405 of this title at the time of the member's retirement is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the member's retired pay under chapter 61 of this title exceeds the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

**"(c) EXCEPTION.**—Subsection (a) does not apply to a member retired under chapter 61 of this title with less than 20 years of service otherwise creditable under section 1405 of this title at the time of the member's retirement.

**"(d) DEFINITIONS.**—In this section:

**"(1)** The term 'retired pay' includes re-tainer pay, emergency officers' retirement pay, and naval pension.

**"(2)** The term 'veterans' disability compensation' has the meaning given the term 'compensation' in section 101(13) of title 38."

(b) REPEAL OF SPECIAL COMPENSATION PROGRAMS.—Sections 1413 and 1413a of such title are repealed.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking the items relating to sections 1413, 1413a, and 1414 and inserting the following:

"1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation."

**SEC. 3. EFFECTIVE DATE; PROHIBITION ON RETROACTIVE BENEFITS.**

(a) IN GENERAL.—The amendments made by this Act shall take effect on—

(1) the first day of the first month that begins after the date of the enactment of this Act; or

(2) the first day of the fiscal year that begins in the calendar year in which this Act is enacted, if later than the date specified in paragraph (1).

(b) RETROACTIVE BENEFITS.—No benefits may be paid to any person by reason of section 1414 of title 10, United States Code, as amended by section 2(a), for any period before the effective date applicable under subsection (a).

Mr. MCCAIN. Madam President, I first introduced legislation on this issue all the way back in 1992. Then again in 1993, then again in 1994, then again in 1995. In 1999, I drafted legislation that became law—as a compromise measure that paid special compensation pay for severely disabled military retirees with disabilities greater than 50 percent. Here we are in 2003 with an opportunity to finally rectify a problem that has plagued our veterans and to rectify it, once and for all, for all military retirees who have become disabled during their military service.

I know personally the character of Americans who take up arms to defend our Nation's interests and to advance our democratic values. I know of all the battles, all the grim tests of courage and character, that have made a legend of the Army, Navy, Marine Corps and Air Forces devotion to duty.

Let me remind this body of the grave sacrifice that our men and women who risk their lives for their country must endure. The United States has exerted military force more than 280 times since the end of World War II. We are even now engaged in an epic struggle against a new and hidden enemy that involves the men and women of our armed forces.

Once again our young men and women are defiantly heading into harms way with the understanding that we, as the lawmakers of this great Nation, will ensure they are taken care of as citizens and as veterans for their actions above and beyond the call of duty.

We now have an opportunity to show a measure of our gratitude to these brave men and women, and for the future men and women who continue to serve in this time of trial.

The existing law as it stands is simply discriminatory and wrong. "Concurrent receipt" is, at its core, a fairness issue, and present law simply discriminates against career military people who have been injured or disabled while in conduct of their duties while in defense of this great Nation. Retired veterans are the only group of federal retirees who are required to waive their retirement pay in order to receive VA disability compensation.

In my view, the two pays are for very different purposes; one for loyal and selfless service to our country. The other for physical or mental 'pain and suffering' occurred in that service to country.

The Retired Pay Restoration Act has received strong bipartisan support in Congress for several years.

The Military Coalition, an organization of 33 prominent veterans' and retirees' advocacy groups, supports this legislation, as do many other veterans' service organizations, including the Veterans of Foreign Wars, American Legion and Disabled American Veterans.

For the brave men and women who have selected to make their career in the U.S. military, they face an unknown risk. If they are injured, they will be forced to forego their earned retired pay in order to receive their VA disability compensation. In effect, they will be paying for their own disability benefits from their retirement checks.

It is long overdue for us to redress the unfair practice of requiring disabled military retirees to fund their own disability compensation. Sixty percent is not enough! We need full funding for all military retirees. It is time to show our appreciation to the men and women who have sacrificed so much for our great Nation.

Therefore, I am proud to rise today with Mr. REID, to introduce the "Retired Pay Restoration Act of 2003", along with our colleagues Mr. AKAKA, Mr. BAUCUS, Mr. BAYH, Mr. BIDEN, Mr. BINGAMAN, Ms. BOXER, Mr. BREAUX, Ms. CANTWELL, Mr. COCHRAN, Mrs. CLINTON, Mr. CORZINE, Mr. DASCHLE, Mr. DAYTON, Mr. DORGAN, Mr. DURBIN, Ms. FEINSTEIN, Mr. INOUE, Mr. JOHNSON, Ms. LANDRIEU, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Ms. LINCOLN, Mr. MILLER, Mr. NELSON of Nebraska, Mr. NELSON of Florida, Mr. ROCKEFELLER, Mr. SARBANES, Mr. ALLARD, Mr. ALLEN, Mr. BROWNBACK, Mr. CAMPBELL, Mr. GRASSLEY, Mr. HAGEL, Mr. ROBERTS, Mr. SMITH, and Ms. SNOWE, to correct this inequity for veterans who have retired from our Armed Forces with a service-connected disability.

I am thankful for the Senate's action to address this important issue today and I urge the Chairman and Ranking Member to carry this legislative provision through Conference and final passage.

By Mr. ALLEN:

S. 393. A bill to amend the Internal Revenue Code of 1986 to allow employ-

ers a credit against income tax with respect to employees who participate in the military reserve components and to allow a comparable credit for participating reserve component self-employed individuals, and for other purposes; to the Committee on Finance.

Mr. ALLEN. Mr. President, 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:

S. 393

*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 "\_\_\_ Act of 2003".

**SEC. 2. CREDIT FOR EMPLOYMENT OF RESERVE COMPONENT PERSONNEL.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following new section:

**"SEC. 45G. RESERVE COMPONENT EMPLOYMENT CREDIT.**

"(a) GENERAL RULE.—For purposes of section 38, the reserve component employment credit determined under this section is an amount equal to the sum of—

"(1) the employment credit with respect to all qualified employees of the taxpayer, plus

"(2) the self-employment credit of a qualified self-employed taxpayer.

"(b) EMPLOYMENT CREDIT.—For purposes of this section—

"(1) IN GENERAL.—The employment credit with respect to a qualified employee of the taxpayer for any taxable year is equal to 100 percent of the excess, if any, of—

"(A) the qualified employee's average daily qualified compensation for the taxable year, over

"(B) the average daily military pay and allowances received by the qualified employee during the taxable year,

while participating in qualified reserve component duty to the exclusion of the qualified employee's normal employment duties for the number of days the qualified employee participates in qualified reserve component duty during the taxable year, including time spent in a travel status. The employment credit, with respect to all qualified employees, is equal to the sum of the employment credits for each qualified employee under this subsection.

"(2) AVERAGE DAILY QUALIFIED COMPENSATION AND AVERAGE DAILY MILITARY PAY AND ALLOWANCES.—As used with respect to a qualified employee—

"(A) the term 'average daily qualified compensation' means the qualified compensation of the qualified employee for the taxable year divided by the difference between—

"(i) 365, and

"(ii) the number of days the qualified employee participates in qualified reserve component duty during the taxable year, including time spent in a travel status, and

"(B) the term 'average daily military pay and allowances' means—

"(i) the amount paid to the qualified employee during the taxable year as military pay and allowances on account of the qualified employee's participation in qualified reserve component duty, divided by

"(ii) the total number of days the qualified employee participates in qualified reserve component duty, including time spent in travel status.

"(3) QUALIFIED COMPENSATION.—When used with respect to the compensation paid or

that would have been paid to a qualified employee for any period during which the qualified employee participates in qualified reserve component duty, the term 'qualified compensation' means—

"(A) compensation which is normally contingent on the qualified employee's presence for work and which would be deductible from the taxpayer's gross income under section 162(a)(1) if the qualified employee were present and receiving such compensation,

"(B) compensation which is not characterized by the taxpayer as vacation or holiday pay, or as sick leave or pay, or as any other form of pay for a nonspecific leave of absence, and with respect to which the number of days the qualified employee participates in qualified reserve component duty does not result in any reduction in the amount of vacation time, sick leave, or other nonspecific leave previously credited to or earned by the qualified employee, and

"(C) group health plan costs (if any) with respect to the qualified employee.

"(4) QUALIFIED EMPLOYEE.—The term 'qualified employee' means a person who—

"(A) has been an employee of the taxpayer for the 21-day period immediately preceding the period during which the employee participates in qualified reserve component duty, and

"(B) is a member of the Ready Reserve of a reserve component of an Armed Force of the United States as defined in sections 10142 and 10101 of title 10, United States Code.

"(c) SELF-EMPLOYMENT CREDIT.—

"(1) IN GENERAL.—The self-employment credit of a qualified self-employed taxpayer for any taxable year is equal to 100 percent of the excess, if any, of—

"(A) the self-employed taxpayer's average daily self-employment income for the taxable year over

"(B) the average daily military pay and allowances received by the taxpayer during the taxable year, while participating in qualified reserve component duty to the exclusion of the taxpayer's normal self-employment duties for the number of days the taxpayer participates in qualified reserve component duty during the taxable year, including time spent in a travel status.

"(2) AVERAGE DAILY SELF-EMPLOYMENT INCOME AND AVERAGE DAILY MILITARY PAY AND ALLOWANCES.—As used with respect to a self-employed taxpayer—

"(A) the term 'average daily self-employment income' means the self-employment income (as defined in section 1402) of the taxpayer for the taxable year plus the amount paid for insurance which constitutes medical care for the taxpayer for such year (within the meaning of section 162(l)) divided by the difference between—

"(i) 365, and

"(ii) the number of days the taxpayer participates in qualified reserve component duty during the taxable year, including time spent in a travel status, and

"(B) the term 'average daily military pay and allowances' means—

"(i) the amount paid to the taxpayer during the taxable year as military pay and allowances on account of the taxpayer's participation in qualified reserve component duty, divided by

"(ii) the total number of days the taxpayer participates in qualified reserve component duty, including time spent in travel status.

"(3) QUALIFIED SELF-EMPLOYED TAXPAYER.—The term 'qualified self-employed taxpayer' means a taxpayer who—

"(A) has net earnings from self-employment (as defined in section 1402) for the taxable year, and

"(B) is a member of the Ready Reserve of a reserve component of an Armed Force of the United States.

“(d) CREDIT IN ADDITION TO DEDUCTION.—The employment credit provided in this section is in addition to any deduction otherwise allowable with respect to compensation actually paid to a qualified employee during any period the qualified employee participates in qualified reserve component duty to the exclusion of normal employment duties.

“(e) LIMITATIONS.—

“(1) DISALLOWANCE FOR FAILURE TO COMPLY WITH EMPLOYMENT OR REEMPLOYMENT RIGHTS OF MEMBERS OF THE RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES.—No credit shall be allowed under subsection (a) to a taxpayer for—

“(A) any taxable year in which the taxpayer is under a final order, judgment, or other process issued or required by a district court of the United States under section 4323 of title 38 of the United States Code with respect to a violation of chapter 43 of such title, and

“(B) the 2 succeeding taxable years.

“(2) DISALLOWANCE WITH RESPECT TO PERSONS ORDERED TO ACTIVE DUTY FOR TRAINING.—No credit shall be allowed under subsection (a) to a taxpayer with respect to any period for which the person on whose behalf the credit would otherwise be allowable is called or ordered to active duty for any of the following types of duty:

“(A) active duty for training under any provision of title 10, United States Code,

“(B) training at encampments, maneuvers, outdoor target practice, or other exercises under chapter 5 of title 32, United States Code, or

“(C) full-time National Guard duty, as defined in section 101(d)(5) of title 10, United States Code.

“(f) GENERAL DEFINITIONS AND SPECIAL RULES.—

“(1) MILITARY PAY AND ALLOWANCES.—The term ‘military pay’ means pay as that term is defined in section 101(21) of title 37, United States Code, and the term ‘allowances’ means the allowances payable to a member of the Armed Forces of the United States under chapter 7 of that title.

“(2) QUALIFIED RESERVE COMPONENT DUTY.—The term ‘qualified reserve component duty’ includes only active duty performed, as designated in the reservist’s military orders, in support of a contingency operation as defined in section 101(a)(13) of title 10, United States Code.

“(3) NORMAL EMPLOYMENT AND SELF-EMPLOYMENT DUTIES.—A person shall be deemed to be participating in qualified reserve component duty to the exclusion of normal employment or self-employment duties if the person does not engage in or undertake any substantial activity related to the person’s normal employment or self-employment duties while participating in qualified reserve component duty unless in an authorized leave status or other authorized absence from military duties. If a person engages in or undertakes any substantial activity related to the person’s normal employment or self-employment duties at any time while participating in a period of qualified reserve component duty, unless during a period of authorized leave or other authorized absence from military duties, the person shall be deemed to have engaged in or undertaken such activity for the entire period of qualified reserve component duty.

“(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply for purposes of this section.”

(b) CONFORMING AMENDMENT.—Section 38(b) of the Internal Revenue Code of 1986 (relating to general business credit) is amended—

(1) by striking “plus” at the end of paragraph (14),

(2) by striking the period at the end of paragraph (15) and inserting “, plus”, and

(3) by adding at the end the following new paragraph:

“(16) the reserve component employment credit determined under section 45G(a).”

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 45F the following new item:

“Sec. 45G. Reserve component employment credit.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

By Mr. ALLEN:

S. 394. A bill to amend the Internal Revenue Code of 1986 to expand the combat zone income tax exclusion to include income for the period of transit to the combat zone and to remove the limitation on such exclusion for commissioned officers; to the Committee on Finance.

Mr. ALLEN. Mr. President, 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:

S. 394

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

**SECTION 1. EXPANSION OF INCOME TAX EXCLUSION FOR COMBAT ZONE SERVICE.**

(a) COMBAT ZONE SERVICE TO INCLUDE TRANSIT TO ZONE.—Section 112(c)(3) of the Internal Revenue Code of 1986 (relating to definitions) is amended by adding at the end the following new sentence: “Such service shall include any period of transit to the combat zone.”

(b) REMOVAL OF LIMITATION ON EXCLUSION FOR COMMISSIONED OFFICERS.—

(1) IN GENERAL.—Subsection (b) of section 112 of the Internal Revenue Code of 1986 (relating to certain combat zone compensation of members of the Armed Forces) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 112(a) of such Code is amended—

(i) by striking “below the grade of commissioned officer”, and

(ii) by striking “ENLISTED PERSONNEL” in the heading and inserting “IN GENERAL”.

(B) Section 112(c) of such Code is amended by striking paragraphs (1) and (5) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to months beginning after the date of the enactment of this Act.

By Mr. GRASSLEY (for himself,  
Mr. BAUCUS, Mr. CONRAD, Mr. CRAPO, Mr. BREAUX, Mr. LEAHY, Mr. HARKIN, Mr. DURBIN, Mr. CRAIG, Mr. JOHNSON, Mr. CHAFEE, Ms. SNOWE, and Mr. KERRY):

S. 395. A bill to amend the Internal Revenue Code of 1986 to provide a 3-year extension of the credit for producing electricity from wind; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I rise today to introduce important tax legislation on behalf of myself and Senators

BAUCUS, CONRAD, CRAPO, BREAUX, LEAHY, HARKIN, DURBIN, CRAIG, JOHNSON, CHAFEE, SNOWE, and KERRY.

This bill, entitled the “Bipartisan Renewable Efficient Energy with Zero Effluent, BREEZE, Act,” extends the production tax credit for electricity generated by wind for three years. The current tax credit is set to expire on January 1, 2004.

As the author of the Wind Energy Incentives Act of 1993, I sought to give this alternative energy source the ability to compete against traditional, finite energy sources. I strongly believe that the expansion and development of wind energy must be facilitated by this production tax credit.

Wind, unlike most energy sources, is an efficient and environmentally safe form of energy production. Wind energy makes valuable contributions to maintaining cleaner air and a cleaner environment. Every 10,000 megawatts of wind energy produced in the United States can reduce carbon monoxide emissions by 33 million metric tons by replacing the combustion of fossil fuels.

Since the inception of the wind energy production tax credit in 1993, more than 3,000 megawatts of generating capacity have been put online. This generating capacity powers nearly 900,000 homes.

Just last year, over 400 megawatts of new wind energy capacity was installed, bringing total capacity to more than 4,500 megawatts. Wind energy is currently serving the equivalent of more than 1.3 million average American homes in 27 states across the country.

During the past two decades, the price of wind energy has been reduced more than 80 percent, making it one of the least expensive sources of renewable energy. In order to continue this investment and development in America’s energy future, we must extend the production tax credit.

From 1999 to 2001, wind energy capacity in Iowa grew by 33 percent, and while Iowa ranks tenth in the nation in terms of wind energy potential, Iowa currently ranks third nationally in wind development, with over 400 megawatts of generating capacity. Only California and Texas generate more electricity from wind than Iowa. And, the Iowa Department of Natural Resources estimates that Iowa has the potential to produce nearly 5 times its own annual electrical needs through wind power.

Wind energy also produces substantial economic benefits. For each wind turbine, a farmer or rancher can receive more than \$2,000 per year for 20 years in direct lease payments. Iowa’s major wind farms already pay more than \$640,000 per year to landowners.

Equally important, wind energy increases our energy independence, thereby providing the United States with insulation from an oil supply dominated by the Middle East. Our national security is currently threatened by a heavy reliance on oil from abroad.

Unfortunately, due to the structure of the current tax incentive, a significant portion of the electricity industry is unable to take advantage of the credit. Rural electric cooperatives and municipal utilities provide power to nearly 25 percent of the Nation's consumers. To encourage a unified national energy plan, it's only fair to give cooperatives and other not-for-profit utilities the ability to use renewable tax incentives.

REC's and municipal utilities should be given a mechanism to utilize the tax incentives for renewable electricity generation. And, while the legislation I'm introducing today does not address this issue, I look forward to working with my colleagues on the Finance Committee to include such a mechanism in a comprehensive energy tax package.

Extending the wind energy tax credit would allow for even greater expansion and planning stability in the wind energy field. Wind is a domestically produced natural resource, found abundantly across the country. Because wind energy is homegrown, it cannot be controlled by any foreign power.

Wind energy can be harnessed without injury to our environment. Wind is a reliable form of power that is renewable and inextinguishable. This legislation ensures that wind energy does not fall by the wayside as a productive alternative energy source.

The Senate needs to extend this important incentive and I encourage my colleagues to join us in this effort.

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:

S. 395

*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 "Bipartisan Renewable, Efficient Energy with Zero Effluent (BREEZE) Act".

**SEC. 2. 3-YEAR EXTENSION OF CREDIT FOR PRODUCING ELECTRICITY FROM WIND.**

Section 45(c)(3)(A) of the Internal Revenue Code of 1986 (relating to wind facility) is amended by striking "January 1, 2004" and inserting "January 1, 2007".

By Mr. BAUCUS (for himself and Mr. GRASSLEY):

S. 396. A bill to amend the Internal Revenue Code of 1986 to exempt small manufacturers from the firearms excise tax; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I am pleased to introduce the Gunsmith Excise Tax Simplification Act of 2003. This bill will protect funding for the Federal Aid to Wildlife Restoration Fund by simplifying administration and compliance with the excise tax by eliminating the assessment of the tax against custom gunsmiths.

The creation of the Federal Aid to Wildlife Restoration Fund is one of the great success stories of cooperation

among America's sportsmen and women, state fish and wildlife agencies, and the sporting goods industry. Working together with Congress, Americans who enjoy the outdoors volunteered to pay an excise tax on sporting arms and ammunition to be used for hunter education programs, wildlife restoration, and habitat conservation.

Under the tax code, all manufacturers of firearms must pay an excise tax of 10 percent or 11 percent of the retail price, depending on the type of firearm. For more than 25 years custom gunsmiths have sought to clarify that they were not intended to be subject to this tax. Many custom gunsmiths do not actually make new guns, rather they remodel or refurbish existing firearms. The proposal establishes an exemption from the excise tax for manufacturers of fewer than 50 firearms per year.

This issue is important to individuals in Montana. Steven Dodd Hughes, a custom gunmaker in Livingston, MT, pays this tax. He has a sole proprietorship, a one man shop. Steven's business is generated from outside of Montana and brings in much needed revenue to his community. He agrees with the tax as it was intended, on manufacturers. It was not intended to be applied to one man operations such as his. The American Custom Gunmakers Guild and the NRA agree with Mr. Hughes.

In summary, the Gunsmith Excise Tax Simplification Act of 2003 would accomplish two worthy objectives. First, this proposal will eliminate the assessment of the excise tax on custom gunmakers, which is fair. Second it eliminates the significant administrative burden placed on small businesses, such as determining who the manufacturer is and who is going to assess and collect the tax. These custom gunmakers rebuild and update the firearms, they don't administer tax laws. Last year, the Joint Committee on Taxation estimated the proposal will decrease revenues by less than \$10 million over ten years, resulting in minimal reduction of the Federal Aid to Wildlife Restoration Fund.

I ask unanimous consent that the text of my bill entitled "The Gunsmith Excise Tax Simplification Act of 2003" be printed in the RECORD.

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

S. 396

*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 "Gunsmith Excise Tax Simplification Act of 2003".

**SEC. 2. CUSTOM GUNSMITHS.**

(a) SMALL MANUFACTURERS EXEMPT FROM FIREARMS EXCISE TAX.—Section 4182 of the Internal Revenue Code of 1986 (relating to exemptions) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) SMALL MANUFACTURERS, ETC.—

"(1) IN GENERAL.—The tax imposed by section 4181 shall not apply to any article de-

scribed in such section if manufactured, produced, or imported by a person who manufactures, produces, and imports less than 50 of such articles during the calendar year.

"(2) CONTROLLED GROUPS.—All persons treated as a single employer for purposes of subsection (a) or (b) of section 52 shall be treated as one person for purposes of paragraph (1)."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer on or after the date which is the first day of the month beginning at least 2 weeks after the date of the enactment of this Act.

(2) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to create any inference with respect to the proper tax treatment of any sales before the effective date of such amendments.

By Mr. ENSIGN (for himself and Mrs. HUTCHISON):

S. 397. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for the old-age, survivors, and disability insurance taxes paid by employees and self-employed individuals, and for other purposes; to the Committee on Finance.

Mr. ENSIGN. Mr. President, 194 years ago this week, a son was born to Nancy and Thomas Lincoln in Elizabethtown, Kentucky. That son, Abraham, would go on to become President of the United States at one of the most defining times in our Nation's history.

President Lincoln is still revered today for his leadership and vision of a country in which all citizens have the opportunity to succeed. In 1864, when the outcomes of the war and his reelection were in question, he asked soldiers from Ohio's 66th regiment to stop at the White House on their way home so he could express his appreciation. President Lincoln shared with them the following:

"I beg you to remember this . . . I happen temporarily to occupy this big White House. I am a living witness that any one of your children may look to come here as my father's child has. It is in order that each of you may have through this free government which we have enjoyed, an open field and a fair chance for your industry, enterprise and intelligence; that you may all have equal privileges in the race of life, with all its desirable human aspirations. It is for this the struggle would be maintained, that we may not lose our birthright . . . The nation is worth fighting for, to secure such an inestimable jewel."

That jewel—the American dream that should be within reach of all who grasp for it—has been the hope of generations in this nation. This Nation that elected Abraham Lincoln—born in a one-room log cabin and once a farmhand . . . This Nation that harvests in its children a yearning to soar beyond the earth's atmosphere . . . This Nation that preaches that education, hard work, and family bring success.

Unfortunately, making a living, raising a family, and educating ourselves and our children is becoming more and more difficult in America. And it's the

leaders of this nation that have made the obstacles to success higher to get over and wider to get around.

Here in Washington, we've built a wall of obstacles with one tax burden after another. Our Founding Fathers outlined exactly the powers they wanted Congress to have in Article I, Section 8 of the Constitution. Just because the first thing listed is the power to lay and collect taxes, doesn't mean it's the power we need to exercise the most.

Not only should we take the responsibility of stopping the building of this wall of tax burdens, we need to step up and start removing these burdens. We need to alleviate the tremendous stress that comes with having to work to pay so much of what we earn to the government.

Last year, the average taxpayer in my home State of Nevada did not finish paying taxes until April 27, which was also the average across the United States. Everything earned for the first 117 days of the year went to a government entity. In comparison, the average American spends only 106 days paying for food, clothing, and shelter combined.

That doesn't leave enough days to pay for a family vacation or to save for education or to pay medical bills or to save for retirement or to take a class to improve skills or to do whatever you want with your money—after all, it is your money.

In itself, our tax system is unfair because American families have to work harder to make more money only to pay greater taxes, and workers bear the burden of a government that continues to find ways to tax them into working even harder.

Whatever our individual thoughts are on tax relief, we must agree that, although being taxed has become a challenging part of life, the idea of being double taxed is truly the government stealing from working Americans. Double taxation is immoral. Think about it in terms of a parent teaching a child. I am a parent of three young children. Just as I would explain to my children that it is not all right to take a piece of candy that they have not paid for, I would also tell them it is absolutely not okay to charge someone for something they aren't getting. But that is exactly what our government is doing with the Social Security tax.

Time magazine recently called it "The Really Unfair Tax." I call it the Social Security double dip. The take-home pay of 100 million Americans is fodder for this gutsy government scam. In very simple terms, this means that when a family pays income tax, the portion that is withheld for Social Security—money that they never see—is calculated into their personal income. The first dip is the tax that workers pay on wage income. The second dip is the icing on the cake for the government—taxing money that they are already taking anyway. Working Americans are forced to pay income tax on

their Social Security tax. It is textbook double taxation, and if a business concocted such a scheme it would be shut down. How can we continue this policy if we would teach our children that it is wrong? This is only one reason why the tax is unfair.

Another example of the outrageousness of this tax is that while working families are double taxed, American businesses are not. You see, half the Social Security tax is paid by workers, but employers pay the other half. Businesses and corporations get to deduct what they pay in Social Security taxes—a savings that working families are not afforded. This tax discrimination is unacceptable.

We must eliminate this absolutely wrong tax policy that mocks our Constitution's goal to "promote the general Welfare." I propose an above-the-line deduction for Social Security taxes so that an individual's Social Security taxes are not included in the calculation of income for income tax purposes. It's the right thing to do if we want to lead this Nation by example. Providing a Social Security tax deduction makes sense and will make a real difference to working families. About 100 million individuals and families would feel the savings—to the tune of around \$2,000 each. Such savings translate into real growth and opportunity. Scholars predict that the Payroll Tax Deduction Act would mean 900,000 new jobs in this country, and it also means a Nation of workers who get to keep more of their hard-earned money.

When government takes money away from working families, it stifles growth and builds obstacles to success. Let's take this chance to provide relief to America's families, open the doors to opportunity, and let future generations know that the American dream—the jewel that inspired Abraham Lincoln—is well within the reach of all who truly desire it.

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:

S. 397

*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 "Payroll Tax Deduction Act".

**SEC. 2. DEDUCTION FOR OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE TAXES OF EMPLOYEES AND SELF-EMPLOYED INDIVIDUALS.**

(a) TAXES OF EMPLOYEES.—

(1) DEDUCTION ALLOWED IN ARRIVING AT ADJUSTED GROSS INCOME.—Section 62(a) of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by inserting after paragraph (18) the following new paragraph:

"(19) EMPLOYEES' OASDI TAXES.—The deduction allowed by section 164(g)."

(2) DETERMINATION OF DEDUCTION.—Section 164 of such Code (relating to deduction for taxes) is amended by redesignating sub-

section (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) EMPLOYEES' OASDI TAXES.—

"(1) IN GENERAL.—In the case of an individual, in addition to the taxes described in subsection (a), there shall be allowed as a deduction for the taxable year an amount equal to the sum of—

"(A) the taxes imposed by section 3101(a) for the taxable year, and

"(B) the taxes imposed by section 3201(a) for the taxable year but only to the extent attributable to the percentage in effect under section 3101(a).

"(2) SPECIAL RULE FOR CERTAIN AGREEMENTS.—For purposes of paragraph (1), taxes imposed by section 3101(a) shall include amounts equivalent to such taxes imposed with respect to remuneration covered by—

"(A) an agreement under section 218 of the Social Security Act, or

"(B) an agreement under section 3121(l) (relating to agreements entered into by American employers with respect to foreign affiliates).

"(3) COORDINATION WITH SPECIAL REFUND OF SOCIAL SECURITY TAXES.—Taxes shall not be taken into account under paragraph (1) to the extent the taxpayer is entitled to a special refund of such taxes under section 6413(c).

"(4) COORDINATION WITH EARNED INCOME CREDIT.—No deduction shall be allowed under paragraph (1) for any taxable year if the individual elects to claim the earned income credit under section 32 for the taxable year."

(3) CONFORMING AMENDMENT.—Subsection (a) of section 275 of such Code is amended in the matter following paragraph (6) by inserting "or 164(g)" after "164(f)".

(b) DEDUCTION FOR SELF-EMPLOYED INDIVIDUALS.—

(1) IN GENERAL.—Paragraph (1) of section 164(f) of the Internal Revenue Code of 1986 (relating to deduction for one-half of self-employment taxes) is amended to read as follows:

"(1) IN GENERAL.—In the case of an individual, in addition to the taxes described in subsection (a), there shall be allowed as a deduction for the taxable year an amount equal to the sum of—

"(A) the taxes imposed by section 1401(a) for such taxable year, plus

"(B) 50 percent of the taxes imposed by section 1401(b) for such taxable year.

In the case of an individual who elects to claim the earned income credit under section 32 for the taxable year, only 50 percent of the taxes described in subparagraph (A) shall be taken into account."

(2) CONFORMING AMENDMENTS.—

(A) Section 32(a)(1) of such Code is amended by inserting "who elects the application of this section" after "eligible individual".

(B) The heading for section 164(f) of such Code is amended by striking "ONE-HALF" and inserting "PORTION".

(C) Section 1402(a)(12) of such Code is amended—

(i) by striking "one-half" the first place it appears and inserting "portion", and

(ii) by striking subparagraph (B) and inserting:

"(B) a percentage equal to the sum for such year of the rate of tax under section 1401(a) and one-half of the rate of tax under section 1401(b)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

By Mr. ALLEN:

S. 398. A bill to provide that members of the Armed Forces performing services at Guantanamo Bay Naval Station, Cuba, and in the Horn of Africa in support of Operation Enduring Freedom shall be entitled to tax benefits in the same manner as if such services were performed in a combat zone, and for other purposes; to the Committee on Finance.

Mr. ALLEN. Mr. President, 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:

S. 398

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

**SECTION 1. AVAILABILITY OF CERTAIN TAX BENEFITS FOR MEMBERS OF THE ARMED FORCES PERFORMING SERVICES AT GUANTANAMO BAY NAVAL STATION, CUBA, AND IN THE HORN OF AFRICA.**

(a) GENERAL RULE.—In the case of a member of the Armed Forces of the United States who is entitled to special pay under section 310 of title 37, United States Code (relating to special pay: duty subject to hostile fire or imminent danger), for services performed at Guantanamo Bay Naval Station, Cuba, or in any country located in the region known as the Horn of Africa as part of Operation Enduring Freedom (or any successor operation), such member shall be treated in the same manner as if such services were in a combat zone (as determined under section 112 of the Internal Revenue Code of 1986) for purposes of the following provisions of such Code:

(1) Section 2(a)(3) (relating to special rule where deceased spouse was in missing status).

(2) Section 112 (relating to the exclusion of certain combat pay of members of the Armed Forces).

(3) Section 692 (relating to income taxes of members of Armed Forces on death).

(4) Section 2201 (relating to members of the Armed Forces dying in combat zone or by reason of combat-zone-incurred wounds, etc.).

(5) Section 3401(a)(1) (defining wages relating to combat pay for members of the Armed Forces).

(6) Section 4253(d) (relating to the taxation of phone service originating from a combat zone from members of the Armed Forces).

(7) Section 6013(f)(1) (relating to joint return where individual is in missing status).

(8) Section 7508 (relating to time for performing certain acts postponed by reason of service in combat zone).

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall take effect on the date of the enactment of this Act.

(2) WITHHOLDING.—Subsection (a)(5) shall apply to remuneration paid on or after such date of enactment.

By Mr. CAMPBELL:

S. 399. A bill to authorize grants for the establishment of quasi-judicial campus drug courts at colleges and universities modeled after State drug courts programs; to the Committee on the Judiciary.

Mr. CAMPBELL. Madam President, today I introduce the "Campus Classmate Offenders in Rehabilitation and Treatment Act of 2003."

The legislation I am introducing today is based on legislation I pre-

viously introduced toward the end of the 107th Congress.

The Campus Classmate Offenders in Rehabilitation and Treatment Act, which can also be referred to as the "Campus CORT Act," directs the Department of Justice to establish a demonstration program to provide grants and training to help our Nation's universities and colleges establish new quasi-judicial systems. These systems aim at countering the serious drug and substance abuse related problems that are taking such a heavy toll on our institutions of higher learning and the students who attend them. The demonstration program, which would be administered by the Department of Justice's Office of Justice Programs, would be based on the valuable lessons and successes we have garnered from our Nation's innovative and expanding drug court system.

Specifically, this demonstration program legislation would authorize the establishment of up to five Campus CORTs each year for Fiscal Years 2004 through 2007. The bill authorizes the Office of Justice Programs to provide \$2,000,000 in Federal funding during each of those years to help get five Campus CORTs well trained, soundly established and up and running. This new program's approach should be similar to how the Office of Justice Programs currently runs the ongoing drug court grant-making program, including providing an Internet-based application process.

There are plenty of good reasons to take the next step and establish a Campus CORTs program based on the drug court model. Since they first appeared in 1989, drug courts have rapidly spread all across the Nation. Rather than simply locking-up nonviolent drug offenders in prison along side violent criminals, drug courts provide the alternative of court-supervised treatment. Instead of simply punishing, drug courts help get people clean.

Drug courts' many successes are underscored both by the bipartisan support they have received in Congress and by the Bush Administration. For example, during a national conference hosted this last April by the National Association of Drug Court Professionals, both Office of National Drug Control Policy Director John Walters, our Nation's "Drug Czar," and Drug Enforcement Agency Director Asa Hutchinson gave speeches in support of drug courts and the benefits they provide.

According to the latest statistics as reported by the Department of Justice's Office of Justice Programs, as of November 2002, 946 Drug Courts are operating all across the United States. This is an impressive increase of approximately 250 Drug Courts over the past year. This 946 Drug Courts includes 547 Adult Drug Courts, 245 Juvenile Drug Courts, 59 Family Drug Courts and 14 Combination Courts. Over 400 additional new Drug Courts are in the planning process.

The report goes on to state that approximately 300,000 adults and 12,000 juveniles have been enrolled in the drug court system to date. Of those participants, 73,000 adults and 4,500 juveniles have successfully graduated from Drug Courts.

The merits of the drug court system are well documented. Nationwide, drug courts have been instrumental in enabling more than 1,000 children to be born drug free, more than 3,500 parents to regain custody of their children, and 4,500 parents to resume making their child-support payments. The retention rate is over 70 percent with 73 percent of the participants managing to keep their jobs or successfully find new work. These are encouraging statistics, and not just for the individuals involved, but for society as a whole.

While it is not as easy to measure, we know that Drug Courts play a beneficial role in reducing criminal behavior since so much crime these days is drug related.

Drug Courts also help save up money. It is estimated that every dollar spent on Drug Courts saves our country and communities approximately ten dollars in reduced prison and other criminal justice costs.

These are the kind of successes we should be able to see once the drug court model is customized and applied through Campus CORTs as we work together to respond to the alcohol, drug and other substance abuse challenges facing our Nation's colleges and universities.

Just as drugs are deeply interconnected with crime on our streets, drugs and serious substance abuse are also interconnected with much of the academic failure that damages so many of our Nation's institutions of higher learning and their aspiring students seeking college degrees.

Our Nation's drug courts use a carrot and stick approach where offenders can either live at home and remain free to work under court supervised treatment or face the very real threat of hard jail time. Similarly, Campus CORTs will give troubled students the chance to get supervised treatment and stay clean or get kicked out of school and watch their futures get squandered away.

Instead of simply booting students with substance abuse problems directly out of school, as is currently happening at many universities and colleges all across the country, I believe we should instead help provide institutions of higher learning with new tools they can use to help students get and stay clean. Of course, just like it is with the existing drug courts, there will be some students who simply do not respond to Campus CORTs. While those students will have to face the fact that they may well be expelled from school, at least we will have been able to give them the opportunity to clean-up their act.

Since the new Campus CRTs would be established at colleges and universities, the legislation calls on the Office of Justice Programs, or OJP, to establish new "quasi-judicial standards and procedures for disciplinary cases" for institutions of higher learning that wish to participate in the new Federal program.

Today, I am pleased to highlight that one of the leading institutions of higher learning in my home State, Colorado State University, CSU, has already broken new ground as the Nation's first university to apply the drug court concept in a campus setting. The "Day IV" program, as it is known at CSU, has racked-up a successful record in helping keep students clean and in school.

Our Drug Court system is making a difference all across our Nation. In fact, a 2002 report issued by Columbia University's prestigious National Center on Addiction and Substance Abuse states that "Drug Courts provide closer, more comprehensive supervision and much more frequent drug testing and monitoring during the program, than other forms of community supervision." The report underscores that "drug use and criminal behavior are substantially reduced while offenders are participating in drug court" and that "criminal behavior is lower after participation, especially for graduates."

Our Nation's Drug Court system is a good example of a viable and productive partnership between the Federal Government our State governments and local jurisdictions. Their collaboration is making a positive impact all across our country. I want to take this moment to thank the people of the OJP, the experts at the National Association of Drug Court Professionals and the state and local judges, prosecutors, law enforcement officers and other officials who have done so much to establish, build upon and continually improve our Nation's drug court system.

I also want to take a moment to thank Judge Karen Freeman Wilson, Chief Executive Officer of the National Association of Drug Court Professionals for her letter of support for the Campus CRT legislation I am introducing today. It is appreciated.

I ask unanimous consent that the letter of support and the text of the bill be printed in the RECORD.

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

NATIONAL ASSOCIATION OF  
DRUG COURT PROFESSIONALS,  
Alexandria, VA, January 15, 2003.

Senator BEN NIGHTHORSE CAMPBELL,  
Russell Senate Office Building,  
Washington, DC.

DEAR SENATOR CAMPBELL: As the representative of the National Association of Drug Court Professionals (NADCP) and of drug court professionals throughout the country, I am writing this letter of support for the Campus Classmate Offenders in Rehabilitation and Treatment (CRT) Act" which I understand you will be introducing in the

Senate in the near future. Not only are campus drug courts a natural progression of the traditional drug court system which has proliferated successfully throughout the country for more than a decade, but they also will serve as yet another mechanism to reduce drug abuse and its concomitant crime.

Drug court professionals throughout the country truly appreciate your tenacious support and are eager to work collectively with you and other legislators to ensure that substance-abusing students are reached early and do not continuously cycle through the revolving door of the criminal justice system.

Because of your in depth knowledge of the substance abuse and its concomitant crime, you are already aware that drug and alcohol abuse is not limited to a specific age, gender or race. However, according to the 2001 National Household Survey on Drug Abuse, approximately 15.9 million Americans aged 12 or older were current users of an illicit drug in 2001, representing 7.1% of the population. The highest rate of use was found among young adults (ages 18-25) with 18.8% reporting current use and among youth (ages 12-17) with 10.8%. Current use of any illicit drug in the population aged 12 and older increased significantly from 6.3% in 2000 to 7.1% in 2001. The Substance Abuse and Mental Health Services Administration reported an equally alarming statistic in its fact sheet entitled "Consequences of Underage Alcohol Use" as it stated in 1998, there were 8,844 arrests for drug law violations on 487 college campuses.

Unfortunately, the 2001 National Household Survey on Drug Abuse and other studies clearly indicate that the need still exists to invest more attention to the rising problem of drug abuse, specifically on college campuses, throughout the country. Drug courts have already proven that an early investment in treatment obviates the need for repeated investments in incarceration and allow previously addicted offenders to lead healthy, productive lives within their communities. Campus drug courts are the natural extension of drug courts and will combat campus drug and alcohol abuse head on, thereby preventing accidents and crimes at colleges and universities throughout the nation.

Thank you once again for your stanch support of the drug court field and for introducing the "Campus CRT Act." I look forward to providing support to this and similar legislation and to working with you and your staff in the future.

Very truly yours,  
Judge KAREN FREEMAN-WILSON (ret.),  
Chief Executive Officer.

S. 399

*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 "Campus Classmate Offenders in Rehabilitation and Treatment Act" or the "Campus CRT Act".

#### SEC. 2. ESTABLISHMENT OF CAMPUS DRUG COURTS.

(a) IN GENERAL.—The Attorney General, acting through the Office of Justice Programs, is authorized to make demonstration grants to accredited universities and colleges to establish not to exceed 5 campus classmate offenders in rehabilitation and treatment programs (referred to as "Campus CRTS") each fiscal year modeled after the statewide local drug court programs throughout the United States.

(b) CAMPUS CRTS.—Campus CRTS shall—

(1) be established at accredited colleges or universities;

(2) have jurisdiction over substance abuse related disciplinary cases involving students that may or may not be criminal in nature, including illegal drug use, abuse of prescription drugs, alcohol abuse, and other issues, but no student who is deemed to be a danger to the community may be involved;

(3) pursuant to regulations promulgated by the Attorney General, establish appropriate quasi-judicial standards and procedures for disciplinary cases; and

(4) impose as the ultimate sanction expulsion from school.

(c) CONSULTATION.—The Attorney General shall consult with the National Association of Drug Court Professionals, d.b.a., the National Drug Court Institute, universities and colleges, including the Campus Drug Court program at Colorado State University, and other experts in establishing quasi-judicial standards required by this Act.

(d) ASSISTANCE.—The Attorney General shall make grants to qualified universities and colleges, the National Association of Drug Court Professionals, d.b.a., the National Drug Court Institute, and other associations and experts to assist in establishing campus drug courts and provide training and technical assistance in support of the program.

(e) GRANT MAKING CONSIDERATIONS.—In awarding grants to qualified colleges or universities, the Office of Justice Programs should—

(1) endeavor to include colleges and universities of different sizes across the United States; and

(2) enable colleges and universities to apply for grants through the Internet site of the Office of Justice Programs.

#### SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated \$2,000,000 for each of the fiscal years 2004 through 2007 to carry out this Act.

By Ms. LANDRIEU:

S. 401. A bill to amend title 10, United States Code, to increase to parity with other surviving spouses the basic annuity that is provided under the uniformed services Survivor Benefit Plan for surviving spouses who are at least 62 years of age; and for other purposes; to the Committee on Armed Services.

Ms. LANDRIEU. Mr. President, I rise today to speak on an issue of great importance to our military retirees. This issue I want to address is the Survivor's Benefit Plan and the need to eliminate the Social Security offset.

The Survivor's Benefit Plan, SBP, has been in existence for nearly 30 years. Under this plan, military retirees may contribute part of their monthly retirement pay to the SBP, with the knowledge that after their death, their spouses can continue to receive 55 percent of their monthly retirement pay. But, when the surviving spouse reaches the age of 62, something disturbing happens. At the age of 62, the widow or widower of a military retiree sees his or her payments under the SBP shrink to 35 percent. This reduction is an offset for the Social Security payments that the survivor has begun to collect.

The survivors of military retirees find this to be unjust, and rightly so. The SBP is a fund that their spouses payed into, with the expectation that their survivors would be taken care of

after they pass away. The SBP is not a lavish monthly payment, but reflects the low salaries that men and women on active duty receive. In a recent article in the Shreveport Times, Billie Combs, who is 73, and is the widow of an Air Force Master Sergeant commented on the strain that the Social Security Offset imposes on their budget. She said: "It curtails my spending. It stops me from buying the things that I need; I just cut back and make sure that I have enough to carry me through to the next month."

The legislation that I introduce today would slowly phase out the social security offset to Survivor Benefit Plan, reducing it significantly by 2007, and completely erasing it by 2013.

Those who choose the military as their profession don't do it for the money. They do it because they have a love for country. They have a love for country that runs so deep, they would gladly sacrifice their lives in defense of the homeland. Despite the extreme sacrifice our Soldiers, Sailors, Airmen, and Marines are willing to make, they are not well compensated. And we don't just ask the servicemen to sacrifice, we ask their families to make a sacrifice. They endure long periods of separation, they live in military housing which in many cases is substandard, and we ask them to get by on low pay. The least we can do for our servicemen is to give them a decent retirement system. The very least we can do for their widows, is to restore the funds that are unjustly removed from their survivor's benefit plan.

Mr. President, I ask unanimous consent that the article and the text of this bill be printed in the RECORD.

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

MILITARY WIDOWS LOSE CHUNK OF BENEFITS  
AT 62

(By Dennis Camire)

WASHINGTON.—Some survivors of military retirees have a rude awakening when they turn 62 and find their income from a Defense Department pension plan slashed.

Many who enrolled in the survivor annuity plan in the 1970s say they understood their surviving spouses would receive 55 percent of their retirement pay for life.

But that's not the case. The benefit droops to as low as 35 percent when survivors reach 62. Retirees who have paid decades of premiums say they feel betrayed.

"I like to have dropped dead right there," Marion Charles, 78, said in finding out about the reduction after her husband, Edward, died last year. "In fact, I wondered why God didn't take me with Ed."

Charles of Plant City, Fla., was left struggling with funeral expenses, credit card debts and house maintenance bills after she saw her income drop by \$1,200 a month upon the death of her husband, who retired in 1966 as a Navy chief petty officer. She now lives in a damaged 28-foot travel trailer and gets by with help from the Navy-Marine Corps Relief Society.

Though the annuity covers all spouses of military service members who don't opt out, women overwhelmingly are affected because most who have chosen the military as a career through the years have been men.

"It curtails my spending. It stops me from buying the things I want and need," said Billie Combs, 73, of Bossier City, widow of an Air Force master sergeant who died in 1995. "I just cut back and make sure I have enough to carry me over to the next month."

Lee Lange of the Military Officers Association of America called the cutback wrong. "It just seems counter-intuitive that we would be cutting their benefit as they get older."

Benefits for elderly widows and widowers at the 35 percent level are modest even for relatively senior officers, Lange said. For many widows of enlisted service members, the money amounts to less than \$5,000 a year.

About 800,000 of the nation's 1.9 million retirees are paying 6.5 percent of their retirement pay to participate in the plan, and more than 250,000 survivors are collecting the benefits.

Service members automatically are enrolled in the program when they retire but can opt out if they and their spouses sign a form.

The controversial drop is called a Social Security offset. The theory behind the drop was that the plan should give a survivor access to about 55 percent of the member's retired pay—but from all sources related to military service, including Social Security.

The offset began as a dollar-for-dollar reduction but was changed in 1985 to the current plan. Survivors whose spouses were eligible to retire by Oct. 1, 1985, may have the offset computed under the old system or the new to gain the best benefit. The offset is computed only upon death of the retiree.

Veteran's organizations—including the Military Officers Association, the Non-commissioned Officers Association, the American Legion and the Fleet Reserve Association—want Congress to eliminate the benefit reduction.

The Military Coalition, a group of 33 military and veterans groups, plans to push for elimination of the cutback as an issue of fairness and equity for the survivors.

That's how Combs of Bossier City sees it. "I would tell Congress to worry about the widows. Worry about the women that are left behind and don't have very much money and are never really able to get on their feet," Combs said.

"Imagine if all the wives told their husbands to get out of the military, that they could make a better living on the outside, then where would we be? But we didn't do that because they made a promise to us. And now we are having to fight for it."

S. 401

*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 "SBP Benefits Improvement Act of 2003".

**SEC. 2. FULL AMOUNT OF SURVIVOR BENEFITS FOR SURVIVING SPOUSES WHO ARE 62 YEARS OF AGE OR OVER.**

(a) PHASED INCREASE OF BASIC ANNUITY.—(1) Subsection (a)(1)(B)(i) of section 1451 of title 10, United States Code, is amended by striking "35 percent of the base amount." and inserting "the product of the base amount and the percent applicable for the month. The percent applicable for a month is 35 percent for months beginning on or before the date of the enactment of the SBP Benefits Improvement Act of 2003, 40 percent for months beginning after such date and before October 2007, 45 percent for months beginning after September 2004, and 55 percent for months beginning after September 2013."

(2) Subsection (a)(2)(B)(i)(I) of such section is amended by striking "35 percent" and in-

serting "the percent specified under paragraph (1)(B)(i) as being applicable for the month".

(3) Subsection (c)(1)(B)(i) of such section is amended—

(A) by striking "35 percent" and inserting "the applicable percent"; and

(B) by adding at the end the following: "The percent applicable for a month under the preceding sentence is the percent specified under subsection (a)(1)(B)(i) as being applicable for the month."

(4) The heading for subsection (d)(2)(A) of such section is amended to read as follows: "COMPUTATION OF ANNUITY.—"

(b) PHASED ELIMINATION OF SUPPLEMENTAL ANNUITY.—(1) Section 1457(b) of title 10, United States Code, is amended—

(A) by striking "5, 10, 15, or 20 percent" and inserting "the applicable percent"; and

(B) by inserting after the first sentence the following: "The percent used for the computation shall be an even multiple of 5 percent and, whatever the percent specified in the election, may not exceed 20 percent for months beginning on or before the date of the enactment of the SBP Benefits Improvement Act of 2003, 15 percent for months beginning after that date and before October 2007, and 10 percent for months beginning after September 2007."

(2) Effective on October 1, 2013, chapter 73 of such title is amended—

(A) by striking subchapter III; and

(B) by striking the item relating to subchapter III in the table of subchapters at the beginning of that chapter.

(c) RECOMPUTATION OF ANNUITIES.—(1) Effective on the first day of each month referred to in paragraph (2)—

(A) each annuity under section 1450 of title 10, United States Code, that commenced before that month, is computed under a provision of section 1451 of that title amended by subsection (a), and is payable for that month shall be recomputed so as to be equal to the amount that would be in effect if the percent applicable for that month under that provision, as so amended, had been used for the initial computation of the annuity; and

(B) each supplemental survivor annuity under section 1457 of such title that commenced before that month and is payable for that month shall be recomputed so as to be equal to the amount that would be in effect if the percent applicable for that month under that section, as amended by this section, had been used for the initial computation of the supplemental survivor annuity.

(2) The requirements for recomputation of annuities under paragraph (1) apply with respect to the following months:

(A) The first month that begins after the date of the enactment of this Act.

(B) October 2007.

(C) October 2013.

(d) RECOMPUTATION OF RETIRED PAY REDUCTIONS FOR SUPPLEMENTAL SURVIVOR ANNUITIES.—The Secretary of Defense shall take such actions as are necessitated by the amendments made by subsection (b) and the requirements of subsection (c)(1)(B) to ensure that the reductions in retired pay under section 1460 of title 10, United States Code, are adjusted to achieve the objectives set forth in subsection (b) of that section.

By Mr. FEINGOLD:

S. 402. A bill to abolish the death penalty under Federal law; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, today I introduce the Federal Death Penalty Abolition Act of 2003. This bill would abolish the death penalty at the Federal level. It would put an immediate

halt to executions and forbid the imposition of the death penalty as a sentence for violations of Federal law.

Since 1976, when the death penalty was reinstated by the Supreme Court, there have been 830 executions across the country, including two at the Federal level. At the same time, 103 people on death row were later found innocent and released from death row. Exonerated inmates are not only removed from death row, but they are usually released from prison altogether. Apparently, these people never should have been convicted in the first place. While death penalty proponents claim that the death penalty is fair, efficient, and a deterrent, the fact remains that our criminal justice system has failed and has resulted in at least 103 very grave mistakes.

Eight hundred and thirty executions, and 103 exonerations. Those are not good odds. It is an embarrassing statistic, one that should have us all questioning the use of capital punishment in this country.

Since January 25, 2001, when I last introduced this bill, the Federal Government resumed executions for the first time in almost 40 years, and 138 people have been executed nationwide. In this new year, we have begun our use of capital punishment at an alarming pace. We are only in the second week of February, and there have already been 10 executions this year. And yet this one-to-eight error rate looms. Is it possible that those 10 people are representative of the one-to-eight error rate that has plagued the death penalty since it was reinstated in 1976? Is it possible that in the last six weeks, as we have debated a war in Iraq, funding levels for Federal programs, and judicial nominations, our nation has killed an innocent person?

It is a difficult question to ask, but an even more difficult one to ignore.

While executions continue and the death row population grows, the national debate on the death penalty continues and has become even more vigorous. The number of voices joining in to express doubt about the use of capital punishment in America is growing. As evidence of the flaws in our system mounts, it has created an awareness that has not escaped the attention of the American people. Layer after layer of confidence in the death penalty system has been gradually peeling away, and the voices of those questioning its fairness are growing louder and louder. Now they can be heard from college campuses and court rooms and podiums across the Nation, to the Senate Judiciary Committee hearing room, to the Supreme Court. We must not ignore them.

That our society relies on killing as punishment is disturbing enough. Even more disturbing, however, is that the States' and Federal Government's use of the death penalty is often not consistent with principles of due process, fairness, and justice. These principles are the foundation of our criminal jus-

tice system. It is more clear than ever before that we have put innocent people on death row. In addition, statistics show that those States that have the death penalty are more likely to put people to death for killing white victims than for killing black victims.

After the death penalty was reinstated in 1976, the Federal Government first resumed death penalty prosecutions after enactment of a 1988 Federal law that provided for the death penalty for murder in the course of a drug-kidnaping conspiracy. The Federal death penalty was then expanded significantly in 1994, when the omnibus crime bill allowed its use to apply to a total of some 60 Federal offenses. Since 1994, Federal prosecutions seeking the death penalty have now accelerated.

A survey on the Federal death penalty system from 1988 to early 2000 was released by the U.S. Department of Justice in September 2000. That report showed troubling racial and geographic disparities in the federal government's administration of the death penalty. In other words, who lives and who dies in the Federal system appears to relate to the color of the defendant's skin or the region of the country where the defendant is prosecuted. Attorney General Janet Reno was so disturbed by the results of that report that she ordered a further, in-depth study of the results. Attorney General John Ashcroft pledged to continue that study, but we still await the results of that further study. The Federal Government should do all that it can to ensure that no person is ever subject to harsher penalties, most importantly that of capital punishment, because of the color of the defendant's skin.

I am certain that not one of my colleagues here in the Senate, not a single one, would defend racial discrimination in this ultimate punishment. The most fundamental guarantee of our Constitution is equal justice under law, and equal protection of the laws.

While the Federal death penalty system is clearly plagued by flaws, there are 38 States across our Nation that also authorize the use of capital punishment. And like the Federal system, those systems are not free from error.

Over three years ago, Governor George Ryan took the historic step of placing a moratorium on executions in Illinois and creating an independent, blue ribbon commission to review the State's death penalty system. The Commission conducted an extensive study of the death penalty in Illinois and released a report with 85 recommendations for reform of the death penalty system. The Commission concluded that the death penalty system is not fair, and that the risk of executing the innocent is alarming real. Governor Ryan recently pardoned four death row inmates and commuted the sentences of all remaining Illinois death row inmates, after the State legislature failed to enact even one of the Commission's recommendations.

Illinois is not alone. Two years ago, then Governor Parris Glendening

learned of suspected racial disparities in the administration of the death penalty in Maryland. Governor Glendening did not look the other way. He commissioned the University of Maryland to conduct the most exhaustive study of Maryland's application of the death penalty in history. Then last year, faced with the rapid approach of a scheduled execution, Governor Glendening acknowledged that it was unacceptable to allow executions to take place while the study he had ordered was not yet complete. So, in May 2002, he placed a moratorium on executions.

That study was released in January and the findings should startle us all. The study found that blacks accused of killing whites are simply more likely to receive a death sentence than blacks who kill blacks, or than white killers. According to the report, black offenders who kill whites are four times as likely to be sentenced to death as blacks who kill blacks, and twice as likely to get a death sentence as whites who kill whites.

Maryland and Illinois are not exceptions to a rule, nor anomalies in an otherwise perfect system. In fact, since reinstatement of the modern death penalty, 81 percent of capital cases across the country have involved white victims, even though only 50 percent of murder victims are white. Nationwide, more than half of the death row inmates are African Americans or Hispanic Americans.

There is evidence of racial disparities, inadequate counsel, prosecutorial misconduct, and false scientific evidence in death penalty systems across the country. While the research done in Maryland and Illinois has yielded shocking results, there are 36 other States that authorize the use of the death penalty, most of them far more frequently. Twenty-one of the 38 States that authorize capital punishment have executed more inmates than Maryland, and 13 of those States have carried out more executions than Illinois. So while we are closer to uncovering the unthinkable truth about the flaws in the Maryland and Illinois death penalty systems, there are 36 other states with systems that are most likely plagued with the same flaws. And yet, the killing continues.

At the beginning of 2003, at the beginning of a new century and millennium with hopes for great progress, I cannot help but believe that our progress has been tarnished by our Nation's not only continuing, but increasing use of the death penalty. We are a Nation that prides itself on the fundamental principles of justice, liberty, equality and due process. We are a Nation that scrutinizes the human rights records of other nations. We are one of the first nations to speak out against torture and killings by foreign governments. We should hold our own system of justice to the highest standard.

Over the last two years, some prominent voices in our country have done

just that. And they are not just voices of liberals, or of the faith community. They are the voices of Justice Sandra Day O'Connor, Reverend Pat Robertson, George Will, former FBI Director William Sessions, Republican Governor George Ryan, and Democratic Governor Parris Glending. The voices of those questioning our application of the death penalty are growing in number, and they are growing louder.

And while we examine the flaws in our death penalty system, we cannot help but note that our use of the death penalty stands in stark contrast to the majority of nations, which have abolished the death penalty in law or practice. There are now 111 countries that have abolished the death penalty in law or in practice. The European Union denies membership in the alliance to those nations that use the death penalty. In fact, it passed a resolution calling for the immediate and unconditional global abolition of the death penalty, and it specifically called on all states within the United States to abolish the death penalty. This is significant because it reflects the unanimous view of a group of nations with which the United States enjoys the closest of relationships.

On February 5, 2003, the International Court of Justice, ICJ, ruled unanimously that the United States must temporarily stay the execution of three Mexican citizens on death row in Texas and Oklahoma. There are currently 112 foreign nationals on death row in this country. Under Article 36 of the 1963 Vienna Convention on Consular Relations, local authorities are required to notify all detained foreigners "without delay" of their right to have their consulate informed of their detention. In most cases, this international law is not being followed. In fact, only seven cases of 152 reported death sentences have been identified as meeting complete compliance with Article 36 requirements. The purpose of this law is to ensure that foreign nationals are allowed time to secure adequate counsel during the critical stages of their cases. The February ruling of the ICJ was based on the need for an investigation into whether the foreign nationals on death row were ever given their right to legal assistance from their home governments.

What is even more troubling in the international context is that the United States is now one of only seven countries that imposes the death penalty for crimes committed by juveniles. So, while a May 2002 Gallup poll found that 69 percent of Americans oppose the death penalty for those under the age of 18, we are one of only seven nations on this earth that puts to death people who were under 18 years of age when they committed their crimes. The other are Iran, the Democratic Republic of the Congo, Pakistan, Nigeria, Saudi Arabia and Yemen. In the last decade, the United States has executed more juvenile offenders than all other nations combined, and in

the last three years, only four nations have executed juvenile offenders: Iran, the Congo, Pakistan, and the United States.

Iran, the Congo, and Pakistan are countries that are often criticized for human rights abuses. We should remove any grounds for charges that human rights violations are taking place on our own soil by halting the execution of people who were not even adults when they committed the crimes for which they were sentenced to die. No one can reasonably argue that executing child offenders is a normal or acceptable practice in the world community. And I do not think that we should be proud that the United States is the world leader in the execution of child offenders.

As we begin a new year and another Congress, our society is still far from fully just. The continued use of the death penalty shames us. The penalty is at odds with our best traditions. It is wrong and it is immoral. The adage "two wrongs do not make a right," applies here. Our nation has long ago done away with other barbaric punishments like whipping and cutting off the ears of suspected criminals. Just as our nation did away with these punishments as contrary to our humanity and ideals, it is time to abolish the death penalty as we seek justice in this new century. And it's not just a matter of morality. The continued viability of our justice system as a truly just system requires that we do so. And our Nation's striving to remain the leader and defender of freedom, liberty and equality demands that we do so.

Abolishing the death penalty will not be an easy task. It will take patience, persistence, and courage. As we work to move forward in a rapidly changing world, let us leave this archaic practice behind.

I ask my colleagues to join me in taking the first step in abolishing the death penalty in our great Nation. I also call on each State that authorizes the use of the death penalty to cease this practice. Let us step away from the culture of violence and restore fairness and integrity to our criminal justice system.

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:

S. 402

*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 "Federal Death Penalty Abolition Act of 2003".

**SEC. 2. REPEAL OF FEDERAL LAWS PROVIDING FOR THE DEATH PENALTY.**

(a) HOMICIDE-RELATED OFFENSES.—  
(1) MURDER RELATED TO THE SMUGGLING OF ALIENS.—Section 274(a)(1)(B)(iv) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(B)(iv)) is amended by striking "punished by death or".

(2) DESTRUCTION OF AIRCRAFT, MOTOR VEHICLES, OR RELATED FACILITIES RESULTING IN

DEATH.—Section 34 of title 18, United States Code, is amended by striking "to the death penalty or".

(3) MURDER COMMITTED DURING A DRUG-RELATED DRIVE-BY SHOOTING.—Section 36(b)(2)(A) of title 18, United States Code, is amended by striking "death or".

(4) MURDER COMMITTED AT AN AIRPORT SERVING INTERNATIONAL CIVIL AVIATION.—Section 37(a) of title 18, United States Code, is amended, in the matter following paragraph (2), by striking "punished by death or".

(5) CIVIL RIGHTS OFFENSES RESULTING IN DEATH.—Chapter 13 of title 18, United States Code, is amended—

(A) in section 241, by striking ", or may be sentenced to death";

(B) in section 242, by striking ", or may be sentenced to death";

(C) in section 245(b), by striking ", or may be sentenced to death"; and

(D) in section 247(d)(1), by striking ", or may be sentenced to death".

(6) MURDER OF A MEMBER OF CONGRESS, AN IMPORTANT EXECUTIVE OFFICIAL, OR A SUPREME COURT JUSTICE.—Section 351 of title 18, United States Code, is amended—

(A) in subsection (b)(2), by striking "death or"; and

(B) in subsection (d)(2), by striking "death or".

(7) DEATH RESULTING FROM OFFENSES INVOLVING TRANSPORTATION OF EXPLOSIVES, DESTRUCTION OF GOVERNMENT PROPERTY, OR DESTRUCTION OF PROPERTY RELATED TO FOREIGN OR INTERSTATE COMMERCE.—Section 844 of title 18, United States Code, is amended—

(A) in subsection (d), by striking "or to the death penalty";

(B) in subsection (f)(3), by striking "subject to the death penalty, or";

(C) in subsection (i), by striking "or to the death penalty"; and

(D) in subsection (n), by striking "(other than the penalty of death)".

(8) MURDER COMMITTED BY USE OF A FIREARM DURING COMMISSION OF A CRIME OF VIOLENCE OR A DRUG TRAFFICKING CRIME.—Section 924(j)(1) of title 18, United States Code, is amended by striking "by death or".

(9) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "death or".

(10) FIRST DEGREE MURDER.—Section 1111(b) of title 18, United States Code, is amended by striking "by death or".

(11) MURDER BY A FEDERAL PRISONER.—Section 1118 of title 18, United States Code, is amended—

(A) in subsection (a), by striking "by death or"; and

(B) in subsection (b), in the third undesignated paragraph—

(i) by inserting "or" before "an indeterminate"; and

(ii) by striking ", or an unexecuted sentence of death".

(12) MURDER OF A STATE OR LOCAL LAW ENFORCEMENT OFFICIAL OR OTHER PERSON AIDING IN A FEDERAL INVESTIGATION; MURDER OF A STATE CORRECTIONAL OFFICER.—Section 1121 of title 18, United States Code, is amended—

(A) in subsection (a), by striking "by sentence of death or"; and

(B) in subsection (b)(1), by striking "or death".

(13) MURDER DURING A KIDNAPING.—Section 1201(a) of title 18, United States Code, is amended by striking "death or".

(14) MURDER DURING A HOSTAGE-TAKING.—Section 1203(a) of title 18, United States Code, is amended by striking "death or".

(15) MURDER WITH THE INTENT OF PREVENTING TESTIMONY BY A WITNESS, VICTIM, OR INFORMANT.—Section 1512(a)(2)(A) of title 18, United States Code, is amended by striking "the death penalty or".

(16) MAILING OF INJURIOUS ARTICLES WITH INTENT TO KILL OR RESULTING IN DEATH.—Section 1716(i) of title 18, United States Code, is amended by striking “to the death penalty or”.

(17) ASSASSINATION OR KIDNAPING RESULTING IN THE DEATH OF THE PRESIDENT OR VICE PRESIDENT.—Section 1751 of title 18, United States Code, is amended—

(A) in subsection (b)(2), by striking “death or”; and

(B) in subsection (d)(2), by striking “death or”.

(18) MURDER FOR HIRE.—Section 1958(a) of title 18, United States Code, is amended by striking “death or”.

(19) MURDER INVOLVED IN A RACKETEERING OFFENSE.—Section 1959(a)(1) of title 18, United States Code, is amended by striking “death or”.

(20) WILLFUL WRECKING OF A TRAIN RESULTING IN DEATH.—Section 1992(b) of title 18, United States Code, is amended by striking “to the death penalty or”.

(21) BANK ROBBERY-RELATED MURDER OR KIDNAPING.—Section 2113(e) of title 18, United States Code, is amended by striking “death or”.

(22) MURDER RELATED TO A CARJACKING.—Section 2119(3) of title 18, United States Code, is amended by striking “, or sentenced to death”.

(23) MURDER RELATED TO AGGRAVATED CHILD SEXUAL ABUSE.—Section 2241(c) of title 18, United States Code, is amended by striking “unless the death penalty is imposed.”.

(24) MURDER RELATED TO SEXUAL ABUSE.—Section 2245 of title 18, United States Code, is amended by striking “punished by death or”.

(25) MURDER RELATED TO SEXUAL EXPLOITATION OF CHILDREN.—Section 2251(d) of title 18, United States Code, is amended by striking “punished by death or”.

(26) MURDER COMMITTED DURING AN OFFENSE AGAINST MARITIME NAVIGATION.—Section 2280(a)(1) of title 18, United States Code, is amended by striking “punished by death or”.

(27) MURDER COMMITTED DURING AN OFFENSE AGAINST A MARITIME FIXED PLATFORM.—Section 2281(a)(1) of title 18, United States Code, is amended by striking “punished by death or”.

(28) TERRORIST MURDER OF A UNITED STATES NATIONAL IN ANOTHER COUNTRY.—Section 2332(a)(1) of title 18, United States Code, is amended by striking “death or”.

(29) MURDER BY THE USE OF A WEAPON OF MASS DESTRUCTION.—Section 2332a of title 18, United States Code, is amended—

(A) in subsection (a), by striking “punished by death or”; and

(B) in subsection (b), by striking “by death, or”.

(30) MURDER BY ACT OF TERRORISM TRANSCENDING NATIONAL BOUNDARIES.—Section 2332b(c)(1)(A) of title 18, United States Code, is amended by striking “by death, or”.

(31) MURDER INVOLVING TORTURE.—Section 2340A(a) of title 18, United States Code, is amended by striking “punished by death or”.

(32) MURDER RELATED TO A CONTINUING CRIMINAL ENTERPRISE OR RELATED MURDER OF A FEDERAL, STATE, OR LOCAL LAW ENFORCEMENT OFFICER.—Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended—

(A) in each of subparagraphs (A) and (B) of subsection (e)(1), by striking “, or may be sentenced to death”;

(B) by striking subsections (g) and (h) and inserting the following:

“(g) [Reserved.]”

“(h) [Reserved.]”;

(C) in subsection (j), by striking “ and as to appropriateness in that case of imposing a sentence of death”;

(D) in subsection (k), by striking “, other than death,” and all that follows before the

period at the end and inserting “authorized by law”; and

(E) by striking subsections (l) and (m) and inserting the following:

“(l) [Reserved.]”

“(m) [Reserved.]”.

(33) DEATH RESULTING FROM AIRCRAFT HIJACKING.—Section 46502 of title 49, United States Code, is amended—

(A) in subsection (a)(2), by striking “put to death or”; and

(B) in subsection (b)(1)(B), by striking “put to death or”.

(b) NON-HOMICIDE RELATED OFFENSES.—

(1) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking “punished by death or” and all that follows before the period and inserting “imprisoned for any term of years or for life”.

(2) TREASON.—Section 2381 of title 18, United States Code, is amended by striking “shall suffer death, or”.

(c) REPEAL OF CRIMINAL PROCEDURES RELATING TO IMPOSITION OF DEATH SENTENCE.—

(1) IN GENERAL.—Chapter 228 of title 18, United States Code, is repealed.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part II of title 18, United States Code, is amended by striking the item relating to chapter 228.

### SEC. 3. PROHIBITION ON IMPOSITION OF DEATH SENTENCE.

(a) IN GENERAL.—Notwithstanding any other provision of law, no person may be sentenced to death or put to death on or after the date of enactment of this Act for any violation of Federal law.

(b) PERSONS SENTENCED BEFORE DATE OF ENACTMENT.—Notwithstanding any other provision of law, any person sentenced to death before the date of enactment of this Act for any violation of Federal law shall serve a sentence of life imprisonment without the possibility of parole.

By Mr. BAUCUS (for himself,  
Mrs. LINCOLN, Mr. CONRAD, and  
Mrs. MURRAY):

S. 403. A bill to lift the trade embargo on Cuba, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Madam President, I rise today to introduce the Free Trade with Cuba Act of 2003. This legislation presents an important step toward normalizing United States economic relations with Cuba and opening a dialog between our two nations. Perhaps more importantly, the bill promotes human rights and democracy in a nation that has suffered under totalitarian rule for more than 4 decades, an objective central to the same democratic principles that have driven our foreign policy since the end of the Second World War.

The Free Trade with Cuba Act contains three essential components. First, it lifts the trade embargo against Cuba and eliminates the travel ban that accompanies the embargo. Second, it graduates Cuba from Jackson-Vanik and authorizes the President to extend nondiscriminatory trade treatment to Cuba. Finally, it removes the restrictions on travel between our two countries.

This legislation is similar to the legislation I introduced in the last Congress, S. 400 and S. 401. That legislation was referred to the Finance Committee. I am hopeful the committee can pass favorably on this legislation quickly so we can bring it to the floor and pass it.

This legislation is long overdue. In 1962, the United States embargoed virtually all trade with Cuba as a response to the rise of the totalitarian regime and seizure of American property. Over the years, U.S. sanctions against Cuba were further tightened, culminating with restrictions on the rights of Americans to visit Cuba.

Within the context of the cold war, many of these sanctions seemed to make sense. Yet throughout that time the embargo appeared to have little, if any, effect on the Castro regime. Forty years of the embargo, 4 decades of disengagement, have simply not worked. It is time to try a new approach. It is time for engagement.

Supporters of the embargo throw out many arguments against the legislation. First, they will say that private property of U.S. citizens that was taken in the early days of the Castro regime compels us to refuse trade with Cuba until we get the property back. They point out horrendous treatment of Cuban citizens by Castro and denial of the most basic human rights is also a reason. Let us be clear. These are problems and they must be resolved. Yet, the debate is not whether these problems exist. They do exist, of course, they exist. That is not the issue. We all know that.

The question, rather, is how to solve it. Forty years of embargo have done nothing to regain private assets taken so long ago by Castro and 40 years of embargo have done nothing to improve the living conditions and prospects for democratic reform in Cuba.

I have been to Cuba and visited Cuba. The people are in terrible shape. If anything, the embargo has lessened the prospects for reform by giving Castro someone else to blame for the terrible economic plight of his people. This embargo, frankly, is something Castro loves. It is a foil. He can blame the United States for some of the ills of his citizens. It is working in the opposite direction. In other words, while the problems may seem complicated, the one thing we can say we do know for certain is this: Current policy is not the answer; the current policy is a failure.

We must look to alternatives. How would this legislation resolve these problems? First, as to expropriation, the legislation I am proposing today calls for the President to undertake negotiations with the government of Cuba to settle this issue and make sure those harmed by this expropriation are fairly compensated. Second, as to the crucial issues of human rights and democratic reform, the legislation simply reflects the commonsense truth that engagement between the American and Cuban peoples will do much more to open Cuban society and help Cuban people, as it has around the world for 200 years, than silence and neglect—so similar to the question we had of China not too many years ago.

What did we do with China? The answer was very simple: We engaged. We

engaged without losing. China is a country. We are a country. Let's engage again. The same is true for Cuba: They are a country, we are a country, let's start talking and figure out how to solve things.

We should not delude ourselves. Embargo is a word for neglect. By not engaging the Cuban people and opening our world and tradition to them, we are neglecting them.

Last year we worked hard to further trade liberalization, passing the Trade Act of 2002. When the President signed that bill he said this:

Free trade is also a proven strategy for building global prosperity and adding to the momentum of political freedom. Greater freedom for commerce across the borders eventually leads to greater freedom for citizens within the borders.

I agree. This statement is as true for Cuba as it is for any other country.

Third, on the economics of this, sure, we are in tough times. The economy is flat. Our farmers and workers are hurting, but there is a market worth up to \$1 billion a year we are shutting ourselves out, denying ourselves. It makes no sense. The embargo against Cuba accomplishes nothing, and hurts our farmers and workers and companies by excluding them from a great potential market. Meanwhile, the European Union, Japan, Mexico, Canada, dozens of other countries, are busy selling goods and building commercial relations in Cuba. We are not. They are. Ask me the rationale of that.

There is a final point regarding the basic rights of freedoms of the American people. It is a fundamental violation of the spirit of our democratic principles to tell the American people they cannot travel to Cuba. What a sad irony is trying to promote freedom and democracy in another country by restricting it in our own. It is time to get real about this. It is time to get real about promoting freedom and democracy, it is time to get real regarding economic expansion, and it is time to end the embargo.

By Mr. BUNNING (for himself and Mr. BROWNBACK):

S. 404. A bill to protect children from exploitive child modeling, and for other purposes; to the Committee on the Judiciary.

Mr. BUNNING. Mr. President, I rise to introduce, along with Senator SAM BROWNBACK, the Child Modeling Exploitation Prevention Act.

Many Senators may not be aware of what I am talking about. I was not until recently, and I think it is important to raise awareness of the issue. Once my colleagues see what it is I am talking about, I am sure they will join in supporting my bill.

The Internet sites we are talking about are disturbing and dangerous. I wanted to have some enlarged pictures to illustrate what I am talking about, but the images are indecent and would only be further exploiting these children.

What I am talking about are websites with pictures and videos of children—mostly girls between the ages of 7 and 14, barely clothed and in revealing positions—being sold on the Internet. For \$25 a month at one site, you can look at pictures of a sweet and tender child being turned into a prostitute. She hikes up her skirt and poses in a bikini on a bearskin rug.

What is the point of this? It is not to sell a bearskin rug or an article of clothing or any other product. There is one thing being sold: A child as a sex object.

But there's more to this site. For \$50 you can purchase a video of this little girl dancing and running around in skimpy outfits that leave little to the imagination.

Normal people do not visit these sites. The primary viewers of these Internet sites are grown men. Some are pedophiles. Some are even registered sex offenders.

And what is more disturbing is that some of these children are put on display by their parents. It is absurd that a parent would do this to their own child for cash.

Some parents even allow Internet viewers to interact with their children through e-mail. Some even make personal videos for subscribers and allow them to send in clothes for the girls to model.

This is wrong. Any sane and logical person knows it is wrong. And that is why Congress should do something about it.

I am not talking about children modeling clothes in a Sears catalog. I am not talking about kids advertising shoes or jackets.

That is fine. And legitimate marketing of products is not illegal under my bill.

This bill has been carefully crafted to protect legitimate modeling activities and to not trample on the First Amendment.

Children are precious.

I know firsthand because I have 9 of my own. I also have 35 grandchildren, and 3 great-grandchildren. And I don't want any of them—or any other children—growing up in a world where we exploit children in a sexual way.

I urge my colleagues to cosponsor this bill and end exploitive child modeling.

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:

S. 404

*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 "Child Modeling Exploitation Prevention Act".

#### SEC. 2. FINDINGS.

The Congress finds the following:

(1) The use of children in the production of exploitive child modeling, including on

Internet websites, in photographs, films, videos, and other visual depictions, is a form of child abuse that can result in physical and psychological harm to the children involved.

(2) Exploitive child modeling is different from other, legitimate, child modeling because exploitive child modeling involves marketing the child himself or herself in lascivious positions and acts, rather than actually marketing products to average American consumers.

(3) The purpose of exploitive child modeling is to satisfy the demand of pedophiles.

(4) Unlike legitimate child modeling, exploitive child modeling may involve a direct and personal interaction between the child model and the pedophile. The pedophile often knows the child's name and has a way of communicating with the child.

(5) The interaction between the exploited child model and the pedophile can lead the child to trust pedophiles and to believe that it is acceptable and safe to meet with pedophiles in private.

(6) Over 70 percent of convicted pedophiles have used child pornography or exploitive child modeling depictions to whet their sexual appetites. Because children are used in its production, exploitive child modeling can place the child in danger of being abducted, abused, or murdered by the pedophiles who view such depictions.

(7) These exploitive exhibitions of children are unacceptable by social standards and lead to a direct harm to the children involved.

#### SEC. 3. EMPLOYMENT IN EXPLOITIVE CHILD MODELING.

(a) PROHIBITION ON EMPLOYMENT.—Section 12 of the Fair Labor Standards Act of 1938 (29 U.S.C. 212) is amended by adding at the end the following:

"(e)(1) No employer may employ a child model in exploitive child modeling.

"(2) Notwithstanding section 16(a), whoever violates paragraph (1) shall be fined under title 18 or imprisoned not more than 10 years, or both.

"(3)(A) In this subsection, the term 'exploitive child modeling' means modeling involving the use of a child under 17 years old for financial gain without the purpose of marketing a product or service other than the image of the child.

"(B) Such term applies to any such use, regardless of whether the employment relationship of the child is direct or indirect, or contractual or noncontractual, or is termed that of an independent contractor.

"(C) Such term does not apply to an image which, taken as a whole, has serious literary, artistic, political, or scientific value."

(b) OPPRESSIVE CHILD LABOR.—Section 3(1) of such Act (29 U.S.C. 203(1)) is amended—

(1) by striking "(1) any" and inserting "(A) any";

(2) by striking "(2) any" and inserting "(B) any";

(3) by inserting "(1)" after "(1)"; and

(4) by adding at the end the following new paragraph:

"(2) Such term includes employment of a minor in violation of section 12(e)(1)."

#### SEC. 4. EXPLOITIVE CHILD MODELING OFFENSE.

(a) IN GENERAL.—110 of title 18, United States Code, is amended by inserting after section 2252A the following:

##### "§ 2252B. Exploitive child modeling

"(a) IN GENERAL.—Except as provided in subsection (b), whoever, in or affecting interstate or foreign commerce, with the intent to make a financial gain thereby—displays or offers to provide the image of an individual engaged in exploitive child modeling (as defined in section 12(e) of the Fair Labor Standards Act of 1938) shall be fined under this title or imprisoned not more than 10 years, or both.

"(b) EXCEPTION.—This section does not apply to an image which, taken as a whole, has serious literary, artistic, political, or scientific value."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 110 of title 18, United States Code, is amended by inserting after the item relating to section 2252A the following:

"2252B. Exploitive child modeling."

By Mr. DEWINE (for himself and Mr. DODD):

S. 405. A bill to amend the Higher Education Act of 1965 to improve the loan forgiveness program for child care providers, including preschool teachers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE (for himself and Mr. LIEBERMAN):

S. 406. A bill to provide grants to States and outlying areas to encourage the States and outlying areas to encourage existing or establish new statewide coalitions among institutions of higher education, communities around the institutions, and other relevant organizations or groups, including anti-drug or anti-alcohol coalitions, to reduce underage drinking and illicit drug-use by students, both on and off campus; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE (for himself and Mr. ROCKEFELLER):

S. 407. A bill to amend the Higher Education Act of 1965 to provide loan forgiveness for attorneys who represent low-income families or individuals involved in the family or domestic relations court systems; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE:

S. 408. A bill to establish a grant program to enable institutions of higher education to improve schools of education; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE (for himself and Mr. ROCKEFELLER):

S. 409. A bill to provide loan forgiveness to social workers who work for child protective agencies; to the Committee on Health, Education, Labor, and Pensions.

Mr. DEWINE. Madam President, I join several of my colleagues today to introduce a series of bills related to the reauthorization of the Higher Education Act (HEA). These five bills emphasize a number of issues that are vital to higher education, including teacher quality; loan forgiveness for social workers, family lawyers, and early childhood teachers; and the reduction of drug use and underage drinking at our colleges and universities.

The quality of a student's education is the direct result of the quality of that student's teachers. If we don't have well trained teachers, then future

generations of our children will not be well educated. That is why I am introducing a bill that would provide \$200 million in grants to our schools of education to partner with local schools to ensure that our teachers are receiving the best, most extensive training available before they enter the classroom.

The Secretary of Education's annual report on teacher quality reported that a majority of graduates of schools of education believe that the traditional teacher preparation program left them ill prepared for the challenges and rigors of the classroom. Part of the responsibility for this lies in the hands of our schools of education. However, Congress also has a responsibility to give our schools of education the tools they need to make necessary improvements. This new bill would create a competitive grant program for schools of education, which partner with low-income schools to create clinical programs to train teachers. Additionally, it would require schools of education to make internal changes by working with other departments at the university to ensure that teachers are receiving the highest quality education in core academic subjects. Finally, it would require the college or university to demonstrate a commitment to improving their schools of education by providing matching funds.

Another complex issue affecting the teaching force is the high percentage of disillusioned beginning teachers who leave the field. Our bill would help combat this issue, as well. Schools of education receiving these grants would be responsible for following their graduates and continuing to provide assistance after they enter the classroom. The more we invest in the education of teachers—especially once they have entered the profession—the more likely they will remain in the classroom.

Today, I also would like to introduce, along with Senator DODD, the Early Care and Education Loan Forgiveness Act. Our dear friend and colleague, Senator Wellstone, and I had included this legislation in the last higher education reauthorization bill. We had been working on this legislation together before Paul's tragic death. I know he cared deeply about this issue and about making sure that all children receive a quality education. He was passionate about that. And, in his memory, I would like to rename our bill the Paul Wellstone Early Educator Loan Forgiveness Act.

This bill would expand the loan forgiveness program so that it benefits not just childcare workers, but also early childhood educators. This loan forgiveness program would serve as an incentive to keep those educators in the field for longer periods of time.

Paul Wellstone knew how important early learning programs are in preparing our children for kindergarten and beyond. Research shows that children who attend quality early childcare programs when they were three or four years old scored better on

math, language arts, and social skills in early elementary school than children who attended poor quality childcare programs. In short, children in early learning programs with high quality teachers—teachers with a bachelor's degree or an associate's degree or higher—do substantially better.

When we examine the number and recent growth of pre-primary education programs, it becomes difficult to differentiate between early education and childcare settings because they are so often intertwined—especially considering that 11.9 million children younger than age five spend part of their time with a care provider other than a parent and that demand for quality childcare and education is growing as more mothers enter the workforce.

Because this bill targets loan forgiveness to those educators working in low-income schools or childcare settings, we can make significant strides toward providing high quality education for all of our young children, regardless of socioeconomic status. The bill would serve a twofold function. First, it would reward professionals for their training. Second, it would encourage professionals to remain in the profession over longer periods of time, since more time in the profession leads to higher percentages of loans forgiveness. The bill would result in more educated individuals with more teaching experience and lower turnover rates, each of which enhance student performance.

I encourage my colleagues to join me in this effort to ensure that truly no children—especially our youngest children—are left behind.

I also am working on two bills with my friend and colleague from West Virginia, Senator JAY ROCKEFELLER. These bills would provide loan forgiveness to students who dedicate their careers to working in the realm of child welfare, including social workers, who work for child protective services, and family law experts.

Currently, Mr. President, there aren't enough social workers to fill available jobs in child welfare today. Furthermore, the number of social work job openings is expected to increase faster than the average for all occupations through 2010. The need for highly qualified social workers in the child protective services is reaching crisis level.

We also need more qualified individuals focusing on family law. The wonderful thing about family law is its focus on rehabilitation—that is the rehabilitation of families by helping them through life's transitions, whether it is a family going through a divorce, a family dealing with their troubled teenager in the juvenile system, or a child getting adopted and becoming a member of a new family.

Across the United States, family, juvenile, and domestic relations courts are experiencing a shortage of qualified attorneys. As many of my colleagues and I know, law school is an expensive

investment. In the last 20 years, tuition has increased more than 200 percent. Currently, the average rate of law school debt is about \$80,000 per graduate. To be sure, few law school graduates can afford to work in the public sector because debts prevent even the most dedicated public service lawyer from being able to take these low-paying jobs. This results in a shortage of family lawyers.

The shortage of family law attorneys also disproportionately impacts juveniles. The lack of available representation causes children to spend more time in foster care because cases are adjourned or postponed when they simply cannot find an attorney to represent their rights or those of the parent or guardian. Furthermore, the number of children involved in the court system is sharply increasing. We need to ensure that the interests of these children are taken care of by making certain they have an advocate—someone working solely on their behalf. By offering loan forgiveness to those willing to pursue careers in the child welfare field, we can increase the number of highly qualified and dedicated individuals who work in the realm of child welfare and family law.

Finally, I am introducing a bill today with my friend and colleague from Connecticut, Senator LIEBERMAN, that would help address an epidemic—the epidemic of underage drinking, binge drinking, and drug-related problems on college and university campuses across the United States. Our bill would provide grants to states to establish statewide partnerships among colleges and universities and the surrounding communities to work together to reduce underage and binge drinking and illicit drug use by students.

According to a study by Boston University, over 1,400 students aged 18–24 died in 1998 from alcohol-related injuries, more than 600,000 students were assaulted by another student, and another 500,000 were injured unintentionally while under the influence of alcohol. According to a 1999 Harvard University study, 40 percent of college students are binge drinkers and according to the Department of Health and Human Services, nearly 10.5 million current drinkers were under the legal age of 21, and of these, over 5 million were binge drinkers.

Currently, 28 States, including my home State of Ohio, have coalitions that deal specifically with the culture of alcohol and drug abuse on our nation's college campuses. They work with the surrounding communities, including local residents, bar, restaurant and shop owners, and law enforcement officials, toward a goal of changing the pervasive culture of drug and alcohol abuse. They provide alternative alcohol-free events, as well as support groups for those who choose not to drink. They also educate students about the dangers of alcohol and drug use.

Furthermore, the coalitions recognize that while it is important to pro-

mote an alcohol aware and drug-free campus community, if the community surrounding the campus does not promote these initiatives, there will be no long-term solutions. Therefore, these coalitions also have worked to establish regulations both on and off campus, which will help our nation's youth to stay healthy, alive, and get the most out of their time at college. Some of these regulations include the registration of kegs. This provides accountability for both the store and the student. This is just an example of one step that colleges, local communities, and organizations can take.

To help start the expansion of these coalitions, our bill would provide \$50 million in grants. This is an important demonstration project that would help lead to positive effects for our young people. It is up to us to change the culture, which has been perpetuated by years of complacency and a dismissal tone of—"that's just the way it is in college." We must protect the health and education of our young people by changing this culture of abuse—and that is exactly what this bill would do.

Next year when we consider the reauthorization of the Higher Education Act, I encourage my colleagues to join in support of these initiatives.

Mr. DEWINE. Mr. President, I ask unanimous consent that the text of the bills be printing in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 405

*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 "Paul Wellstone Early Educator Loan Forgiveness Act".

**SEC. 2. FINDINGS.**

Congress finds the following:

(1)(A) The first 5 years of a child's life are a time of momentous change.

(B) Research shows that a child's brain size doubles between birth and age 3.

(2) New scientific research shows that the electrical activity of the brain cells actually changes the physical structure of the brain, and that without a stimulating environment, a baby's brain suffers.

(3) Research also indicates that there is a connection between the cognitive, social, emotional, and physical stimulation young children receive from their early childhood teachers and caregivers and success in learning, school readiness, and intellectual growth. There are important short- and long-term effects of that stimulation on cognition and social development.

(4) High quality early childhood education correlates with better language development, mathematics abilities, and social skills.

(5) 11,900,000 children younger than age 5 spend part of their time with a child care provider other than a parent. By 2000, 64 percent of 3- to 5-year-olds were enrolled in some type of preschool program. Demand for child care is growing as more mothers enter the workforce.

(6) Good quality child care, in a healthy and safe environment, with trained, caring providers who provide age-appropriate, developmentally appropriate, and effective ac-

tivities, helps children grow and thrive. Recent research shows that most child care needs significant improvement.

(7) Good quality child care depends largely on the provider, yet providers of child care earn on average \$7.86 per hour, or \$16,350 per year. Such earnings cause high annual turnover, up to 31 percent of the staff in some child care programs. High turnover affects the overall quality of a child care program and causes anxiety for children.

(8) Children attending lower quality child care programs and child care programs with high staff turnover are less competent in language and social development than other children.

(9) The quality of child care is primarily related to high staff-to-child ratios, staff education, professional development, and administrators' prior experience. In addition, certain characteristics distinguish poor, mediocre, and good quality child care programs, the most important of which are teacher wages, education, and specialized training.

(10) Each State requires kindergarten teachers to hold at least a bachelor's degree and certificate in early childhood education. Only 20 States and the District of Columbia require teachers in prekindergarten programs to satisfy those requirements. Thirty States allow caregivers with no previous training to work in child care programs.

**SEC. 3. LOAN FORGIVENESS FOR CHILD CARE PROVIDERS.**

Section 428K of the Higher Education Act of 1965 (20 U.S.C. 1078–11) is amended to read as follows:

**"SEC. 428K. LOAN FORGIVENESS FOR CHILD CARE PROVIDERS.**

**"(a) PURPOSES.**—The purposes of this section are—

"(1) to bring more highly trained individuals into the early child care profession; and

"(2) to keep more highly trained child care providers in the early child care field for longer periods of time.

**"(b) DEFINITIONS.**—In this section:

"(1) CHILD CARE FACILITY.—The term 'child care facility' means a facility, including a home, that—

"(A) provides child care services; and

"(B) meets applicable State or local government licensing, certification, approval, or registration requirements, if any.

"(2) CHILD CARE SERVICES.—The term 'child care services' means activities and services provided for the education and care of children from birth through age 5 by an individual who has a degree in early childhood education, including a preschool teacher.

"(3) DEGREE.—The term 'degree' means an associate's or bachelor's degree awarded by an institution of higher education.

"(4) EARLY CHILDHOOD EDUCATION.—The term 'early childhood education' means education in the area of early child development and education, or any other educational area related to early child development and education or child care, that the Secretary determines to be appropriate.

"(5) ELIGIBLE PRESCHOOL PROGRAM PROVIDER.—The term 'eligible preschool program provider' means a preschool program provider serving children younger than the age of compulsory school attendance in the State that is—

"(A) a public or private school;

"(B) a provider that is supported, sponsored, supervised, or administered by a local educational agency;

"(C) a Head Start agency designated under the Head Start Act (42 U.S.C. 9831 et seq.);

"(D) a nonprofit or community-based organization; or

"(E) a licensed child care center or family child care provider.

“(6) INSTITUTION OF HIGHER EDUCATION.—Notwithstanding section 102, the term ‘institution of higher education’ has the meaning given the term in section 101.

“(7) PRESCHOOL TEACHER.—The term ‘preschool teacher’ means an individual—

“(A) who has received at least an associate’s degree in early childhood education and who is working toward or who has already received a bachelor’s degree in early childhood education; and

“(B) who works for an eligible preschool program provider supporting the children’s cognitive, social, emotional, and physical development to prepare the children for the transition to kindergarten.

“(c) LOAN FORGIVENESS.—

“(1) IN GENERAL.—The Secretary may carry out a program of assuming the obligation to repay, pursuant to subsection (d), a loan made, insured, or guaranteed under this part, part D (excluding loans made under sections 428B and 428C or comparable loans made under part D), or part E for any new borrower after the date of enactment of the Higher Education Amendments of 1998, who—

“(A) receives a degree in early childhood education;

“(B) obtains employment in a child care facility, such as employment as a preschool teacher; and

“(C) has been employed full time, for the 2 consecutive years preceding the year for which the determination is made, as a provider of child care services in a child care facility in a low-income community.

“(2) LOW-INCOME COMMUNITY.—In this subsection, the term ‘low-income community’ means a community in which 70 percent of households earn less than 85 percent of the State median household income.

“(3) AWARD BASIS; PRIORITY.—

“(A) AWARD BASIS.—Subject to subparagraph (B), loan repayment under this section shall be on a first-come, first-served basis and subject to the availability of appropriations.

“(B) PRIORITY.—The Secretary shall give priority in providing loan repayment under this section for a fiscal year to student borrowers who received loan repayment under this section for the preceding fiscal year.

“(4) REGULATIONS.—The Secretary is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section.

“(d) LOAN REPAYMENT.—

“(1) IN GENERAL.—The Secretary shall assume the obligation to repay—

“(A) after the second consecutive year of employment described in subparagraphs (B) and (C) of subsection (c)(1), 20 percent of the total amount of all loans described in subsection (c)(1) and made after the date of enactment of the Higher Education Amendments of 1998, to a student;

“(B) after the third consecutive year of such employment, 20 percent of the total amount of all such loans; and

“(C) after each of the fourth and fifth consecutive years of such employment, 30 percent of the total amount of all such loans.

“(2) CONSTRUCTION.—Nothing in this section shall be construed to authorize the refunding of any repayment of a loan made, insured, or guaranteed under this part, part D, or part E.

“(3) INTEREST.—If a portion of a loan is repaid by the Secretary under this section for any year, the proportionate amount of interest on such loan that accrues for such year shall be repaid by the Secretary.

“(4) SPECIAL RULE.—In the case in which a student borrower who is not participating in loan repayment pursuant to this section returns to an institution of higher education after graduation from an institution of high-

er education for the purpose of obtaining a degree in early childhood education, the Secretary is authorized to assume the obligation to repay the total amount of loans described in subsection (c)(1) and incurred for a maximum of 2 academic years in returning to the institution of higher education for the purpose of obtaining the degree in early childhood education. Such loans shall only be repaid for borrowers who qualify for loan repayment pursuant to the provisions of this section, and shall be repaid in accordance with the provisions of paragraph (1).

“(5) INELIGIBILITY OF NATIONAL SERVICE AWARD RECIPIENTS.—No student borrower may, for the same service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12601 et seq.).

“(e) REPAYMENT TO ELIGIBLE LENDERS AND HOLDERS.—The Secretary shall pay to each eligible lender or holder for each fiscal year an amount equal to the aggregate amount of the lender’s or holder’s loans that are subject to repayment pursuant to this section for such year.

“(f) APPLICATION FOR REPAYMENT.—

“(1) IN GENERAL.—Each eligible individual desiring loan repayment under this section shall submit a complete and accurate application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

“(2) CONDITIONS.—An eligible individual may apply for loan repayment under this section after completing each of the second through the fifth consecutive years of qualifying employment described in subsection (d)(1). The borrower shall receive forbearance while engaged in qualifying employment described in subsection (d)(1) unless the borrower is in deferment while so engaged.

“(g) EVALUATION.—

“(1) IN GENERAL.—The Secretary shall conduct, by grant or contract, an independent national evaluation of the impact of the program assisted under this section on the field of early childhood education.

“(2) COMPETITIVE BASIS.—The grant or contract described in paragraph (1) shall be awarded on a competitive basis.

“(3) CONTENTS.—The evaluation described in this subsection shall—

“(A) determine the number of individuals who were encouraged by the program assisted under this section to pursue early childhood education;

“(B) determine the number of individuals who remain employed in a child care facility as a result of participation in the program;

“(C) identify the barriers to the effectiveness of the program;

“(D) assess the cost-effectiveness of the program in improving the quality of—

“(i) early childhood education; and

“(ii) child care services;

“(E) identify the reasons why participants in the program have chosen to take part in the program;

“(F) identify the number of individuals participating in the program who received an associate’s degree and the number of such individuals who received a bachelor’s degree; and

“(G) identify the number of years each individual participated in the program.

“(4) INTERIM AND FINAL EVALUATION REPORTS.—The Secretary shall prepare and submit to the President and Congress such interim reports regarding the evaluation described in this subsection as the Secretary determines to be appropriate, and shall prepare and so submit a final report regarding the evaluation by January 1, 2007.

“(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$25,000,000 for fiscal

year 2004, and such sums as may be necessary for each of the 4 succeeding fiscal years.”

S. 406

*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 “Communities Combating College Drinking and Drug Use Act”.

#### SEC 2. FINDINGS.

Congress makes the following findings:

(1) Alcohol is by far the drug most widely used and abused by young people in the United States.

(2)(A) In 2003, it is illegal for youths under the age of 21 to purchase alcohol in all of the 50 States and the District of Columbia, and illicit drugs remain illegal.

(B) According to the National Institute on Drug Abuse, on average, young people begin drinking at about age 13. However, some start even younger. By the time young people are high school seniors, more than 80 percent have used alcohol and approximately 64 percent have been drunk.

(C) When adolescents move on to college, they bring their drinking habits with them. According to a 1993–1997 Harvard School of Public Health College Alcohol Study, 40 percent of college students are binge drinkers.

(D) According to the Department of Health and Human Services, in 1998, 10,400,000 current drinkers were under legal age (age 12–21) and of these, 5,100,000 were binge drinkers, including 2,300,000 heavy drinkers.

(E) Among 10th graders the perceived harmfulness of regularly taking LSD (lysergic acid diethylamide) is 68.8 percent, and among 8th graders the perceived harmfulness is 52.9 percent, according to the 2001 Monitoring the Future Study (MTF) funded by the National Institute on Drug Abuse.

(F) Only 45.7 percent of 12th graders perceived a great risk in trying MDMA (ecstasy) once or twice.

(G) The perceived availability of crack and cocaine among 10th graders was thought of as easy or fairly easy by 31 percent of 10th graders.

(3)(A) Underage drinking particularly impacts institutions of higher education.

(B) In 1999, Harvard University’s School of Public Health College Alcohol Study surveyed 119 colleges and found that students who were binge drinkers in high school were 3 times more likely to binge drink in college.

(C) According to a March 2002 article published in the Journal of Studies on Alcohol, a study conducted by the Social and Behavioral Sciences Department of the Boston University School of Public Health reported that 1998 and 1999 studies show over 2,000,000 of the 8,000,000 college students in the United States drove under the influence of alcohol, over 500,000 were unintentionally injured while under the influence of alcohol, and over 600,000 were hit or assaulted by another student who had been drinking.

(D) According to the same Boston University study, it is estimated that over 1,400 students aged 18–24 and enrolled in 2-year and 4-year colleges died in 1998 from alcohol-related unintentional injuries.

(E) More than 600,000 students between the ages of 18 and 24 are assaulted by another student who has been drinking, and another 500,000 students are unintentionally injured under the influence of alcohol.

(F) More than 70,000 students between the ages of 18 and 24 are victims of alcohol-related sexual assault or date rape, more than 400,000 students reported having unprotected sex, and more than 100,000 students reported having been too intoxicated to know if they consented to having sex, according to the Boston University study.

(4)(A) Longstanding cultural influences perpetuate student patterns of drinking.

(B) Of frequent binge drinkers, 73 percent of males and 68 percent of females cited drinking to get drunk as an important reason for drinking according to "Binge Drinking on Campus: Results of a National Study", from Harvard School of Public Health.

(C) The proportion of college students who drink varies depending on where they live. Drinking rates are highest in fraternities and sororities, followed by on-campus housing. Students who live independently offsite (e.g., in apartments) drink less, while commuting students who live with their families drink the least.

(D) Institutions of higher education in places with strict laws such as keg registration, prohibitions on happy hours, and open container in public bans, which restrict the volume of alcohol sold or consumed, displayed lower rates of consumption and binge drinking among underage students.

(E) A 2000 report by the Department of Health and Human Services, entitled "Healthy People 2010", observes that "The perception that alcohol use is socially acceptable correlates with the fact that more than 80 percent of American youth consume alcohol before their 21st birthday, whereas the lack of social acceptance of other drugs correlates with comparatively low rates of use. Similarly, widespread societal expectations that young persons will engage in binge drinking may encourage this highly dangerous form of alcohol consumption."

(F) Mutually reinforcing interventions between the college and surrounding community can change the broader environment and help reduce alcohol abuse and alcohol-related problems over the long term.

(5)(A) The use of illicit drugs threatens the lives and well-being of students at institutions of higher education.

(B) According to the working paper, "Alcohol and Marijuana Use Among College Students: Economic Complements or Substitutes", for the National Bureau of Economic Research, alcohol and marijuana are economic complements, meaning that as the use of alcohol goes down on campuses, it is expected that marijuana will as well, or that as marijuana usage falls, so will alcohol usage.

(C) The annual prevalence of the use of an illicit drug at institutions of higher education is 36 percent. The annual marijuana use is 34 percent. The annual use of cocaine and LSD is 4.8 percent. The annual use of heroin is 4.5 percent.

### SEC. 3. DEFINITIONS.

In this Act:

(1) BINGE DRINKING.—The term "binge drinking" means the consumption of 5 or more drinks on any 1 occasion.

(2) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(3) OUTLYING AREA.—The term "outlying area" means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(4) SECRETARY.—The term "Secretary" means the Secretary of Education.

(5) STATE.—The term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico

(6) STATEWIDE COALITION.—The term "statewide coalition" means a coalition that—

(A) includes—

(i) the entity a State designates to apply for a grant under this Act and to administer the grant funds; and

(i)(I) institutions of higher education within that State; and

(II) a nonprofit group, a community anti-drug or anti-alcohol coalition, or another substance abuse prevention group within the State; and

(B) works toward lowering the drug and alcohol abuse rate at not fewer than 50 percent of the institutions of higher education throughout the State and in the communities surrounding the campuses of the institutions.

(7) SURROUNDING COMMUNITY.—The term "surrounding community" means the community—

(A) which surrounds an institution of higher education participating in a statewide coalition;

(B) where the students from the institution of higher education take part in the community; and

(C) where students from the institution of higher education live in off-campus housing.

### SEC. 4. PURPOSE.

The purpose of this Act is to encourage States, institutions of higher education, local communities, nonprofit groups, including community anti-drug or anti-alcohol coalitions, and other substance abuse groups within the State to enhance existing or, where none exist, to establish new statewide coalitions to reduce the usage of drugs and alcohol by college students both on campus and in the surrounding community at large.

### SEC. 5. GRANTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this Act \$50,000,000 for fiscal year 2004 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(b) GRANTS TO STATES.—

(1) ALLOTMENTS.—

(A) IN GENERAL.—From amounts appropriated under subsection (a) for a fiscal year, the Secretary shall make grants according to allotments under subparagraph (B) to States having applications approved under subsection (c) to pay the cost of carrying out the activities described in the application.

(B) DETERMINATION OF ALLOTMENTS.—

(i) RESERVATION OF FUNDS.—From the total amount appropriated under subsection (a) for a fiscal year, the Secretary shall reserve—

(I) one-half of 1 percent for allotments to the outlying areas, to be distributed among those outlying areas on the basis of their relative need for assistance under this Act, as determined by the Secretary, to carry out the purpose of this Act; and

(II) one-half of 1 percent for the Secretary of the Interior for programs under this Act for schools operated or funded by the Bureau of Indian Affairs.

(ii) STATE ALLOTMENTS.—From funds appropriated under subsection (a) for a fiscal year that remain after reserving funds under clause (i), the Secretary shall allot to each State an amount that bears the same relation to such remainder as the population of the State bears to the population of all States, as determined by the 2000 decennial census.

(2) MATCHING FUNDS REQUIRED.—Each State receiving a grant under this Act shall contribute matching funds, from non-Federal sources, toward the cost of the activities described in the application, in an amount equal to—

(A) 100 percent of the Federal funds received under the grant, in the case of a State supporting a new statewide coalition; and

(B) 50 percent of the Federal funds received under the grant, in the case of a State supporting a statewide coalition that was in existence on the day preceding the date of enactment of this Act.

(3) ADMINISTRATIVE COSTS.—Each State receiving a grant under this section may ex-

pend not more than 25 percent of the grant funds for administrative costs.

(c) STATE APPLICATIONS.—

(1) IN GENERAL.—For a State to be eligible to receive a grant under this part, the State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary shall reasonably require.

(2) CONTENTS.—Each application submitted under this section shall include the following:

(A) A description of how the State will work to enhance existing, or where none exists, to build a statewide coalition in cooperation with—

(i) not fewer than 50 percent of the institutions of higher education within the State;

(ii) local communities;

(iii) nonprofit groups, community anti-drug or anti-alcohol coalitions; and

(iv) other substance abuse prevention groups within the State.

(B) A description of how the State intends to ensure that the statewide coalition is actually implementing the purpose of this Act and moving toward the achievement indicators described in subsection (d).

(C) A list of the members of the statewide coalition or interested parties.

(d) ACCOUNTABILITY.—On the date on which the Secretary first publishes a notice in the Federal Register soliciting applications for grants under this section, the Secretary shall include in the notice achievement indicators for the program assisted under this section. The achievement indicators shall be designed—

(1) to measure the impact that the statewide coalitions assisted under this Act are having on the institutions of higher education and the surrounding communities, including changes in the number of alcohol or drug-related incidents of any kind (including violations, physical assaults, sexual assaults, reports of intimidation, disruptions of school functions, disruptions of student studies, illnesses, or deaths);

(2) to measure the quality and accessibility of the programs or information offered by the statewide coalitions; and

(3) to provide such other measures of program impact as the Secretary determines appropriate.

S. 407

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

### SECTION 1. FINDINGS.

Congress makes the following findings:

(1) Across the United States, family, juvenile, and domestic relations courts experience shortages of qualified attorneys to represent the interests of men, women, and children involved in their court systems.

(2) The Constitution of the United States provides that everyone charged with a crime is entitled to adequate counsel.

(3) In 1967, the Supreme Court held, for the first time, that children were persons under the provisions of the 14th amendment to the Constitution relating to due process, and entitled to certain constitutional rights.

(4) In the case of *In re Gault* (387 U.S. 1), the Supreme Court held that juveniles are entitled to notice of the charges against them, legal counsel, questioning of witnesses, and protection against self-incrimination in a hearing that could result in commitment to an institution.

(5) Studies have indicated that many juveniles do not receive the due process protections to which they are entitled. More importantly, they frequently do not receive effective assistance of legal counsel.

(6) Lawyers who represent juveniles often labor under enormous caseloads with little training or support staff.

(7) Public defenders who represent juveniles have, on average, more than 500 cases per year, with more than 300 of those cases being juvenile cases.

(8) Public defenders often lack specialized training in representing juveniles. Approximately one-half of public defender offices do not even have a section devoted to juvenile delinquency practice in their office training manuals.

(9) Due to relatively low wages, there is a nationwide shortage of family law attorneys willing to represent juveniles.

(10) The shortage of family law attorneys results in a severe, disproportionate, and negative impact upon children, impoverished parents, and victims of domestic violence.

(11) Children involved in family court cases are assigned attorneys to protect their interests. Adults are entitled to representation by attorneys. The lack of available representation by family law attorneys causes children to spend more time in foster care because cases are adjourned or postponed due to lack of appropriate representation. Victims of domestic violence seeking protection from their abusers often will remain in the abusive situation, choose to represent themselves, or wait until an attorney becomes available, all of which risk their personal safety.

(12) In 1995, 3,100,000 children were reported to child protection agencies as being abused or neglected, which is about double the number reported in 1984. Of these, 996,000 children were confirmed after investigation to be abused or neglected. A 1996 study by the Department of Health and Human Services found that the number of children seriously injured nearly quadrupled between 1986 and 1993 from 141,700 to 565,000.

(13) As of 1995 year-end, about 494,000 children were in foster care, a considerable rise from the estimated 280,000 children in foster care at the end of 1986. Most of these children are in foster care because of abuse, neglect, or abandonment by their parents. Many are also placed in foster care due to a court order during a child protection case.

(14) Some estimates suggest that in 70 percent of homes where there is domestic violence, there is also child abuse.

(15) Children who witness domestic violence can also develop posttraumatic stress disorder, low self-esteem, anxiety, depression, eating disorders, and destructive behavior that can last through adulthood, limiting an individual's ability to achieve academically, socially, and on the job. However, early intervention and education can help prevent further danger to children.

(16) Continued adjournment forces victims to repeatedly confront their abusers in court. This not only increases the risk of retribution, but also the chance that the victim will abandon the process because of the burden.

(17) Between 1984 and 1994 there was a 65 percent increase in domestic relations cases and a 59 percent increase in the number of juvenile cases.

(18) The caseload for child abuse in New York State alone has increased by more than 300 percent between 1984 and 1988.

(19) Judges in Chicago hear on average 1,700 delinquency cases per month, and in Los Angeles judges for juvenile cases have about 10 minutes to devote to each case.

## SEC. 2. PURPOSE.

The purposes of this Act are—

(1) to encourage attorneys to enter the field of family law, juvenile law, or domestic relations law;

(2) to increase the number of attorneys who will represent low-income families and individuals, and who are trained and educated in such field; and

(3) to keep more highly trained family law, juvenile law, and domestic relations attorneys in this field of law for longer periods of time.

## SEC. 3. LOAN FORGIVENESS.

Part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) is amended by inserting after section 428K (20 U.S.C. 1078-11) the following:

### “SEC. 428L. LOAN FORGIVENESS FOR FAMILY LAW, JUVENILE LAW, AND DOMESTIC RELATIONS ATTORNEYS WHO WORK IN THE DEFENSE OF LOW-INCOME FAMILIES, INDIVIDUALS, OR CHILDREN.

“(a) DEFINITIONS.—In this section:

“(1) ELIGIBLE LOAN.—The term ‘eligible loan’ means a loan made, insured, or guaranteed under this part or part D (excluding loans made under section 428B or 428C, or comparable loans made under part D) for attendance at a law school.

“(2) FAMILY LAW OR DOMESTIC RELATIONS ATTORNEY.—The term ‘family law or domestic relations attorney’ means an attorney who works in the field of family law or domestic relations, including juvenile justice, truancy, child abuse or neglect, adoption, domestic relations, child support, paternity, and other areas which fall under the field of family law or domestic relations law as determined by State law.

“(3) HIGHLY QUALIFIED ATTORNEY.—The term ‘highly qualified attorney’ means an attorney who has at least 2 consecutive years of experience in the field of family or domestic relations law serving as a representative of low-income families or minors.

“(b) DEMONSTRATION PROGRAM.—

“(1) IN GENERAL.—The Secretary may carry out a demonstration program of assuming the obligation to repay eligible loans for any new borrower after the date of enactment of this section, who—

“(A) obtains a Juris Doctorate (JD), and takes at least 1 law school class in family law, juvenile law, domestic relations law, or some other class that the Secretary determines equivalent to any such class pursuant to regulations prescribed by the Secretary; and

“(B) has worked full-time for a State or local government entity, or a nonprofit private entity, as a family law or domestic relations attorney on behalf of low-income individuals in the family or domestic relations court system for 2 consecutive years immediately preceding the year for which the determination was made.

“(2) AWARD BASIS.—Loan repayment under this section shall be on a first-come, first-served basis and subject to the availability of appropriations.

“(3) PRIORITY.—The Secretary shall give priority in providing loan repayment under this section for a fiscal year to student borrowers who received loan repayment under this section for the preceding fiscal year.

“(4) REGULATIONS.—The Secretary is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section.

“(c) LOAN REPAYMENT.—

“(1) IN GENERAL.—The Secretary shall assume the obligation to repay—

“(A) after the third consecutive year of employment described in subparagraph (B) of subsection (b)(1), 20 percent of the total amount of all eligible loans;

“(B) after the fourth consecutive year of such employment, 30 percent of the total amount of all eligible loans; and

“(C) after the fifth consecutive year of such employment, 50 percent of the total amount of all eligible loans.

“(2) CONSTRUCTION.—Nothing in this section shall be construed to authorize any re-

funding of any repayment of a loan made under this part or part D.

“(3) INTEREST.—If a portion of a loan is repaid by the Secretary under this section for any year, the proportionate amount of interest on such loan which accrues for such year shall be repaid by the Secretary.

“(4) INELIGIBILITY OF NATIONAL SERVICE AWARD RECIPIENTS.—No student borrower may, for the same service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12601 et seq.).

“(d) REPAYMENT TO ELIGIBLE LENDERS.—The Secretary shall pay to each eligible lender or holder for each fiscal year an amount equal to the aggregate amount of eligible loans which are subject to repayment pursuant to this section for such year.

“(e) APPLICATION FOR REPAYMENT.—

“(1) IN GENERAL.—Each eligible individual desiring loan repayment under this section shall submit a complete and accurate application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

“(2) CONDITIONS.—An eligible individual may apply for loan repayment under this section after completing each year of qualifying employment. The borrower shall receive forbearance while engaged in qualifying employment unless the borrower is in deferment while so engaged.

“(f) EVALUATION.—

“(1) IN GENERAL.—The Secretary shall conduct, by grant or contract, an independent national evaluation of the impact of the demonstration program assisted under this section on the field of family and domestic relations law.

“(2) COMPETITIVE BASIS.—The grant or contract described in this section shall be awarded on a competitive basis.

“(3) CONTENTS.—The evaluation described in this subsection shall determine whether the loan forgiveness program assisted under this section—

“(A) has increased the number of highly qualified attorneys;

“(B) has contributed to increased time on the job for family law or domestic relations attorneys, as measured by—

“(i) the length of time family law or domestic relations attorneys receiving loan forgiveness under this section have worked in the family law or domestic relations field; and

“(ii) the length of time family law or domestic relations attorneys continue to work in such field after the attorneys meet the requirements for loan forgiveness under this section;

“(C) has increased the experience and the quality of family law and domestic relations attorneys; and

“(D) has contributed to better family outcomes, as determined after consultation with the Secretary of Health and Human Services and the Attorney General.

“(4) INTERIM AND FINAL EVALUATION REPORTS.—The Secretary shall prepare and submit to the President and Congress such interim reports regarding the evaluation described in this section as the Secretary determines appropriate, and shall prepare and so submit a final report regarding the evaluation by September 30, 2005.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$20,000,000 for fiscal year 2004, and such sums as may be necessary for each of the 4 succeeding fiscal years.”

S. 408

*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 "Ready To Educate All Children Act of 2003".

**SEC. 2. FINDINGS AND PURPOSE.**

(a) **FINDINGS.**—Congress makes the following findings:

(1) An estimated 2,000,000 new teachers will be needed over the next decade.

(2) Under the No Child Left Behind Act of 2001, States must recruit highly qualified teachers by 2006, yet schools in rural areas and high poverty schools have trouble attracting and retaining such teachers.

(3) A 2000 study by the Education Trust reports that high poverty schools are twice as likely not to have teachers certified in the fields in which they teach as schools that are not high poverty schools, which highlights that high poverty schools will need special help to meet the goals of the No Child Left Behind Act of 2001.

(4) If the Nation is to improve student achievement and success in school, the United States must encourage and support the training and development of our Nation's teachers, who are the single most important in-school influence on student learning.

(5) A majority of graduates of schools of education believe that traditional teacher preparation programs left them ill prepared for the challenges and rigors of the classroom.

(6) Fewer than 36 percent of new teachers feel very well prepared to implement curriculum and performance standards.

(7) Highly qualified teachers are more effective in impacting student academic achievement because such teachers have high verbal abilities, high content knowledge, and an enhanced ability to know how to teach the content using appropriate pedagogical strategies.

(8) The difference in annual student achievement growth between having an effective and ineffective teacher can be more than 1 grade level of achievement in academic performance.

(9) Studies have consistently documented the important connection between a teacher's verbal and cognitive abilities and student achievement.

(10) Research has shown that there is a positive effect on student achievement when students are taught by teachers with a strong subject-matter background.

(b) **PURPOSE.**—It is the purpose of this Act to provide grants to teacher preparation programs to better prepare teachers to educate all children.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) **BEGINNING TEACHER.**—The term "beginning teacher" means a highly qualified teacher who has taught for not more than 3 years.

(2) **CORE ACADEMIC SUBJECTS.**—The term "core academic subjects" means—

- (A) mathematics;
- (B) science;
- (C) reading (or language arts) and English;
- (D) social studies, including history, civics, political science, government, geography, and economics;
- (E) foreign languages; and
- (F) fine arts, including music, dance, drama, and the visual arts.

(3) **HIGH POVERTY LOCAL EDUCATIONAL AGENCY.**—The term "high poverty local educational agency" means a local educational agency for which the number of children who are served by the agency, aged 5 through 17, and from families with incomes below the poverty line—

- (A) is not less than 40 percent of the number of all children served by the agency; or
- (B) is more than 15,000.

(4) **HIGH POVERTY SCHOOL.**—The term "high poverty school" means an elementary school

or secondary school that serves a high number or percentage of children from families with incomes below the poverty line.

(5) **HIGHLY QUALIFIED.**—The term "highly qualified" has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(6) **INSTITUTION OF HIGHER EDUCATION.**—The term "institution of higher education"—

(A) has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)); and

(B) if such an institution prepares teachers and receives Federal funds, means such an institution that—

(i) is in full compliance with the requirements of section 207 of the Higher Education Act of 1965 (20 U.S.C. 1027); and

(ii) does not have a teacher preparation program identified by a State as low-performing.

(7) **LOCAL EDUCATIONAL AGENCY.**—The term "local educational agency" has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(8) **LOCAL PARTNER.**—The term "local partner" means a high poverty local educational agency or a high poverty school.

(9) **MENTORING.**—The term "mentoring" means activities that consist of structured guidance and regular and ongoing support for beginning teachers.

(10) **SECRETARY.**—The term "Secretary" means the Secretary of Education.

(11) **STATE.**—The term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

**SEC. 4. GRANT PROGRAM.**

(a) **IN GENERAL.**—The Secretary is authorized to award grants on a competitive basis to institutions of higher education to establish a partnership with a local partner to—

(1) establish a clinically-based elementary school or secondary school teacher training program; or

(2) enhance such institution's clinically-based elementary school or secondary school teacher training program.

(b) **APPLICATION.**—

(1) **IN GENERAL.**—An institution of higher education that desires to receive a grant under subsection (a) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(2) **DEVELOPMENT.**—The institution of higher education shall develop the application in collaboration with 1 or more local partners.

(3) **CONTENTS.**—Each application submitted pursuant to paragraph (1) shall include—

(A) a description of any shortages in the State, where the institution of higher education is located, of highly qualified teachers in high poverty schools in core academic subjects;

(B) an assessment of the needs of beginning teachers in high poverty schools to be effective in the classroom that is—

(i) developed with the involvement of the local partner; and

(ii) based on—

(I) student achievement data in core academic subjects; and

(II) other indicators of the need to fully prepare beginning teachers;

(C) a description of how the institution of higher education will use funds made available pursuant to a grant awarded under this Act to—

(i) improve the quality of the teaching force; and

(ii) decrease the use of out-of-field placement of teachers;

(D) a description of how the institution of higher education will align activities assisted under this Act with challenging State

academic content standards and student academic achievement standards, and State assessments, by setting numerical, annual improvement goals;

(E) a plan, developed with the extensive participation of the local partner, for addressing long-term teacher recruitment, retention, professional development, and mentoring needs;

(F) a description of how the institution of higher education will assist local educational agencies in implementing effective and sustained mentoring and other professional development activities for beginning teachers;

(G) a description of how the institution of higher education will work with individuals who successfully complete a teacher education program to become certified or licensed; and

(H) a description of how the institution of higher education will prepare teachers to succeed in the classroom.

(c) **APPROVAL.**—

(1) **IN GENERAL.**—The Secretary shall approve an application submitted pursuant to subsection (a) if the application meets the requirements of this section and holds reasonable promise of achieving the purpose of this Act.

(2) **EQUITABLE DISTRIBUTION.**—To the extent practicable, the Secretary shall ensure an equitable geographic distribution of grants under this section among the regions of the United States.

(3) **DURATION OF GRANTS.**—The Secretary is authorized to make grants under this section for a period of 5 years. At the end of the 5-year period, the grant recipient may apply for an additional grant under this section.

(d) **USES OF FUNDS.**—

(1) **MANDATORY USES.**—An institution of higher education that receives a grant under this section shall use the grant funds to—

(A) establish a partnership with a local partner to establish, or enhance an existing, clinically-based elementary school or secondary school teacher training program to better train teachers for challenges in the classroom;

(B) facilitate a partnership among departments of the institution to ensure that future teachers are prepared to teach; and

(C) implement a project-based assessment that facilitates the program evaluation developed under subsection (f) and that assesses the impact of the activities undertaken with grant funds awarded under this Act on achieving the purpose of this Act, as well as on institutional policies and practices.

(2) **ADDITIONAL ACTIVITIES.**—An institution of higher education that receives a grant under this section shall use the grant funds for not less than 3 of the following activities:

(A) The enhancement of high caliber teaching, including—

(i) enabling faculty to spend additional time in smaller class settings teaching students pursuing teaching degrees;

(ii) providing—

(I) summer school teaching opportunities for students pursuing teaching degrees;

(II) additional salary for faculty members who serve as advisors to students pursuing teaching degrees; or

(III) stipends for students pursuing teaching degrees.

(B) Opportunities to develop new pedagogical approaches to teaching, including a focus on content knowledge in academic areas such as mathematics, science, foreign language development, history, political science, and special education.

(C) Creation of multidisciplinary courses or programs that formalize collaborations for the purpose of improved student instruction.

(D) Expansion of innovative mentoring or tutoring programs proven to enhance recruitment of students pursuing teaching degrees or persistence in obtaining a teaching degree.

(E) Improvement of undergraduate science, mathematics, engineering, and technology education for nonmajors, including teacher education majors.

(e) MATCHING FUNDS.—Each institution of higher education that receives a grant under this section shall demonstrate a financial commitment to such institution's school of education by contributing, either directly or through private contributions, non-Federal matching funds equal to 20 percent of the amount of the grant.

(f) ASSESSMENT, EVALUATION, AND DISSEMINATION OF INFORMATION.—

(1) PROGRAM EVALUATION.—Not later than 180 days after the date of enactment of this Act, the Secretary shall award not less than 1 grant or contract to an independent evaluative organization to—

(A) develop metrics for measuring the impact of the activities authorized under this section on—

(i) the number of students enrolled in education classes;

(ii) academic achievement of students pursuing teaching degrees, including quantifiable measurements of students' mastery of content and skills, such as students' grade point averages;

(iii) persistence in completing a teaching degree, including students who transfer from departments of education to programs in other academic disciplines; and

(iv) placement during the 2 years after degree completion in public schools and an evaluation of the teachers' performance;

(B) conduct an evaluation of the impacts of the activities authorized under this section, including a comparison of the funded projects to identify best practices with respect to achieving the purpose of this Act.

(2) DISSEMINATION OF INFORMATION.—The Secretary shall disseminate, biannually, information on the activities and the results of the projects assisted under this section, including best practices, to institutions of higher education that receive a grant under this section and other interested institutions of higher education.

(g) STUDENT LOAN ELIGIBILITY.—Notwithstanding any other provision of law, a student who participates in a clinically-based teacher training program funded under this Act shall be eligible for student assistance under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) during such student's fifth year of a program of study for obtaining a teaching degree, if the fifth year of the program of study is required under such clinically-based program in order for students to obtain the teaching degree.

#### SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act \$200,000,000 for each of fiscal years 2004 through 2009.

S. 409

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

#### SECTION 1. FINDINGS.

Congress makes the following findings:

(1) Approximately 3,000,000 reports of child abuse and neglect must be investigated each year.

(2) Approximately 1,000,000 of these reports are confirmed and require ongoing intervention.

(3) On any given day in the United States, more than 500,000 children are being served outside their homes by the child welfare system.

(4) These children are served in more than 150,000 foster homes and more than 5,000 residential programs.

(5) The child welfare workforce crisis has developed as the result of the following 3 major factors:

(A) Overall low levels of unemployment and the resulting increase in competition for workers in all sectors of the economy.

(B) The increasing numbers of children and families needing service coupled with the decreasing numbers of workers in the employment pool.

(C) The relatively low pay and difficult working conditions that exist in many child welfare agencies.

(6) The vacancy rate in State child welfare agencies is 8.1 percent, and 14.3 percent for private agencies.

(7) The overall turnover rate in child welfare agencies has doubled since 1991, to 13.9 percent in public agencies and to 46.5 percent in private agencies.

(8) The child welfare workforce crisis is real and is already compromising the ability of the child welfare system to effectively provide essential services to its children and families. In addition, analysis of trends indicates that the situation will worsen over the next decade. It is clear that steps must be taken now to encourage more workers to enter the child welfare services field and to improve the salaries, working conditions, and training of workers who provide these critically important services.

#### SEC. 2. LOAN FORGIVENESS FOR CHILD WELFARE WORKERS.

(a) GUARANTEED STUDENT LOANS.—Part B of title IV of the Higher Education Act of 1965 is amended by inserting after section 428K (20 U.S.C. 1078-11) the following:

##### “SEC. 428L. LOAN FORGIVENESS FOR CHILD WELFARE WORKERS.

“(a) PURPOSE.—It is the purpose of this section—

“(1) to bring more highly trained individuals into the child welfare profession; and

“(2) to keep more highly trained child welfare workers in the child welfare field for longer periods of time.

“(b) DEFINITIONS.—In this section:

“(1) CHILD WELFARE SERVICES.—The term ‘child welfare services’ has the meaning given the term in section 425 of the Social Security Act.

“(2) CHILD WELFARE AGENCY.—The term ‘child welfare agency’ means the State agency responsible for administering subpart 1 of part B of title IV of the Social Security Act and any public or private agency under contract with the State agency to provide child welfare services.

“(3) INSTITUTION OF HIGHER EDUCATION.—The term ‘institution of higher education’ has the meaning given the term in section 101.

“(4) STATE.—The term ‘State’ has the meaning given the term in section 1101(a)(1) of the Social Security Act for purposes of title IV of such Act, and includes an Indian tribe.

“(c) DEMONSTRATION PROGRAM.—

“(1) IN GENERAL.—The Secretary may carry out a demonstration program of assuming the obligation to repay, pursuant to subsection (d), a loan made, insured, or guaranteed under this part or part D (excluding loans made under sections 428B and 428C, or comparable loans made under part D) for any new borrower after the date of enactment of this section, who—

“(A) obtains a bachelor's or master's degree in social work;

“(B) obtains employment in public or private child welfare services; and

“(C) has worked full time as a social worker for 2 consecutive years preceding the year for which the determination is made.

“(2) AWARD BASIS; PRIORITY.—

“(A) AWARD BASIS.—Subject to subparagraph (B), loan repayment under this section shall be on a first-come, first-served basis and subject to the availability of appropriations.

“(B) PRIORITY.—The Secretary shall give priority in providing loan repayment under this section for a fiscal year to student borrowers who received loan repayment under this section for the preceding fiscal year.

“(3) OUTREACH.—The Secretary shall post a notice on a Department Internet web site regarding the availability of loan repayment under this section, and shall notify institutions of higher education regarding the availability of loan repayment under this section.

“(4) REGULATIONS.—The Secretary is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section.

“(d) LOAN REPAYMENT.—

“(1) IN GENERAL.—The Secretary shall assume the obligation to repay—

“(A) after the third consecutive year of employment described in subsection (c)(1)(C), 20 percent of the total amount of all loans made under this part or part D (excluding loans made under section 428B or 428C, or comparable loans made under part D) for any new borrower after the date of enactment of this section;

“(B) after the fourth consecutive year of such employment, 30 percent of the total amount of such loans; and

“(C) after the fifth consecutive year of such employment, 50 percent of the total amount of such loans.

“(2) CONSTRUCTION.—Nothing in this section shall be construed to authorize the refunding of any repayment of a loan made under this part or part D.

“(3) INTEREST.—If a portion of a loan is repaid by the Secretary under this section for any year, the proportionate amount of interest on such loan which accrues for such year shall be repaid by the Secretary.

“(4) SPECIAL RULE.—In the case of a student borrower not participating in loan repayment pursuant to this section who returns to an institution of higher education after graduation from an institution of higher education for the purpose of obtaining a degree described in subsection (c)(1)(A), the Secretary is authorized to assume the obligation to repay the total amount of loans made under this part or part D incurred for a maximum of 2 academic years in returning to an institution of higher education for the purpose of obtaining such a degree. Such loans shall only be repaid for borrowers who qualify for loan repayment pursuant to the provisions of this section, and shall be repaid in accordance with the provisions of paragraph (1).

“(5) INELIGIBILITY OF NATIONAL SERVICE AWARD RECIPIENTS.—No student borrower may, for the same service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12601 et seq.).

“(e) REPAYMENT TO ELIGIBLE LENDERS.—The Secretary shall pay to each eligible lender or holder for each fiscal year an amount equal to the aggregate amount of loans which are subject to repayment pursuant to this section for such year.

“(f) APPLICATION FOR REPAYMENT.—

“(1) IN GENERAL.—Each eligible individual desiring loan repayment under this section shall submit a complete and accurate application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

“(2) CONDITIONS.—An eligible individual may apply for loan repayment under this

section after completing each year of qualifying employment. The borrower shall receive forbearance while engaged in qualifying employment unless the borrower is in default while so engaged.

**(g) EVALUATION.—**

**(1) IN GENERAL.—**The Secretary shall conduct, by grant or contract, an independent national evaluation of the impact of the demonstration program assisted under this section on the field of child welfare services.

**(2) COMPETITIVE BASIS.—**The grant or contract described in paragraph (1) shall be awarded on a competitive basis.

**(3) CONTENTS.—**The evaluation described in this subsection shall determine—

**(A)** whether the loan forgiveness program has increased child welfare workers' education in the areas covered by loan forgiveness;

**(B)** whether the loan forgiveness program has contributed to increased time on the job for child welfare workers as measured by—

**(i)** the length of time child welfare workers receiving loan forgiveness have worked in the child welfare field; and

**(ii)** the length of time such workers continue to work in such field after the workers meet the requirements for loan forgiveness under this section; and

**(C)** whether the loan forgiveness program has increased the experience and the quality of child welfare workers and has contributed to increased performance in the outcomes of child welfare services in terms of child well-being, permanency, and safety, as determined after consultation with the Secretary of Health and Human Services.

**(4) INTERIM AND FINAL EVALUATION REPORTS.—**The Secretary shall prepare and submit to the President and Congress such interim reports regarding the evaluation described in this subsection as the Secretary determines appropriate, and shall prepare and so submit a final report regarding the evaluation by September 30, 2005.

**(h) AUTHORIZATION OF APPROPRIATIONS.—**There are authorized to be appropriated to carry out this section \$20,000,000 for fiscal year 2004, and such sums as may be necessary for each of the 4 succeeding fiscal years."

By Mr. EDWARDS:

S. 410. A bill to establish the Homeland Intelligence Agency, and for other purposes; to the Select Committee on Intelligence.

Mr. EDWARDS. Mr. President, I have previously given a statement and a speech on the floor of the Senate with regard to Mr. Estrada's nomination. I voted against him in the Judiciary Committee. The concerns I had included his not answering questions that were put to him, serious questions, in my judgment—issues about his record and his temperament.

Today, I wish to talk about homeland security. First, I will talk about the serious shortcomings in the administration's response, and then I will talk about six bills I have introduced in this Congress to improve our homeland security, including a bill today to overhaul the way we do intelligence work here at home.

The first responsibility of any government is to protect its people. Yet we live in a time when Americans feel extraordinary insecurity. We are at an elevated level of threat warning. The CIA Director says al-Qaida is "resuming the offensive." The FBI Director says there are "al-Qaida cells in the

United States that we have not yet been able to identify."

In other words, al-Qaida cells are operating here, but we do not know who they are, where they are, or what they are doing.

Americans are buying plastic sheeting and duct tape in record amounts. While they are doing everything they can to protect themselves, they have a right to know that those of us in Government are doing everything we can to protect them, their homes, their families, and their children. This is a dangerous time.

But a dangerous time calls for an honest response: This President is failing the test on homeland security. Homeland security has yielded to chemical companies that are holding back commonsense steps to secure chemical plants against horrific explosions. Homeland security is yielding to bureaucratic inertia that is defending old and outworn ways of fighting terror.

Today there are huge holes in our borders—one guard for every 5 miles on the Canadian border. There are huge holes at our ports—we are still inspecting only a fraction of all shipments into the United States, shipments that could carry nuclear or biological weapons. There are huge holes in our hometowns—where cops and firefighters do not have the equipment or the training that they need.

For all these holes, this President has vetoed billions for homeland security, he is withholding funds that first responders need today, and he has proposed funding homeland security this year at a level that even Republican experts like Warren Rudman say is totally inadequate.

We cannot cover the holes in our borders with plastic sheeting. Our cops and firefighters need reinforcements and new gear, not canned goods.

In 2000, the President's team talked about the dangers of a hollow military. At a time when the greatest dangers we face are here at home, this administration risks creating a hollow homeland defense.

This is happening for a very simple reason. The bare minimum of homeland security improvements we need—\$10 billion more this year—costs less than half of President Bush's tax cut just for 226,000 millionaires.

I believe it is time to say to this President: Mr. President, please put our security first. Please set aside \$20 billion in tax breaks for 226,000 millionaires, and put homeland security for 290 million Americans first.

Let me talk a little bit about my work on homeland security since Congress came back into session. Back in December, I laid out a comprehensive plan for strengthening our domestic security, from stopping ID fraud to sharing more information with local police to improving our cybersecurity. And in the 6 weeks Congress has been in session so far, I have introduced six bills to strengthen our homeland security.

Each of these bills would make a concrete, tangible difference in people's lives.

Two bills are focused on empowering people to play a greater role in homeland security.

First, until this week, most Americans have no better idea how to respond to a terrorist attack than on September 11. Now the administration has begun giving out useful information, but we still don't have enough. We are not being told, for example, how to respond to chemical or biological attacks. In addition, there is still a serious question whether people will get the information they need when they need it, particularly when they are sleeping. Obviously TV and radio won't help if you are asleep. So I have a bill, which I wrote with Senator Fritz Hollings, that will create an emergency warning system to reach everyone—for example, using special phone rings that could wake people up in the middle of the night.

Second, we want to encourage more people to contribute. People want to serve, but they feel like they haven't been asked. We should ask. One way is through the Neighborhood Watch program. Neighborhood Watches help prevent both terrorism and ordinary crime. We are going to increase support for these, encourage folks to get involved, with the goal—the realistic goal—of tripling the number of neighborhood watches.

Next, I have introduced two bills focused on hardening vulnerable targets—in other words, taking those targets we know terrorists want to attack, and transforming them so they will be less vulnerable.

One bill is to do research to enhance building security, to improve the quality of private security guards and make buildings more resistant to attack. We know that at the Oklahoma City bombing, 85 percent of the lives might have been saved if the building had been built with better materials, in a better way. We are still learning about the World Trade Center collapse. We know we need better construction and better security around buildings across America.

A fourth bill would require the Government to improve its cybersecurity. A few weeks ago, we had an attack that crippled a lot of Government computer systems. There are simple tests we could be doing to block computer attacks that we are not doing: to "patch" holes in the systems. We need to make that happen.

Fifth, I have introduced a bill to help local law enforcement by requiring the Government to give security clearances to more police officers, firefighters, and health officials. They need information to keep us safe, but too often they are not getting it. This bill would help make sure they do.

Finally, there is the bill I have introduced today, and that I want to talk about in some detail. This bill will make fundamental changes in the way

we protect Americans against international terrorists operating within our borders. This bill takes away from the FBI the responsibility to collect intelligence on foreign terrorist groups operating in America. And this bill gives that responsibility to a new Homeland Intelligence Agency. I believe this agency will do a better job protecting our safety and our basic freedoms. Let me briefly explain why.

There is no question that the FBI is full of dedicated professionals who are patriots, who serve their country with courage and conviction, who do all of us proud.

But there is also no question that the FBI made many serious mistakes before September 11. There was the Phoenix memorandum, a memorandum about suspicious behavior at flight schools that the FBI did not follow up on. There was the Moussaoui case, where the FBI had in its possession a computer full of critical information, yet did not access the information there. There were even two hijackers who the FBI knew were threats but did not track and stop.

It is true all this was before September 11. The other day, Director Mueller told me that my criticisms understated the extent of the FBI's reforms. Well, I respect Director Mueller, and I look forward to continuing to talk with him about FBI reform. I have only the best wishes for his reform efforts.

At the same time, it would be hard to understate the seriousness of the problems we have seen.

This is not just my view; it is the view of every objective panel to look at this issue. These panels have raised serious questions about the FBI's response to terrorism, and in some instances, about the FBI's capacity to respond to terrorism.

The Markle Task Force commented: ". . . there is a resistance ingrained in the FBI ranks to sharing counter-terrorism information . . . the FBI has not prioritized intelligence analysis in the areas of counter-terrorism."

The Joint Congressional Inquiry noted: The FBI has a "history of repeated shortcomings within its current responsibility for domestic intelligence. . . ."

The Brookings Institution went further, stating that "there are strong reasons to question whether the FBI is the right agency to conduct domestic intelligence collection and analysis."

And finally, the Gilmore Commission recently said: "the Bureau's long standing tradition and organizational culture persuade us that, even with the best of intentions, the FBI cannot soon be made over into an organization dedicated to detecting and preventing attacks rather than one dedicated to punishing them."

I believe the Gilmore Commission reached the right conclusion.

Part of the problem is bureaucratic resistance at the FBI. The FBI is full of superb public servants. But the reality

is that the FBI is also a bureaucracy, and it is the nature of a bureaucracy to resist change. That is just the reality. It was only in November that the New York Times reported the FBI's No. 2 official was "amazed and astounded" by the FBI's sluggish response to the terrorist threat.

Beyond the problem of bureaucratic resistance, there is a more fundamental problem with the FBI. That problem is the conflict at the base of the FBI's mission, which is a conflict between law enforcement and intelligence. These are fundamentally different functions.

Law enforcement is about building criminal cases and putting people in jail. Intelligence isn't about building a case; it is about gathering information and putting it together into a bigger picture.

The FBI has never been built for intelligence. It has always been an agency that hires people who want to be law enforcement officers, trains them to be law enforcement officers, and promotes them for succeeding as law enforcement officers.

Cases have been run by field offices with little of the central coordination that is essential to combat national networks of terrorists. The FBI has regularly kept intelligence within the agency's walls rather than sharing it with other key players.

Now, the FBI says all this is changing. But with all due respect, the FBI's reforms are too little and too late. They are not enough, and because of the nature of the FBI, they cannot ever be enough.

That is why I propose today to create a Homeland Intelligence Agency, one that would be responsible for collecting foreign intelligence inside the United States, analyzing that intelligence, and getting it to the policymakers or first responders who need it. This entity isn't in the new Department of Homeland Security. It isn't in the newly announced "Terrorist Threat Integration Center." That's just about analysis. This is about collection, gathering the intelligence information to begin with.

I believe this agency will do a better job fighting terrorism because its sole focus will be intelligence gathering. The inherent conflict between law enforcement and intelligence will not get in the way of its work.

I also believe it will do a better job protecting our civil liberties. While we will not give the new agency any new authorities, we will place new checks on its ability to collect information about innocent people. Time and again, we have seen this administration overreach when it comes to civil liberties. That should stop, and this proposal will help stop it.

We will require judicial approval before the most secretive and invasive investigations of religious and political groups. We will require greater public reporting and more internal auditing. We will establish a new and independent office of civil liberties within

the new agency that is dedicated to protecting the constitutional rights of innocent Americans. So at the end of the day, we will help to fulfill America's promise—that we are safe and free at the same time.

I believe this bill is an important step to making America safer, and I look forward to working on it with colleagues on both sides of the aisle in getting this legislation passed.

By Mr. BINGAMAN:

S. 411. A bill to amend title 49, United States Code, to establish a university transportation center to be known as the "Southwest Bridge Research Center"; to the Committee on Environment and Public Works.

Mr. BINGAMAN. Madam President, I rise to introduce legislation that I believe will go a long way in helping to improve the safety and durability of the Nation's highway bridges. Today, with great pleasure I am introducing the Southwest Bridge Research Center Establishment Act of 2003.

The purpose of this bill is to authorize the Secretary of Transportation to establish a new University Transportation Center focused on the safety of highway bridges. The new Southwest Bridge Research Center is a cooperative effort between New Mexico State University and the Oklahoma Transportation Center, comprising the University of Oklahoma and Oklahoma State University. The new center will lead the Nation in the research and development of technologies for bridge testing and monitoring, procedures for ensuring bridge safety and security, and training in methods of bridge inspection.

Our highway network is a central component of our economy and fundamental to our freedom and quality of life. America's mobility is the engine of our free market system. Transportation via cars, buses, and trucks plays a central role in our basic quality of life. Much of the food we eat, the clothes we wear, the materials for our homes and offices, comes to us over the 4 million miles of our road network.

One critical element of our highway network is the highway bridges that span streams, rivers, and canyons of our cities and rural areas. Bridges also help traffic flow smoothly by carrying one road over another.

Most highway bridges are easy to overlook. Notable exceptions are New England's covered bridges, the well-known Golden Gate Bridge, and the spectacular Rio Grande Gorge Bridge near Taos, New Mexico. The fact is, according to the Federal Highway Administration, we have about 590,000 highway bridges in this country that are more than 20-feet long. The total bridge-deck area of these 590,000 bridges is an amazing 120 square miles, or slightly smaller in area than the entire city limits of Albuquerque, New Mexico, roughly twice the size of the entire District of Columbia, or five times the area of New York's Manhattan Island. The State of Texas leads

the Nation with over 48,000 bridges, about ten percent of the total. Ohio is second with about 28,000 highway bridges.

A little known, and disturbing fact about these 590,000 highway bridges is that nearly 84,000, or 14 percent, are considered to be structurally deficient according to the most recent statistics from the FHWA. The percent of structurally deficient bridges varies widely among the 50 States. For example, this chart shows some of the States with some of the highest percentage of deficient bridges.

State	Number of bridges	Number of structurally deficient bridges	Percent of structurally deficient bridges (in percent)
Oklahoma	22,708	7,605	33.5
Missouri	23,604	6,083	25.8
Rhode Island	749	187	25.0
Pennsylvania	22,092	5,418	24.5
South Dakota	6,001	1,398	23.3
Mississippi	16,825	3,694	22.0
Iowa	25,030	5,036	20.1
North Dakota	4,517	871	19.3
Michigan	10,631	2,012	18.9
Louisiana	13,426	2,425	18.1
Alabama	15,641	2,677	17.1
North Carolina	16,991	2,513	14.8
Kansas	25,638	3,465	13.5
Ohio	27,952	3,304	11.8

Source: FHWA National Bridge Inventory (NBI) System, December 2001.

Structurally deficient bridges are a particular concern in rural areas of our country. According to FHWA's 2002 edition of its Conditions and Performance Report to Congress, 16 percent of rural bridges are structurally deficient compared to only 10 percent of urban bridges. The report estimates the average cost required to maintain the existing 590,000 highway bridges is \$7.3 billion per year.

Another surprising fact about our Nation's highway bridges is their age. About one-third of all highway bridges are more than 50 years old, and an amazing 10,000 bridges are at least 100 years old. About 4,000 of these century-old bridges are currently rated as structurally deficient.

I do believe the number of deficient bridges in this country should be a concern to all Senators. Ensuring that States and local communities have the funds they need to help correct these deficient bridges will be one of my priorities when Congress reauthorizes TEA-21. However, because there may not be sufficient Federal and State funding to address all of the deficient bridges, it will be important to identify the bridges that are most in need of replacement or rehabilitation.

To ensure the most efficient use of limited resources, Congress should also address the need for new technologies to help States monitor the condition of the Nation's 590,000 highway bridges and determine priorities for repair or replacement. Such monitoring technologies, or "smart bridges," should be quick, efficient, and not damage the bridge in any way. I am very pleased that New Mexico State University is one of the Nation's pioneers in the development of non-destructive methods of determining the physical condition of highway bridges. Such smart bridges

can record and transmit information on their current structural condition as well as on the traffic crossing them.

In 1998, NMSU installed 67 fiber-optic sensors on an existing steel bridge on Interstate 10 in Las Cruces. This award-winning project was the first application of fiber-optic sensors to highway bridges. More recently, in 2000, sensors were incorporated directly in a concrete bridge during construction to monitor the curing of the concrete; the bridge crosses the Rio Puerco on Interstate 40, west of Albuquerque. NMSU has an actual 40-foot "bridge" in a laboratory on campus to allow studies of instrumentation and data collection.

I ask unanimous consent that two articles describing NMSU's accomplishments on smart bridge technology be printed in the Record, exhibits one and two.

NMSU is also a leader in other areas of bridge inspection. It has provided training for bridge inspectors for over 30 years. It has also developed expertise in using a virtual reality approach to document a bridge's physical condition.

At the same time, Oklahoma State University leads the Nation in the development of the Geothermal Smart Bridge System, which uses energy stored in the earth itself to help keep bridges free of ice and snow. OSU is also performing cutting edge research on high-performance structural materials frequently used in bridges including concrete, steel, and timber.

At the University of Oklahoma, a multidisciplinary team of researchers is working to develop a "smart" vehicle-bridge system that is expected to reduce the impact of moving trucks on bridge structures, thereby increasing the lifespan of highway bridges. The UO team is also expert in the development of high-performance concrete and of sensors for non-destructive testing.

Of course, the Oklahoma Transportation Center was also heavily involved last year in the rebuilding of the Interstate 40 bridge over the Arkansas River near Webbers Falls, OK, after it collapsed when struck by a barge. The bridge was reopened to traffic only 64 days after the accident.

This is just a glimpse at the high quality bridge research at these three universities. All three institutions are widely recognized as national leaders in all aspects of bridge research and technology. I believe it is fully appropriate for these three nationally recognized universities to collaborate in operating the Southwest Bridge Research Center.

The bill I am introducing today authorizes the Secretary of Transportation to establish and operate the Southwest Bridge Research Center at New Mexico State University in collaboration with the Oklahoma Transportation Center. I do believe the three universities have earned this honor. In fact, in some ways, Congress has already recognized their fine work of the three centers. For example, the Univer-

sity of Oklahoma was allotted \$3.5 million in TEA-21 for research work on intelligent stiffeners for bridge stress reduction and Oklahoma State received \$3.5 million for work on the geothermal heat pump smart bridge program.

I am pleased to have also played a part. At my request, Congress provided \$600,000 in 2001 for bridge research at New Mexico State University and an additional \$250,000 in the current fiscal year.

The specific purpose of the Southwest Bridge Research Center will be to contribute to improving the performance of the nation's highway bridges. The center will emphasize five goals: 1. Increasing the number of skilled individuals entering the field of transportation; 2. improving the monitoring of the structural health of highway bridges; 3. developing innovative technologies for testing and assessment of bridges; 4. developing technologies and procedures for ensuring bridge safety, reliability, and security; and 5. providing training in the methods of bridge inspection and evaluation.

Building on the three universities' research work, the Southwest Bridge Research Center will develop a strong educational component, including degree opportunities in bridge engineering at both the undergraduate and graduate levels. In addition, the center will have a cooperative certificate program for training and professional development. Distance education technology and computer-based learning will allow programs to be offered at any of the universities.

The bill provides \$3 million in funding from the Highway Trust Fund to operate the center.

New Mexico State University and the Oklahoma Transportation Center have applied their vast talents, tools, and techniques to solving technological problems with highway bridges for over 30 years. The team is well established and maintains cutting-edge expertise. The members of the team are recognized and respected at the national and international levels through accomplishments in bridge testing, monitoring, and evaluation.

I ask all senators to support the designation of a new Southwest Bridge Research Center. I look forward to working this year with the Chairman of the Environment and Public Works Committee, Senator INHOFE, and Senator JEFFORDS, the ranking member, to incorporate this bill into the full 6-year reauthorization of the transportation bill.

I ask unanimous consent that a letter of support from the three universities and a letter from Rhonda Fought, the Secretary of New Mexico's State Highway and Transportation Department be printed in the RECORD. I also ask unanimous consent that the text of the bill be printed in the RECORD.

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

## EXHIBIT 1

[From the Washington Post, May 18, 1998]  
SENSORS BRIDGE GAP IN COMMUNICATION  
ABOUT REPAIR NEEDS  
(By Louis Jacobson)

LAS CRUCES, NM.—Hardly anyone in this burgeoning southwestern city realizes it, but right behind the Las Cruces Days Inn is a state-of-the-art experimental bridge. It isn't very exciting to look at—in fact, a motorist whizzing under Interstate 10 probably wouldn't notice anything unusual. But the experiment's sponsors—including the Federal Highway Administration, the National Science Foundation and state highway departments—hope that it will eventually revolutionize the way the United States maintains its half-million aging highway bridges.

Undergirding the Las Cruces "smart bridge" is a series of special sensors. It's not unusual for a bridge to be strung with mechanical sensors to measure structural stresses, particularly when a bridge is older and at higher risk of long-term fatigue. But the Las Cruces sensors are embedded in fiber-optic cables that—once the experiment is fully underway—will be able to transmit their readings to bridge officials in real time. In other words, weary bridges will soon be able to telephone their weakened conditions directly to the highway authorities so that bridge engineers can be dispatched to head off catastrophe.

"We're looking at a very large bridge stock in the U.S. that's in need of maintenance," says Rola Idriss, the civil engineer at New Mexico State University who is monitoring the I-10 experiment. "Our idea was, how can we better inspect our bridges, how can we better evaluate them and how can we save money and time? The basic idea was to monitor them from far away."

The fiber-optic cables used in the experiment were designed by the Naval Research Laboratory. First, laser beams etch the cables' cores with five-millimeter-long internal gauges, spaced about two to three meters apart. Once the cable is strung under the bridge and attached with epoxy, engineers program the system so that light beams career down the cable at regular intervals. The degree of the light beams' bend directly correlates with the degree of bridge stress. If the results exceed a pre-calibrated bench mark, officials will be alerted to check for weakness exactly where they need to. The gauges can also be used to report general traffic patterns, aiding transportation planners as well as bridge inspectors.

So far, the fiber-optic gauges have remained fastened better than normal wire gauges have, Idriss says. More important, the fiber simultaneously serves as a data collector and transmitter. "It was a very elegant way to get away from the traditional method of using wires and installation," Idriss says. "You just hook it to a computer and then let it cell phone the information home. The beauty of it is that you don't have to be on the bridge. I could monitor a bridge in Washington if I wanted to."

Though the bridge in Las Cruces—which Idriss describes as an ordinary interstate bridge—was built in the 1970s, it has already displayed some metal fatigue (a fact that was known even before the smart bridge experiment was concocted). "It's not unusual to have that kind of fatigue, but the bridge is not very old, so you want to know much more about what's happening," she says. "Now, we need to expand the capability of the system by collecting from many more sensors. It currently has 30, but we'd like to double that at least."

Idriss—who grew up in a family of engineers in Beirut and later became the first woman to earn a civil engineering PhD from

New Mexico State—acknowledges that both technical and economic challenges remain. Her sensors cost about \$50 to \$100 each, including the cost of the cable itself. The benefits, she says, would come from freeing bridge inspectors from many of their routine and time-consuming duties. At the same time, highway departments could use their new data to repair bridges more precisely and cost-efficiently than today's information sources allow. "If a fiber-optic gauge system costs \$30,000," she says, "that's still far less than a typical new bridge, which costs millions."

Even if that price tag eventually drops, highway officials who aren't involved in the experiment suggest that the system will be most appropriate for the minority of bridges that officials already fret about.

"It seems like this system would be best for bridges that need special attention," says David Hensing, deputy executive director of the American Association of State Highway and Transportation Officials. "It's probably more expensive than is necessary for 90 percent of America's bridges. But for the other 5 or 10 percent, that kind of instrumentation will get more years of life out of the bridge and lead to more timely corrective action."

Bob Reilly, director of cooperative research programs at the federal Transportation Research Board, which is part of the National Research Council, concurs. "I could imagine it would be a very useful thing in rare cases, but my guess is that it's not worth it for all bridges," he says.

Richard Livingston, the Federal Highway Administration official who is supplying Idriss with equipment and grant money, suggests three types of bridges that are likeliest to benefit: bridges that are already thought to be structurally deficient, critical urban bridges that carry economically vital traffic flows and newer bridge designs with which engineers have little long-term experience.

California transportation officials have expressed interest in installing fiber-optic gauges in critical seismic zones. Closer to home, the Washington area's Woodrow Wilson Bridge—a clogged and vital drawbridge on the Capital Beltway—could be among the first to serve as a test site, if Congress authorizes funding to do so.

"It would be able to help us schedule maintenance activities in a more cost-effective way," says Louis Triandafilou, a Baltimore-based Federal Highway Administration official who has been trying to broker the Wilson Bridge deal. "The Wilson Bridge is a good one to test because it's a drawbridge and because it has a very high traffic count, especially truck traffic, so you can get information on how the bridge is affected by fatigue and repetitive stress."

Given that it often takes four or five professionals a full week to inspect just one bridge—and considering the big back-log of bridges to inspect, including some whose crucial parts aren't easy to reach—the experiment's advocates say that the benefits of remote sensing can be substantial. "The real problem is that no one has ever done a cost-benefit analysis," Livingston says. "It has increased cost, but it may also have increased benefits."

## EXHIBIT 2

[From the Public Roads magazine, Nov./Dec., 2002]

## A DECADE OF ACHIEVEMENT

(By Richard A. Livingston, Milton Mills, and Morton S. Oskard)

Installation of sensor systems in bridges is increasingly recognized as important for obtaining information on strains, temperature, moisture, and other variables. The information collected from such smart bridges can

be used to confirm design calculations, detect damage, and count traffic, among other functions.

An example of the sensor systems developed by the Advanced Research program is the fiber-optic strain gauge based on Bragg gratings. These gratings consist of alternating zones of different indexes of refraction. The spacing of the layers determines a specific wavelength of light that will be reflected. The technology is the same as that used in the broadband fiber-optic telecommunications systems now being installed across the country.

Since the fiber-optic sensor operates with light waves rather than electrons, it has several advantages over conventional electronic strain gauges: ruggedness, absence of drift, and immunity to electromagnetic noise. It permits as many as 100 gauges to be put on a single fiber as thin as a human hair. The installation of the gauges is simplified, the cabling requirement is reduced, and the cost-per-sensor is lowered.

Possible applications may require networks on the order of 1,000 sensors, or 1 kilosensor. Working under an interagency agreement with the Naval Research Laboratory, which has developed many fiber-optic sensors, the Advanced Research program has demonstrated several applications of sensor networks for structural monitoring.

The first application, co-funded with the National Science Foundation (NSF), resulted in the installation of a system of 67 calibrated fiber-optic sensors on an existing steel bridge on Interstate 10 in Las Cruces, NM. This work was carried out by New Mexico State University, with Dr. Rola Idriss as the principal investigator.

"The research has shown the fiber-optic sensors to be a powerful nondestructive evaluation tool," says Idriss. "Whether retrofitted to an existing structure or built into a new smart bridge, they can yield a wealth of information about the structure and the traffic crossing it."

The installation has generated several types of information under random traffic loading, including girder deflections, fundamental vibration frequencies, vehicle speed data, and traffic flow on an hourly basis. To date, the Las Cruces project has achieved notable success in its primary purpose of investigating practical issues in the full-scale application and regular operation of fiber-optic sensors on highway structures. The project has been widely covered in the media and received several awards.

New Mexico State University applied the sensors to the construction of a new concrete bridge in a project co-funded by Advanced Research, NSF, and the New Mexico State Highway and Transportation Department (NMSHTD). The mix design and curing conditions now being used to make high-performance concrete structures may produce unexpectedly high temperatures and stresses during the casting of girders, possibly leading to cracking and major structural failure. Obtaining information on the internal conditions is difficult with conventional temperature or strain gauges because of their fragility.

Forty fiber-optic long-gauge deformation and temperature sensors were embedded in the concrete girders of the Rio Puerco Bridge during casting. These sensors monitored the prestress forces applied to the steel strands in the precast concrete components during and after the steam curing period. One finding was that some design codes considerably overestimate the actual losses. NMSHTD now is planning to use sensors routinely in the construction of concrete bridges in the future. "Building the sensors into new bridges," says Idriss, "enables us to evaluate new high-performance materials and new designs. It also establishes a baseline for long-term monitoring."

Several companies now offer Bragg fiber-optic sensor systems on a commercial basis. Two States (Hawaii and New Mexico) have received funding from the FHWA Innovative Bridge Research and Construction Program. In addition, several other States are considering installation of these systems on new or existing bridges. Fiber-optic systems also have been chosen as the method for measuring expansion in concrete girders under the lithium treatment evaluation program. All these developments indicate that fiber-optic sensor systems have been transferred successfully from Advanced Research to other FHWA programs.

COLLEGE OF ENGINEERING,  
OFFICE OF THE DEAN, NEW MEXICO  
STATE UNIVERSITY,

Las Cruces, NM, January 8, 2003.

Hon. JEFF BINGAMAN,  
U.S. Senator, Hart Building,  
Washington, DC.

DEAR SENATOR BINGAMAN: We are writing to express our support for your bill to establish a bridge research center (brc) as a cooperative effort of New Mexico State University and the Oklahoma Transportation Center (Oklahoma State University and the University of Oklahoma). NMSU and OTC desire to work together in a spirit of cooperation as a University Transportation Center. We are bonded together in a desire to provide bridge research leadership for our respective states and the nation.

The purpose of the Bridge Research Center shall be to contribute at a national level to a systems approach to improving the overall performance of bridges. The BRC will emphasize the following:

1. Increase the number of highly skilled individuals entering the field of transportation.
2. Improve the monitoring of the structural health over the life of bridges.
3. Develop innovative technologies for bridge testing and monitoring.
4. Develop technologies and procedures for ensuring bridge safety, reliability and security.
5. Provide training in the methods for bridge inspection and evaluation.

The objective of the BRC is to carry out several programs and activities. Included will be basic and applied research with products judged by peers or other experts to advance the body of knowledge for bridges. An educational program that includes multidisciplinary course work and participation in bridge research. Finally, an ongoing program of technology transfer that makes research results available to potential users in a form that can be implemented.

NMSU and OTC have applied their talents, tools and techniques to solving technological problems with bridges for over 30 years. Our team is well established and maintains cutting-edge expertise. Our team members are recognized and respected at the national and international levels through major accomplishments in bridge testing, monitoring and evaluation.

New Mexico State University has agreed to provide the administrative leadership for the BRC. The research activity of the BRC will be approximately equally divided between New Mexico and Oklahoma.

By the signatures of the representatives of each institution, we pledge our support and commitment to the partnership known as the Bridge Research Center.

GORMAN GILBERT,  
Civil and Environmental Engineering,  
Oklahoma State  
University.

THOMAS L. LANDERS,  
Associated Dean, Uni-  
versity of Oklahoma.

KENNETH R. WHITE,  
Interim Dean of Engi-  
neering, New Mexico  
State University.

NEW MEXICO STATE HIGHWAY  
AND TRANSPORTATION DEPARTMENT,  
Santa Fe, NM, January 27, 2003.

Hon. JEFF BINGAMAN,  
U.S. Senator, Hart Building,  
Washington, DC.

DEAR SENATOR BINGAMAN: I am writing to express my support for your bill to establish a Bridge Research Center as a cooperative effort of New Mexico State University and the Oklahoma Transportation Center (Oklahoma State University and the University of Oklahoma). NMSU and OTC desire to provide bridge research leadership for our Nation. The areas of leadership include research and development of techniques and technologies for bridge testing and monitoring, procedures for ensuring bridge safety and security, and curricula to train persons in the methods for bridge inspection and evaluation as one part of increasing the number of highly skilled individuals entering the field of transportation.

I believe it is important for the Bridge Research Center to be established as a University Transportation Center. The New Mexico State Highway and Transportation Department, through our Research Bureau, will work with New Mexico State University to ensure a match for the New Mexico portion of the Bridge Research Center funds.

I appreciate your continued leadership on behalf of transportation in New Mexico and our Nation.

Sincerely,

RHONDA G. FAUGHT,  
Cabinet Secretary.

S. 411

*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 "Southwest Bridge Research Center Establishment Act of 2003".

#### SEC. 2. BRIDGE RESEARCH CENTER.

Section 5505 of title 49, United States Code, is amended by adding at the end the following:

"(k) SOUTHWEST BRIDGE RESEARCH CENTER.—

"(1) IN GENERAL.—In addition to the university transportation centers receiving grants under subsections (a) and (b), the Secretary shall provide grants to New Mexico State University, in collaboration with the Oklahoma Transportation Center, to establish and operate a university transportation center to be known as the 'Southwest Bridge Research Center' (referred to in this subsection as the 'Center').

"(2) PURPOSE.—The purpose of the Center shall be to contribute at a national level to a systems approach to improving the overall performance of bridges, with an emphasis on—

- "(A) increasing the number of highly skilled individuals entering the field of transportation;
- "(B) improving the monitoring of structural health over the life of bridges;
- "(C) developing innovative technologies for bridge testing and assessment;
- "(D) developing technologies and procedures for ensuring bridge safety, reliability, and security; and
- "(E) providing training in the methods for bridge inspection and evaluation.

"(3) OBJECTIVES.—The Center shall carry out the following programs and activities:

- "(A) Basic and applied research, the products of which shall be judged by peers or

other experts in the field to advance the body of knowledge in transportation.

"(B) An education program that includes multidisciplinary course work and participation in research.

"(C) An ongoing program of technology transfer that makes research results available to potential users in a form that can be implemented.

"(4) MAINTENANCE OF EFFORT.—To be eligible to receive a grant under this subsection, the institution specified in paragraph (1) shall enter into an agreement with the Secretary to ensure that, for each fiscal year after establishment of the Center, the institution will fund research activities relating to transportation in an amount that is at least equal to the average annual amount of funds expended for the activities for the 2 fiscal years preceding the fiscal year in which the grant is received.

"(5) COST SHARING.—

"(A) FEDERAL SHARE.—The Federal share of the cost of any activity carried out using funds from a grant provided under this subsection shall be 50 percent.

"(B) NON-FEDERAL SHARE.—The non-Federal share of the cost of any activity carried out using funds from a grant provided under this subsection may include funds provided to the recipient under any of sections 503, 504(b), and 505 of title 23.

"(C) ONGOING PROGRAMS.—After establishment of the Center, the institution specified in paragraph (1) shall obligate for each fiscal year not less than \$200,000 in regularly budgeted institutional funds to support ongoing transportation research and education programs.

"(6) PROGRAM COORDINATION.—

"(A) COORDINATION.—The Secretary shall—

- "(i) coordinate the research, education, training, and technology transfer activities carried out by the Center;

- "(ii) disseminate the results of that research; and

- "(iii) establish and operate a clearinghouse for information derived from that research.

"(B) ANNUAL REVIEW AND EVALUATION.—At least annually, and in accordance with the plan developed under section 508 of title 23, the Secretary shall review and evaluate each program carried out by the Center using funds from a grant provided under this subsection.

"(7) LIMITATION ON AVAILABILITY OF FUNDS.—Funds made available to carry out this subsection shall remain available for obligation for a period of 2 years after the last day of the fiscal year for which the funds are authorized.

"(8) AMOUNT OF GRANT.—For each of fiscal years 2004 through 2009, the Secretary shall provide a grant in the amount of \$3,000,000 to the institution specified in paragraph (1) to carry out this subsection.

"(9) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection \$3,000,000 for each of fiscal years 2004 through 2009."

By Mr. KYL (for himself, Mr. MCCAIN, Mr. DOMENICI, Mrs. FEINSTEIN, Mr. CORNYN, and Mr. SCHUMER):

S. 412. A bill to amend the Balanced Budget Act of 1997 to extend and modify the reimbursement of State and local funds expended for emergency health services furnished to undocumented aliens; to the Committee on Finance.

Mr. KYL. Mr. President, 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:

S. 412

*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 "Local Emergency Health Services Reimbursement Act of 2003".

**SEC. 2. FEDERAL REIMBURSEMENT OF EMERGENCY HEALTH SERVICES FURNISHED TO UNDOCUMENTED ALIENS.**

Section 4723 of the Balanced Budget Act of 1997 (8 U.S.C. 1611 note) is amended to read as follows:

**"SEC. 4723. FEDERAL REIMBURSEMENT OF EMERGENCY HEALTH SERVICES FURNISHED TO UNDOCUMENTED ALIENS.**

"(a) TOTAL AMOUNT AVAILABLE FOR ALLOTMENT.—There is appropriated, out of any funds in the Treasury not otherwise appropriated, \$1,450,000,000 for each of fiscal years 2004 through 2008, for the purpose of making allotments under this section to States described in paragraph (1) or (2) of subsection (b). Funds appropriated under the preceding sentence shall remain available until expended.

"(b) STATE ALLOTMENTS.—

"(1) BASED ON PERCENTAGE OF UNDOCUMENTED ALIENS.—

"(A) IN GENERAL.—Out of the amount appropriated under subsection (a) for each fiscal year, the Secretary shall use \$957,000,000 of such amount to make allotments for each such fiscal year in accordance with subparagraph (B).

"(B) FORMULA.—The amount of the allotment for each State for a fiscal year shall be equal to the product of—

"(i) the total amount available for allotments under this paragraph for the fiscal year; and

"(ii) the percentage of undocumented aliens residing in the State with respect to the total number of such aliens residing in all States, as determined by the Statistics Division of the Immigration and Naturalization Service, as of January 2003, based on the 2000 decennial census.

"(2) BASED ON NUMBER OF UNDOCUMENTED ALIEN APPREHENSION STATES.—

"(A) IN GENERAL.—Out of the amount appropriated under subsection (a) for a fiscal year, the Secretary shall use \$493,000,000 of such amount to make allotments for each such fiscal year for each of the 6 States with the highest number of undocumented alien apprehensions for such fiscal year.

"(B) DETERMINATION OF ALLOTMENTS.—The amount of the allotment for each State described in subparagraph (A) for a fiscal year shall bear the same ratio to the total amount available for allotments under this paragraph for the fiscal year as the ratio of the number of undocumented alien apprehensions in the State in the fiscal year bears to the total of such numbers for all such States for such fiscal year.

"(C) DATA.—For purposes of this paragraph, the highest number of undocumented alien apprehensions for a fiscal year shall be based on the 4 most recent quarterly apprehension rates for undocumented aliens in such States, as reported by the Immigration and Naturalization Service.

"(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as prohibiting a State that is described in both of paragraphs (1) and (2) from receiving an allotment under both paragraphs for a fiscal year.

"(c) USE OF FUNDS.—

"(1) AUTHORITY TO MAKE PAYMENTS.—From the allotments made for a State under sub-

section (b) for a fiscal year, the Secretary shall pay directly to local governments, hospitals, or other providers located in the State (including providers of services received through an Indian Health Service facility whether operated by the Indian Health Service or by an Indian tribe or tribal organization) that provide uncompensated emergency health services furnished to undocumented aliens during that fiscal year, and to the State, such amounts (subject to the total amount available from such allotments) as the local governments, hospitals, providers, or State demonstrate were incurred for the provision of such services during that fiscal year.

"(2) LIMITATION ON STATE USE OF FUNDS.—Funds paid to a State from allotments made under subsection (b) for a fiscal year may only be used for making payments to local governments, hospitals, or other providers for costs incurred in providing emergency health services to undocumented aliens or for State costs incurred with respect to the provision of emergency health services to such aliens.

"(3) INCLUSION OF COSTS INCURRED WITH RESPECT TO CERTAIN ALIENS.—Uncompensated emergency health services furnished to aliens who have been allowed to enter the United States for the sole purpose of receiving emergency health services may be included in the determination of costs incurred by a State, local government, hospital, or other provider with respect to the provision of such services.

"(d) APPLICATIONS; ADVANCE PAYMENTS; REALLOTMENT OF UNUSED FUNDS.—

"(1) DEADLINE FOR ESTABLISHMENT OF APPLICATION PROCESS.—

"(A) IN GENERAL.—Not later than July 31, 2003, the Secretary shall establish a process under which States, local governments, hospitals, or other providers located in the State may apply for payments from allotments made under subsection (b) for a fiscal year for uncompensated emergency health services furnished to undocumented aliens during that fiscal year.

"(B) INCLUSION OF MEASURES TO COMBAT FRAUD.—The Secretary shall include in the process established under subparagraph (A) measures to ensure that fraudulent payments are not made from the allotments determined under subsection (b) or from amounts reallocated under paragraph (3).

"(2) ADVANCE PAYMENT; RETROSPECTIVE ADJUSTMENT.—The process established under paragraph (1) shall allow for making payments under this section for each quarter of a fiscal year on the basis of advance estimates of expenditures submitted by applicants for such payments and such other investigation as the Secretary may find necessary, and for making reductions or increases in the payments as necessary to adjust for any overpayment or underpayment for prior quarters.

"(3) REALLOTMENT OF UNUSED FUNDS.—

"(A) IN GENERAL.—With respect to allotments made under subsection (b) for a fiscal year, the amount of any allotment to a State for a fiscal year that the Secretary determines will not be expended during that fiscal year or the succeeding fiscal year shall be available for reallocation during the second succeeding fiscal year, on such date as the Secretary may determine, to other States with allotments under that subsection that the Secretary determines will use such excess amounts during that second succeeding fiscal year.

"(B) DETERMINATION OF REALLOTMENTS.—Reallotments under subparagraph (A) shall be made in the same manner as allotments are determined under paragraphs (1) and (2) of subsection (b) but only with respect to those States that the Secretary determines

qualify for a reallocation for a fiscal year under that subparagraph.

"(C) TREATMENT.—Any amount reallocated under subparagraph (A) to a State is deemed to be part of its allotment under subsection (b) for the fiscal year in which the reallocation occurs.

"(e) DEFINITIONS.—In this section:

"(1) HOSPITAL.—The term 'hospital' has the meaning given such term in section 1861(e) of the Social Security Act (42 U.S.C. 1395x(e)).

"(2) INDIAN TRIBE; TRIBAL ORGANIZATION.—The terms 'Indian tribe' and 'tribal organization' have the meanings given such terms in section 4 of the Indian Health Care Improvement Act.

"(3) PROVIDER.—The term 'provider' includes a physician, any other health care professional licensed under State law, and any other entity that furnishes emergency health services, including ambulance services.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(5) STATE.—The term 'State' means the 50 States and the District of Columbia.

"(f) ENTITLEMENT.—This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment of amounts provided under this section."

By. Mr. NICKLES:

S. 413. A bill to provide for the fair and efficient judicial consideration of personal injury and wrongful death claims arising out of asbestos exposure, to ensure that individuals who suffer harm, now or in the future, from illnesses caused by exposure to asbestos receive compensation for their injuries, and for other purposes; to the Committee on the Judiciary.

Mr. NICKLES. Mr. President, I rise today to introduce a bill and to speak about a litigation crisis affecting both the overall well-being of our nation and our ability to stimulate economic recovery. I'm speaking of the out-of-control explosion of asbestos litigation.

Asbestos litigation has become a disease in our economy. It threatens to drive scores of companies into bankruptcy. It discourages investment in companies under suit. It drives stock value down. It diverts funds away from expansion and growth. It results in job loss and, in short, it has become an obstacle to economic recovery.

The cost of asbestos litigation and burden on business has been devastating. Over 8,400 companies have been named as defendants in suits. At least \$54 billion has been paid on more than 6000,000 claims. U.S. Insurers have paid over \$22 billion. Insurers outside U.S. have paid \$8-12. Defendant companies have already expended between \$20-24 billion in claims and transaction costs associated with asbestos litigation.

The total cost of asbestos litigation could reach between \$200-265 billion. This is revenue not invested in the economy, not invested in new jobs.

Some companies are hit with multiple suits involving thousands of plaintiffs. The weight of claims and settlements has resulted in an alarming increase in Chapter 11 bankruptcies. Over sixty companies have

filed Chapter 11 bankruptcy due to asbestos claims. This trend toward bankruptcy has had an alarming domino effect. As companies declare Chapter 11 reorganization, the litigation burden shifts to other defendant companies only encouraging them to declare bankruptcy as well.

At least 5 major companies have each spent more than \$1 billion. Thirty-eight of the nations top 100 contractors to the DoD are now asbestos defendants. This crisis threatens to impact our national security industry at the worst possible time in our history. But it also prevents us from aggressively stimulating the economy. The bottom-line is: the cost of litigation and/or bankruptcy siphons away critical business revenue needed for growth and the creation of new jobs. What is frightening, is that only about half the number of potential claimants have come forward thus far. If left unchecked, we have only seen the tip of this crisis.

It's not only business that suffers. Employees of defendant companies suffer a great deal from a damaging ripple effect. The Rand Institute of Civil Justice estimates that 100,000 jobs were not created as a result of asbestos litigation. Bankruptcies related to asbestos litigation have led to 52,000-60,000 people losing their jobs, according to a SEBAGO study. It is estimated that each displaced worker will lose, on average, \$25,000-\$50,000 in wages before finding a job, or in reduced salary following finding a new job.

It does not stop there. Approximately 42 percent of displaced manufacturing workers participate in retraining programs, costing about \$2,000-\$3,000 per worker. Local communities also bear the brunt of job reductions due to asbestos-related lay-offs. It is estimated that there have been between \$.6 and \$2.1 billion in additional indirect local costs and loss. On average, there are eight additional jobs lost locally for every initial job lost. Additional multiplier effects include lowered property values, population decline and lost Federal and State tax revenue.

Those employees fortunate enough not to lose their jobs in asbestos-related cut-backs, also suffer due to the weakened position of their employer. Studies show that reduced stock value in defendant companies results in a 25 percent reduction in employees' 401(k) plan value. The average worker loses, on average \$8,300 in pension devaluation.

This is a situation that has been exploited by the non-injured. Over 65 percent of plaintiffs, estimates as high as 90 percent, have no medical injury, but have filed suit on the basis that they "may" develop illness in the future. To date, most claims have been paid to non-injured claimants. Some plaintiffs' attorneys are signing up thousands of individual plaintiffs onto suits where there may be no evidence of injury or no evidence of exposure to asbestos products. The effect is that the largest portion of the claim pool is being paid

to non-injured claimants. As a result, this adversely affects the ability of truly injured plaintiffs to collect damages. Claimants with malignant injuries are being lost in the stampede of those not injured. There is not only less money for those who really need it, the courts are swamped with a flood of questionable claims. It is not surprising that the U.S. Supreme Court has twice called out for Congress to find a solution.

Congress must indeed act. We must find a solution that both protects the economy and the legal rights of those truly injured by asbestos or who will develop asbestos-related injuries in the future. That is why today I introduce a bill that will not only introduce criteria to reassert some control over an out-of-control litigation process, but will come to the assistance of those truly injured and who need help. It is also intended to put a halt to the severe damage asbestos litigation has been wrecking on our economy, so that we can get on with the process of economic recovery.

My bill, entitled the Asbestos Claims Criteria and Compensation Act of 2003, establishes medical criteria that a claimant must meet prior to filing a suit. It will also toll the statute of limitations, so that those who develop an asbestos-related disease years down the road will still retain their right of legal action. It also will limit abusive venue shopping, but provides an exception of venue choice for those terminally-ill and facing a shortened life expectancy.

In conclusion, I believe this bill offers a reasonable approach to resolving this serious problem. I believe it offers a solid bipartisan approach that many of my colleagues on both sides of the aisle will come to support. If ever we hope to stimulate our economy into recovery and achieve sustained growth, we must also address and eliminate those factors that tend to drag the economy in the opposite direction. Asbestos litigation is one of those inhibitors of the economy, and this bill is a good step toward recovery. I encourage my colleagues to lend their support to this bill and I thank you, Mr. President. 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:

S. 413

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

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the "Asbestos Claims Criteria and Compensation Act of 2003".

(b) **TABLE OF CONTENTS.**—The table of contents is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Definitions.
- Sec. 4. Physical impairment.
- Sec. 5. Procedures; removal.
- Sec. 6. Statute of limitations; two-disease rule.

Sec. 7. Miscellaneous provisions.

Sec. 8. Effective date.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) **FINDINGS.**—Congress finds that—

(1) asbestos is a mineral that was widely used before the 1980s for insulation, fireproofing, and other purposes;

(2) millions of American workers and others were significantly exposed to asbestos, especially during and after World War II and before the advent of regulation by the Occupational Safety and Health Administration in the early 1970s;

(3) exposure to asbestos has been associated with various types of cancer, including mesothelioma and lung cancer, and such nonmalignant conditions as asbestosis, pleural plaques, and diffuse pleural thickening;

(4) the diseases caused by asbestos have latency periods of up to 40 years or more, but the most serious asbestos-related disease, mesothelioma, is fatal within 1 to 2 years, and other related cancers are often fatal;

(5) although the use of asbestos has dramatically declined since 1980 and workplace exposures have been regulated since 1971 by the Occupational Safety and Health Administration, past exposures will continue to result in significant death and disability from mesothelioma and other cancers well into the 21st century;

(6) exposure to asbestos has created a flood of litigation targeting approximately 8,400 defendant companies in Federal and State courts that the United States Supreme Court has characterized as "an elephantine mass" of cases that "defies customary judicial administration and calls for national legislation," *Ortiz v. Fibreboard Corporation*, 119 S. Ct. 2295, 2302 (1999);

(7) the American Bar Association supports enactment of Federal legislation that would—

(A) allow persons alleging non-malignant asbestos-related disease claims to file a cause of action in Federal or State court only if those persons meet the medical criteria in the "ABA Standard for Non-Malignant Asbestos-Related Disease Claims" dated February 2003 or an appropriate similar medical standard; and

(B) toll all applicable statutes of limitations until such time as the medical criteria in such standard are met;

(8) asbestos personal injury litigation can be unfair and inefficient, imposing a severe burden on litigants and taxpayers alike, in most cases involving defendant companies that were never involved in the production of asbestos;

(9) the extraordinary volume of nonmalignant asbestos cases continues to strain Federal and State courts, with over 200,000 cases pending and over 50,000 new cases filed each year;

(10) asbestos personal injury litigation has already contributed to the bankruptcy of more than 60 companies and the rate of asbestos-driven bankruptcies is accelerating;

(11) the vast majority of asbestos claims are filed by individuals who—

(A) have been exposed to asbestos;

(B) may have some physical sign of exposure; and

(C) suffer no present asbestos-related impairment;

(12) the cost of compensating exposed persons who are not sick—

(A) jeopardizes the ability of defendants to compensate people with cancer and other serious asbestos-related diseases, now and in the future; and

(B) strains the ability of courts to manage the deluge of cases involving nonimpaired plaintiffs;

(13) an estimated 50,000 to 60,000 workers have lost their jobs as a direct result of asbestos litigation and related bankruptcies of

defendant companies and each displaced worker will, on average, lose between \$25,000 and \$50,000 in lost wages;

(14) employees of defendant companies declaring bankruptcy (who are often stockholders of those companies) will, on average, lose 25 percent of the value of their retirement investment under section 401(k) of the Internal Revenue Code of 1986 because of lost stock value;

(15) concerns about statutes of limitations can force claimants who have been exposed to asbestos but who have no current injury to bring premature lawsuits in order to protect against losing their rights to future compensation should those claimants become impaired;

(16) consolidations, joinder, and similar procedures, to which some courts have resorted in order to deal with the mass of asbestos cases, can undermine the appropriate functioning of the judicial process and encourage the filing of thousands of cases by exposed persons who are not yet sick and who may never become sick;

(17) the availability of sympathetic forums in States with no connection to the plaintiff or to the exposures that form the basis of a lawsuit has encouraged the filing of thousands of cases on behalf of exposed persons who are not yet sick and may never become sick;

(18) asbestos litigation, if left unchecked by reasonable congressional intervention, will—

(A) continue to inhibit the economy and run counter to plans to stimulate economic growth and the creation of new jobs;

(B) threaten the savings, retirement benefits, and employment of defendants' current and retired employees;

(C) affect adversely the communities in which these defendants operate; and

(D) impair interstate commerce and national initiatives, including national security; and

(19) the public interest and the interest of interstate commerce requires deferring the claims of exposed persons who are not sick in order to—

(A) preserve, now and for the future, defendants' ability to compensate people who develop cancer and other serious asbestos-related injuries; and

(B) safeguard the jobs, benefits, and savings of American workers and the well-being of the national economy.

(b) PURPOSES.—It is the purpose of this Act to—

(1) give priority to those asbestos claimants who can demonstrate actual physical harm or illness caused by asbestos;

(2) fully preserve the rights of claimants who were exposed to asbestos to pursue compensation should those claimants become sick in the future;

(3) enhance the ability of the Federal and State judicial systems to supervise and control asbestos litigation and asbestos-related bankruptcy proceedings; and

(4) conserve the scarce resources of the defendants, and marshal assets in bankruptcy, to allow compensation of cancer victims and others who are physically harmed by exposure to asbestos while securing the right to similar compensation for those who may suffer physical harm in the future.

### SEC. 3. DEFINITIONS.

In this Act:

(1) AMA GUIDES TO THE EVALUATION OF PERMANENT IMPAIRMENT.—The term "AMA Guides to the Evaluation of Permanent Impairment" means the American Medical Association's Guides to the Evaluation of Permanent Impairment (Fifth Edition 2000).

(2) ASBESTOS.—The term "asbestos" includes all minerals defined as "asbestos"

under section 1910 of title 29 of the Code of Federal Regulations.

(3) ASBESTOS CLAIM.—The term "asbestos claim"—

(A) means any claim for damages or other relief presented in a civil action or bankruptcy proceeding, arising out of, based on, or related to the health effects of exposure to asbestos, including loss of consortium and any other derivative claim made by or on behalf of any exposed person or any representative, spouse, parent, child or other relative of any exposed person; and

(B) does not include claims for benefits under a workers' compensation law or veterans' benefits program, or claims brought by any person as a subrogee by virtue of the payment of benefits under a workers' compensation law.

(4) ASBESTOSIS.—The term "asbestosis" means bilateral diffuse interstitial fibrosis of the lungs caused by inhalation of asbestos fibers.

(5) CERTIFIED B-READER.—The term "certified B-reader" means an individual qualified as a "final" or "B-reader" under section 37.51(b) of title 42 of the Code of Federal Regulations.

(6) CIVIL ACTION.—The term "civil action"—

(A) means all suits of a civil nature in Federal or State court, whether cognizable as cases at law or in equity or in admiralty; and

(B) does not include an action relating to any workers' compensation law, or a proceeding for benefits under any veterans' benefits program.

(7) EXPOSED PERSON.—The term "exposed person" means any person whose exposure to asbestos or to asbestos-containing products is the basis for an asbestos claim.

(8) FEV1.—The term "FEV1" means forced expiratory volume in the first second, which is the maximal volume of air expelled in 1 second during performance of simple spirometric tests.

(9) FVC.—The term "FVC" means forced vital capacity, which is the maximal volume of air expired with maximum effort from a position of full inspiration.

(10) ILO SCALE.—The term "ILO Scale" means the system for the classification of chest x-rays set forth in the International Labour Office's Guidelines for the Use of ILO International Classification of Radiographs of Pneumoconioses (1980) as amended by the International Labour Office.

(11) NONMALIGNANT CONDITION.—The term "nonmalignant condition" means any condition that is caused or may be caused by asbestos other than a diagnosed cancer.

(12) PATHOLOGICAL EVIDENCE OF ASBESTOSIS.—The term "pathological evidence of asbestosis" means a statement by a Board-certified pathologist that—

(A) more than 1 representative section of lung tissue uninvolved with any other disease process demonstrates a pattern of peribronchiolar or parenchymal scarring in the presence of characteristic asbestos bodies; and

(B) there is no other more likely explanation for the presence of the fibrosis.

(13) PREDICTED LOWER LIMIT OF NORMAL.—The term "predicted lower limit of normal" for any test means the fifth percentile of healthy populations based on age, height, and gender, as referenced in the AMA Guides to the Evaluation of Permanent Impairment.

(14) RADIOLOGICAL EVIDENCE OF ASBESTOSIS.—The term "radiological evidence of asbestosis" means a chest x-ray showing small, irregular opacities (s,t) graded by a certified B-reader as at least 1/1 on the ILO scale.

(15) RADIOLOGICAL EVIDENCE OF DIFFUSE PLEURAL THICKENING.—The term "radiological evidence of diffuse pleural thick-

ening" means a chest x-ray showing bilateral pleural thickening of at least B2 on the ILO scale and blunting of at least 1 costophrenic angle.

(16) STATE.—The term "State" means any State of the United States, the District of Columbia, Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States or any political subdivision of any of the entities under this paragraph.

(17) VETERANS' BENEFITS PROGRAM.—The term "veterans' benefits program" means any program for benefits in connection with military service administered by the Veterans' Administration under title 38, United States Code.

(18) WORKERS' COMPENSATION LAW.—The term "workers' compensation law"—

(A) means a law respecting a program administered by a State or the United States to provide benefits, funded by a responsible employer or an insurance carrier of that employer, for occupational diseases or injuries or for disability or death caused by occupational diseases or injuries;

(B) includes the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.) and chapter 81 of title 5, United States Code; and

(C) does not include the Federal Employer's Liability Act (45 U.S.C. 51 et seq.).

### SEC. 4. PHYSICAL IMPAIRMENT.

(a) IMPAIRMENT ESSENTIAL ELEMENT OF CLAIM.—Physical impairment of the exposed person, to which asbestos exposure was a substantial contributing factor, shall be an essential element of an asbestos claim. For purposes of this section, cancer shall be presumed to involve physical impairment.

(b) PRIMA FACIE EVIDENCE OF PHYSICAL IMPAIRMENT.—

(1) IN GENERAL.—No person shall bring or maintain a civil action alleging a nonmalignant asbestos claim in the absence of a prima facie showing of physical impairment as a result of a medical condition to which exposure to asbestos was a substantial contributing factor.

(2) REQUIREMENTS OF PRIMA FACIE SHOWING.—A prima facie showing under this subsection shall include all of the following minimum requirements:

(A) PERMANENT RESPIRATORY IMPAIRMENT RATING.—A determination by a qualified physician, on the basis of a medical examination and pulmonary function testing, that the exposed person has a permanent respiratory impairment rating of at least Class 2 as defined by and evaluated under the AMA Guides to the Evaluation of Permanent Impairment.

(B) DIAGNOSIS.—A diagnosis by a qualified physician of asbestosis or diffuse pleural thickening, based at a minimum on pathological evidence of asbestosis, radiological evidence of asbestosis, or radiological evidence of diffuse pleural thickening.

(C) SUBSTANTIAL CONTRIBUTING FACTOR.—A determination by a qualified physician that asbestosis or diffuse pleural thickening (rather than solely chronic obstructive pulmonary disease) is a substantial contributing factor to the exposed person's physical impairment, based at a minimum on a determination that the exposed person has either—

(i) a ratio of FEV1 to FVC that is equal to or greater than the predicted lower limit of normal; or

(ii) a chest x-ray showing small, irregular opacities (s,t) graded by a certified B-reader at least 2/1 on the ILO scale.

(c) COMPLIANCE WITH TECHNICAL STANDARDS.—

(1) IN GENERAL.—Evidence relating to physical impairment under this section, including pulmonary function testing and diffusing studies, shall comply with—

(A) the technical recommendations for examinations, testing procedures, quality assurance and quality control, and equipment of the AMA Guides to the Evaluation of Permanent Impairment; or

(B) if the AMA Guides to the Evaluation of Permanent Impairment are not applicable, other authoritative standards.

(2) ADJUSTMENTS.—No adjustments with respect to pulmonary function testing shall be made on the basis of race.

(d) NO PRESUMPTION AT TRIAL.—Presentation of prima facie evidence of asbestos-related impairment meeting the requirements of this section shall not result in any presumption at trial that the exposed person is impaired by an asbestos-related condition, and evidence that the exposed person made a prima facie showing of impairment shall not be admissible at trial.

#### SEC. 5. PROCEDURES; REMOVAL.

(a) CONSOLIDATION.—A court may consolidate for trial any number and type of asbestos claims with consent of all the parties. In the absence of such consent, the court may consolidate for trial only asbestos claims relating to the same exposed person and members of the household of the exposed person.

(b) VENUE.—

(1) IN GENERAL.—A civil action asserting an asbestos claim may only be brought in the State of the plaintiff's domicile or a State in which there occurred exposure to asbestos that is a substantial contributing factor to the physical impairment on which the claim is based.

(2) INAPPLICABILITY.—Paragraph (1) shall not apply to a claim that—

(A) is based upon an exposed person's cancer; and

(B) is filed by an exposed person who is diagnosed with fatal mesothelioma or other asbestos-related cancer by a qualified physician, resulting in a short life expectancy of less than 3 years after the date on which the claim is filed.

(c) PRELIMINARY PROCEEDINGS.—The plaintiff in any civil action involving an asbestos claim shall file with the complaint or other initial pleading a written report and supporting test results constituting prima facie evidence of the exposed person's asbestos-related impairment meeting the requirements of section 4(b). The defendant shall be afforded a reasonable opportunity to challenge the adequacy of the proffered prima facie evidence of asbestos-related impairment. The plaintiff's claim shall be dismissed without prejudice upon a finding of failure to make the required prima facie showing.

(d) REMOVAL.—

(1) IN GENERAL.—If a State court refuses or fails to apply this section, any party in a civil action for an asbestos claim may remove such action to a district court of the United States in accordance with chapter 89 of title 28, United States Code.

(2) JURISDICTION OVER REMOVED ACTIONS.—The district courts of the United States shall have jurisdiction of all civil actions removed under this subsection, without regard to the amount in controversy and without regard to the citizenship or residence of the parties.

(3) REMOVAL BY ANY DEFENDANT.—A civil action may be removed to the district court of the United States under this subsection by any defendant without the consent of all defendants.

(4) REMAND.—The district court shall remain any civil action removed solely under this subsection, unless the court finds that—

(A) the State court failed to comply with procedures prescribed by law; or

(B) the failure to dismiss by the State court lacked substantial support in the record before the State court.

#### SEC. 6. STATUTE OF LIMITATIONS; TWO-DISEASE RULE.

(a) STATUTE OF LIMITATIONS.—Notwithstanding any other provision of law, with respect to any nonmalignant asbestos claim not barred on the effective date of this Act, the limitations period shall not begin to run until the exposed person discovers, or through the exercise of reasonable diligence should have discovered, that the exposed person is physically impaired by an asbestos-related nonmalignant condition.

(b) TWO-DISEASE RULE.—An asbestos claim arising out of a nonmalignant condition shall be a distinct cause of action from an asbestos claim relating to the same exposed person arising out of asbestos-related cancer. No damages shall be awarded for fear or risk of cancer in any civil action asserting only a nonmalignant asbestos claim.

(c) GENERAL RELEASES FROM LIABILITY PROHIBITED.—No settlement of a nonmalignant asbestos claim concluded after the date of enactment of this Act shall require, as a condition of settlement, release of any future claim for asbestos-related cancer.

#### SEC. 7. MISCELLANEOUS PROVISIONS.

(a) CONSTRUCTION WITH OTHER LAWS.—This Act shall not be construed to—

(1) affect the scope or operation of any workers' compensation law or veterans' benefit program;

(2) affect the exclusive remedy or subrogation provisions of any such law; or

(3) authorize any lawsuit which is barred by any such provision of law.

(b) CONSTITUTIONAL AUTHORITY.—The Constitutional authority for this Act is contained in Article I, section 8, clause 3 and Article III, section 1 of the Constitution of the United States.

#### SEC. 8. EFFECTIVE DATE.

This Act shall take effect on the date of enactment of this Act and apply to any civil action asserting an asbestos claim in which trial has not commenced as of that date.

### STATEMENTS ON SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 57—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON ARMED SERVICES

Mr. WARNER submitted the following resolution; from the Committee on Armed Services; which was referred to the Committee on Rules and Administration:

S. RES. 57

*Resolved*, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Armed Services is authorized from March 1, 2003, through September 30, 2003; October 1, 2003, through September 30, 2004; and October 1, 2004, through February 28, 2005, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 2003, through September 30, 2003, under this resolution shall not exceed \$3,594,172.

(b) For the period October 1, 2003, through September 30, 2004, expenses of the committee under this resolution shall not exceed \$6,328,829.

(c) For the period October 1, 2004, through February 28, 2005, expenses of the committee under this resolution shall not exceed \$2,698,836.

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2005.

SEC. 4. The Committee on Armed Services is authorized from March 1, 2003, until otherwise provided by law, to expend not to exceed \$10,000 each fiscal year to assist the Senate properly to discharge and coordinate its activities and responsibilities in connection with participation in various interparliamentary institutions and to facilitate the interchange and reception in the United States of members of foreign legislative bodies and prominent officials of foreign governments, foreign armed forces, and intergovernmental organizations.

SEC. 5. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges or copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 6. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 2003, through September 30, 2003; October 1, 2003, through September 30, 2004; and October 1, 2004 through February 28, 2005, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

#### SENATE RESOLUTION 58—EXPRESSING THE SENSE OF THE SENATE THAT THE PRESIDENT SHOULD DESIGNATE THE WEEK BEGINNING JUNE 1, 2003, AS "NATIONAL CITIZEN SOLDIER WEEK"

Mr. ALLEN submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 58

Whereas members of the National Guard and the other reserve components of the Armed Forces perform a vital role in the defense of the United States;

Whereas members of the National Guard and the other reserve components of the Armed Forces make significant personal sacrifices in performing military service when called to active duty; and

Whereas there are over 100,000 members of the National Guard and the other reserve components of the Armed Forces serving on active duty: Now, therefore, be it

*Resolved,*

**SECTION 1. DESIGNATION OF NATIONAL CITIZEN SOLDIER WEEK.**

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the President should designate the week beginning June 1, 2003, as “National Citizen Soldier Week”.

(b) PROCLAMATION.—The Senate requests the President to issue a proclamation—

(1) designating the week beginning June 1, 2003, as “National Citizen Soldier Week”; and

(2) calling on the people of the United States to observe the week with appropriate ceremonies and activities.

**SENATE RESOLUTION 59—CONGRATULATING THE UNIVERSITY OF PORTLAND WOMEN’S SOCCER TEAM FOR WINNING THE 2002 NCAA DIVISION I NATIONAL CHAMPIONSHIP**

Mr. WYDEN (for himself and Mr. SMITH) submitted the following resolution; which was considered and agreed to:

S. RES. 59

Whereas, on December 8, 2002, the University of Portland women’s soccer team captured its first ever undisputed collegiate national soccer championship;

Whereas the 2002 National Collegiate Athletic Association Division I title is the first championship in any sport for the University of Portland;

Whereas the University of Portland Pilots’ 20–4–1 record in 2002 tied the record for wins in a season in University of Portland women’s soccer history;

Whereas head coach Clive Charles, the University of Portland director of women’s and men’s soccer, has successfully built a nationally recognized collegiate soccer program, leading the University of Portland women’s and men’s teams to a collective 12 conference championships and 16 NCAA playoff berths and producing players for the United States National and Olympic teams;

Whereas, on the way to the national championship, the Pilots defeated 7 nationally ranked opponents, which included a 2–1 title game triumph over the reigning champion, Santa Clara University;

Whereas the Pilots, the tournament’s number 8 seed, now hold the record as the lowest-seeded team to win the national title in the women’s national championship 21-year history;

Whereas sophomore Christine Sinclair set an NCAA tournament record with 21 points on 10 goals and 1 assist;

Whereas each player, coach, trainer, and manager dedicated time and effort to ensuring that the Pilots reached the pinnacle of team achievement; and

Whereas the students, alumni, faculty, and supporters of the University of Portland are to be congratulated for their commitment and pride in the Pilots’ women’s soccer program: Now, therefore, be it

*Resolved, That the Senate—*

(1) congratulates the University of Portland women’s soccer team for winning the 2002 NCAA Division I national championship and recognizes the achievements of all the players, coaches, and support staff who were instrumental in this accomplishment; and

(2) directs the Secretary of the Senate to make available copies of this resolution to the University of Portland for appropriate display and to transmit a copy of the resolution to each coach and member of the 2002 University of Portland women’s soccer team.

**SENATE CONCURRENT RESOLUTION 5—EXPRESSING THE SUPPORT FOR THE CELEBRATION IN 2004 OF THE 150TH ANNIVERSARY OF THE GRAND EXCURSION OF 1854**

Mr. GRASSLEY (for himself, Mr. DURBIN, Mr. KOHL, Mr. COLEMAN, Mr. FEINGOLD, and Mr. HARKIN) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 5

Whereas reaching the shores of the Mississippi River represented a major milestone for the westward expansion of the system of railroad infrastructure that began on the East Coast in the 1830s;

Whereas in 1854 the Chicago and Rock Island Railroad became the first railroad to reach the Mississippi River and that achievement was celebrated with a combined railroad and riverboat trip known as the “Grand Excursion of 1854”;

Whereas the Grand Excursion of 1854 began in Chicago with a gathering of more than 1,000 dignitaries from professions encompassing the fields of government, education, business, journalism, and the arts, and included most prominently former United States President Millard Fillmore;

Whereas the excursion party of 1854 traveled from Chicago, Illinois, to Rock Island, Illinois, by train and then proceeded by boat from Rock Island to the present-day twin cities of Minneapolis, Minnesota, and St. Paul, Minnesota;

Whereas the Grand Excursion of 1854 is credited both with bringing the upper Mississippi Valley into the national spotlight and with solidifying Chicago’s role as a major transportation hub;

Whereas communities located on the 419 mile stretch between Rock Island and Minneapolis are investing more than \$5,000,000,000 in recreational, commercial, and environmental improvements to prepare for the celebration of the Grand Excursion in 2004;

Whereas an educational program in Illinois, Iowa, Wisconsin, and Minnesota will bring the history of the Mississippi River to life for thousands of students from kindergarten through 12th grade and will focus on the recreational, environmental, and commercial importance of the river;

Whereas the Grand Excursion celebration of 2004 will establish a series of permanent exhibits throughout the upper Mississippi River, recognizing the achievements of the many communities and celebrating the history of the Mississippi River;

Whereas the Grand Excursion, through its local, regional, national, and international marketing programs and initiatives, will communicate to the world the incredible attributes of the upper Mississippi River and will invite hundreds of thousands of visitors to the region to celebrate;

Whereas the National Park Service, along with other Federal, State, and local agencies and many other interested groups, is preparing activities to celebrate the sesquicentennial of the Grand Excursion in 2004, to educate local residents and visitors about the attributes of the river, and to commemorate the occasion by establishing future traditions that will improve community connections to the river; and

Whereas Grand Excursion, Inc. is organizing and coordinating the celebration in 2004 of the 150th anniversary of the Grand Excursion of 1854: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That Congress—*

(1) expresses its support for the work of all the Federal, State, and local entities, and the work of all interested groups that are preparing sesquicentennial activities to celebrate the 150th anniversary of the Grand Excursion of 1854;

(2) expresses its support for the events to be held in observance of the Grand Excursion of 1854 in Chicago, Rock Island, Moline, and Galena, Illinois, in Davenport, Clinton, and Dubuque, Iowa, in Prairie du Chien and La Crosse, Wisconsin, in Wabasha, Winona, Red Wing, Saint Paul, and Minneapolis, Minnesota, and in many other communities during the sesquicentennial observance; and

(3) calls on the President of the United States, the Secretary of Education, the Secretary of the Interior, the Secretary of Defense, the Assistant Secretary of the Army, the Director of the National Park Service, the Director of the United States Fish and Wildlife Service, other public officials, and the citizens of the United States to support, promote, and participate in the many sesquicentennial activities being planned to commemorate the Grand Excursion of 1854.

Mr. GRASSLEY, Mr. President, I am pleased to submit a resolution, with my colleagues representing the Upper Mississippi River, expressing our support for the celebration in 2004 of the 150th Anniversary of the Grand Excursion.

In 1854, the Chicago and Rock Island Railroad became the first railroad to reach from the East Coast to the Mississippi River. To celebrate, Henry Farnam, a contractor for the railroad, organized an excursion for friends, family, and stockholders. Word about this event spread quickly and a group of 1,200 people, including former President Millard Fillmore, traveled by steamboat from Rock Island, IL to St. Paul, MN.

This grand excursion turned into an opportunity to show influential persons of the day the remarkable beauty, numerous resources, and the unlimited opportunities that the Mississippi River and the West could provide. This excursion brought millions of dollars of investment to the area and positioned the Upper Mississippi region as a dominant force in the development of the nation in the 19th century.

Once again, the Grand Excursion is an opportunity to highlight the recreational, commercial, and environmental opportunities the river provides, as well as celebrate the renaissance of the Upper Mississippi River region. Over 50 communities, 23 regional organizations, and 4 states are joining together to make this celebration a reality.

For the past 10–15 years, communities in Iowa, Wisconsin, and Minnesota have been working together to reclaim their relationship with the Mississippi River and reestablish vibrant riverfront communities. Planning for the celebration has been a catalyst for over \$5 billion in capital improvements and environmental initiatives along the river.

In Iowa, communities such as the Quad Cities, Dubuque, and Clinton have all rallied together to make their riverfronts engines for economic development. The Quad Cities are the kickoff site for the Grand Flotilla taking

place in June of 2004. Dubuque is the home of the National Mississippi River Museum and Aquarium, as well as the home dock of the Audubon Ark. All of the participating Iowa cities have welcoming marinas, main streets, and fun events planned for the celebration. I am honored to be a partner with these dynamic communities.

Through the Grand Excursion 2004, hundreds of thousands of citizens will experience America's River, a matchless national treasure, through community festivities, educational events, enhanced recreation opportunities, and cultural programs. Those who are unable to participate first-hand in the celebrations will be able to experience the excitement through a first-class website and educational Exploration Trunks that will be provided with curriculum to classrooms around the country.

I hope that you will join me in supporting this resolution of America's celebration of the Upper Mississippi River: Grand Excursion 2004.

**SENATE CONCURRENT RESOLUTION 6—EXPRESSING THE SENSE OF CONGRESS THAT A COMMEMORATIVE POSTAGE STAMP SHOULD BE ISSUED IN HONOR OF DANIEL "CHAPPIE" JAMES, THE NATION'S FIRST AFRICAN-AMERICAN FOUR-STAR GENERAL**

Ms. LANDRIEU submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs:

**S. CON. RES. 6**

Whereas General Daniel "Chappie" James was a dedicated patriot fighting to defend the United States against foreign enemies while breaching the walls of segregation that existed at the time within the United States Armed Forces;

Whereas General James learned to fly while attending the Tuskegee Institute in Tuskegee, Alabama;

Whereas General James was commissioned in the United States Army Air Corps in January 1943;

Whereas General James was a member and trainer of the famed Tuskegee Airmen, the all-black fighter squadron that successfully executed over 200 dangerous missions escorting American bombers over Europe in World War II without losing a single bomber;

Whereas General James bravely flew 101 combat missions over Korea;

Whereas General James courageously and valiantly flew 78 missions into North Vietnam, including leading the Bolo MiG sweep which destroyed seven North Vietnamese MiG-21s, the highest total kill of any one Air Force mission during the Vietnam War;

Whereas General James, as a brigadier general, was named Deputy Assistant Secretary of Defense for Public Affairs in 1970;

Whereas General James was promoted to the rank of General and Commander-in-Chief of the North American Aerospace Defense Command (NORAD) in 1975 to become the first African-American four-star general in any of the United States Armed Forces; and

Whereas the issuance of a postage stamp recognizing General James' service and commitment to the United States as well as equality for all Americans will broaden the Nation's knowledge of his achievements and those of the Tuskegee Airmen, his contribu-

tions toward destroying racial divisions, and his status as a role model for Americans of all ethnic and racial backgrounds: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That—*

(1) it is the sense of Congress that a postage stamp should be issued by the United States Postal Service in honor of General Daniel "Chappie" James; and

(2) Congress directs the Secretary of the Senate to transmit a copy of this concurrent resolution to the Postmaster General and the Citizens' Stamp Advisory Committee.

Ms. LANDRIEU, Madam President, I rise today in celebration of Black History Month and a true American hero, General Daniel "Chappie" James, Jr. To commemorate Daniel "Chappie" James' life, I submit a resolution, today, to create a postage stamp in his honor. General James was a patriot for his country and broke down racial walls in the Armed Forces for all people of color. Not only was General James the first African American four-star general in the Air Force, but he was the first African American four-star general in any service. Regrettably, too few Americans know of his heroism and contributions to the United States.

General James dedicated his career to the defense of the United States and improving the plight of Blacks in the military. "Chappie" James learned to fly as a student at the Tuskegee Institute in Alabama. In 1943 he was commissioned in the segregated U.S. Army Air Corps. He was a member and trainer of the famed Tuskegee Airmen. Due to harsh prejudice, White officers doubted Blacks could be competent pilots, but the Tuskegee Airmen answered all critics by remarkably executing over 200 dangerous escort missions for American bombers during World War II without losing a single bomber. Following World War II, General James flew 179 fighter missions over Korea and North Vietnam. He commanded the Bolo MiG sweep over North Vietnam which destroyed seven North Vietnamese MiG-21s—the highest total kill of any one Air Force mission during the Vietnam War.

Throughout his life in the Air Force, Chappie James continued to break the color barrier. It was not an easy task, as it was fraught with road blocks. Nevertheless, General James pressed on to become a Brigadier General and the Deputy Assistant Secretary of Defense for Public Affairs in 1970. In 1975, Daniel James achieved the rank of General and was named chief-of-staff of the North American Aerospace Defense Command.

General James never forgot the struggles he faced as a Black man in the United States military, but his love for America never wavered. General James sought to right the wrongs he encountered, not run from them. In summation of his 35 years in the Air Corps and Air Force, he said, "I've fought in three wars and three more wouldn't be too many to defend my country. I love America and as she has weaknesses or ills, I'll hold her hand."

General James spent a life-time in service to his country and curing her of her weakness and ills. We should aspire to the same and continue his fight for equality.

To commemorate General James' life, I am submitting a resolution, today, to create a postage stamp in his honor. I hope my colleagues will support this measure and join me paying tribute to a great American.

**SENATE CONCURRENT RESOLUTION 7—EXPRESSING THE SENSE OF CONGRESS THAT THE SHARP ESCALATION OF ANTI-SEMITIC VIOLENCE WITHIN MANY PARTICIPATING STATES OF THE ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE (OSCE) IS OF PROFOUND CONCERN AND EFFORTS SHOULD BE UNDERTAKEN TO PREVENT FUTURE OCCURRENCES**

Mr. CAMPBELL (for himself, Mr. SMITH, and Mrs. CLINTON) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

**S. CON. RES. 7**

Whereas the expressions of anti-Semitism experienced throughout the region encompassing the participating States of the Organization for Security and Cooperation in Europe (OSCE) have included physical assaults, with some instances involving weapons or stones, arson of synagogues, and desecration of Jewish cultural sites, such as cemeteries and statues;

Whereas vicious propaganda and violence in many OSCE States against Jews, foreigners, and others portrayed as alien have reached alarming levels, in part due to the dangerous promotion of aggressive nationalism by political figures and others;

Whereas violence and other manifestations of xenophobia and discrimination can never be justified by political issues or international developments;

Whereas the Copenhagen Concluding Document adopted by the OSCE in 1990 was the first international agreement to condemn anti-Semitic acts, and the OSCE participating States pledged to "clearly and unequivocally condemn totalitarianism, racial and ethnic hatred, anti-Semitism, xenophobia, and discrimination against anyone as well as persecution on religious and ideological grounds";

Whereas the OSCE Parliamentary Assembly at its meeting in Berlin in July 2002, unanimously adopted a resolution that, among other things, called upon participating States to ensure aggressive law enforcement by local and national authorities, including thorough investigation of anti-Semitic criminal acts, apprehension of perpetrators, initiation of appropriate criminal prosecutions, and judicial proceedings;

Whereas Decision No. 6 adopted by the OSCE Ministerial Council at its Tenth Meeting held in Porto, Portugal in December 2002 (the "Porto Ministerial Declaration") condemned "the recent increase in anti-Semitic incidents in the OSCE area, recognizing the role that the existence of anti-Semitism has played throughout history as a major threat to freedom";

Whereas the Porto Ministerial Declaration also urged "the convening of separately designated human dimension events on issues addressed in this decision, including on the topics of anti-Semitism, discrimination and racism, and xenophobia"; and

Whereas on December 10, 2002, at the Washington Parliamentary Forum on Confronting and Combating anti-Semitism in the OSCE Region, representatives of the United States Congress and the German Parliament agreed to denounce all forms of anti-Semitism and agreed that "anti-Semitic bigotry must have no place in our democratic societies": Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring).* That it is the sense of Congress that—

(1) officials of the executive branch and Members of Congress should raise the issue of anti-Semitism in their bilateral contacts with other countries and at multilateral fora, including meetings of the Permanent Council of the Organization for Security and Cooperation in Europe (OSCE) and the Twelfth Annual Session of the OSCE Parliamentary Assembly to be convened in July 2003;

(2) participating States of the OSCE should unequivocally condemn anti-Semitism (including violence against Jews and Jewish cultural sites), racial and ethnic hatred, xenophobia, and discrimination, as well as persecution on religious grounds whenever it occurs;

(3) participating States of the OSCE should ensure effective law enforcement by local and national authorities to prevent and counter criminal acts stemming from anti-Semitism, xenophobia, or racial or ethnic hatred, whether directed at individuals, communities, or property, including maintaining mechanisms for the thorough investigation and prosecution of such acts;

(4) participating States of the OSCE should promote the creation of educational efforts throughout the region encompassing the participating States of the OSCE to counter anti-Semitic stereotypes and attitudes among younger people, increase Holocaust awareness programs, and help identify the necessary resources to accomplish this goal;

(5) legislators in all OSCE participating States should play a leading role in combating anti-Semitism and ensure that the resolution adopted at the 2002 meeting of the OSCE Parliamentary Assembly in Berlin is followed up by a series of concrete actions at the national level; and

(6) the OSCE should organize a separately designated human dimension event on anti-Semitism as early as possible in 2003, consistent with the Porto Ministerial Declaration adopted by the OSCE at the Tenth Meeting of the OSCE Ministerial Council in December 2002.

Mr. CAMPBELL. Mr. President, I am pleased to submit Senate Concurrent Resolution 7, expressing the sense and concern of the Congress regarding the recent spike in anti-Semitic violence that occurred in many participating States of the 55-nation Organization for Security and Cooperation in Europe, OSCE. It is incumbent upon us to send a clear message that these malicious acts are a serious concern to the United States Senate and American people and that we will not be silent in the face of this disturbing trend.

The anti-Semitic violence we witnessed in 2002, which stretched the width and breadth of the OSCE region, is a wake-up call that this old evil still lives today. Coupled with a resurgence of aggressive nationalism and an increase in neo-Nazi "skin head" activity, myself, and other Commissioners on the Helsinki Commission, have diligently urged the leaders of OSCE participating States to confront and com-

bat the evil of anti-Semitism. Attacks on members of the Jewish community and their institutions have ranged from shootings, fire bombings, and physical assaults in places as different as London, Paris, Berlin and Kiev. Vandals have struck in Brussels, Marseilles, Bratislava, and Athens. Anti-Semitic propaganda has been spread in Moscow, Minsk and elsewhere as hatemongers have tapped into technology, including the internet, to spread their venom. Yet while we witnessed a significant rise in violence last year in Europe, acts of vandalism have also occurred in the United States, so with encouraging our colleagues in other parliaments to act, we must be mindful that no country is immune.

As OSCE participating States, all member nations, including the United States, have pledged to unequivocally condemn anti-Semitism and take effective measures to protect individuals from anti-Semitic violence. Through the OSCE, which was the first multilateral institution to speak out against anti-Semitism, all of today's member states share in that heritage. Thankfully, many OSCE states that I mentioned have responded appropriately, vigorously investigating the perpetrators and pursuing criminal prosecution. In short, manifestations of anti-Semitism must not be tolerated, period, regardless of the source.

As Co-Chairman of the Commission on Security and Cooperation in Europe, I can report that the OSCE Proto Ministerial Council, through the persistent efforts of the United States, addresses the phenomenon of anti-Semitism and called for the convening of a meeting specifically focused on this timely issue. I introduce this resolution to put the United States Senate on record and send an unequivocal message that anti-Semitism must be confronted, and it must be confronted now. If anti-Semitism is ignored and allowed to grow, our societies and our civilizations will suffer. As the resolution sets forth, elected and appointed leaders should meet the challenge of anti-Semitic violence through public condemnation, making clear their societies have no room for such attacks against members of the Jewish community of their institutions.

#### NOTICES OF HEARINGS/MEETINGS

##### SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, February 27 at 3:00 p.m. in Room SD-366.

The purpose of this hearing is to receive testimony on S. 246, a bill to provide that certain Bureau of Land Management land shall be held in trust for the Pueblo of Santa Clara and the

Pueblo of San Ildefonso in the State of New Mexico; S. 32, a bill to establish Institutes to conduct research on the prevention of, and restoration from, wildfires in forest and woodland ecosystems of the interior West; S. 203, a bill to open certain withdrawn land in Big Horn County, Wyoming, to locatable mineral development for bentonite mining; S. 278, a bill to make certain adjustments to the boundaries of the Mount Naomi Wilderness Area, and for other purposes.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD-364, Washington, D.C. 20510-6150.

For further information, please contact: Dick Bouts (202-224-7545) or Jared Stubbs (202-224-7556).

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON ARMED SERVICES

Mr. SANTORIUM. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, February 13, 2003, at 9:30 a.m., in open session to receive testimony on the defense authorization request for fiscal year 2004 and the future years defense program.

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

##### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SANTORIUM. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, February 13, 2003, at 9:30 a.m. on USOC reforms.

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

##### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SANTORIUM. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, February 13, 2003, at 2:30 p.m. on infrastructure needs of minority serving institutions.

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

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. SANTORIUM. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, February 13 at 10:00 a.m. to consider the President's proposed FY 2004 Budget for the Forest Service.

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

COMMITTEE ON ENERGY AND NATURAL  
RESOURCES

Mr. SANTORIUM. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, February 13 at 2:30 p.m. to receive testimony regarding oil supply and prices.

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

## COMMITTEE ON FINANCE

Mr. SANTORIUM. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Thursday, February 13, 2003, at 10:00 a.m., to hear testimony on Enron: The Joint Committee on Taxation's Investigative Report.

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

## COMMITTEE ON RULES AND ADMINISTRATION

Mr. SANTORIUM. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, February 13, 2003, at 10:30 a.m., to conduct its organization meeting and to conduct a hearing on those Senate Committees that have presented budgets above guidelines for the 108th Congress.

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

SUBCOMMITTEE ON CLEAN AIR, CLIMATE CHANGE  
AND NUCLEAR SAFETY

Mr. SANTORIUM. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Climate Change, and Nuclear Safety be authorized to meet on Thursday, February 13, 2003 at 9:30 a.m. to conduct a hearing regarding oversight of the Nuclear Regulatory Commission.

The hearing will be held in SD 406.

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

TECHNICAL CORRECTION IN THE  
ENROLLMENT OF H.J. RES. 2

Mr. FRIST. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 35.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 35) directing the Clerk of the House of Representatives to make a technical correction in the enrollment of H.J. Res. 2.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Madam President, I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 35) was agreed to.

CONDITIONAL RECESS OR AD-  
JOURNMENT OF THE HOUSE AND  
SENATE

Mr. FRIST. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 41, which is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 41) providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Madam President, I ask unanimous consent that the concurrent resolution be agreed to, and the motion to reconsider be laid upon the table.

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

The concurrent resolution (H. Con. Res. 41) was agreed to, as follows:

## H. CON. RES. 41

*Resolved by the House of Representatives (the Senate concurring).* That when the House adjourns on the legislative day of Thursday, February 13, 2003, or Friday, February 14, 2003, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, February 25, 2003, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on Thursday, February 13, 2003, Friday, February 14, 2003, Saturday, February 15, 2003, or any day from Monday, February 17, 2003, through Friday, February 21, 2003, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, February 24, 2003, or at such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

## EXECUTIVE SESSION

## EXECUTIVE CALENDAR

Mr. FRIST. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations on the Executive Calendar: Calendar No. 31, reported by the Banking Committee, and all the nominations on the Secretary's desk. I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be

laid upon the table, the President be immediately notified of the Senate's action, any statements relating to the nominations be printed in the RECORD, and that the Senate then resume legislative session, with all of the above occurring en bloc.

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

The nominations were considered and confirmed en bloc, as follows:

## SECURITIES AND EXCHANGE COMMISSION

William H. Donaldson, of New York, to be a Member of the Securities and Exchange Commission for the remainder of the term expiring June 5, 2007.

NOMINATIONS PLACED ON THE SECRETARY'S  
DESK

## FOREIGN SERVICE C-PN

PN199 Foreign Service nominations (157) beginning Russell J. Nicely, and ending George Adams Moore, Jr., which nominations were received by the Senate and appeared in the Congressional Record of January 15, 2003

PN200 Foreign Service nominations (243) beginning Nicholas R. Kuchova, and ending Richard W. Johnston, which nominations were received by the Senate and appeared in the Congressional Record of January 15, 2003

## NOMINATION OF WILLIAM H. DONALDSON

Mr. SARBANES. Madam President, I rise to express my support for the nomination of William H. Donaldson to be the Chairman of the United States Securities and Exchange Commission.

In my view, Mr. Donaldson will bring considerable relevant experience to the position of SEC Chairman. He founded and managed a major investment company, Donaldson, Lufkin & Jenrette, and served as Chairman and CEO of the New York Stock Exchange. He was Chairman, President and CEO of a multi-billion dollar public company, Aetena, Inc., and served as the first Dean and a Professor at the Yale School of Management. His background demonstrates that he is qualified for this position.

Mr. Donaldson will face a daunting task as the new SEC Chairman. He must join with his fellow Commissioners to appoint the Chairman of the Public Company Accounting Oversight Board. He must address the challenge of restoring confidence to the capital markets. And I very much hope that will move immediately to implement full pay parity of salary and benefits for the SEC staff.

I am pleased that, in his appearance before the Senate Banking Committee, Mr. Donaldson recognized the importance and immediate challenge of implementing the new accounting responsibility and investor protection legislation which the Congress passed last year. He testified that he "will vigorously enforce the Sarbanes-Oxley Act and the rules and regulations already put forth by the SEC." He said, "I will demand accountability from all responsible parties. I will aggressively enforce civil penalties and work cooperatively with the state and federal law enforcement agencies and the President's corporate fraud task force to bring those who break the law to justice." He went on to pledge to call on

corporate America and Wall Street to restore the principles of honesty and integrity to their proper place.

Mr. Donaldson also indicated a strong concern for the welfare of the SEC employees. He pledged to address issues of staff morale and union relations at the Agency.

I am hopeful that Mr. Donaldson will effectively manage the SEC and effectively enforce the Federal securities laws. I hope that he will bring about a new era of respect for the Agency and confidence in the U.S. securities markets.

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#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

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#### UNANIMOUS CONSENT AGREEMENT—S. 151

Mr. FRIST. Madam President, I ask unanimous consent that at 3:30 p.m. on Monday, February 24, the Senate proceed to the consideration of Calendar No. 7, S. 151, PROTECT Act; that there be 2 hours equally divided between the chairman and ranking member of the Judiciary Committee or their designees; that no amendments be in order; that upon the use or yielding back of time, the Senate proceed to a vote in relation to the matter, without any further intervening action or debate.

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

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#### DO-NOT-CALL IMPLEMENTATION ACT

Mr. FRIST. Madam President, I ask unanimous consent that the Senate immediately proceed to H.R. 395, which is being held at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 395) to authorize the Federal Trade Commission to collect fees for the implementation and enforcement of a "do-not-call" registry, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. McCAIN. Madam President, I am pleased that the Senate will pass H.R. 395, the Do-Not-Call Implementation Act, which was overwhelmingly approved by the House of Representatives yesterday.

All of us have been plagued by unwanted solicitations by telemarketers. Recently, the Federal Trade Commission did something about this and proposed regulations to create a national do no call registry that consumers can sign up for to avoid unwanted solicitations.

H.R. 395 authorizes the Federal Trade Commission, FTC, to collect offsetting fees from telemarketers to implement and enforce the registry as part of the Telemarketing Sales Rule. The legisla-

tion would authorize the FTC to collect these fees from telemarketers for Fiscal Years 2003 through 2007, and to move forward this year on setting up this much-needed registry. The legislation also directs the Federal Communications Commission to conclude its own relemaking regarding telemarketing calls which, given the FTC's lack of jurisdiction over certain industries, is an important component in creating an effective and comprehensive do not call option for consumers.

A one-stop option for consumers is overdue. In 1991, the Telephone Consumer Protection Act directed the Federal Communications Commission, FCC, to conduct a rulemaking to protect the privacy rights of residential telephone subscribers. The FCC could have enacted a national registry at that time, but chose instead to require telemarketers to maintain their own individual do not call lists. This means that at present, most consumers must contact, individually, every telemarketer who they do not want to call them. This far less than consumer-friendly regime has spurred more than twenty-five States to create their own do-not-call registries. I understand that many of these states support a national registry because maintenance of their lists is often burdensome, costly, and difficult to enforce. A national registry will not preempt these state laws. Rather, States will work in partnership with the national registry by sharing information and enforcement abilities. Harmonizing the FTC regulations with those of the FCC and the states, as I hope will soon occur, will give consumers and businesses alike a much more user-friendly system.

I recognize the importance of telemarketing to our economy and particularly to new competitors' market entry. Consumers, nevertheless, should be given a choice to opt out of receiving commercial solicitations, and the national do-not-call list proposed by the FTC gives them this option. The FTC has endeavored to balance the interests of consumers against the interests of businesses in communicating with existing customers and attracting new ones.

I commend the Federal Trade Commissioners and the FTC staff for their work on this issue, and thank my colleagues for supporting this measure.

Mr. FRIST. Madam President, I ask unanimous consent that the bill be read the third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 395) was read the third time and passed.

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#### CONSENT TO ASSEMBLE OUTSIDE THE SEAT OF GOVERNMENT

Mr. FRIST. Madam President, I ask unanimous consent that the Senate proceed to the immediate consider-

ation of H. Con. Res. 1, which is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 1) regarding consent to assemble outside the seat of government.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Madam President, I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table.

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

The concurrent resolution (H. Con. Res. 1) was agreed to.

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#### WELCOMING SUPPORT OF EUROPEAN NATIONS FOR THE ENFORCEMENT OF U.N. SECURITY COUNCIL RESOLUTION 1441

Mr. FRIST. Madam President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of S. Con. Res. 4 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will state the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 4) welcoming the expression of support of 18 European nations for the enforcement of United Nations Security Council Resolution 1441.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. McCAIN. Madam President, after leading the U.S. congressional delegation to the Munich Conference on Security Policy last weekend, Senator LIEBERMAN and I introduced this resolution to thank 18 Europeans for standing with us in demanding that Security Council resolutions against Iraq be enforced. Contrary to what you may read in the press, and despite shrill objections from Paris and Berlin, most European governments believe Iraq must be held to account for its defiance of Security Council Resolution 1441. France and Germany are isolated within Europe in their approach to enforcing, or in their case failing to enforce, Security Council resolutions regarding Iraq.

Recent actions by Paris and Berlin in the most important international fora—the Security Council, the North Atlantic Council, and the European Union—raise serious doubts among nations on both sides of the Atlantic about their commitment to multilateral diplomacy and cause real damage to those institutions.

The French and German objection, for reasons of calculated self-interest—a very flawed calculation, I fear—to a routine request to the North Atlantic Council to upgrade Turkey's defenses

against the military threat from Iraq was a terrible injury to an Alliance that has served their broader interests well. For over three weeks, the United States, with fourteen of our eighteen European allies in the North Atlantic Council, has supported this necessary action, but has confronted a new unilateralism conceived in Paris and Berlin, a unilateralism that exposed the sneering in those capitals about the impulsive cowboy in the White House for the vacuous posturing and obvious misdirection it is.

Whatever NATO decides, Franco-German unilateralism will have a lasting impact on trans-Atlantic security calculations. If this minority French-German obstruction is not overcome, France and Germany will have to answer to those who argue that Iraq could be to NATO what Abyssinia was to the League of Nations.

The United Nations Security Council risks that same fate should it fail to hold Iraq accountable for its defiance. Patient American and British diplomacy at the U.N. delivered a unanimous vote in favor of Council Resolution 1441. France played a key role in negotiating the resolution and knew what they were voting for, Germany was fully aware of the debate as it prepared to assume the Council presidency in January. Americans, and many Europeans, were therefore astonished when France and Germany announced in advance of further consideration of the problem of Iraq that under no circumstances would they support enforcing the resolution's terms against Iraq.

The behavior of France and Germany has set back European unity and created a divided front that makes Iraq's peaceful disarmament less likely. Nations across Europe that have recently expressed a different view of multilateral obligations, including some of our oldest allies and our newest friends, expose the myth that France and Germany speak for Europe.

The majority of Europe's democracies have spoken, and their message could not be clearer. Most European governments support the Security Council's clear mandate to require Iraq's full disarmament and do not shrink from the grave responsibilities such a commitment entails. Most European government understand clearly that if the Security Council fails to enforce its demands of Iraq, the Council risks impotence and irrelevance. In short, most European governments behave like allies that are willing to meet their responsibilities to uphold international peace and security in defense of our common values.

As the foreign ministers of Romania, Bulgaria, Estonia, Latvia, Lithuania, Slovakia, Slovenia, Croatia, Albania, and Macedonia have declared, "the clear and present danger posed by Saddam Hussein's regime requires a united response from the community of democracies. We call upon the U.N. Security Council to take the necessary and appropriate action in response to Iraq's

continuing threat to international peace and security."

As the leaders of Britain, Spain, Italy, Poland, Hungary, the Czech Republic, Denmark, and Portugal have written, "Resolution 1441 is Saddam Hussein's last chance to disarm using peaceful means. The opportunity to avoid greater confrontation rests with him. . . . [T]he Security Council must maintain its credibility by ensuring full compliance with its resolutions. We cannot allow a dictator to systematically violate those resolutions. If they are not complied with, the Security Council will lose its credibility and world peace will suffer as a result."

We thank this European majority for standing with us.

I ask unanimous consent that two pieces of supporting material be printed in the RECORD.

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

#### UNITED WE STAND

The real bond between the U.S. and Europe is the values we share: democracy, individual freedom, human rights and the rule of law. These values crossed the Atlantic with those who sailed from Europe to help create the United States of America. Today they are under greater threat than ever.

The attacks of Sept. 11 showed just how far terrorists—the enemies of our common values—were prepared to go to destroy them. Those outrages were an attack on all of us. In standing firm in defense of these principles, the governments and people of the U.S. and Europe have amply demonstrated the strength of their convictions. Today more than ever, the trans-Atlantic bond is a guarantee of our freedom.

We in Europe have a relationship with the U.S. which has stood the test of time. Thanks in large part to American bravery, generosity and farsightedness, Europe was set free from the two forms of tyranny that devastated our continent in the 20th century: Nazism and communism. Thanks, too, to the continued cooperation between Europe and the U.S. we have managed to guarantee peace and freedom on our continent. The trans-Atlantic relationship must not become a casualty of the current Iraqi regime's persistent attempts to threaten world security.

In today's world, more than ever before, it is vital that we preserve that unity and cohesion. We know that success in the day-to-day battle against terrorism and the proliferation of weapons of mass destruction demands unwavering determination and firm international cohesion on the part of all countries for whom freedom is precious.

The Iraqi regime and its weapons of mass destruction represent a clear threat to world security. This danger has been explicitly recognized by the U.N. All of us are bound by Security Council Resolution 1441, which was adopted unanimously. We Europeans have since reiterated our backing for Resolution 1441, our wish to pursue the U.N. route, and our support for the Secretary Council at the Prague NATO Summit and the Copenhagen European Council.

In doing so, we sent a clear, firm and unequivocal message that we would rid the world of the danger posed by Saddam Hussein's weapons of mass destruction. We must remain united in insisting that his regime be disarmed. The solidarity, cohesion and deter-

mination of the international community are our best hope of achieving this peacefully. Our strength lies in unity.

The combination of weapons of mass destruction and terrorism is a threat of incalculable consequences. It is one at which all of us should feel concerned. Resolution 1441 is Saddam Hussein's last chance to disarm using peaceful means. The opportunity to avoid greater confrontation rests with him. Sadly this week the U.N. weapons inspectors have confirmed that his long-established pattern of deception, denial and noncompliance with U.N. Security Council resolutions is continuing.

Europe has no quarrel with the Iraqi people. Indeed, they are the first victims of Iraq's current brutal regime. Our goal is to safeguard world peace and security by ensuring that this regime gives up its weapons of mass destruction. Our governments have a common responsibility to face this threat. Failure to do so would be nothing less than negligent to our own citizens and to the wider world.

The U.N. Charter charges the Security Council with the task of preserving international peace and security. To do so, the Security Council must maintain its credibility by ensuring full compliance with its resolutions. We cannot allow a dictator to systematically violate those resolutions. If they are not complied with, the Security Council will lose its credibility and world peace will suffer as a result. We are confident that the Security Council will face up to its responsibilities.

#### STATEMENT OF THE VILNIUS GROUP COUNTRIES

Earlier today, the United States presented compelling evidence to the United Nations Security Council detailing Iraq's weapons of mass destruction programs, its active efforts to deceive UN inspectors, and its links to international terrorism.

Our countries understand the dangers posed by tyranny and the special responsibility of democracies to defend our shared values. The trans-Atlantic community, of which we are a part, must stand together to face the threat posed by the nexus of terrorism and dictators with weapons of mass destruction.

We have actively supported the international efforts to achieve a peaceful disarmament of Iraq. However, it has now become clear that Iraq is in material breach of U.N. Security Council Resolutions, including U.S. Resolution 1441, passed unanimously on November 8, 2002. As our governments said on the occasion of the NATO Summit in Prague: "We support the goal of the international community for full disarmament of Iraq as stipulated in the U.N. Security Council Resolution 1441. In the event of non-compliance with the terms of this resolution, we are prepared to contribute to an international coalition to enforce its provisions and the disarmament of Iraq."

The clear and present danger posed by the Saddam Hussein's regime requires a united response from the community of democracies. We call upon the U.N. Security Council to take the necessary and appropriate action in response to Iraq's continuing threat to international peace and security.

Mr. FRIST. Madam President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD as if read.

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

The concurrent resolution (S. Con. Res. 4) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 4

Whereas on November 8, 2002, the United Nations Security Council approved Security Council Resolution 1441 under Chapter VII of the United Nations Charter by a vote of 15-0, giving Iraq "a final opportunity to comply with its disarmament obligations";

Whereas on November 21, 2002, the North Atlantic Treaty Organization's North Atlantic Council unanimously approved a declaration stating, "We deplore Iraq's failure to comply fully with its obligations which were imposed as a necessary step to restore international peace and security and we recall that the Security Council has decided in its resolution to afford Iraq a final opportunity to comply with its disarmament obligations under relevant resolutions of the Council.";

Whereas the North Atlantic Council stated, "NATO Allies stand united in their commitment to take effective action to assist and support the efforts of the United Nations to ensure full and immediate compliance by Iraq, without conditions or restrictions, with United Nations Security Council Resolution 1441. We recall that the Security Council in this resolution has warned Iraq that it will face serious consequences as a result of its continued violation of its obligations.";

Whereas, on January 30, 2003, the Prime Ministers of Denmark, Italy, Hungary, Poland, Portugal, Spain, and the United Kingdom, and the President of the Czech Republic ("The Eight"), issued a declaration regarding Security Council Resolution 1441;

Whereas in their declaration, The Eight stated, "The transatlantic relationship must not become a casualty of the current Iraqi regime's persistent attempts to threaten world security. . . . The Iraqi regime and its weapons of mass destruction represent a clear threat to world security. This danger has been explicitly recognized by the United Nations. All of us are bound by Security Council Resolution 1441, which was adopted unanimously.";

Whereas The Eight stated, "Resolution 1441 is Saddam Hussein's last chance to disarm using peaceful means. The opportunity to avoid greater confrontation rests with him. . . . Our governments have a common responsibility to face this threat. . . . [T]he Security Council must maintain its credibility by ensuring full compliance with its resolutions. We cannot allow a dictator to systematically violate those resolutions. If they are not complied with, the Security Council will lose its credibility and world peace will suffer as a result.";

Whereas on February 5, 2003, the Foreign Ministers of Albania, Bulgaria, Croatia, Estonia, Latvia, Lithuania, Macedonia, Romania, Slovakia, and Slovenia ("The Ten") issued a declaration regarding Security Council Resolution 1441;

Whereas in their declaration, The Ten stated, "[T]he United States [has] presented compelling evidence to the United Nations Security Council detailing Iraq's weapons of mass destruction programs, its active efforts to deceive United Nations inspectors, and its links to international terrorism. . . . The transatlantic community, of which we are a part, must stand together to face the threat posed by the nexus of terrorism and dictators with weapons of mass destruction."; and

Whereas The Ten stated, "[I]t has now become clear that Iraq is in material breach of United Nations Security Council resolutions, including United Nations Resolution 1441. . . . The clear and present danger posed by Sad-

dam Hussein's regime requires a united response from the community of democracies. We call upon the United Nations Security Council to take the necessary and appropriate action in response to Iraq's continuing threat to international peace and security."; Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That Congress welcomes—*

(1) the expression of support from Albania, Bulgaria, Croatia, the Czech Republic, Denmark, Estonia, Hungary, Italy, Latvia, Lithuania, Macedonia, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, and the United Kingdom for Iraq's full compliance with Security Council Resolution 1441; and

(2) their expression of solidarity with the United States in calling for the demands of the Security Council to be met with regard to Iraq's full disarmament.

#### RECOGNIZING THE 92ND BIRTHDAY OF RONALD REAGAN

Mr. FRIST. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.J. Res. 19, which is at the desk.

The PRESIDING OFFICER. The clerk will state the joint resolution by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 19) recognizing 92nd birthday of Ronald Reagan.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. FRIST. Madam President, I ask unanimous consent that the joint resolution be read the third time and passed, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD as if read.

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

The joint resolution (H.J. Res. 19) was read the third time and passed.

The preamble was agreed to.

#### DISCHARGE AND REFERRAL OF S. RES. 55

Mr. FRIST. Madam President, I ask unanimous consent that the Small Business Committee be discharged from further action on S. Res. 55 and that the matter be referred to the Committee on Rules and Administration.

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

#### CONGRATULATING UNIVERSITY OF PORTLAND WOMEN'S SOCCER TEAM FOR WINNING THE 2002 NCAA DIVISION I NATIONAL CHAMPIONSHIP

Mr. FRIST. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 59, which was introduced earlier today by Senators WYDEN and SMITH.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 59) congratulating the University of Portland Women's Soccer Team for winning the 2002 NCAA Division I National Championship.

There being no objection, the Senate proceeded to consider the resolution.

Mr. WYDEN. Madam President, I offer this resolution with Senator SMITH to congratulate the University of Portland women's soccer team for winning the 2002 NCAA Division I National Championship.

This championship team achieved a lot of firsts. The women's soccer team is the first to bring home a national championship in any sport for the University of Portland. As the eighth seed in the NCAA tournament, the University of Portland Pilots were the lowest seeded team to ever win the national title in the women's national championship 21 year history. Sophomore player Christine Sinclair made a first by setting an NCAA tournament record with 21 points on 10 goals and 1 assist. The Pilots' road to victory included defeating 7 nationally ranked opponents, including the reigning champion, Santa Clara University.

I am proud of these young women and their tremendous accomplishment. In this day when Title IX of the Education Amendments is under challenge, we cannot forget that women like those of the University of Portland champion soccer team are direct beneficiaries of Title IX. Title IX has provided girls and women with equal opportunities in athletics. Before Title IX was enacted in 1972, only one in 17 high school girls played team sports—now that number is one in 2.5. Title IX has helped our Nation develop fantastic athletes like the young women I am here to congratulate. We must continue to encourage these athletes, and provide them with our full support.

Mr. FRIST. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD as if read.

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

The resolution (S. Res. 59) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 59

Whereas, on December 8, 2002, the University of Portland women's soccer team captured its first ever undisputed collegiate national soccer championship;

Whereas the 2002 National Collegiate Athletic Association Division I title is the first championship in any sport for the University of Portland;

Whereas the University of Portland Pilots' 20-4-1 record in 2002 tied the record for wins in a season in University of Portland women's soccer history;

Whereas head coach Clive Charles, the University of Portland director of women's and men's soccer, has successfully built a nationally recognized collegiate soccer program,

leading the University of Portland women's and men's teams to a collective 12 conference championships and 16 NCAA playoff berths and producing players for the United States National and Olympic teams;

Whereas, on the way to the national championship, the Pilots defeated 7 nationally ranked opponents, which included a 2-1 title game triumph over the reigning champion, Santa Clara University;

Whereas the Pilots, the tournament's number 8 seed, now hold the record as the lowest-seeded team to win the national title in the

women's national championship 21-year history;

Whereas sophomore Christine Sinclair set an NCAA tournament record with 21 points on 10 goals and 1 assist;

Whereas each player, coach, trainer, and manager dedicated time and effort to ensuring that the Pilots reached the pinnacle of team achievement; and

Whereas the students, alumni, faculty, and supporters of the University of Portland are to be congratulated for their commitment and pride in the Pilots' women's soccer program: Now, therefore, be it

*Resolved*, That the Senate—

(1) congratulates the University of Portland women's soccer team for winning the 2002 NCAA Division I national championship and recognizes the achievements of all the players, coaches, and support staff who were instrumental in this accomplishment; and

(2) directs the Secretary of the Senate to make available copies of this resolution to the University of Portland for appropriate display and to transmit a copy of the resolution to each coach and member of the 2002 University of Portland women's soccer team.