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Senate

The Senate met at 2 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O Lord, our Lord, sustainer of all life. This week, as we remember the ratification of our Constitution, remind us that without You we are powerless. Sometimes we feel like collapsing beneath the challenges. When we try to face temptations alone, we too often are defeated. When we seek to meet sorrow without Your presence, our wounds remain unhealed. We are too often fascinated by evil and bored by goodness.

Without You, Lord, we not only cannot know what is right but have no power to do it. Empower the Members of this body today with the blessings of Your presence. Be with each of them to help, to guide, to comfort, and to sustain; grant that whatever light may shine or shadow fall, they may walk in Your wisdom. Keep us all in Your will until we reach our journey's end.

We pray in the Name of our Lord. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

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

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we will open with a period for morning business for 60 minutes. Following that time, the Senate will resume consideration of the Agriculture appropriations bill which we began last Thursday. While we have no votes today, I encourage Members who intend to offer amendments to notify the bill managers and begin offering their amendments this afternoon. We will stack votes for Tuesday morning and hope to finish this bill early this week.

MEASURES PLACED ON THE CALENDAR—S. 1715 AND S. 1716

Mr. FRIST. Mr. President, I understand there are two bills at the desk due for a second reading.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1715) to provide relief for students and institutions affected by Hurricane Katrina, and for other purposes.

A bill (S. 1716) to provide emergency health care relief for survivors of Hurricane Katrina, and for other purposes.

Mr. FRIST. In order to place the bills on the calendar under the provisions of rule XIV, I object to further proceeding en bloc.

The PRESIDENT pro tempore. Objection is heard. The bills will be placed on the calendar.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business until 3 p.m. with time equally divided.

The Senator from Massachusetts is recognized.

HURRICANE KATRINA

Mr. KENNEDY. Mr. President, I thank the majority leader for taking the parliamentary steps that are going to permit us to consider some emergency help and assistance for New Orleans and the gulf area, in the area of education in particular. We are going to have more to say about that in a very short period of time. We want our friends there to know help really is on the way, particularly in the areas of education and health.

On Friday, 13 of my colleagues and I visited the stricken city of New Orleans and the gulf coast to see Katrina's devastation firsthand and hear from the affected residents. Like so many millions of Americans, I have been moved by the news coverage of Katrina and her brutal aftermath for the past 3 weeks. But nothing I have seen on television, nothing I have read in the newspapers, and nothing I have heard from the survivors we have embraced in Massachusetts could prepare me for the staggering scope of the devastation when witnessed firsthand.

The destruction is massive in its scope. In many areas, the destruction is total. Much of New Orleans is a ghost town. Troops and police patrol eerily quiet streets. The desolation is frighteningly real.

At least 40 percent of New Orleans was devastated by the calamity. We could see the high water marks on buildings, far above our heads. Debris is strewn everywhere. Massive amounts of muck, black as ink and ringed with the rainbow swirls of oil and chemicals, cover everything.

For so many of our fellow citizens—from New Orleans and throughout the gulf region—there is nothing to return to. In Mississippi, entire communities are completely gone. All that is left of entire blocks is the concrete slabs where families once lived. Even the old oaks that graced Mississippi's historic shoreline for generations could not withstand Katrina's wrath.

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

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Survivors' stories are heartwrenching. Three babies died at the New Orleans convention center from heat exhaustion. A first responder at the convention center found he was the only doctor for 10,000 people. Dozens of elderly residents died of heat stroke or kidney failure. One woman waded through the floodwaters to Charity Hospital, floating her husband's body alongside her on a door.

In Pass Christian, MS, the police heroically stayed behind and braved the storm to rescue as many people as they could. Finally, as the flood waters were rising, they saved themselves by climbing onto the roof of the police station and watched their cruiser below tossed by the surging tide.

Rescue workers we spoke with there found some 80 bodies—many in the attics of their homes, dead after desperately trying to claw their way through the roof to survival. Scratch marks were visible on the rooftops.

The city's mayor is still missing. But the city attorney has been named acting mayor and has stepped up as a leader with determination and compassion, helping people recover and rebuild their lives.

So much has been destroyed. But the spirit of the people we met remains strong. Like Job of the Old Testament, these people have had everything they own and cherish torn from their grasp. But they are determined to recover and rebuild their lives. They still have hope—and we must do all we can to help them.

I was inspired by the heroism of the relief workers, the military, the churches, neighbors, friends, strangers—all coming together to support those in need—truly America at its best. Those we met on Friday were physically and emotionally exhausted. There still does not seem to be enough time each day to help all those who need our aid—not enough energy to heal the many broken hearts. Relief workers have suffered broken bones, sprained ankles, sunburns, dehydration, and infections from the contaminated floodwaters.

But they press on, for they know there is so much remaining to be done. Those we met have an unyielding determination to rebuild that treasured region and rejuvenate its unique spirit. The work they do every minute, every hour, every day since Katrina struck, helps us all—our whole American family. They need to know that we are listening, and that we hear their concerns. We will not ignore them or put them aside. They deserve our leadership and our support, and we must prove to them that we are equal to the task.

My wife Vicki and her family hail from the New Orleans area, and Vicki lived several years in the city. Her family's deep roots there lend a special perspective to our concerns about the many affected by this terrible storm. Such a treasured and vibrant part of our Nation deserves nothing less than our best efforts as Senators to help it rebuild better than ever.

States across the country are responding, and I am proud of Massachusetts's efforts. Almost 500 Army and Air National Guard soldiers and airmen from our State have been sent to provide direct support to the hurricane victims as part of Operation Helping Hand. They are performing functions as diverse as security, command and control, law enforcement, communications, medical care, including mental health care, and spiritual guidance. The Massachusetts Guard has also activated an additional 150 persons for indirect support, staffing the joint operations center and helping with logistics and airlifts. We have shipped more than 200 tons of cargo using 17 aircraft, including humvees, trucks, trailers, generators, a field ambulance, meals ready to eat, water, cots, tents, and medical supplies.

There are almost 200 evacuees now living at Camp Edwards on Otis Air Force Base on Cape Cod. We have enrolled them in health care plans, helped children find their parents, offered mental health counseling, and enabled those who qualify for veterans benefits and Social Security benefits to continue to receive them without interruption or delay—anything to make them feel welcome and at home.

For the evacuees who express interest in staying in Massachusetts, we are working with local housing authorities to have them placed in our towns, and the Black Ministerial Alliance has welcomed them into our congregations. FEMA will pay for plane tickets anywhere in the United States to reunite the evacuees with their family and friends.

Finding employment for evacuees and schooling for their children are top priorities, and Massachusetts businesses and schools are eagerly lending a hand. Some have already found employment, and a job fair at the base has helped others.

Massachusetts colleges have been eager to pitch in as well. Sixty public, private, and community colleges have enrolled over 1,000 displaced students and offered to assist them with financial aid. Displaced undergraduates will be able to attend public colleges and universities tuition-free. And many campuses have offered to expedite admission, waive fees, and help secure housing. UMass Amherst has already enrolled more than a dozen undergraduate students and is housing them in local hotels until more permanent housing is secured. Boston University has accepted 321 displaced students. Boston College has accepted 150 students from Loyola and Tulane. Amherst is taking in students from Xavier and Tulane. Amherst and Williams College have invited faculty from Xavier to join their campuses for the semester.

Katherine Barnett, a graduate student from Tulane, is now attending Boston University. ''I didn't think attending BU was going to be an option, but everyone there has been totally great,'' she said.

When the tsunami struck Indonesia in December, and when earthquakes devastated Armenia, EI Salvador, and Iran, the courageous team of health professionals from Massachusetts General Hospital was always among the first to respond. The team's response to Katrina is no different. Dr. Susan Briggs from Massachusetts General is leading the effort. She told me progress is being made with the team's two mobile clinics, and they are reaching those in more remote areas. But in New Orleans, they are discovering many new storm-related medical needs as people begin to return to the city.

Three medical teams from Boston and one team from Worcester have been on the scene since the earliest hours of the disaster, and they have kept up a steady pace. Additional truckloads of medical supplies left Massachusetts at 5 o'clock this morning for the gulf.

I talked with a wonderful doctor at Mass General, Dr. Larry Bronner. He talked about calling up Broderick Chevrolet and saying they needed three big trucks for transport. The founder of that automobile distributorship said:

> You tell us where you want the trucks and when you want the trucks; you've got the trucks.

That is typical of the kind of reaction across the board in my State, and I know in many others.

Now they are involved in a 35-hour trip down to New Orleans, even as we talk this afternoon.

As we traveled in New Orleans and Mississippi, I was heartened by the spirit of determination to overcome this disaster and improve the lives of those most affected. I saw it on the faces of those who stayed behind to help with rescue and relief efforts, just as I have seen it in the faces of those who have had to leave all they know and go to safe havens across the country. It is the same spirit of determination that will carry them down the long road to rebuilding.

The residents of the gulf region and New Orleans take pride in their cities and towns. They want to lead the way in reviving their own communities. That should not be ignored.

First and foremost, this means we cannot have big businesses and outside contractors taking over the process of rebuilding. Local businesses, big and small, should get the lion's share of the work. And local people should get the lion's share of the jobs.

The businesses and residents of New Orleans should rebuild New Orleans. Bay St. Louis should rebuild Bay St. Louis. Their communities should rebuild their communities. Pass Christian should rebuild Pass Christian, and we should be there to help.

Community leaders I spoke with in New Orleans mentioned the 9/11 families and their ability to band together as a voice for change, successfully pressuring the White House and Congress

to form the independent 9/11 commission. Katrina survivors, they told me, don't need veto power over every proposal to rebuild their region, they just need a voice in the rebuilding of their own communities.

There has been much discussion of the economic despair of those who were stranded in New Orleans and other areas, because they did not have the resources to escape the storm and flood. An enormous tragedy has afflicted a forgotten segment of our society, and it shames us all that in a country as rich as ours, we were not able to provide for the safety and security of all our citizens, but allowed race and class to devastate them.

Our collective effort for rebuilding and reconstruction is an opportunity to make amends for decades of neglect, and genuinely address the needs of those most direly affected by this disaster.

Estimates of the Federal Government's investment in this rebuilding effort are now as high as $200 billion. We must be certain that these funds go to the rebuilding of the new Gulf Coast and not to the accounts of the biggest contractors with the best political connections. The enormous job of rebuilding New Orleans and the gulf coast must be done right.

The national government can help most by seeking to develop a common plan for the redevelopment of the region. We should have a commission on which everyone has a say—mayors, governors, community leaders, business leaders, citizens, the Federal Government—everyone. There should be hearings throughout the area to listen to the people's views of the kind of future they want. We should listen to the people of New Orleans on how they wish to revive the vitality of that special city. We should involve the best flood control engineers, the best community and urban development specialists, the best city planners, the best of everything. Redevelopment should not be determined by the biggest most powerful contractors. We need to work from a shared vision for the future in which we all do our part to build the new gulf coast.

I commend President Bush for making the rebuilding of this damaged region a high priority for the Federal Government, and I believe a commission would give all of us the plan we need to get the job done right.

We must cultivate and promote public-private partnerships that are so important to successful community redevelopment. Already, many organizations are setting about the business of rebuilding in the gulf coast region. Private companies such as Starwood Hotels and Resorts in New Orleans have already set a re-opening date of November 1, and local small business owners are beginning to set up shop again. National and local philanthropic organizations such as the Baton Rouge Area Foundation are beginning to examine the long-term housing needs of the area. National efforts such as those of ACORN are underway to organize residents who have been displaced and given them a fair voice and fair representation in the process.

All of these groups and many others are key partners in the Federal, State, and local efforts to rebuild the gulf coast communities devastated by Hurricane Katrina.

It is essential, too, for contracts for rebuilding to include training for local people to do the jobs. That means training local residents for debris removal, environmental clean-up, construction trades and other skills necessary to get the region back on its feet.

Billions of Federal dollars will be devoted to the effort. We must make sure that it is the residents of the region that benefit through jobs and training.

We must give urgent attention to the few hospitals and clinics that are still operating, but they are working with reduced staff and few resources. Many, like East Jefferson General Hospital in the New Orleans area, do not have the resources to remain open much longer without government help.

We should also give urgent attention to schools, to help that few that can reopen to do so, and to build new ones that can become the anchors for new communities.

We must also make sure that we rebuild in a thoughtful way, drawing on the many lessons that we have learned from this disaster and other efforts at community building.

We need to build water control systems that will be able to withstand giant hurricanes and floods in the future. We need to rebuild roads and sewers and power lines and whole public transportation systems. We need to restore the ecological resources of the region.

The rebuilding process should not merely involve reproducing structures and systems in the way that they existed before the hurricane and flood. The people of the region have an opportunity to create better water control systems to ensure that this does not happen again. They have a chance to improve schools and rely on technologies necessary in the new economy. They have a chance to build the gulf economy of the future—and in doing so to improve the entire Nation's economic destiny. They have a chance to build a new economy that works for everyone—with diverse housing and more job opportunities.

This new economy will of course still include a vibrant tourism industry, and there will continue to be jobs for the many service workers who call New Orleans home. A local union representative stressed to me that New Orleans can't just be a city in which only millionaires can afford to live.

I am deeply concerned that the Department of Labor in Washington has taken harmful steps that will hurt the effort to revive the region. They have said that the big outside contractors moving into the area can pay construction workers sub-standard wages. These workers have lost everything, and they are desperate to rebuild their homes and their lives and their communities. Yet now these giant contractors can come in from outside and deny fair wages.

We are talking about $8-, $9- and $10-an-hour wages. That is what the prevailing wage is for basic construction trades in Mississippi, Alabama, and Louisiana. That doesn't sound like exorbitant wages for workers who are putting in a hard day's work. It sounds like fair wages to me—rather than bringing in outside workers who are going to work for depressed wages—not even the minimum wage.

This is important.

The Department of Labor also says these big contractors don't have to reach out to minority workers. The greatest devastation is for the poor, poor white and poor black, and we want to make sure that those workers—white and black—are going to have opportunities. But the idea that they are waiving all requirements to try to include local participation does not make sense.

Yet more than 40 percent of the people of New Orleans are African-Americans. They represent a vast share of the people in the shelters who are left with nothing. How can the Labor Department say that these outside contractors can come into Louisiana and Mississippi and thumb their nose at African-American workers there?

That, too, is gravely wrong. In his speech to the Nation last Thursday, President Bush acknowledged that we must address the legacy of poverty as we rebuild. But authorizing substandard wages and turning our back on minority workers is not the way to meet that goal.

We have the ability in Congress to help New Orleans and the gulf coast area to rebuild themselves better than ever. All we need is the will to do it. I have talked with my colleagues from the region in their offices and I listened to them on Friday as we saw the storm-ravaged areas. Senators LANDRIEU, VITTER, LOTT, COCHRAN, SESSIONS, and SHELBY are determined to get the gulf coast back up on its feet, and I have appreciated the opportunity to discuss this with them.

I appreciate, also, the leadership that Senator ENZI has provided on this issue as chairman of the Health, Education, Labor and Pensions Committee. Under his leadership, we introduced a strong bipartisan relief measure on education that should be before the Senate very soon. And we hope to have measures to meet the health and employment needs very soon.

Senator LANDRIEU in particular has been an inspiration to us all. She was tireless in her efforts to expedite the Federal response to the hurricane and is extraordinary in her resolve to help New Orleans recover. Her strength is a comfort to her constituents—and to the Nation.

Senator FRIST, our leader, deserves praise as he returned briefly to his earlier career as Dr. FRIST. I truly admire his courageous efforts to provide medical care in the early days at the makeshift hospital at the New Orleans airport.

Friday was not a one-time visit; it was just one day, but it will be a day I will not forget. We will not simply move on to a new issue tomorrow. This wound in our Nation runs deep, and our response must be equal to the task. The hurricane destroyed communities, but it did not and could not destroy their spirit. They will rebuild, and we will help them to the very best of our ability, because in the end, we are one Naion, one people, one family. It is in this way that we can best tap the true wealth of Nation. We must get it right.

Mr. KENNEDY. Mr. President, I ask unanimous consent to be able to proceed for 4 more minutes.

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

SANDY FELDMAN

Mr. KENNEDY. Mr. President, I am sad to inform the Senate of the passing of a true giant in the world of education, Sandy Feldman, who headed the American Federation of Teachers. Sandy was a fighter for schoolchildren every day of her very productive life. She was determined to make a difference, especially to the millions of disadvantaged children in our schools—and she did. She inspired some many young people to become teachers. She helped them understand that teaching was not just a job, but it was a calling.

Sandy, you leave a proud and rich legacy. You will be an inspiration to students and teachers for many years to come.

We love you, and you will be missed but never, ever forgotten.

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

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

The assistant legislative clerk proceeded to call the roll

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

NOMINATION OF JUDGE JOHN G. ROBERTS, JR.

Mr. SPECTER. Mr. President, I have sought recognition to speak about the confirmation of Judge John G. Roberts, Jr., to be Chief Justice of the United States.

Mr. President, no vote cast by a Senator in this body is more important than a vote cast on the confirmation of a Supreme Court Justice, with the exception of a declaration of war, or a resolution authorizing the use of force.

The confirmation process for Chief Justice is obviously somewhat more important than that for Associate Justice. It is even more important in the context of Judge Roberts who is 50 years old and has the potential to serve for decades in that very key position, as the second youngest Chief Justice in the history of the country and the 17th Chief Justice in our Nation's history.

Judge Roberts comes to this position with an extraordinary academic record—3-year graduate of Harvard College summa cum laude, magna cum laude in the Harvard Law School, and an illustrious career in private practice and government service. He argued some 39 cases before the Supreme Court of the United States.

We have examined some 76,000 documents. We have looked at his participation in some 327 cases in the Court of Appeals for the District of Columbia Circuit, where he was confirmed by the Senate 2 years ago by unanimous consent. We have seen his briefs in the Solicitor General's Office, and we have heard some 31 witnesses regarding his nomination. These included a witness from the American Bar Association, which rated him unanimously well qualified, the highest recommendation possible. The remaining thirty witnesses, who were chosen equally by the Democrats and the Republicans, testified at length about Judge Roberts' career. We know a great deal about Judge Roberts.

Based on all of these proceedings, including 17 hours of testimony before the committee, it is my judgment he is well qualified to be Chief Justice of the United States. I intend to vote aye when his nomination is called before the Senate.

He has taken a position that a judge should be modest and should look for stability in the law. On a number of occasions in his testimony before the committee, he emphasized the point that judges are not politicians and that judges ought not inject their own personal views into the law.

He commented about the flexibility of the law, saying that principles such as equal protection and due process were meant to last through the ages and have a flexible quality. He said, ''They [referring to the framers] were crafting a document that they intended to apply in a meaningful way down through the ages.''

While he would not accept the specific language of Justice John Marshall Harlan II that the Constitution is a living thing, he did testify that the language of liberty and due process has broad meaning as applied to evolving societal conditions.

He talked very directly when questioned about the right of privacy. He said that Griswold v. Connecticut, which established the right of privacy, was correctly decided. That case overturned the state law prohibiting the use of contraceptives for married people. He also said the holding of Griswold would apply to single people as well as to married people under the Eisenstadt decision.

When it came to the critical question of Roe v. Wade, I did not ask him whether he would affirm or reject the Roe doctrine. I did not do so because I believe it is inappropriate to ask a nominee how he would decide a specific case.

As chairman, it was my view that any member could ask the nominee any question that the member chose to, and the nominee would be free to respond as he chose. Beyond refraining from specifically asking whether he would affirm or overrule Roe v. Wade, others and I questioned him extensively about the import of stare decisis, the Latin term meaning ''let the decision stand.'' He emphasized that stare decisis was a very important principle in the law and that even where a justice might consider Roe wrongly decided, it takes more to overturn a precedent than simply to conclude it was wrongly decided initially. Because—and this is Arlen Specter speaking, not Judge Roberts—where the case has stood for some 32 years and has been reaffirmed most emphatically in Casey v. Planned Parenthood, it has become, as some have called it, a super precedent.

I then made the point that the Supreme Court had taken up the issue so that Roe could have been reversed, overruled on some 38 occasions. Should it come before the Court again, perhaps the balance of the 38 cases would make super-duper precedent to uphold Roe.

The question remains as to how he will rule. Nobody knows that for certain.

The one rule that seems to be the most prevalent one is the one of surprise. He testified extensively about his concern for civil rights. He talked about affirmative action. He agreed with Justice O'Connor that the impact of the people in the practical everyday world was of considerable importance. I questioned him about his participation in the case of Romer v. Evans, where he lent some counsel to the lawyers who were arguing the case involving gay rights and he participated in support of gay rights.

His partner at Hogan and Hartson, Walter Smith, had this to say about Judge Roberts' participation in that case. Mr. Smith said that ''every good lawyer knows that if there is something in his client's cause that so personally offends you morally, ligiously, or if it so offends you that you think it would undermine your ability to do your duty as a lawyer, then you shouldn't take it on, and John wouldn't have. So at a minimum he had no concerns that would rise to that level.''

I then asked Judge Roberts if he agreed with Mr. Smith's analysis and if he would have refrained from helping in that situation, and he said: ''I think it's right that if it had been something morally objectionable, I suppose I would have.''

His support of gay rights is not an insignificant consideration in our evaluation of his views of civil rights.

Judge Roberts made quite a point of contending that he had answered more

questions than most, and I think to some extent he did. He articulated the standard that he would answer the questions unless the case was likely to come before the Court. Some of his predecessors have refused to answer any questions at all.

As I have said, from time to time, when Justice Scalia appeared before the Judiciary Committee, he wouldn't answer much. Even prisoners of war are compelled to give their name, rank, and serial number; Judge Scalia would only give his name and rank. He wouldn't give his serial number. I say that in a metaphor. Justice Scalia would not say if he would uphold Marbury v. Madison, which is an 1803 decision establishing the supremacy of the Supreme Court, the duty of the Supreme Court, and the responsibility and authority of the Court to interpret the Constitution.

Judge Roberts did comment on Griswold and Eisenstadt and quite a number of specific cases as he went along. There were some cases where he would not answer where I candidly thought he should have answered, but my rule is that the Senator asks the questions, the nominee responds, and it is a political judgment as to whether the nominee has responded sufficiently to warrant or merit confirmation or the Senator's vote.

For some time now, I have expressed my concern, a concern which was shared by the distinguished Senator from Ohio, Senator DEWINE, who now occupies the chair of the Presiding Officer. Senator DEWINE raised a line of questions, as I did. I raised a question about the case of United States v. Morrison where the Supreme Court declared part of the legislation unconstitutional, legislation designed to protect women against violence. I pointed to the very extensive record on surveys in 21 days and 8 separate reports. The Court, in a 5-to-4 decision, determined that the legislative record was insufficient, but it seemed to me that it was probably the case that the record was more than sufficient. This is what I consider to be an encroachment on congressional authority. The majority opinion, after reviewing that record, said it was insufficient because they disagreed with the congressional ''method of reasoning.''

The question I have about that is, Who are they—the Supreme Court Justices—to say that their ''method of reasoning,'' is superior to ours? What happens when you leave the columns of the Senate, which are directly aligned with the columns of the Supreme Court, and walk across the green? Is there some superiority of competency there? The dissent pointed out that the majority opinion was saying that there was some sort of unique judicial competence on the method of reasoning. The inference there is that there is some congressional incompetence. I reject that. And I believe the Constitutional separation of powers rejects that.

Where there is an expansive record, as we had in United States v. Morrison, it ought to have been upheld. It is a derogation of congressional authority and insulting to question our method of reasoning.

I asked him about the two cases where the Supreme Court interpreted the Americans With Disabilities Act 3 years apart, 2001 and 2004. In Garrett v. Alabama, by a 5-to-4 decision, the Court ruled unconstitutional the part of the Americans with Disabilities Act which protected against discrimination in employment; and then, 3 years later, in Tennessee v. Lane, again by a 5-to-4 vote, the Supreme Court upheld the application of the section of the Americans With Disabilities Act concerning access to public accommodations for a paraplegic who had to crawl up the steps to get to a courtroom. The records were identical as to both of the sections in the same act. You had the same voluminous record presented.

In dissent, in the Lane case, Justice Scalia called it a ''flabby test.'' He said that where the Court has used a standard of what they called ''congruence and proportionality,'' that it was ill-advised. Justice Scalia said the Court was really making itself the taskmaster of the Congress and, in effect, treating us like schoolchildren.

Now, where did this test, ''congruence and proportionality,'' come from? It came out of thin air. In 1997, in the Boerne case where the Court declared the Religious Restoration Act unconstitutional, they came up with this test which has not a scintilla of objective meaning. How can the Congress figure out what it is that the Supreme Court has in mind? They go 5 to 4 on one title of the Americans with Disabilities Act and 5 to 4 the other way on another title of the Americans with Disabilities Act. Frankly, I thought the committee and the Senate were entitled to answers on those questions, but Judge Roberts declined to answer.

That is a work in process. We are not putting that one down. There are some things which the Congress can do about that to assert congressional power, and it will be pursued.

On the issue of Judge Roberts being Chief Justice, it is an intriguing prospect for a man of 50 to take over the Court where Judge Stevens is 35 years his senior; Justice Scalia is 18 years his senior; even Justice Thomas, the youngest of those on the Court at the moment, is 7 years his senior. I asked Judge Roberts about that, both in the informal session in my office and in the Senate hearing. He described his work as being an advocate before the Court as a ''dialogue among equals.'' I thought that was a fascinating evaluation.

In the Supreme Court—and I have had occasion to be there three times—a lawyer stands on one level, and the Court is on a higher level. I do not exactly perceive it personally as a dialogue among equals, but I consider it fascinating that he did. Perhaps when you have been there 39 times, the level of inequality levels out. But he has an opportunity, from his vantage point, knowing the Justices, as he does, having been there so long, and having been a clerk for Justice Rehnquist when he was an Associate Justice back in 1980, to do something about these 5-to-4 decisions.

There was a discussion about what Chief Justice Earl Warren did in bringing the Court together. When he was appointed Chief Justice in 1953, he molded a unanimous opinion in Brown V. Board of Education—if not the most important case in the Court's history certainly one of the most important cases, and one of the most contentious cases.

However today we see a plethora of 5-to-4 decisions—a recent case involving the Americans with Disabilities Act being one illustration, but there are many others; you had the Ten Commandments cases this year where the Court said it was OK for the State of Texas to have the Ten Commandments on a tower but unconstitutional for Kentucky to display the Ten Commandments indoors, in two decisions whose results absolutely defy logic or are inexplicable.

I have also been troubled by the modern tendency to have so many concurrences and dissents. Before the Judiciary Committee held hearings regarding the detainees at Guantanamo Bay, I read three Supreme Court opinions from June of 2004. They were a maze of confusion as you tried to work your way through them. One was a plurality opinion. Only four Justices could agree. They did not have the opinion of the Court, and the other cases were replete with multiple opinions as well.

Currently you have a situation where Justice A will write a concurring opinion, joined by Justice B; and then Justice B will write a concurring opinion, joined by Justice A and Justice C. You wonder, why so many opinions? Judge Roberts commented and testified he thought that was a matter the entire Court should work on, and certainly one he would pledge to work on himself.

The subtle ''minuet'' of the confirmation hearings for Judge Roberts turned bombastic and contentious at times, but he always kept his cool and responded within reasonable parameters. The Judiciary Committee and the full Senate cannot be guarantors that Judge Roberts will fulfill our's or anyone's expectations. The Court's history is full of Justices who have surprised or disappointed their appointers or inquisitors. But the process has been full, fair, and dignified.

I think Judge Roberts went about as far as he could go in answering the questions and declining to answer questions on cases likely to come before the Supreme Court. When you consider all of the factors—his academic record, his professional record, his record on the court of appeals, the witnesses who testified who have known him intimately—it is my judgment he is well

qualified and should be confirmed as the next Chief Justice of the United States, the 17th Chief Justice of the United States. When the roll is called, I intend to vote yea.

I ask unanimous consent that the full text of my statement be included in the RECORD.

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

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

FLOOR STATEMENT OF SENATOR ARLEN SPECTER ON THE NOMINATION OF JUDGE JOHN ROBERTS TO BE CHIEF JUSTICE OF THE UNITED STATES

After listening to Judge John Roberts testify for nearly 17 hours and then hearing from 31 witnesses, some for and some against his nomination, I have decided to vote to confirm him to be Chief Justice of the United States.

Except for a declaration of war or its virtual equivalent, a resolution for the use of force, no Senate vote is more important than the confirmation of a Supreme Court justice; and this vote has special significance because it is for Chief Justice and the nominee is only 50 years old with the obvious potential to serve for decades.

Judge Roberts comes to the committee with impeccable credentials. He was graduated summa cum laude from Harvard College in only 3 years, and magna cum laude from the Harvard Law School. Following his graduation from law school, Roberts obtained prestigious clerkships with Judge Henry Friendly of the U.S. Court of Appeals for the Second Circuit and then Associate Justice William H. Rehnquist.

Judge Roberts subsequently embarked on a distinguished career in public service, serving as an Associate White House Counsel in the Reagan administration and Principal Deputy Solicitor General in the George H.W. Bush administration. While in the Solicitor General's Office and then in private practice with the firm of Hogan & Hartson, Judge Roberts argued 39 cases before the U.S. Supreme Court, earning a reputation as one of the finest appellate advocates in the Nation.

When Judge Roberts was appointed to his current position on the U.S. Court of Appeals for the D.C. Circuit, he earned the highest rating from the American Bar Association and enjoyed broad bipartisan support in being confirmed by unanimous consent.

A threshold question, beyond his academic and professional qualifications is how a man at 50 from outside the Court can effectively function as Chief Justice. His previous clerkship on the Court and the 39 cases he has argued there give him an intimacy with the Court that few outsiders enjoy. He knows the Court and the other Justices know him. Concerned about his relative youth, I questioned Judge Roberts about how he would feel becoming Chief Justice of a Court where one member was 35 years his senior, and the next youngest, still some 7 years older. Judge Roberts' answer impressed me. He said that, while in private practice, he approached his arguments before the Court as a ''dialogue of equals.'' When he viewed oral arguments in that light, considering himself to be their equal, he projected the kind of confidence that he would be comfortable and consider himself up to the job of Chief, who is the ''first among equals.''

I also questioned him about the role the Chief Justice should play in bringing about consensus on the Court. I have been troubled by the numerous 5 to 4 decisions and the proliferation of concurrences and plurality opinions that often leave lower courts, lawyers, and litigants wondering about what the Court actually held. I therefore asked:

''Judge Roberts, let me [ask about] the ability which you would have, if confirmed as Chief Justice, to try to bring a consensus to the Court. You commented yesterday about what Chief Justice Warren did on *Brown v. Board of Education*, taking a very disparate Court and pulling the Court together. As you and I discussed in my office, there are an overwhelming number of cases where there are multiple concurrences. A writes a concurring opinion in which B joins; then B writes a concurring opinion in which A joins and C joins. In reading the trilogy of cases on detainees from June of 2004 to figure out what we ought to do about Guantanamo, it was a patchwork of confusion. I was intrigued by the comment which you made in our meeting about a dialogue among equals, and you characterized that as a dialogue among equals when you appear before the Court, and they are on a little different level over there. Tell us what you think you can do on this dialogue among equals to try to bring some consensus to the Court to try to avoid this proliferation of opinions and avoid all these 5–4 decisions. . . .''

Judge Roberts responded:

''I . . . think . . . it's a responsibility of all of the Justices, not just the Chief Justice, to try to work toward an opinion of the Court. The Supreme Court speaks only as a Court. Individually, the Justices have no authority. And I do think it should be a priority to have an opinion of the Court. You don't obviously compromise strongly-held views, but you do have to be open to the considered views of your colleagues, particularly when it gets to a concurring opinion. I do think you do need to ask yourself, what benefit is this serving? Why is it necessary for me to state this separate reason? Can I go take another look at what the four of them think or the three of them think to see if I can subscribe to that or get them to modify it in a way that would allow me to subscribe to that, because an important function of the Supreme Court is to provide guidance. . . . I do think the Chief Justice has a particular obligation to try to achieve consensus consistent with everyone's individual oath to uphold the Constitution, and that would certainly be a priority for me if I were confirmed.''

SPECTER QUESTIONING, SEPT. 14, 2005

Given the unusual combination of his qualifications and experience, including extensive personal contact with the other justices, he has the unique potential to bring consensus to the Court and to reduce the numerous repetitious and confusing opinions.

The Judiciary Committee conducted a thorough and fair confirmation hearing for Judge Roberts. He answered questions before the committee for nearly 17 hours. Committee members, both Democrats and Republicans, stated the hearings were conducted in a fair manner with ample time for questions. Although historically the majority party reserves more witnesses for itself than it grants to the minority party, I made the decision to break with precedent and divide the number of witnesses evenly between the parties—1 neutral witness from the ABA, 15 witnesses chosen by the majority, and 15 witnesses chosen by the minority. This testimony, combined with Judge Roberts's extensive record—76,000 pages of documents from his service in the Reagan and Bush administrations, 327 cases decided by Judge Roberts while on the D.C. Circuit, thousands of pages of legal briefs from Judge Roberts's service in the Solicitor General's Office and in private practice, and dozens of articles and interviews by Judge Roberts—provided the committee and now the full Senate ample basis to evaluate Judge Roberts's qualifications to serve as Chief Justice of the United States.

During his hearing, Judge Roberts addressed a wide variety of subjects. On the key issue of whether the Constitution is a static document or one which has the flexibility to adapt to changing times, he said ''they (the framers) were crafting a document that they intended to apply in a meaningful way down the ages.'' While he would not accept Justice Harlan's language of a ''living thing,'' he testified that the language of ''liberty'' and ''due process'' have broad meaning as applied to evolving societal conditions.

At the same time, however, he did not answer all the questions I would have liked him to respond to. I questioned Judge Roberts closely about his views with respect to congressional authority to remedy discrimination under the 14th amendment. I asked him how the Supreme Court could possibly have struck down the private remedy the Congress created in the Violence Against Women Act in view of the extensive congressional record, which—

''showed that there were reporters on gender bias from the task force in 21 States and eight separate reports issued by Congress and its committees over a long course of time . . . there was a mountain of evidence.''

SPECTER QUESTIONING, WEDNESDAY, SEPTEMBER 14, 2005

In light of that record, I asked:

''What more does the Congress have to do to establish a record that will be respected by the Court? . . . Isn't that record palpably sufficient to sustain the constitutionality of the Act?''

SPECTER QUESTIONING, WEDNESDAY, SEPTEMBER 14, 2005

Judge Roberts, however, declined to comment, explaining that ''. . . I don't want to comment on the correctness or incorrectness of a particular decision.''

SPECTER QUESTIONING, WEDNESDAY, SEPTEMBER 14, 2005

Although I pushed him to answer my question, observing that the case was long over, and the specific facts unlikely to come before the Court again, Judge Roberts declined to answer because of his view that:

''the particular question you ask about the adequacy of findings . . . is likely to come before the Court again. And expressing an opinion on whether the Morrison case was correct or incorrect would be prejudging those cases that are likely to come before the Court again.''

SPECTER QUESTIONING, WEDNESDAY, SEPTEMBER 14, 2005

In fact, the most Judge Roberts would say is that:

''the appropriate role of a judge is a limited role and that you do not make the law, and that it seems to me that one of the warning flags that should suggest to you as a judge that you may be beginning to transgress into the area of making a law is when you are in a position of re-evaluating legislative findings, because that doesn't look like a judicial function. It's not an application of analysis under the Constitution. It's just another look at findings.''

SPECTER QUESTIONING, WEDNESDAY, SEPTEMBER 14, 2005

On the very important question of conflict between the Congress and the Supreme Court, I was dissatisfied with his responses on the Court's derogation of Congress' ''method of reasoning'' and the Court's recent improvisation of the meaningless ''congruence and proportionality'' standard. In discussing the Americans with Disabilities

Act, I pointed out to him the problem of the Court issuing 5 to 4 decisions in two cases with identical records going entirely opposite ways within 3 years. With respect to the *Garrett* case, where Ms. Garrett, who had breast cancer, sought relief under the ADA for employment discrimination, I explained:

''The Court in 2001 said that the title of the Disabilities Act was unconstitutional, 5–4, on employment discrimination. Then 3 years later, you have the case coming up of Lane, the paraplegic crawling up the steps, accommodations, 5–4, and the Act is upheld.''

Yet, ''the record in the case was very extensive—13 congressional hearings, a task force that held hearings in every State, attended by more than 30,000 people, including thousands who had experienced discrimination.''

Despite these extensive factual findings, however, the Court employed the ''congruence and proportionality'' test, a test Justice Scalia criticized as ''flabby,'' to strike down a portion of the act.

I asked Judge Roberts:

''Isn't this congruence and proportionality test, which comes out of thin air, a classic example of judicial activism . . .?''

Judge Roberts acknowledged the applicable precedents, but when asked whether he agreed with Justice Scalia's sentiments, stated:

''I don't think it's appropriate in an area—and there are cases coming up, as you know, Mr. Chairman. There's a case on the docket right now that considers the congruence and proportionality test.''

He declined to answer the question. He did, however, state that:

''If I am confirmed and I do have to sit on that case, I would approach that with an open mind and consider the arguments. I can't give you a commitment here today about how I will approach an issue that is going to be on the docket within a matter of months.''

SPECTER QUESTIONING, WEDNESDAY, SEPT. 14, 2005

Although I was disappointed that Judge Roberts did not answer some of my questions, still, I believe that he went somewhat beyond the usual practice of answering just as many questions as he had to in order to be confirmed. Many nominees decline to answer if the issue could theoretically or conceivably come before the Court.

Judge Roberts, however, went further, testifying:

''And the great danger of courts that I believe every one of the Justices has been vigilant to safeguard against is turning this into a bargaining process. It is not a process under which Senators get to say I want you to rule this way, this way, and this way. And if you tell me you'll rule this way, this way, and this way, I'll vote for you. That is not a bargaining process. Judges are not politicians. They cannot promise to do certain things in exchange for votes. . . . Other nominees have not been willing to tell you whether they thought *Marbury* v. *Madison* was correctly decided. They took a very strict approach. I have taken what I think is a more pragmatic approach and said if I don't think that's likely to come before the Court, I will comment on it . . . it is difficult to draw the line sometimes. But I wanted to be able to share as much as I can with the Committee in response to the concerns you and others have expressed, and so I have adopted that approach.''

SCHUMER QUESTIONING, WEDNESDAY, SEPTEMBER 14, 2005

Judge Roberts explained:

''If I think an issue is not likely to come before the Court, I have told the Committee what my views on that case were, what my views on that case are.''

KYL QUESTIONING, SEPTEMBER 14, 2005

Of course, as with all nominees, there are circumstances in which it would be inappropriate for Judge Roberts to take a position. Since I believe it is inappropriate, for example, to ask about an issue realistically likely to come before the Court, I did not ask whether he would sustain or overrule *Roe* v. *Wade*. Instead, I asked about his views on stare decisis, or precedents, and what factors—how long ago decided, stability, reliance, legitimacy of the Court—he might rely on to decide whether he would vote to depart from a precedent.

In addressing his respect for stare decisis, Judge Roberts explained:

''I would point out that the principle goes back even farther than Cardozo and Frankfurter. Hamilton, in *Federalist No. 78*, said that, 'To avoid an arbitrary discretion in the judges, they need to be bound down by rules and precedents.' So even that far back, the Founders appreciated the role of precedent in promoting evenhandedness, predictability, stability, the appearance of integrity in the judicial process.

SPECTER QUESTIONING, SEPT. 13, 2005

When I inquired about his application of these principles to *Roe*, he noted that, ''it's settled precedent of the court, entitled to respect under principles of stare decisis.'' When I pressed Roberts to explain what he meant by that in the context of *Planned Parenthood of Southeastern Pennsylvania* v. *Casey*, where the Court said: ''that to overrule *Roe* would be a 'surrender to political pressure,' and 'would subvert the Court's legitimacy,'" he explained that ''as of 1992, you had a reaffirmation of the central holding in *Roe*. That decision, that application of the principles of stare decisis, of course, itself a precedent that would be entitled to respect under those principles.''

I called Judge Roberts' attention to the fact that *Casey* had been labeled a super-precedent because different judges had reaffirmed *Roe* after almost two decades. I then suggested that, since the Supreme Court did not overrule *Roe* when it had the opportunity to do so in 38 subsequent cases, it was entitled to classification as a ''super-duper precedent.'' Again, he was noncommittal.

Judge Roberts consistently reiterated his commitment to modesty in the law and the importance of stare decisis by explaining:

''I do think that it is a jolt to the legal system when you overrule a precedent. Precedent plays an important role in promoting stability and evenhandedness. It is not enough—and the Court has emphasized this on several occasions—it is not enough that you may think the prior decision was wrongly decided.''

SPECTER QUESTIONING, WEDNESDAY, SEPTEMBER 14, 2005

Notwithstanding his answers and my efforts to glean some hint or realistic expectation from his words and body language, candidly it is not possible to predict or have a solid expectation of what Judge Roberts would do. If there is a rule on expectations, it is probably one of surprise. Professor Charles Fried, a professor of constitutional law at Harvard Law School who thought *Roe* was wrongly decided, testified that he did not think Judge Roberts would or should vote to overrule *Roe*.

The Washington Post editorial of September 15 had some comfort from Judge Roberts' testimony:

''While he declined to address the merits of *Roe* v. *Wade*, he did indicate that it is a decision to which *stare decicis* consideration properly apply. Importantly, he said several times that the subsequent decisions in *Planned Parenthood* v. *Casey* which reaffirmed *Roe's* core principle—was independently entitled to be treated as a precedent. That implies that there would be a heavy burden for the court in upsetting abortion rights now.''

Nevertheless, Judge Roberts did engage the committee on several important related issues. With respect to the right of privacy, for example, I asked him directly:

''Do you believe that the right to privacy—do you believe today that the right to privacy does exist in the Constitution?''

Roberts was forthright in his response, declaring:

''Senator, I do. The right to privacy is protected under the Constitution in various ways . . . the Court has, with a series of decisions going back 80 years that personal privacy is a component of the liberty protected by the Due Process Clause.''

RESPONSE TO SPECTER QUESTIONING, SEPTEMBER 13, 2005

Similarly, in response to Senator Biden, who asked the pointed question: ''Do you agree that there is a right of privacy to be found in the Liberty Clause of the 14th Amendment?'' Roberts responded:

''I do, Senator. . . . Liberty is not limited to freedom from physical restraint. It does cover areas . . . such as privacy, and it's not protected only in procedural terms but it is protected substantively as well.''

BIDEN QUESTIONING, SEPTEMBER 13, 2005.

In fact, Judge Roberts was unequivocal in his support for a right of privacy, asserting that:

''I believe that the liberty protected by the Due Process Clause is not limited to freedom from physical restraint, that it includes certain other protections, including the right to privacy.''

BIDEN QUESTIONING, SEPTEMBER 14, 2005.

But Judge Roberts did not limit himself to finding simply a general right to privacy. He also testified as to his commitment to *Griswold* v. *Connecticut*. Senator KOHL, in particular, asked:

''Judge, the *Griswold* v. *Connecticut* case guarantees that there is a fundamental right to privacy in the Constitution as it applies to contraception. Do you agree with that decision and that there is a fundamental right to privacy as it relates to contraception? In your opinion, is that settled law?''

Judge Roberts explicitly stated:

''I agree with the *Griswold* Court's conclusion that marital privacy extends to contraception and [the] availability of that.''

KOHL QUESTIONING, SEPTEMBER 13, 2005.

He did not limit his understanding of the privacy right merely to *Griswold*, however. Senator FEINSTEIN asked:

''Do you think that right of privacy that you are talking about [in *Griswold*] extends to single people as well as married people?''

In response, Judge Roberts stated his agreement with the *Eisenstadt* case, which provided protection to unmarried couples as well as those who are married.

FEINSTEIN QUESTIONING, SEPTEMBER 14, 2005

Roberts explained further his support for the Voting Rights Act, observing that the right to vote is a ''fundamental constitutional right,'' in his words:

''preservative . . . of all the other rights. Without access to the ballot box, people are not in the position to protect any other rights that are important to them. And so I think it's one of, as you said, the most precious rights we have as Americans.''

KENNEDY QUESTIONING, SEPTEMBER 13, 2005

He acknowledged that the Voting Rights Act had advanced the rights of minorities. He explained that:

''I think the gains under the Voting Rights Act have been very beneficial in promoting

the right to vote, which is preservative of all other rights.''

FEINGOLD QUESTIONING, SEPT. 13, 2005.

He also underscored his belief in the constitutionality of the Voting Rights Act, explaining in response to Senator KENNEDY that ''the existing Voting Rights Act, the constitutionality has been upheld . . . and I don't have any issue with that.''

KENNEDY QUESTIONING, SEPTEMBER 13, 2005

Moreover, when Senator Leahy asked Judge Roberts whether he believed that individuals should be allowed to sue State governments to remedy illegal conduct, Judge Roberts confirmed that he would not take a narrow or crabbed view of individuals' rights.

Judge Roberts explained that the best place to look for his views was not the briefs he filed on behalf of clients, but his decisions as a judge:

''I did have occasion as a judge to address a Spending Clause case. It was a case called *Barber* v. *Washington Metropolitan Area*. . . . . I ruled that the individual did have the right to sue.''

LEAHY QUESTIONING, SEPTEMBER 15, 2005

Those individuals, it should be noted, sued Washington, DC for discriminating against them based on their disabilities, and Judge Roberts affirmed their right to sue in the face of a dissent by a conservative panel member.

Moreover, demonstrating a sensitivity to the ''real world'' problems of race, Judge Roberts expressed his agreement with the approach taken by Justice O'Connor's opinion for the Court in upholding an affirmative action program employed by a university in its admissions policy, explaining that he agreed that it is vital ''to look at the real-world impact in this area [the area of affirmative action in university admissions], and I think in other areas, as well.''

KENNEDY QUESTIONING, SEPTEMBER 14, 2005

Judge Roberts further reaffirmed his support for minority outreach programs that are designed to guarantee equal opportunity for all:

''A measured effort that can withstand strict scrutiny is, I think, affirmative action of that sort, I think, is a very positi[ve] approach. . . . efforts to ensure the full participation in all aspects of our society by people without regard to their race, ethnicity, gender, religious beliefs—all of those are efforts that I think are appropriate. . . . beneficial affirmative action to bring minorities, women into all aspects of society. That's important, and as the Court has explained, we all benefit from that.''

FEINSTEIN QUESTIONING, SEPTEMBER 14, 2005

Judge Roberts also cast aside any question about his commitment to civil rights for all Americans. In commenting on Congress's authority under the 14th amendment to remedy discrimination, Judge Roberts expressly stated that he believes Congress has the power to guarantee civil rights for all. In response to Senator Kennedy's question: So do you agree with the Court's conclusion that the segregation of children in public school solely on the basis of race is unconstitutional?'' Roberts responded: ''I do.''

KENNEDY QUESTIONING, SEPTEMBER 13, 2005

And, when asked by Kennedy: ''Do you believe that the Court had the power to address segregation of public schools on the basis of the Equal Protection Clause of the Constitution?'' Roberts again responded, ''Yes. . . .''

KENNEDY QUESTIONING, SEPTEMBER 13, 2005

Judge Roberts, in his pro bono work, further demonstrated his evenhandedness. I questioned him about his participation in *Romer* v. *Evans*, which involved alleged discrimination on the basis of sexual orientation:

''Where you gave some advice on the arguments to those who were upholding gay rights, and a quotation by Walter Smith, who was the lawyer at Hogan & Hartson in charge of pro bono work. He had this to say about your participation in that case supporting or trying to help the gay community in a case in the Supreme Court. Mr. Smith said, 'Every good lawyer knows that if there is something in his client's cause that so personally offends you, morally, religiously, or if it so offends you that you think it would undermine your ability to do your duty as a lawyer, then you shouldn't take it on, and John'—referring to you—'wouldn't have. So at a minimum he had no concerns that would rise to that level.' Does that accurately express your own sentiments in taking on the aid to the gay community in that case?''

Judge Roberts responded that:

''I was asked frequently by other partners to help out particularly in my area of expertise, often involved moot courting, and I never turned down a request. I think it's right that if it had been something morally objectionable, I suppose I would have, but it was my view that lawyers don't stand in the shoes of their clients, and that good lawyers can give advice and argue any side of a case. And as I said, I was asked frequently to participate in that type of assistance for other partners at the firm, and I never turned anyone down.''

SPECTER QUESTIONING, TUESDAY, SEPTEMBER 13

In addition, Judge Roberts provided a thorough discussion of a much debated issue of the day—judges' use of foreign law in interpreting the U.S. Constitution. Judge Roberts stated, ''a couple of things . . . cause concern on my part about the use of foreign law . . . as precedent on the meaning of American law.'' Judge Roberts explained:

''The first has to do with democratic theory. . . . If we're relying on a decision from a German judge about what our Constitution means, no President accountable to the people appointed that judge, and no Senate accountable to the people confirmed that judge, and yet he's playing a role in shaping a law that binds the people in this country. I think that's a concern that has to be addressed. The other part of it that would concern me is that relying on foreign precedent doesn't confine judges. It doesn't limit their discretion the way relying on domestic precedent does. . . . In foreign law you can find anything you want. If you don't find it in the decisions of France or Italy, it's in the decisions of Somalia or Japan or Indonesia or wherever. As somebody said in another context, looking at foreign law for support is like looking out over a crowd and picking out your friends. You can find them, they're there. And that actually expands the discretion of the judge. It allows the judge to incorporate his or her own personal preferences, cloak them with the authority of precedent because they're finding precedent in foreign law, and use that to determine the meaning of the Constitution. I think that's a misuse of precedent, not a correct use of precedent.''

KYL QUESTIONING, SEPT. 13, 2005

Most importantly, Judge Roberts's answers demonstrated that he would take a fair, non-ideological approach to the law. As Judge Roberts explained:

''The ideal in the American justice system is epitomized by the fact that judges, Justices, do wear the black robes, and that is meant to symbolize the fact that they're not individuals promoting their own particular views, but they are supposed to be doing their best to interpret the law, to interpret the Constitution, according to the rule of law, not their own preferences, not their own personal beliefs.''

KOHL QUESTIONING, SEPTEMBER 13, 2005

I think it important that Judge Roberts condemned judicial activism of all stripes, from the left and the right. I found it telling that when asked for an example of ''immodesty'' in judging, Judge Roberts began with an example of conservative judicial activism:

''I would think the clearest juxtaposition would be the cases from the *Lochner* era. If you take *Lochner* on the one hand and, say, *West Coast Hotel*, which kind of overruled and buried the *Lochner* approach on the other, and the immodesty that I see in the *Lochner* opinion is in its re-weighing of the legislative determination. You read that opinion, it's about limits on how long bakers can work. And they're saying we don't think there's any problem with bakers working more than 13 hours. . . . Well, the legislature thought there was, and they passed a law about it, and the issue should not have been, Judges, do you think this was a good law or do you think bakers should work longer or not? It should be: Is there anything in the Constitution that prohibits the legislature from doing that?

SCHUMER QUESTIONING, SEPTEMBER 14, 2005

This is a view, I should note, echoed in the work of a young John Roberts of nearly 24 years ago. In November 1981, Judge Roberts wrote that judicial activism is ''a concern that does not depend upon political exigencies.'' The young John Roberts pointed to *Lochner* and explained, ''The evils of judicial activism remain the same regardless of the political ends the activism seeks to serve.'' [Document AG7–5508]

Unlike Justice Scalia, who declined even to opine on *Marbury* v. *Madison*, Judge Roberts not only reaffirmed his commitment to Marbury, but also indicated his support for the seminal Commerce Clause case of *Wickard* v. *Filburn*.

In response to questioning by Senator Schumer, Judge Roberts stated that *Wickard* ''was reaffirmed in the *Raich* case and that is a precedent of the court, just like *Wickard*, that I would apply like any other precedent. I have no agenda to overturn it. I have no agenda to revisit it. It's a precedent of the Court.''

SCHUMER QUESTIONING, SEPT. 13, 2005.

Nevertheless, I was not wholly persuaded by Judge Roberts' explanation in seeking to distance himself from memoranda which he had written as an Assistant to Attorney General William French Smith or as an Associate White House counsel in the Reagan Administration.

My overall impression of Judge Roberts is that he has grown considerably in the intervening twenty years. Phyllis Schlafly, President of the conservative Eagle Forum, characterized that potential growth from his youthful position that women should be homemakers instead of lawyers. Ms. Schlafly characterized that as a smart-alecky comment from a young bachelor who hadn't seen a whole lot of life at that point. The fact that Judge Roberts is now married to a successful lawyer, who is a homemaker as well, demonstrates a different current view.

In any event, I conclude that Judge Roberts is a very different man today than he was when he wrote the early memoranda and that a more appropriate way of evaluating him would be on the basis of his 45 opinions and 4 concurrences in two years on the Circuit Court, the extensive testimony he gave, and the insights of the many witnesses who have known him intimately over the intervening years.

The subtle minuet of the confirmation hearing for Judge Roberts turned bombastic

and confrontational at times, but he kept his cool and responded within reasonable parameters. The Judiciary Committee and the full Senate cannot be guarantors that Judge Roberts will fulfill ours or anyone's expectations. The Court's history is full of justices who have surprised or disappointed their appointers or inquisitors.

But the process has been full, fair and dignified. On some questions, Judge Roberts, as the song about the Kansas City burlesque queen in the stage play ''Oklahoma'' says: ''She (he) went about as far as she (he) could go'' without committing himself to votes on cases likely to come before the court. When all the facts are considered, my judgment is that Judge Roberts is qualified, has the potential to serve with distinction as Chief Justice and should be confirmed. I will vote ''yea.''

Mr. SPECTER. I thank the Chair, yield the floor, and, in the absence of any Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DEWINE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

The PRESIDING OFFICER. Under the previous order, the hour of 3 p.m. having arrived, the Senate will resume consideration of H.R. 2744, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 2744) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2006, and for other purposes.

Pending:

Bennett-Kohl amendment No. 1726, to amend the Rural Electrification Act of 1936.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, we are pleased to present to the Senate today the fiscal year 2006 appropriations bill for the Department of Agriculture, rural development, and related agencies. The bill is before the Senate and is open for amendment or discussion and debate. I am pleased to announce to the Senate that this reflects a lot of hard work through hearings, examining the President's budget request for these Departments for this next fiscal year.

The subcommittee was very capably managed by the distinguished Senator from Utah, Mr. BENNETT, who is chairman of this subcommittee. The bill is within the budget authority outlined by the budget resolution adopted by the Senate. Specifically, section 302(b) of the budget resolution allocates $17.348 billion to this subcommittee's authority for appropriations. It is within the outlay allocation of $18.816 billion.

Throughout the past 7 months, the committee has reviewed suggestions by Senators and others who are interested in the provisions of this bill. The bill, as reported by the subcommittee, was approved unanimously and submitted to the full committee. And after review by a bipartisan group of Senators in that subcommittee, all of the Senators in the full committee approved the allocation and the appropriation of funds as reported in this bill.

We hope if any Senators have any suggestions for amendments, they will bring them to the attention of the managers of the bill. We will be happy to discuss those and review them. We hope we can complete action on this bill at an early date. There are other bills that need to be considered by the Senate, so we hope we can take up these suggestions, and if there are amendments, we can vote on them expeditiously.

We appreciate Senator KOHL, who is the ranking minority member of this subcommittee, for his hard work and leadership in the development of this bill. Their staff has worked with the staff on the majority side in a cooperative way. This is a truly bipartisan effort. The Senate appreciates that fact. I congratulate all who have been actively involved in the development of the legislation.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I rise as a member of the Agriculture Appropriations Subcommittee to discuss the fiscal year 2006 Agriculture appropriations bill. I applaud the chairman, Senator COCHRAN of Mississippi, as well as Chairman BENNETT and Ranking Member KOHL for their diligence on this spending bill and for ensuring that we have arrived at as sound a financial package as was possible, given the pending budget resolution's mandate to cut funds from USDA. At a time of significant budgetary deficits and increasingly tight funding, I worked with my colleagues to maintain a secure package for our producers and rural communities, especially in light of a sorely inadequate proposed USDA budget from the administration.

Producers and ranchers in my State of South Dakota and across the Nation would simply prefer a fair price for what they produce at the day's end. USDA programs and Federal funding are crucial for producers, however, when markets are challenging and prices are depressed. The farm bill that was hammered out in 2002 is a contract with rural America, with South Dakota, to ensure adequate safety nets and increased opportunities for rural communities. Numerous Members of Congress, as well as agricultural organizations concerned with the President's proposed budget, have pointed out that the farm bill has already come in at $14 billion under its original projected costs.

At a time when producers need the contract negotiated by Congress and signed into law by this President, the administration proposed limiting the benefits promised to producers. We cannot balance the national deficit on the backs of our Nation's producers. I voted to restore the cuts that were made to the agricultural spending package, and I am concerned for the adjustments that will be made to the agricultural spending bill in light of the budget reconciliation instructions advocated by this administration. I am concerned for the impact these cuts will have on our rural communities and our producers.

There are several initiatives, however, that I am pleased to see in this spending measure. I would like to touch on a few of those priorities. As a member of the Agriculture Appropriations Subcommittee, there are a few South-Dakota-specific items that I am pleased are included in this measure. A few of them include funding for a collaborative four-State effort led by South Dakota State University. These funds will increase opportunities for South Dakota sheep and cattle producers, building a better climate for livestock feeding in our State. There is funding to work at South Dakota State University to integrate pulse crops in crop rotations for South Dakota farmers. By integrating pulse crops into rotations, farmers can increase profits and improve soil quality.

There is some funding for the Seed Technology Center at South Dakota State University. Funds will be used to conduct seed technology and biotechnology research to benefit agricultural producers and consumers, enhancing profitability for producers and resulting in better food production.

Lastly, there is funding for the South Dakota Game, Fish, and Parks Department to continue animal damage control work. The funds allow the South Dakota Game, Fish, and Parks Department to continue to meet the growing demands of controlling predatory nuisance and diseased animals. SDSU, a land grant university in Brookings, is significantly impacted by Hatch, McIntire-Stennis, and animal health Federal formula funds. SDSU is an institution that makes enormous contributions to our agricultural industry through the research initiatives that it spearheads.

The President's proposed cuts on their research centers would have greatly impacted this land grant institution's ability to function in an effective manner. The President's proposed budget would have cut 45 faculty and staff at South Dakota State University, with a 25- to 50-percent reduction in graduate students. These cuts would have resulted in closure of at least one

SDSU research farm and at least one SDSU public service laboratory. I worked with my colleagues and with the chairman to ensure that formula funds were, in fact, reinstated at sufficient levels in this bill.

I continue to hear from constituents about the viability of the Resource, Conservation, and Development Program, which was funded at only $25 million in the President's proposed fiscal year 2006 budget. The funding level is a substantial reduction from fiscal year 2005 funding at $51 million which was reinstated in the fiscal year 2006 spending package. Rural development initiatives are crucial for creating additional opportunities. The Resource, Conservation, and Development Program contributes tremendously to the economic growth in rural communities, and limiting spending for this program limits economic opportunities.

With respect to the animal identification program, $33 million was devoted to this system last year via the omnibus spending bill, and funds were again requested by the Bush administration. Given the size and scale of this program, the projected costs, it is essential to ensure that the Department of Agriculture includes stakeholders, recognizing the concerns that producers have voiced for the implementation of this system. The USDA needs to ensure adequate communication with Congress in consideration of producers and ranchers. I continue to hear, as well, from producers and ranchers who are increasingly concerned with the Department's initiative to consolidate Farm Service Agency service centers. Our 59 offices in South Dakota are essential for providing face-to-face contact with producers. Not every producer owns a computer. Expecting our farmers and ranchers to drive further distances, especially considering the significant cost of fuel, is not reasonable.

Implementation of our farm bill programs depends on the ability of our FSA offices to communicate with ranchers and farmers. The administration is doing a severe disservice to our agricultural communities with such a drastic course of action.

Lastly, one of the key components I would like to address is the mandatory Country-of-Origin Labeling Program signed into law by President Bush in this most recent farm bill. I was the primary author of the mandatory country-of-origin labeling law that was included in the 2002 farm bill. While I was disappointed to see the House include a 1-year delay for meat and meat products for the Country-of-Origin Labeling Program in the fiscal year 2006 Agriculture appropriations bill, the Senate bill that was reported favorably out of committee contains no such delay. This bill, in fact, contains roughly $3 million for program implementation, which is a modest amount compared to the necessary funding for other initiatives. Mandatory country-of-origin labeling is a program appreciated by both consumers and producers. It is not rocket science and, in fact, would be inexpensive to implement. A recent poll by Public Citizen reflects, as well, that 85 percent of consumers want to know where their food comes from. An additional 74 percent of consumers want this labeling program mandated. I continue to hear from producers and ranchers in support of this program, and any type of further delay would be a severe disservice for this right-to-know initiative for our consumers and a marketing tool for producers, as well as a great boost for our export markets.

Again, I thank Chairman BENNETT and Ranking Member KOHL for their leadership on this agricultural spending package.

I thank Chairman COCHRAN, as well, for his leadership during a time of obviously tight budget constraints.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I appreciate very much the kind remarks of the distinguished Senator from South Dakota and for his influence in the process of developing the appropriate levels of funding in this bill. We have tried very hard not only to stay within the budget allocation but to try to identify priorities so that we put money where the problems are and we deal with the realities of living on a farm, trying to make a living, trying to meet the needs of communities around the country for rural development projects. There is a wide range of jurisdiction that comes under the authority of this subcommittee for rural development, such as housing for low-income people who would otherwise not be able to have housing. Also, we have important components in the bill relating to food safety. We are confronted with threats to our country from terrorist groups, so this makes us worry about bioterrorism and being able to develop an infrastructure to protect ourselves against any efforts to contaminate our food supply or to wreak havoc in our communities with other terrorist activities that relate to our food supply and its sources. For that purpose, we have invested in research and other initiatives that will help us more successfully deal with these challenges to help assure the American public that our food supply is safe, wholesome, and nutritious.

In that connection, too, we realize this subcommittee has the responsibility of funding the school feeding programs so that school lunch programs, school breakfast programs, and others maintain healthy diets for children in school throughout our country to bring to them nutritious and safe foods.

We just reauthorized in the legislative Committee on Agriculture last year a new law that authorizes the funding of these programs. We have new initiatives, such as fruit and vegetable programs that help assure that schools are able to access and provide a wide variety of healthy foods for children in the public school systems of our country.

These are very important steps, building upon a legacy by previous committees that have worked on these challenges and expanding the benefits so that more and more students are reached by these programs.

We try to make sure the costs of these programs are controlled so that people are not priced out of the system. We want to make sure that in our public schools, there are free and reduced-price lunches available in our schools for those who cannot afford the full cost of these meals.

I also want to point out that access to communications systems, to rural water and sewer systems, to modern electricity facilities that are available in rural areas—where providing such services is much more expensive per consumer than it is in urban areas—is made available through Federal programs that help assure access of farm families and others who live in rural areas of our country to these important quality-of-life situations.

We have made a tremendous contribution throughout rural America in promoting economic development using business and industrial loans, trying to attract good-paying jobs to small towns and rural communities. Those programs are funded in this bill, too.

I might say for the purpose of showing the commitment, in many of these areas we have increased the funding over previous year levels of funding.

The Food and Drug Administration is an independent agency that is funded in this bill as well. Such initiatives as medical device review to assure safety for the consumers, drug safety, and the pharmaceutical products that are supplied throughout our country have to meet standards imposed by the Food and Drug Administration.

This year, we are providing an additional $5 million to the Food and Drug Administration for the purpose of helping ensure drug safety. The medical device review account is increased by $7.8 million over last year's level. I have mentioned our efforts in counterterrorism and food safety. That is also within the purview of the Food and Drug Administration, and the funding there is $16.6 million above last year's level. To help meet those challenges, we have had to make adjustments elsewhere in the bill to keep it within the allocation permitted by the Budget Committee.

There is not a specific account in here directed to hurricane victims. The recent hurricane that struck the Gulf Coast States has caused a tremendous amount of damage throughout the Gulf of Mexico States—Louisiana, Mississippi, and Alabama. I think there are more counties in my State of Mississippi affected by that disaster than any other State. The geographical area was so large, it is just horrible to contemplate the total amount of physical

destruction of trees, of growing crops, of poultry facilities. Our agricultural and rural community has been hit hard by the effects of this hurricane. When you get closer to the gulf coast, of course, you see total destruction along the coastal areas.

The other day when the majority leader led a delegation of 14 Senators to Louisiana, New Orleans, across the Mississippi gulf coast and into Alabama, ending our tour in Mobile, it brought home to all of us that the entire gulf coast area has been devastated. Businesses are gone. Houses are gone. Churches are gone. Schools have disappeared. It is breathtaking and horrible to observe.

The point I am making is that while this bill is not a disaster assistance bill per se, there are many provisions in this bill that will help these communities rebuild and recover and will help the people of those areas until they can get their feet back on the ground and back at work and in suitable housing.

I mentioned the farmer's loan programs that exist. There are also funds in this bill for food stamps, for the Women, Infants and Children feeding program. This is for mothers, to help them care for their children, help to get them off to a healthy start in life. Food safety concerns we have mentioned. Conservation recovery, rural housing programs are all very important components to the recovery effort from Hurricane Katrina. The Department of Agriculture has stepped forward and is making good progress in identifying areas that need special help.

Before long, the Senate will take up another supplemental appropriations bill targeted directly to disaster victims. We are in preliminary discussions already with the administration on when that money will be needed, when will it be considered by the Senate, when will the request be submitted. These are issues we are working hard to resolve to be sure that Federal agencies that have the responsibility of responding to this disaster have the funds they need to do it and do it right and to do it quickly.

We have had a number of requests from Senators to consider changes in this bill and for opportunities to speak on the bill. We are here and we will be here the remainder of this day available to discuss issues that may be brought to the attention of the Senate. We appreciate the support of all Senators.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COCHRAN. 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. COCHRAN. Mr. President, when I was talking about the strong support we received in this subcommittee from staff, I wanted to specifically mention those staff members who have been actively involved in the development of this legislation, helping organize the hearings that were held, to review requests, to assess the needs:

John Ziolkowski, who is the clerk of this subcommittee, formerly was staff director of the Senate Agriculture Committee when I was pleased to serve as chairman. He has been very instrumental in managing the work effort of this subcommittee.

Hunter Moorhead, who has had much experience in agricultural issues and is a veteran of this subcommittee staff as well and was very active in his work is deeply appreciated. He, incidentally, is from the State of Mississippi, so we don't have to have a translator or anybody doing simultaneous translation for anyone to understand us.

Fitz Elder, Dianne Preece, as well as Stacy McBride, an FDA fellow who has joined this staff team and has been helpful in developing our section in particular dealing with the Food and Drug Administration, all have been very helpful, and we appreciate their good work.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

AMENDMENT NO. 1735

Mr. COCHRAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN] proposes an amendment numbered 1735.

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

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

The amendment is as follows:

At the appropriate place in the bill insert the following:

SEC. . Notwithstanding any other provision of law, the Secretary of Agriculture may consider the Municipality of Carolina, Puerto Rico as meeting the eligibility requirements for loans and grants programs in the Rural Development mission area.

Mr. COCHRAN. Mr. President, this is a provision to be added to the bill that deals with eligibility for USDA rural development programs.

This is a provision which enables the municipality of Carolina, Puerto Rico to be eligible for USDA rural development programs. Eligibility for these programs is based on certain statistics such as population and income but on occasion some communities are declared not eligible because they are too close to an urban area or there is a small pocket of higher income population in the locality.

There is no cost to this amendment. It merely makes the community eligible. They still must apply through USDA and they are subject to the availability of existing funds.

The Agriculture Committee has no objection and it has been cleared on the Democratic side.

Mr. President, the amendment has been cleared on both sides of the aisle and we know of no objection to the amendment from any Senator.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1735) was agreed to.

Mr. GREGG. Mr. President, the pending Department of Agriculture and Related Agencies Appropriations Bill for FY 2006, H.R. 2744, as reported by the Senate Committee on Appropriations provides $86.883 billion in budget authority and $69.248 billion in outlays in FY 2006. Of these totals, $69.535 billion in budget authority and $50.456 billion in outlays are for mandatory programs in FY 2006.

The bill provides total discretionary budget authority in FY 2006 of $17.348 billion. This amount is $430 million more than the President's request, equal to the 302(b) allocations adopted by the Senate, $518 million more than the House-passed bill, and $905 million less than FY 2005 enacted levels.

I commend the distinguished Chairman of the Appropriations Committee for bringing this legislation before the Senate, and I ask unanimous consent that a table displaying the Budget Committee scoring of the bill be printed in the RECORD.

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

H.R. 2744, 2006 AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS—SPENDING COMPARISONS—SENATE-REPORTED BILL

[Fiscal Year 2006, $ millions]

	General Purpose	Mandatory	Total
Senate-reported bill:			
Budget authority	17,348	69,535	86,883
Outlays	18,792	50,456	69,248
Senate 302(b) allocation:			
Budget authority	17,348	69,535	86,883
Outlays	18,816	50,456	69,272
2005 Enacted:			
Budget authority	18,253	71,954	90,207
Outlays	18,649	49,563	68,212
President's request:			
Budget authority	16,918	69,535	86,453
Outlays	18,652	50,456	69,108
House-passed bill:			
Budget authority	16,830	69,535	86,365
Outlays	18,519	50,456	68,975
SENATE-REPORTED BILL COMPARED TO:			
Senate 302(b) allocation:			
Budget authority	0	0	0
Outlays	−24	0	−24
2005 Enacted:			
Budget authority	−905	−2,419	−3,324
Outlays	143	893	1,036
President's request:			
Budget authority	430	0	430
Outlays	140	0	140
House-passed bill:			
Budget authority	518	0	518
Outlays	273	0	273

Note: Details may not add to totals due to the rounding. Totals adjusted for consistency with scorekeeping conventions.

MORNING BUSINESS

Mr. COCHRAN. Mr. President, I ask unanimous consent that there be a period for morning business within which Senators may be permitted to speak for up to 10 minutes each.

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

The Senator from Ohio is recognized.

Mr. DEWINE. Mr. President, I ask unanimous consent to speak for 30 minutes.

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

The Senator is recognized.

HONORING OUR ARMED FORCES

ARMY CAPTAIN DENNIS L. PINTOR

Mr. DEWINE. Mr. President, on October 11, 2004, the Lima, OH, newspaper received an e-mail that said the following:

> Greetings, My name is Captain Dennis Pintor . . . I was born and raised in Lima and lived there until I enlisted in the Army in 1992. I am currently requesting the help of the citizens of Lima to assist in our efforts here in Baghdad. School here has just begun session and many of the students need supplies . . . I tell you it makes a difference in the kids and my soldiers. I appreciate any assistance . . . the people of Lima can offer. Respectfully—Captain Dennis Pintor.

Tragically, that same newspaper reported the captain's death just a few days later. He was killed when an improvised explosive device detonated near his patrol vehicle in Baghdad.

At the news of his death, family friend Lillian Abelita remembered that Dennis was ''one of a kind'' and that he touched thousands of lives. She noted that Dennis's ''last wish was for the Iraqi children.'' ''It wasn't even for himself,'' she said. The focus of his life had always been giving all that he had for others.

Dennis Pintor was born and raised in Lima by loving parents, Bert and Ellen Pintor. He was the big brother whom siblings Bob, Sara, and Diana looked up to.

Dennis attended Elida High School, where he belonged to several teams and clubs. He played soccer and tennis, was on the yearbook staff, and started the Red Knees Club for his fellow basketball players who didn't get much playing time. John Hullinger, a teammate, remembered that ''Dennis was not one to complain about sitting on the bench. He made the most of it and had fun with it.''

Dennis made the most of everything, including his academic studies. Dennis wanted to learn. Alan Chum, a guidance counselor at Elida High School, had Dennis in several math classes. He recalled that Dennis was an ''inquisitive'' student who would ''bring an energy that kept the class going.''

Teachers wanted Dennis in their classrooms. Allen emphasized that ''[Dennis] had a knack for being able to answer questions and ask good, appropriate questions. He was just a good kid—great to have in class.''

Dennis excelled academically and earned an appointment to the U.S. Military Academy at West Point where he trained to be an engineer. He graduated in 1998 and then went on to complete Army Ranger School. Dennis quickly became a well-respected superior who was known for putting his men first.

Dennis served as a peacekeeper in Kosovo—an assignment that suited his desire to help those who needed it most. In 2002, Dennis was assigned as Company Commander of Bravo Company, 20th Engineer Battalion, based in Fort Hood, TX.

Dennis was Army through and through. One of Ellen Pintor's favorite memories of her son is when he would visit her classroom at North Middle School on Veterans Day. He would playfully give the kids orders and assign platoon leaders. Dennis would order the kids to stand in line and if they wouldn't do what he said quickly enough, he would command: ''Drop and give me five!'' Simultaneously, Dennis would drop to the floor and do push-ups with the kids.

While he was in the Army, Dennis was lucky enough to meet the love of his life—Stacy—and married her in 2000. The two were meant for each other. Stacy called her husband, ''a glimpse of heaven.'' She said that ''it was love that struck our souls. Individually we were strong, but together we were powerful.'' They were blessed with a baby girl, whom they named Rhea.

Being together with his wife and daughter was so very important to Dennis. However, he also felt a great sense of duty to his fellow soldiers and to his Nation. His unit was called for deployment to Iraq in March 2004. Although it was difficult to leave his family, Dennis had a job to do. While overseas, Dennis was in charge of rebuilding and securing the safety of several schools in Baghdad. Dennis realized that Iraqi children needed help—and they needed supplies. He enlisted the help of those in his hometown of Lima to give what they could. As he had so many times before, Dennis had the needs of others foremost in his mind.

CPT Jay Wisham, a member of Dennis's unit, noted that he was not surprised Dennis was trying to secure school supplies for the Iraqi children. He said this about Dennis:

> He was just a very good guy all the way around. He firmly believed in what we were doing over there. All he wanted to do was make things better for whomever's life he touched.

Indeed, Dennis touched many lives.

After his service, Dennis wanted to return to West Point as a professor. David Garrison said this about his nephew:

> [Dennis] refused to take the easy way through life. As an officer, he was determined to receive all the tough training. Unfortunately, America's future cadets will never have the opportunity to learn what this West Point hero might have taught.

Although Dennis will never teach those West Point cadets in the classroom, he will teach them through his legacy. He will teach them through the love he had for his family and through the lives of those Iraqi children, who now have the opportunity to go to school.

At the memorial service following Dennis's death, his uncle David explained that ''was loved so strongly by so many because he loved so selflessly.'' The Reverend Henry Sattler, who married Dennis and Stacy, noted that Dennis ''knew in the career he'd chosen that he may be asked to lay down his life for his friends . . . and he said yes.''

CPT Dennis Pintor was a selfless man. Thanks to his efforts, more than 30 boxes of school supplies were sent to Iraq.

Thanks to his efforts, hundreds of Iraqi children have a chance for a better life.

Thanks to his efforts, the Iraqi people have a chance for freedom.

My wife Fran and I keep Dennis's wife and daughter and his parents and siblings in our thoughts and in our prayers.

ARMY SERGEANT BENJAMIN BISKIE

Mr. President, today I remember and pay tribute to a young man from Vermillion, OH, who gave his life for our freedom and for the freedom of the people of Iraq.

Army Sgt Benjamin Biskie gave the ultimate sacrifice—his last true measure of devotion—on Christmas Eve, 2003. His vehicle struck an improvised explosive device near Samarra, Iraq. He was 27 years old.

Ben was born and raised in Arizona with his two sisters, Andrea and Darlene. He attended Tucson Junior Academy until he moved with his mother, Della, to Ohio in 1993. There, he graduated from Vermillion High School one year later. Following graduation, Ben enlisted in the Army, but not before he met his future wife, Marcie, that summer while working at Cedar Point amusement park. The two quickly fell in love and were married.

Although Ben was proud to serve in the U.S. Army, his crowning achievement was the birth of his son Benjamin, Jr. Ben's Army comrades remember how he constantly told stories about his son.

Ben trained at Fort Leonard Wood, MO, where he, Marcie, and Ben, Jr. made their home. Ben, Sr. would eventually serve one year in South Korea before he was sent to the Middle East.

Though Ben did not want to leave his young family, he did not hesitate when he and the rest of the 5th Engineer Battalion, 1st Engineer Brigade were called to serve in Iraq in April 2003. The men of the ''Fighting Fifth'' were attached to the 4th Infantry Division and were tasked with laying roads and bridges for the Division's advancement. Following the successful completion of that mission, Ben and the rest of the Battalion aided the reconstruction efforts in Iraq.

Ben believed in the work he was doing to rebuild the lives of Iraqi people. Like the dreams he had for his own son, Ben knew that his work would give hope for a promising future to so many Iraqi children—hope that had not previously existed.

As Fort Leonard Wood Chaplain Gregory Tyree said at the memorial service in Ben's honor:

> Maybe years from now . . . a person who today is but a child in Iraq will look back through the pages of his life and remember a soldier in a desert-colored uniform who cared enough to help rebuild his school and came with a box of school supplies. And maybe, just maybe, he will offer a word of thanks for Sergeant Ben Biskie and the gift of freedom he died to give him.

On an Internet website honoring our Nation's fallen service men and women, Ben Biskie's sister-in-law Ginger tried her best to express her feelings and her gratitude. She wrote the following:

> Ben—you are always on my mind. I've been thinking about you a lot lately and everything that I wish I could say to you. Most importantly of all is thank you. Thank you, Ben, for fighting for our freedom. Thank you, Ben, for making my sister so happy and for giving me the greatest nephew anyone could ask for. Thank you, Ben, for all of the lessons you have taught me, even if I didn't see the entirety of them until after you were taken from us. Thank you, Ben, for coming to visit me in my dreams on days when you know I need you the most. You are a true hero who will never be forgotten.

Indeed, we will always remember Benjamin Biskie. He was a devoted husband, a doting father, and a selfless soldier, who dedicated his life to helping people he did not know while protecting those he loved at home. On that Christmas Eve in 2003, our Nation lost a great man.

I would like to close with the words of Ben's wife, Marcie. Knowing how much her husband loved her and their son, she said the following:

> I don't know where our lives will take us now, but I know that wherever that may be, we'll have an angel following, keeping an eye out for his little boy. [Ben] was a true hero.

Sgt Benjamin Biskie will live on in the hearts and minds of all those who knew him. His family remains in our thoughts and prayers.

MARINE LANCE CORPORAL MICHAEL J. SMITH, JR.

Mr. President, I today pay tribute to a fellow Ohioan and true American hero. Marine LCpl Michael Smith, Jr., was killed on April 17, 2004, in Al Anbar Province, Iraq. Michael was coming to the aid of his Sergeant who had been shot. Michael was just 21 years-old.

In his brief 21 years on this earth, Michael Smith, Jr., touched countless lives. Described as outgoing and personable, Michael's grandmother Alice once said that her grandson could ''walk into a room and no one was a stranger to him.'' Everyone loved him.

Michael spent his youth crossing the Ohio River between Wellsburg, WV, where his father lived, and Wintersville, OH, where his mother resided. Known as the ''funny little redheaded kid,'' Michael and his cousin were partners in crime who loved to play pranks and revel in what many called their ''offbeat sense of humor.'' Though they loved to play tricks on people, cousin, Amy White, noted that Michael was a ''really sweet kid. He was the kind of kid who would do anything for you.''

Michael would carry this reputation throughout his life. He attended Brooke High School in Wellsburg, where he was a diligent student, gifted athlete, and an active participant in school clubs—including one tasked with discouraging fellow teens from using drugs and alcohol. On the high school football team, Michael earned the nickname ''All-Purpose Smitty'' because he could play any position. Michael was also a volunteer firefighter for the Bethany Pike Fire Department in West Virginia, which he formally joined when he was 18 years-old.

Ernestein Gorby, a guidance counselor at the high school, once remarked that ''[Michael] was a very pleasant young man—kind of what I would call the 'solid citizen,' the person who you'd want to be your next-door neighbor. He was reliable. He was serious about school.''

After high school, Michael wanted to take the next step and help his country. When he was 17, he urged his mother, Marianne, to support his decision to enlist in the U.S. Marine Corps. Though she was hesitant, Marianne knew that her son would follow his own path. And so, on February 9, 2001, Michael enlisted. Marianne instantly found it ironic that her freckled redheaded son was stationed at sunny Twentynine Palms, CA, with the rest of the 3rd Battalion, 7th Marine Regiment, 1st Marine Division.

Michael was first deployed to Kuwait and then Iraq in January 2003, and was part of the original advance on Baghdad. He then returned to the United States in September 2003, to do something he had been planning for almost a year—and that was to marry Alicia, his high school sweetheart.

Alicia and Michael had been friends since the fifth grade. That friendship eventually grew into a romance, and the two were married on October 11, 2003. Alicia described her husband as an incredible man and a wonderful father to her young daughter Elizabeth. ''He's always been my hero,'' she said, ''[and] an amazing husband, my best friend, and a remarkable daddy to Elizabeth.''

In February 2004, Michael was called back to Iraq. Shortly after being redeployed, Alicia called with the news that she was pregnant. Tragically, Michael never had the chance to meet his son, who was born on October 16, 2004, 6 months after Michael's death. One day before he died, Michael was able to talk to Alicia via satellite phone. Alicia said that ''he just called to tell me he loved me with all his heart and soul.''

Michael was loved by all those who met him. When he died, the entire community felt the loss. As he attempted to describe his son to reporters, Michael's dad, Michael Smith, Sr., noted that ''there's not enough tape in the cameras or time in the world [to do that].''

The service for LCpl Michael Smith was held at Grace Lutheran Church in Steubenville, OH—the same church where Michael was baptized, confirmed, and married. Church members remember Michael as a moral guide—''a man who inspired them with laughter, love, and quiet leadership.'' Pastor Bethel Bateson recalls that on Michael's last military leave, he walked through the church and thanked everyone for their prayers, their letters, and their packages.

Those whom Michael thanked that day came back to the church to say goodbye. At the service held in Michael's honor, Pastor Bateson commented that it was the most difficult service over which she had ever presided, ''because that beautiful redhaired boy playing under the pews grew up to be an incredible man.'' She went to say that ''even though he was only 21, a lot of us really looked up to him. . . . He was so strong—physically strong—but so tender. He had a tremendous capacity for love.''

I would like to close my remarks with the words of Marine Sgt Jason Long, who served as Michael's squadron leader. Following Michael's death, Sergeant Long wrote the following on an Internet tribute:

> My heart goes out to Michael's family. I send my deepest regrets. I could always count on [Michael] to get the job done if ever I wasn't around. He was a great man and Marine and an exceptional artist, as well. He showed great bravery in the face of the enemy. I only wish I was there with him to keep him out of danger. I could always count on him to give me a laugh when times were tough. We will meet again someday, my fellow Marine.

Mr. President, I know that Michael's fellow Marines and his family will forever cherish the memory of their comrade, son, brother, husband, and father. His tremendous capacity for love shaped their lives. We will never forget him.

LUKE PETRIK

Mr. President, I come to the Senate floor this afternoon to pay tribute to a remarkable young man who died in defense of freedom. Luke Adam Petrik of Conneaut, OH, was killed on April 21, 2005, when his helicopter was shot down a few miles north of Baghdad, Iraq. He was 24 years old.

Luke was one of those special and courageous individuals, who spent his life defending others. At the time of his death, he was working for a private security company to provide protection to American diplomats in Iraq. Previously, he had served as a decorated Army Ranger, with tours in both Iraq and Afghanistan. After his work in security, Luke had hopes of rejoining the military as a Navy SEAL. Luke knew the risks and accepted the challenges of this life.

Born on April 1, 1981, in Ohio, Luke knew from a young age that he wanted

to live a life of adventure. As a young boy, he joined the Boy Scouts. Luke's Scout leader, and the man who would later serve as his high school principal, John Posila, remembers Luke as ''an exceptional kid and very, very intelligent. From the time Luke was in Scouting, he had an interest in the military.''

In every aspect of his life, Luke sought out new experiences. His boyhood friend, Josh Brooks, said that ''you would get a million stories with Luke. Every time you hung out with him, there would be some kind of story.'' Along with memorable stories, spending time with Luke also meant that much laughter would ensue. Luke had a great sense of humor, according to everybody who knew him. Friends contend that there was no one who told worse jokes. He told jokes that were so bad, according to his friends, that you couldn't help but crack up. Although he was everything that you would expect from a future Army Ranger—tough, disciplined, smart, and courageous—he was also riotously funny.

Throughout his time at Conneaut High School, Luke knew that he wanted to serve in the military on the front lines. Upon graduation in 1999, he immediately enlisted in the Army and trained to join that elite fighting force, the Army Rangers. Given his discipline and desire, it is no surprise that he was successful. As a paratrooper in the 3rd Ranger Battalion, Luke joined in the hunt for Osama bin Laden in Afghanistan.

Luke's experience with the Rangers was a perfect opportunity for him to demonstrate his extraordinary bravery and toughness—toughness that was legendary among his family and friends. Luke's stepfather, Eldridge Smith, remembers a remarkable story. While parachuting for a mission, Luke broke two bones in his foot. He was slated to be airlifted to a medical hospital in Germany for treatment. However, just before the plane was scheduled to leave with him, he walked away and hitchhiked across three countries to rejoin his company. You see, Luke felt a profound sense of duty and—broken foot or not—he would never abandon his mission or his men.

Luke's experience in the military also revealed the way he lived his whole life, which was by a personal code of honor. Josh Brooks remembers his friend as a man of principle. On two separate occasions, Luke turned down—yes, turned down—a Purple Heart, saying he didn't deserve the award. Josh says that both that broken foot and Iraqi shrapnel he later took in his body would qualify him for the honor. But for Luke it was simple. Josh recalled, ''He didn't feel that he earned [the medals]. He did things his own way.'' Luke respected the medals and what they symbolized enough to refuse them.

After having served two tours of duty in both Iraq and Afghanistan, Luke left the military in late 2003. After a brief period doing security work at a Virginia nuclear powerplant, Luke accepted an offer in 2004 to work for Blackwater Security Consulting. Blackwater specializes in providing security and support to the military, Government agencies, law enforcement groups, and civilians operating in hostile regions. Luke wanted to get back to work in Iraq, and Blackwater would give him that opportunity.

While Luke was always full of stories, he was careful to focus on the good he was doing. He would rather talk about the good than the danger and destruction around him. His friend, Chuck Lawrence, had this to say about Luke's return to Iraq: ''I talked to him just about every day. He loved his job and had no regrets. He never regretted his decision to go over there [to Iraq]. He was doing what he loved.''

Luke's mother, Diana Spencer, agreed, saying that ''he enjoyed his work. He was very focused, very patriotic, and felt he was protecting his country.''

Luke's time at Blackwater whetted his appetite for more service in the military. He told his family in one of his last e-mails home that he wanted to become a Navy SEAL. His stepfather said that Luke ''missed special operations work [and that] he had a warrior's heart and had to do what he loved.''

Tragically, though, Luke would not get the chance to become a Navy SEAL. On April 21, 2005, he boarded a helicopter flight bound for Tikrit. He was going there to provide security detail for American diplomats. His helicopter was shot down by insurgents a few miles north of Baghdad. Luke and the 10 other civilian passengers and flight crew were killed.

A memorial service was held for Luke on Saturday, May 7, 2005, at the First United Methodist Church in his hometown of Conneaut. Pews were packed with mourners, from former schoolmates to friends, family, and his fellow Rangers. Atop the casket was an American flag and a flower arrangement reading ''Ranger.'' All those closest to Luke agreed that this was certainly fitting.

His mother Diana tearfully recalled that a plaque that Luke received after his discharge from the Army Rangers summed up his character. It reads: ''To a friend, a mentor, and the living embodiment of the Ranger creed.'' As Diana put it; ''That says everything about Luke.''

The service provided an opportunity for all of Luke's friends to reflect on how much he meant to them and how much he had taught them both through word and deed. Chuck Lawrence remembers his essential decency, saying that ''anyone who came in contact with Luke was better off for it. I never met anyone more genuine.'' Childhood friend, C.J. Welty says that ''Luke taught me [that] there is a lot to learn, and to do as much as you can in the short time [you have] here on Earth.''

In observance of Arbor Day, the Conneaut Tree Commission hosted a tree planting ceremony at Malek Park Arboretum to honor local men and women serving in Iraq. A red oak tree was planted in Luke's memory. It serves as a symbol of life and strength. That is how Luke should be remembered—as a vital, happy young man.

In a beautiful letter to me, Luke's stepfather Eldridge wrote that ''I am having a life celebration for Luke and the way he lived his life, where the good memories will far outweigh the oppressive grief.''

My wife Fran and I keep all of Luke's family and friends in our prayers. Luke Petrik will never be forgotten.

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

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

POSTSECONDARY EDUCATION

Mr. ALEXANDER. Mr. President, today in North Carolina, the Secretary of Education, Margaret Spellings, delivered remarks that announced her intention to create a commission to take a comprehensive look at postsecondary education in the United States. I am here to say that Secretary Spellings is on exactly the right track with her new commission. The idea is an excellent one and long overdue. While the United States has been conducting a lot of debates—many in this Chamber—about outsourcing jobs, we have been very successfully insourcing brain power. Insourcing brain power has been our secret weapon for job growth. It is the main reason we have 5 percent of the world's population and about one-third of the world's money. Our unrivaled system of colleges and universities, together with our national research laboratories, have been our magnet for attracting and keeping home the best minds in the world who have, in turn, helped provide the new jobs produced by science, who have, in turn, helped provide half the new jobs since World War II. The National Academy of Sciences estimates that one-half of our new jobs since World War II have come from advances in science and technology. This secret weapon for jobs' growth is at risk if we do not take several urgently needed steps. Taking a comprehensive look at the Federal role in higher education is a good first step. This should have happened years ago. In fact, my greatest regret, as Secretary of Education under the first President Bush, is that I did not volunteer to be the point person in higher education in the Federal Government. Almost every Federal agency regulates some aspect of higher education. Last year, the Federal Government, all

across the board, spent about $63 billion on all forms of postsecondary education. That includes grants, as well as what call the Pell grants, student loans, money for research, the cost to the Federal taxpayers of the student loans I mentioned. But despite that great interest and despite the fact that nearly every Federal agency is involved, not just the Department of Education, there is no one Federal official charged with giving the President an overview of higher education.

There was a time 12 years ago—and the Presiding Officer, because of his interest in higher education, may remember this—that the Department of Defense was concerned about being overcharged by many of the universities in the amount of overhead the universities were spending in order to do Department of Defense-sponsored research. That was a legitimate concern, but someone other than the Secretary of Defense should have been in the room advising the President about that because these universities, which were having to cough up money to pay back the Federal Government, which perhaps they should have, we needed to make sure, in our national interest, that we did not damage these great research universities that we have because those great research universities have been a major part of giving us the science and technology edge that gives us our standard of living. That is what I mean by saying there has been no one person in the Federal Government appointed by the President to look at the whole range of activities in postsecondary higher education, and there should be.

I am chairman of the Energy Subcommittee, a committee upon which the Presiding Officer serves. With the consent of our committee chairman, Senator DOMENICI, Senator JEFF BINGAMAN and I—Senator BINGAMAN is the ranking Democrat on the Energy Committee—have asked the National Academy of Sciences to recommend steps that the Nation should take over the next 10 years so that we can keep our edge in science and technology while we are grappling with tough budget issues. Those hearings will begin in October. The hearings that Senator BINGAMAN and I intend to conduct on keeping our edge in science and technology should complement the work of the commission that Secretary Spellings has established to take a comprehensive overview of higher education.

Our colleges and universities are at risk for several reasons. I am not suggesting that we suddenly have an emergency crisis. I am suggesting that we would be wise to look down the road to make sure we don't have a crisis. I believe we not only have the best colleges and universities in the world. I believe we have almost all of the best colleges and universities in the world. When you add to that the unique national research laboratories which we have, such as the Oak Ridge laboratory or Sandia or a couple of dozen of those that we have, we have an unparalleled research capacity.

Here are the reasons our colleges and universities may be at risk if we don't pay close attention:

No. 1, State funding, the principal basis of support for higher education traditionally grew only 6.8 percent during the last 5 years. State Medicaid costs are squeezing State budgets. If this trend continues, the result will be lower quality higher education and much higher student tuition. I brought with me two charts to illustrate what I am talking about. Here is a chart on trends in higher education nationally over the last 5 years since 2000. State spending on Medicaid is up 35.6 percent over those 5 years. State spending on higher education is up 6.8 percent over the 5 years. And tuition at a 4-year public university is up 38 percent over the 5 years. That is the State picture.

At the same time, the Federal Government has been doing pretty well. Federal spending on all forms of postsecondary education over those last 5 years has risen 71.8 percent. So the picture has been that in the States, State spending on Medicaid is up. State spending on higher education is flat, pretty flat. And tuition at 4-year public universities is up, way up.

In my own State of Tennessee, the situation is even more pronounced. Tennessee's spending on Medicaid in the last 5 years is up 71 percent. State spending on higher education during that time is only up 10 percent. Tuition at a 4-year public university in Tennessee over those 5 years is up 43 percent. Medicaid spending is way up, and State spending on higher education is fairly flat. Tuition at 4-year public universities is way up. That is a bad trend, if it continues over the next 10 years.

A second reason that our university system may be at risk is that even though Federal funding for all forms of postsecondary education has been generous over the last 5 years, up 71.8 percent, that kind of increase is not likely to continue as Medicaid, Medicare, and Social Security costs put new pressures on the Federal budget. That is one reason Senator BINGAMAN and I have asked the National Academy of Sciences to suggest to us the 8 or 10 things we must be sure to do to keep our edge in science and technology over the next 10 years. Because while we are grappling with the budget to try to restrain the growth in spending, we want to make sure we don't squeeze out investments in science and technology that give us the standard of living we enjoy today.

The next reason that higher education may be at some risk is national security. Tight visa rules and other national security restrictions are making it harder for the more than one-half million foreign students and additional researchers who now come to our universities and laboratories. More importantly, scientific conferences are being held overseas. We have taken for granted that we have been insourcing brains. The brightest students and researchers from China, the brightest from India, from France, from Germany, where do they want to go? They want to come to the United States.

When we were Governors of Tennessee and Virginia, we would sometimes hear complaints from students who were being taught by graduate students who did not speak English very well. But the fact is, these brilliant people from around the world, more than a half million of them, have come here to do the kind of work that helps us create our high standard of living. Sixty percent of our postdoctoral students are foreign students. One-half of our graduate students in computers, engineering, and in sciences are foreign students.

In a way, it is a little like our natural gas problem. We are going to be importing liquefied natural gas from overseas to try to keep our prices down. We are already importing brainpower from overseas to keep our standard of living up. And while we need to put a focus on homegrown brainpower over the next 10 years, we also need to make sure that our universities and colleges continue to be a magnet for the brightest people from around the world.

At the same time, we have something else happening. Many countries, including India, China, Germany, and Great Britain, are reorganizing and improving funding for their universities and creating incentives to keep their most talented students and researchers home. They are asking themselves: Why should we send our brightest minds overseas to help the Americans create a higher standard of living for themselves when they can do it right here at home?

So we are going to be facing more competition from the Indian Government. Chancellor Schroeder, who was visiting with us a few weeks ago, was talking about the amount of new dollars Germany is putting into its universities. They believe they have become overregulated, that they have become bureaucratized, and that they have become, in some cases, mediocre. He knows that if Germany wants to compete and wants to have a higher standard of living, they are going to have to have better universities that are magnets for keeping home their brightest students and researchers and attracting the best from around the world.

There is one red flag I would like to wave, in conclusion, about the early reports on Secretary Spellings' decision to create a higher education commission to take a comprehensive look at the Federal role in postsecondary education. Some have pointed out that our system of higher education in the United States is very decentralized, and it may be for that reason that we are not taking a comprehensive look at higher education.

I, for one, believe that our decentralized system of higher education in the

United States is one of its greatest possible strengths. The model we use for higher education is a very simple one. It is a marketplace model. We have more than 6,000 institutions—public, private, for-profit, nonprofit. They are autonomous, and we respect their autonomy.

We have generous Federal funds that follow 60 percent of our students to the institutions they choose with Federal grants or Federal loans. We have peer-reviewed research that goes to the very best institutions. So I do not want to see any Federal commission that sends a signal that we may need some Federal centralization of our control over higher education. In fact, we need to be doing just the reverse.

I introduced earlier this year legislation that would help to deregulate higher education, and a number of those provisions have been incorporated into the Higher Education Act that was reported by our Health, Education, Labor, and Pensions Committee. I believe our higher education system is the best in the world because it is decentralized, because institutions are autonomous, the Federal Government has been generous, and the money follows the students to the institutions of the students' choice.

I commend the Secretary of Education today for her attracting such outstanding persons—for example, the former Governor of North Carolina, Jim Hunt, to be a member of this commission; Charles Miller, former chairman of the Board of Regents of the University of Texas, to be chairman of the commission.

I cannot think of more important work to do. We not only need to insource brainpower, we need to home grow a lot more of our brainpower, and if we do not, we will not enjoy this standard of living that we have had.

I can recall last year a meeting in the majority leader's office that Senator FRIST and the Senator from Texas, KAY BAILEY HUTCHISON, hosted. It was an opportunity for several of the Senators to meet the former President of Brazil, Mr. Cardoso. He had spent a semester here in residence at the Library of Congress. I remember Senator HUTCHISON's last question to President Cardoso. She said: Mr. President, when you go back to Brazil, what will you take back home with you about the United States of America?

President Cardoso didn't hesitate a minute. He said: The excellence of the American university. There is nothing in the world like it.

That is a great compliment to our country and to our system of higher education from one of the most erudite men in the world, the former President of Brazil.

But the yellow flags and red flags are waving because as we look ahead over the next 10 years, our system of higher education and, therefore, our standard of living is at risk because of a flat State funding, because of upcoming pressures on the Federal budget, because of tight visa rules and other national security concerns, which are understandable but will have this effect, and because other countries in the world are recognizing there is no reason in the world why the Americans should have 5 percent of the people and a third of the money. They have the same brains we have in India, in China, in Germany, so we will just keep our smarter people at home, they are saying, and we will create that standard of living for ourselves.

I look forward to working with Secretary Spellings. I would like, 10 years from now when the majority leader invites the former President of Brazil or any other President of a country to the office and we turn around and say to that person, Mr. President, what will you take home about the United States? I would like for that President of another country to be able to say to us: The American university. There is nothing like it in the world.

I believe that is true, but I believe we have some work to do over the next 10 years to keep that truth.

Mr. President, I ask unanimous consent to print in the CONGRESSIONAL RECORD two charts that I referred to in my remarks.

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

HIGHER EDUCATION: TRENDS IN STATE SPENDING AND TUITION INCREASES

Tennessee since 2000:

Tennessee state spending on Medicaid up 71.1 percent.

Tennessee state spending on higher education up 10.5 percent.

Tuition at a 4-year public university up 43.4 percent.

	Federal spending (fiscal years)					Percent increase/decrease				Cumulative change (percent) (2000 to 2004)
	2000	2001	2002*	2003	2004	2000 to 2001	2001 to 2002	2002 to 2003	2003 to 2004	
State Spending:										
Tennessee: Total State Higher Education Appropriations (000's)	$984,858	$1,039,373	1,071,515	$1,106,889	$1,008,681	5.5	3.1	3.3	−1.6	10.5
Tuition—The University of Tennessee	3,104	3,362	3,784	4,056	4,450	8.3	12.6	7.2	9.7	43.4
Tennessee: State-Funded Medicaid Spending (000's)	1,556,000	1,901,000	2,241,000	2,381,000	2,663,000	22.2	17.9	6.2	11.8	71.1
Federal Spending:										
Federal Spending on all Higher Education (all postsecondary education) (000's)**	36,668,849	40,436,408	50,309,676	58,676,287	62,983,202	10.3	24.4	16.6	7.3	71.8

*2002 is President Bush's first Budget covering the fiscal year beginning October 1, 2001.

**Includes Pell Grants, Other Student Aid (aid that passes through institutions or states: for example LEAP—Leveraging Education Assistance Partnerships and SEOG—Supplemental Educational Opportunity Grant), Administrative costs of loan programs, Other Postsecondary Programs (e.g., Dept. of Veterans Affairs (Montgomery GI Bill), Dept. of HHS (NIH training grants), Dept. of Defense (tuition assistance for military personnel and operation of service academies), and Federally Funded Research at Postsecondary Institutions.

HIGHER EDUCATION: TRENDS IN STATE SPENDING AND TUITION INCREASES

Nationally since 2000:

State spending on Medicaid up 35.6 percent.

State spending on higher education up 6.8 percent.

Tuition at a 4-year public university up 38.2 percent.

	Funding levels (fiscal years)					Percent increase/decrease				Cumulative change (percent) (2000 to 2004)
	2000	2001	2002*	2003	2004	2000 to 2001	2001 to 2002	2002 to 2003	2003 to 2004	
STATE SPENDING										
Total State Higher Education Appropriations (000's)	$56,845,018	$60,690,779	$62,745,981	$62,155,526	$60,694,185	6.8	3.4	−0.9	−2.4	6.8
Average Tuition—Public 4-Year Institutions	3,362	3,508	3,766	4,098	4,645	4.3	7.4	8.8	13.3	38.2
Total State-Funded Medicaid Spending (000's)	77,561,000	85,620,000	96,346,000	101,807,000	105,168,000	10.4	12.5	5.7	3.3	35.6
FEDERAL SPENDING										
Federal Spending on all Higher Education (all postsecondary education) (000's)**	36,668,849	40,436,408	50,309,676	58,676,287	62,983,202	10.3	24.4	16.6	7.3	71.8

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Mr. ALEXANDER. Mr. President, I would also like to follow my remarks with this information from the American Council on Education that sheds additional light on the comparison of State and Federal spending.

In 1995, the State spent $2.16 on higher education for every Federal dollar spent on higher education. In 2000, States contributed $1.55 for every Federal dollar spent on higher education. In 2005, States spent 94 cents on higher education for every Federal dollar spent.

So very quietly, we are seeing a major shift in how we finance higher education. States are doing less, the Federal Government is continuing to

be generous, and students are asked to do more. The insidious part of this is that traditionally, States have been the largest part of funding for higher education. So very quietly we see States go from spending $2.16 for every dollar spent, which was the case in 1995, to less than $1 spent for every Federal dollar spent, which is the case 10 years later in 2005.

That is a major shift in funding, and we in the Congress and Secretary Spellings' new commission and the work Senator BINGAMAN and I are doing with the National Academy of Sciences need to take note of this and ask what will happen if we have 10 more years of these financing trends.

I yield the floor.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from the Commonwealth of Virginia.

Mr. ALLEN. Mr. President, I ask unanimous consent to speak as in morning business.

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

Mr. ALLEN. Mr. President, before I get into the third branch of Government, I want to remark and associate myself with many of the comments that were stated by Senator ALEXANDER of Tennessee. I do believe this country, for its long-term competitiveness, must interest and encourage more young people to get involved in science, engineering, and technology.

The fact is, 40 to 50 percent of our students in engineering schools are from overseas. That is good. America ought to be a magnet for the best brains in the world. I want this country to be the world capital of innovation, and to be the world capital of innovation, we need more young people interested in engineering, technology, and science.

I have a great concern that we are not matriculating sufficient numbers of students in this country in areas where new inventions and innovations and intellectual property will be created. We have about—and I think the Senator from Tennessee will corroborate this—50,000 engineers graduating every year. India has about 150,000 engineers graduating every year. The People's Republic of China has 250,000 engineers graduating every year.

There are a variety of things we must do in this country to be more competitive, to make sure young people are getting a good quality education and also develop an interest in science, technology, and engineering. These are great-paying jobs that are important for the security of this country, our standard of living, and our competitiveness. Until we reverse these trends, I believe it is going to be a problem for us in the long term. Indeed, the Senator from Tennessee and I have worked together on a variety of issues, including upgrading the technology capability of minority-serving institutions, whether they are historically Black colleges or Hispanic-serving institutions or tribal colleges.

We also have to recognize in our engineering schools that about 15 percent of the students are women, about 6 percent are African American, and only about 6 percent are Latinos. We need to get more of our country interested in engineering. Meanwhile, of course, we should be attracting more students from overseas because if they come to this country for education—and higher education. It is vitally important for our future and the future of the young people, for these graduates to stay in this country which I hope they do. That will continue to make this country a leader in innovation in the transformative technologies of the future. Whether it is nanotechnology, which is a multifaceted discipline or life sciences or microelectronics or energy applications to also materials engineering.

I associate myself with the remarks and sentiment of Senator ALEXANDER who, of course, more important than being Secretary of Education, was also president of the University of Tennessee. Senator ALEXANDER understands how our very diverse and multifaceted higher education systems in all the different States of the Union are really crown jewels. We must work with our colleges and universities to attract more young people—people of all ages—into technology, engineering, and science, and also be conducive to people coming from overseas.

I recall in our formulations hearing, when Dr. Rice was before us, one of the points I talked with her about getting student visas working better. Students are too queued up overseas. Visa requirements are another impediment for students coming from countries in Europe, Asia, or anywhere else in the world. If they are all queued up, they think, they are not welcome in this country, it is too bureaucratic. Hopefully the State Department will work with our Homeland Security people to make sure quality, well-qualified people from overseas can matriculate to our universities.

ROBERTS NOMINATION

Mr. ALLEN. With that diatribe or statement on innovation and invention completed, I switch to a place where I do not like invention, and that is in the judiciary. We have entirely too many judges in this country who invent the law rather than apply the law. I speak on this subject that is very timely because the Judiciary Committee is now considering—I know the Presiding Officer has been involved in those hearings—on Judge John Roberts, whom I sincerely hope will soon be on the floor for a vote, and confirmed to be our next Chief Justice of the Supreme Court of the United States.

When I met with Judge Roberts in my office last month, I relayed to him my concern about Federal judges acting as a superlegislative body, acting as legislators. There are judges who seem to be interpreting the laws passed by the elected representatives in a way that they think they know better than the elected people.

This country is a republic. The people of this country are the owners of the Government. Their views, their values, their aspirations are represented by those they elect. Sometimes it is at the local level, whether it is a county, city, or parish in Louisiana, or it will be a State legislature or for national, Federal laws, the people they elect to Congress and, obviously, Governors, as well as mayors, and the President of the United States in this representative democracy.

In so many cases we see Federal judges who are appointed for life making decisions that completely negate and have very little respect for the will of the people as expressed through their legislative bodies.

We see Federal courts striking down parental consent or parental notification laws. These are laws that States passed—we did it while I was Governor of Virginia, and so have other States. These laws say that if an unwed minor daughter is going through the trauma of an abortion, a parent ought to be involved. It makes sense. For ear piercing, tattoos, taking an aspirin, one needs parental consent. Certainly for this surgery, it makes sense, and many legislatures and the people in the States said the parents ought to be involved. Federal judges struck down that law.

There are those who believe parameters ought to be placed on late-term, partial-birth abortion. That law was passed by the Congress and by various States. Federal judges struck that down.

We find Federal judges allowing attacks on the Boy Scouts. We see some judges, not necessarily Federal judges yet, but some judges redefining marriage. We see judges time after time making these decisions. Some folks wonder what is an activist judge. I did not get into specific cases with Judge Roberts when I was talking with him, but one of the prime examples was this Ninth Circuit Court of Appeals that was striking down the will of the people in California in certain counties where the Pledge of Allegiance is said in their public schools every day.

The Ninth Circuit struck that down and said, no, the Pledge of Allegiance cannot be recited in public schools in California because of the words ''under God'' being in the pledge. This is a prime example of judicial activism, contrary to the will of the people of these counties in California.

That case got to the Supreme Court. They avoided the decision, saying that the plaintiff did not have standing. That is a way for the U.S. Supreme Court to avoid making a decision.

Just last week we had another Federal district court judge in California striking down or saying that the Pledge of Allegiance cannot be recited in public schools in California because

of the words ''under God.'' This judge was following the Ninth Circuit in which California is located.

I will give some of my colleagues a bit of legal education. When there is a legal analysis of an unconstitutional establishment of religion, the Supreme Court has applied a three-pronged test. This three-pronged test applies to all the States in the country, even these Federal courts in California who strike down laws and misconstrue the Constitution, thwarting the will of the good people of California. Here is the test that the U.S. Supreme Court has applied in such cases.

The test as articulated in the U.S. Supreme Court case of Lemon v. Kurtzman. It is called the Lemon test. The first test is used to determine whether public activity had a primarily secular purpose. In this matter in California, the Pledge of Allegiance is primarily a patriotic event and purpose.

The second test is called the endorsement test. In this California matter, there is no endorsement of any denomination of any religion. So the endorsement test fails because there is no endorsement.

The third test is called the coercion test, and there is no coercion here for students.

The Supreme Court has commented that the presence of ''one nation under God'' in the Pledge of Allegiance is constitutional, as has most recently the Fourth Circuit Court of Appeals, which includes the circuit of Virginia, the Carolinas, West Virginia, and Maryland. The Fourth Circuit ruled in a case called Myers v. Loudoun County Public Schools that the Pledge of Allegiance is constitutional.

If this current decision in California that came down last week is not remedied by the Ninth Circuit Court of Appeals, I surely hope the Supreme Court of the United States will grant review to resolve this dispute between the circuits, because there are sometimes judges who have to be reversed on many occasions before they understand the plain intent of the law, of previous opinions, and the history of our country. These judges must have the proper respect for the people in this country to make laws that make sense, that are constitutional, and indicate their will.

As a resource for both the Ninth Circuit and, if necessary, the U.S. Supreme Court, if this case reaches them. I direct the attention of my colleagues to some outstanding historical analyses prepared by a gentleman from Texas named David Barton. Mr. Barton heads up and is part of an organization called Wall Builders and he noted if reciting the pledge is truly a religious act in violation of the establishment clause, then the recitation of the Constitution itself would be, which refers to ''the year of Our Lord,'' and our Declaration of Independence which contains multiple references to God.

Our Founders claimed the right to dissolve the political bands with Britain based on the laws of nature and of nature's God.

The most well-known passage, of course, is ''all men are created equal, that they are endowed by their Creator with certain unalienable Rights.''

Subsequently, the signatories of our Constitution and a variety of other documents appealed to the Supreme Judge of the world to rectify their intentions. Our national motto is, ''In God we trust.'' And the singing of the National Anthem actually has a verse and motto ''in God we trust.''

Furthermore, the Supreme Court of the United States, even the Ninth Circuit Court of Appeals, opens its sessions with a call that says ''God save the United States and this honorable court.'' This is the same court that said: No, you cannot have the Pledge of Allegiance in public schools. Obviously, we all recognize today as the Senate opened up there was a prayer, and then there was the Pledge of Allegiance.

There is an undeniable and historical relationship between God and our Founders and the Government leaders throughout the history of our country. In fact, it was the Congress in 1837, acting upon the will of the people, that authorized the motto ''In God we trust'' to be printed on our currency.

We can cite the actions of the entire body of the Founding Fathers. For example, in 1800, when Washington, DC, became the capital of the United States, Congress approved the use of this Capitol Building as a church building for Christian worship services. In fact, Christian worship services on Sunday started at the Treasury Building and at the War Office.

A scant review of the legislative history of the States and of the Federal Government reveals the intent of our Founders from George Washington to Thomas Jefferson who lay out the absurdity and even the arrogance of this district court decision.

Everyone knows—maybe not everyone knows. Most of my learned colleagues know one of the things that Thomas Jefferson was most proud of was authoring the Declaration of Independence, founding the University of Virginia, and the third, no, was not the Louisiana Purchase—although that was the best real estate deal ever made—the thing he was thirdly most proudly of and is on his tombstone is ''Author of the Statute of Religious Freedom.''

If one reads the Statute of Religion Freedom—it is in article 1, section 16 of the Virginia Constitution—it is much better than the first amendment in the Constitution of the United States and the Bill of Rights because it goes on for paragraphs. One gets the sense of how there was not to be the establishment of religion, that people would not be forced or compelled to join a church contrary to their views, that they would not have to tithe or pay for a church, and people's rights were not to be enhanced or diminished on account of their religious beliefs.

Mr. Jefferson was elected in 1800. He took office in 1801, at the same time that this Capitol Building was being used for Christian worship services.

If the author of the Statute of Religious Freedom—and it was authored before the Federal Constitution and adopted in part of the Bill of Rights—if he thought that was going to be an establishment of religion or the Government funding religion, or compelling people to worship in a broad Christian sense, not Baptist versus Methodist versus Anglicans or Episcopalians or other denominations. If he saw that as an establishment of religion, he surely would have objected to it because he became President in 1801 right when DC became the Nation's Capital.

That is the sense of history of the foundation of our country, and the law. It is a shame that the majority of justices on the Ninth Circuit Court of Appeals do not seem to understand this.

Each of us who has the high privilege to serve in this Chamber is aware of the circumstances by which ''one nation under God'' became a part of the pledge in 1954. It was a will of Congress. Where did Congress get the idea, they got the idea from the people. The will of the people. Congress acted and that was made part of our Pledge of Allegiance.

Today it is the will, unfortunately, of a few unelected judges that seek to remove those words from the Pledge of Allegiance.

When one is dealing with Federal judges, they must get into the history, once again, that they are appointed for life. Most States do not have judges appointed for life; they are appointed for terms. The people have recourse from time to time to remove them. California has a way of recourse on State judges who are first appointed, but then there is a retention possibility.

Federal judges, though—unfortunately Alexander Hamilton won this debate with Mr. Jefferson who wanted judges appointed for terms. Hamilton wanted them for life and Hamilton won. These Federal judges get selected and they are on there for life.

Something that I know the Presiding Officer and I and others try to do is try to discern their views. Judges ought to have a greater respect for the will of the people.

The State of California is not unique in encouraging students to engage in an appropriate patriotic exercise.

In my Commonwealth of Virginia, we have a statute requiring a daily recitation of the Pledge of Allegiance in every public classroom in our Commonwealth. It is thoughtfully crafted. The Virginia statute provides that no student shall be compelled to recite the pledge if he, his parent, or legal guardian objects on religious, philosophical, or other grounds to his participation in this exercise. Students are thus exempt from reciting the pledge and shall remain quietly standing or sitting at their desk while others recite the pledge.

The reason I talk about this is when I was Governor in 1996, I was able to sign, and happy to sign, this into law. It is a law that has commonsense provisions requiring the Pledge of Allegiance, but also with provisions to develop guidelines for reciting the pledge in public schools. That law has been the law since 1996.

The point is that the pledge is a patriotic exercise. Thomas Jefferson, again, who authored the Statute of Religious Freedom, had no intention of allowing Government to limit, restrict, regulate, or interfere with public religious practices.

Mr. Jefferson believed, along with our other Founders, that the first amendment had been enacted only to prevent Federal establishment of a national denomination. This patriotic pledge establishes no religious denomination. There is no establishment of any religious denomination. I would fight against any sort of effort, by any State, or by the Federal Government to establish any national denomination.

Understand the history of our country. There was an Anglican Church, the Church of England. There were people who were forced to pay tithes or contribute to this church, even if they did not believe in it. The Baptists were the ones who were the most upset. Mr. Jefferson sent a letter to the Baptists of Danbury, where he was espousing his views and where some of these misinterpretations may have occurred. The point is this is no establishment of religion.

This Federal judge, though, in California, and the Ninth Circuit Court of Appeals judges, are examples of Government overreach in a very different and harmful way. It is judicial activism at its very worst. It is activism by unelected judges. Through this decision and decisions such as this, they usurp the rights of the people, usurp the policymaking role given to this body and also to the people in the States. These are rights that are actually guaranteed to all of the people in the States in our Constitution.

I do not know what the next decision from Federal judges might be, especially if they are relying on this precedent from the Ninth Circuit Court of Appeals. Will they ban the singing of God Bless America in our schools? Who knows?

Will they redact, or force the editing of founding documents, which are some of the greatest documents in the history of mankind and civilization, because there are references to God or to our creator? Will the Congress, the Supreme Court, and State legislatures all across the land be prohibited from opening their sessions with the pledge because it might somehow offend the sensibilities of someone watching a legislative body opening with a Pledge of Allegiance, whether it is on a public access channel or C–SPAN or otherwise?

The fact is this is not an argument about God or no God. It is not an argument about the separation of church and State. It is not an argument about the establishment of any particular religious denomination. Saying the Pledge of Allegiance is no more of a religious act than buying food with currency that reads ''In God We Trust.'' It is a patriotic act. If a student does not want to say it, he or she can sit quietly in the classroom. But that should not thwart the desire of the people, whether it is in counties in California or counties in cities and towns in the Commonwealth of Virginia or in the plains of Kansas or in the Rocky Mountains or anywhere else. If that is what they so desire, then the people ought to be able to have that in their public schools.

I sense that most Americans agree that the Pledge of Allegiance should remain in our schools and other public functions. As it is today, it should be voluntary and should be a matter of public conscience.

On this issue, similar to so many others, the Ninth Circuit Court of Appeals is out of touch with the people and flat-out wrong. This errant decision clearly points out the need to put, reasonable, well-grounded judges who have common sense on the Federal bench, rather than these delusional activists who ignore the will of the people of the United States. The promise of America is rooted in one idea, that the direction of our country is, and will always be, determined by the consent and the will of the people.

If there is anything to be understood from our Constitution, our Bill of Rights, it is that the Government is instituted by the people. They may have representative government through the States, but the Bill of Rights is there to protect our God-given rights. Some rights of ours are to have a government, with our consent, that reflects our values.

I hope, in this particular case, which is illustrative of others, that either the Ninth Circuit, or the United States Supreme Court will reverse this egregious decision that bans the Pledge of Allegiance in public schools. The will of the people ought to be respected.

I will close by saying this: God bless America; and I am glad I am still allowed to say it. I wish the kids were able to say the Pledge of Allegiance or God bless America in their schools, without worrying about some unelected Federal judge coming in and thwarting the will of the people, the decency and wholesomeness of the people of this country. I am hopeful we will soon have John Roberts as Chief Justice of the Supreme Court and other men and women, whether on the Ninth Circuit or other Federal courts, who understand the foundational principles of this country.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

CONCLUSION OF MORNING BUSINESS

Mr. REID. Mr. President, I ask morning business be closed.

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

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006—Continued

AMENDMENT NO. 1732

Mr. REID. Mr. President, I send an amendment to the desk on behalf of BEN NELSON of Nebraska, an amendment numbered 1732.

The PRESIDING OFFICER. Without objection the pending amendment will be set aside and the clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. NELSON of Nebraska, proposes an amendment numbered 1732.

Mr. REID. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To prohibit the use of funds for developing a final rule with respect to the importation of beef from Japan)

On page 173, after line 24, insert the following:

SEC. 7_____. None of the funds made available under this Act shall be used by the Secretary of Agriculture for the purpose of developing a final rule relating to the proposed rule entitled ''Importation of Whole Cuts of Boneless Beef from Japan'', dated August 18, 2005 (70 Fed. Reg. 48494), to allow the importation of beef from Japan, unless the President certifies to Congress that Japan has granted open access to Japanese markets for beef and beef products produced in the United States.

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

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

MR. RONALD W. KISER

Mr. MCCONNELL. Mr. President, I rise today to recognize the outstanding service of a remarkable Kentuckian, Mr. Ronald W. Kiser. Mr. Kiser is the assistant chief of the Engineering Division for the Louisville District of the U.S. Army Corps of Engineers. He will retire from the Corps of Engineers this September 30 with over 36 years of dedicated service to our Nation.

A Louisville resident for decades, Mr. Kiser is originally a native of Charleston, WV. He began his career with the Corps of Engineers in the Huntington District, in West Virginia, upon graduation from the West Virginia University Institute of Technology, where he

earned a bachelor's degree in civil engineering. During his time with the Huntington District, Mr. Kiser's duties included evaluating buildings for safe refuge from nuclear fallout, overseeing relocations of railroads and highways at major flood-control projects and navigation projects, and participating in emergency disaster recovery.

In 1974, Mr. Kiser was selected to lead the Relocations Branch of the Engineering Division in the Louisville District. His work involved many aspects of civil-works projects, including the design of Zilpo Road at Cave Run Lake, in northeastern Kentucky, which is now featured in a register of America's most scenic highways. Over the next 10 years, Mr. Kiser not only served the Louisville District, but was solicited by the Pittsburgh District and the Europe Division, in addition to earning a master's degree in civil engineering from Ohio State University. While assisting the Pittsburgh District, Mr. Kiser led the relocations associated with the Stonewall Jackson Dam Project and the Monongahela River Locks Renovation Project. During his time with the Europe Division, he managed military operations and maintenance projects totaling approximately $200 million a year.

Mr. Kiser returned to the Louisville District in 1983 and was selected as chief of the Army Section in the newly established Military Branch that had been formed to oversee the Louisville District's military mission. Thanks to his leadership, vision, and dedication to duty, the Louisville District gained a reputation for excellence in execution that it retains to this day. Among the many major military installations Mr. Kiser helped oversee are Fort Campbell and Fort Knox, both in Kentucky, and many Army Reserve facilities nationwide.

During this time, Mr. Kiser extended his leadership well beyond his assigned missions. He mentored Captains Robert Rowlette and Mike Pratt, who both went on to become Corps of Engineers District Commanders. He worked on the Standardized Design Program Committee for the Corps of Engineers Headquarters. He led the Louisville District to become the Centers of Expertise for Centralized Vehicle Wash Facilities, Bowling Centers, and Class 6 Beverage Stores. And he was a key player in organizing the first MILCON Conference, and developing the standard ''partnering'' clause for construction contracts.

Mr. Kiser continued his leadership role in the Louisville District's Engineering Division throughout the 1990s, in positions ranging from chief of the first environmental support program to his current position of assistant chief of the Engineering Division. His devotion to the U.S. Army Corps of Engineers over several decades has made for a stronger, safer, more prosperous Nation for his fellow Kentuckians, and for all Americans.

A good neighbor and a valued steward of our defense assets and natural resources, Mr. Kiser will be remembered for his spirit of service, patriotism and dedication to his country. On the occasion of his retirement, I ask my colleagues to join me in extending best wishes to Mr. Ronald W. Kiser.

TRIBUTE TO ARTHUR ''ART'' EDWARD BERNARD

Mr. REID. Mr. President, too often, the civil servants who make a State run properly do not get the recognition they deserve. Arthur ''Art'' Edward Bernard is one of those men. Today, I rise to honor a man who has left a lasting impact on Nevada through his work in government.

Art Bernard was raised in the mining camps of Utah before striking out on his own at the age of 16. His travels brought him to the Bristol Mine in Pioche, NV. There, he worked in the hardscrabble world of ''mucking'' or loading the ore carts. Mucking is all about brute strength, and Art won mucking contests throughout Nevada. The toughness and tenacity he showed as a miner served Art well in his appointment as State Mine Inspector in 1947. In this capacity, he worked to improve the safety standards of the mines.

His work was noticed by Governor Charles Russell, and Art was appointed warden of the Nevada State Prison in 1950. At first, Art had doubts about his new position because he had no previous experience in the prison system. Like any good miner, Art refused to become discouraged, and he embraced the new challenges of his position.

Art's tenure could not have come at a better time for the Nevada State prison; he navigated the tumultuous changes occurring in prisons across the country. Demanding better living conditions, prisoners across the country rioted and the Nevada State prison was no different. Rioting prisoners demanded to see the Governor, but Art refused to cave to their demands. Instead, he barricaded the prisoners in the prison yard for 3 days until the protest disbanded peacefully.

As part of the settlement, Art allowed a commission of three prisoners, called the ''three wise men,'' to submit prison grievances directly to him. Art viewed the inmates as students at what he dubbed ''Greystone U.'' Over the years, Art developed a close relationship with the inmates, and he made himself available to any inmate who wanted to see him during daily walks around the grounds. He worked to improve the quality of life at the prison by establishing a boxing program for the inmates and a prison orchestra.

Art's revolutionary ideas jump started the work program at the Nevada State prison. Art applied his mining background to prison life when he started a rock quarry for the prisoners. Each new prisoner was responsible for a certain quota from the quarry each day. In addition, Art allowed prisoners to work on local ranches and farms as laborers, and the prison received local produce and supplies for the prison in exchange. The prison labor exchange was not the only way Art saved Nevada taxpayer dollars. He also used prison labor to build new facilities at the Nevada State prison.

Art served Nevada in a great time of need and helped modernize Nevada's prison operations with the strength and tenacity that he learned from mining camps across my State. Most importantly, Art sought to improve the lives and treatment of prisoners when other prison systems were languishing with inferior standards and facilities.

Art's contributions to Nevada did not stop after his retirement. Recently, Art finished interviews about his life with the Nevada Mining Oral History project. Future generations will be able to hear about Art's years spent in mines across Nevada, in addition to stories about prison life at ''Greystone U.'' This oral history is another contribution to Nevada history from a man who helped to shape my State. Nevada is a better place because of men like Art Bernard, and he deserves recognition today before the Senate.

FETAL ALCOHOL SYNDROME DISORDERS

Mr. DURBIN. Mr. President, last week, we marked National Fetal Alcohol Syndrome Awareness Day. Today, I rise to join Senators JOHNSON, MURKOWSKI, MURRAY and DODD as we introduce legislation to address the prevention and treatment of Fetal Alcohol Syndrome Disorders.

I have met with many families in Illinois who have made real for me the challenges, the frustrations and the hope that come with a fetal alcohol syndrome disorder. Vivian Botka brought a picture that her 22-year-old daughter Kristy had colored with crayons. Kristy requires around-the-clock care. Walt Teichen and his family are working to build an independent living home for young adults affected by fetal alcohol syndrome. They want to establish a home for young people such as their son Kevin, who craves independence from his parents yet needs the support and vigilance of adults who understand his limitations.

Last year, then-Minority Leader Tom Daschle proposed the most ambitious, comprehensive plan in America's history to advance FASD research, treatment, and prevention. I am honored to join my colleagues as we introduce this legislation because, as Senator Daschle says, it is easier to raise a healthy child than heal a broken adult. It is more compassionate and, in the end, more cost-effective to prevent FASD and help families living with it than it is to ignore it.

To decrease the occurrence of mental retardation and birth defects, we must address their most preventable cause—alcohol use during pregnancy. FASD affects an estimated 40,000 infants each year. That is 1 out of every 100 births

in the United States. The mental, physical and neurobehavioral effects of FASD include deformities in major organs, slow development, learning difficulties, low IQs, and problems with coordination, memory, attention, and judgment.

We can make a difference in the lives of affected families in Illinois and throughout this country. We can prevent fetal alcohol syndrome disorders. Please join me in supporting the Advancing FASD Prevention and Treatment Act.

ADDITIONAL STATEMENTS

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

• Mr. SMITH. Mr. President, I emphasize today the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On April 29, 2005, a Harvard University student was assaulted by a man in downtown Boston, MA. The apparent motivation for the attack was that the student was openly gay.

I note that yesterday in the House, hate crimes legislation was passed in a bipartisan vote. We must also move similar legislation in the Senate. In the months ahead I look forward to working with Senator KENNEDY as we continue our work in passing a hate crimes bill.•

TRIBUTE TO YAKOV BIRNBAUM

• Mr. LIEBERMAN. Mr. President, I pay tribute to the contributions of Yakov Birnbaum, an unheralded American freedom fighter, whose work helped free roughly five million Soviet Jews and tens of millions others persecuted for their faith under the former Soviet Union.

In 1964, Birnbaum launched the Student Struggle for Soviet Jewry at Columbia University to promote awareness of the persecution of Jews in the Soviet Union. His movement ultimately led to the passage of the pivotal Jackson-Vanik Amendment a decade later, which starved the Soviet government of trade benefits in retaliation for its trampling on human rights.

Birnbaum's efforts led to freedom for individuals like Natan Sharansky and the emigration from the Soviet Union of more than 1.5 million Jews since. His work also inspired other individuals, organizations and governments to decry the persecution of people of faith by the Soviet government.

By drawing international attention to repression within the Soviet Union, Birnbaum helped remind us all that the defense of human rights and the freedom to worship had to be battleground issues in the Cold War. The final fall of the Soviet system and the flowering of religious freedom that followed were both thanks to the long and tenacious efforts of men and women like Birnbaum.

For all his work in the cause of freedom we recognize him today.•

POLYMER INDUSTRY IN WEST VIRGINIA AND POLYMER APPRECIATION WEEK

• Mr. ROCKEFELLER. Mr. President, I rise today to recognize the important role the polymer industry plays in my State of West Virginia. As part of Polymer Appreciation Week in the State, Governor Joe Manchin and I have invited a small group of international polymer executives to West Virginia to showcase investment opportunities available to their companies.

West Virginia's polymer industry plays an important and vital role in West Virginia's economy. World renowned companies such as GE Plastics, DuPont, Sunoco, and M&G Polymers have chosen to locate here. West Virginia's excellent infrastructure, broad range of raw materials, highly skilled workforce, and close proximity to 62 percent of the United States industrial market, makes West Virginia a key player in the global market.

The Polymer Alliance Zone of West Virginia—PAZ—is the site of the highest concentration of production of high technology, speciality and engineering polymers in the world. The Mid-Ohio Valley has a long history in the production of industrial chemicals, petrochemicals, and polymers dating back to the 1940s. The region has a proud manufacturing heritage, and today, that expertise and dedication has gained the Polymer Alliance Zone national recognition.

The mission of the Polymer Alliance Zone is to create the most favorable business climate in the world for the plastics industry through a unique partnership among business, education, and government. Since its inception in 1996, the focus of the organization has been the support of both new and existing polymer industries. According to recent calculations by the West Virginia Development office, PAZ has partnered with local, State and private industry to complete 33 projects that have generated more than $529 million of investments.

The Polymer Alliance Zone offers great opportunities for companies looking to locate in West Virginia. The Mid-Ohio Valley location offers easy access to an increasingly global market, and the State's abundant resources provide companies with affordable, reliable energy. In addition, West Virginia's favorable business climate welcomes and supports polymer companies through a number of valuable assistance programs. More importantly, it is the people of West Virginia who make the Polymer Alliance Zone what it is—a vibrant economy, a growing community, and an opportunity that national polymer companies should not miss.

Over the last 9 years, the Polymer Alliance Zone has assisted the West Virginia Development Office and our county development authorities in creating and retaining over 1,000 jobs in the region. This is a large achievement, and in return my State recognizes 9 years of service that PAZ has provided to both the polymer industry and to the State of West Virginia by celebrating Polymer Appreciation Week.•

WELLNESS PROGRAM AT BRADLEY UNIVERSITY

• Mr. OBAMA. Mr. President, every year, the Inter-Association Task Force on Alcohol and Other Substance Abuse Issues, IATF, gives awards to three universities for their programs against underage drinking and over-consumption of alcoholic beverages. Bradley University, which is located in Peoria, IL, is among the three universities being commended and has the honor of being a National Collegiate Alcohol Awareness Week Winner for 2004–2005.

I applaud the Wellness Program at Bradley University for its commitment to reduce underage drinking. Alcohol misuse on college campuses is not a new problem. It is entrenched in the culture of many institutions of higher learning and in students' social lives. The abuse of alcohol among college students is taking its toll not only on the students who drink alcohol in excess but also their student peers, college administrators, health care personnel who counsel student drinkers, and the community at large.

Help, Encourage, and Teach, HEAT, and Social Norming, SONOR, are two programs that have proven to be effective at Bradley University. HEAT strives to provide students with opportunities to promote positive lifestyle choices, such as peer-led workshops and demonstrations. The SONOR program utilizes creative marketing and advertising strategies to disseminate information about healthy living. These programs are making a difference in the lives of our youth by encouraging college students to make healthy and responsible decisions.

Congratulations to Dr. Alan Galsky, Associate Provost for Student Affairs; Melissa Sage-Bollenbach, the Wellness Program Coordinator at Bradley University; Kelcy Hale, the President of Social Norming; and Chrisandra Ashby, the former president of HEAT for their tireless efforts and outstanding leadership.

Bradley University is to be commended for its innovative and influential alcohol-abuse programs. Representatives of Bradley University recently came to Washington, DC, and visited their Senator's offices to present their alcohol awareness programs. These award recipients also received a plaque and an award check

from Dr. Edward Hammond, chairman of the IATF.

I wish the Wellness Program and its leadership the best of luck in their future endeavors and applaud their outstanding achievement.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILLS SIGNED

Under authority of the order of the Senate of January 4, 2005, the Secretary of the Senate, on September 16, 2005, during the adjournment of the Senate, received a message from the House of Representatives announcing the Speaker has signed the following enrolled bills:

H.R. 3169. An act to provide the Secretary of Education with waiver authority for students who are eligible for Pell Grants who are adversely affected by a natural disaster.

H.R. 3668. An act to provide the Secretary of Education with waiver authority for students who are eligible for Federal student grant assistance who are adversely affected by a major disaster.

H.R. 3672. An act to provide assistance to families affected by Hurricane Katrina, through the program of block grants to States for temporary assistance for needy families.

MESSAGE FROM THE HOUSE

At 2:18 p.m., a message from the House of Representatives, delivered by Mr. Croatt, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 889. An act to authorize appropriations for the Coast Guard for fiscal year 2006, to make technical corrections to various laws administered by the Coast Guard, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 237. Concurrent resolution expressing the sense of Congress welcoming President Chen Shui-bian of Taiwan to the United States on September 20, 2005.

ENROLLED BILLS SIGNED

The PRESIDENT pro tempore (Mr. STEVENS) reported that he had signed the following enrolled bills, which were previously signed by the Speaker of the House:

H.R. 3169. An act to provide the Secretary of Education with waiver authority for students who are eligible for Pell Grants who are adversely affected by a natural disaster.

H.R. 3668. An act to provide the Secretary of Education with waiver authority for students who are eligible for Federal student grant assistance who are adversely affected by a major disaster.

H.R. 3672. An act to provide assistance to families affected by Hurricane Katrina, through the program of block grants to States for temporary assistance for needy families.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 889. An act to authorize appropriations for the Coast Guard for fiscal year 2006, to make technical corrections to various laws administered by the Coast Guard, and for other purposes; to the Committee on Commerce, Science, and Transportation.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 237. Concurrent resolution expressing the sense of Congress welcoming President Chen Shui-bian of Taiwan to the United States on September 20, 2005; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

S. 1715. A bill to provide relief for students and institutions affected by Hurricane Katrina, and for other purposes.

S. 1716. A bill to provide emergency health care relief for survivors of Hurricane Katrina, and for other purposes.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 1718. A bill to provide special rules for disaster relief employment under the Workforce Investment Act of 1998 for individuals displaced by Hurricane Katrina.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–3776. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emissions Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production'' (FRL No. 7957–7) received August 22, 2005; to the Committee on Environment and Public Works.

EC–3777. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Protection of Stratospheric Ozone: Allocation of Essential Use Allowances for Calendar Year 2005'' (FRL No. 7958–2) received August 22, 2005; to the Committee on Environment and Public Works.

EC–3778. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Louisiana; Attainment Demonstration for the Shreveport-Bossier City Early Compact Area'' (FRL No. 7955–7) received August 22, 2005; to the Committee on Environment and Public Works.

EC–3779. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; New Mexico; San Juan County Early Action Compact Area'' (FRL No. 7954–5) received August 22, 2005; to the Committee on Environment and Public Works.

EC–3780. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; North Carolina; Attainment Demonstration of the Mountain, Unifour, Triad and Fayetteville Early Action Compact Areas'' (FRL No. 7956–8) received August 22, 2005; to the Committee on Environment and Public Works.

EC–3781. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Oklahoma; Attainment Demonstration for the Central Oklahoma Early Action Compact Area'' (FRL No. 7953–8) received August 22, 2005; to the Committee on Environment and Public Works.

EC–3782. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Oklahoma; Attainment Demonstration for the Tulsa Early Action Compact Area'' (FRL No. 7956–2) received August 22, 2005; to the Committee on Environment and Public Works.

EC–3783. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; South Carolina and Georgia; Attainment Demonstration for the Appalachian, Catawba, Pee Dee, Waccamaw, Santee Lynches, Berkeley-Charleston-Dorchester, Low Country, Lower Savannah, Central Midlands, and Upper Savannah Early Action Compact Areas'' (FRL No. 7957–1) received August 22, 2005; to the Committee on Environment and Public Works.

EC–3784. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Denver Early Action Compact Ozone Plan, Attainment Demonstration of the 8-hour Ozone Standard, and Approval of Related Revisions'' (FRL No. 7954–6) received August 22, 2005; to the Committee on Environment and Public Works.

EC–3785. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Greeley Revised Carbon Monoxide Maintenance Plan and Approval of Related Revisions'' (FRL No. 7954–7) received August 22, 2005; to the Committee on Environment and Public Works.

EC–3786. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; State of Iowa'' (FRL No. 7953–7) received August 22, 2005; to the Committee on Environment and Public Works.

EC–3787. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Tennessee and Georgia; Attainment Demonstrations for the Chattanooga, Nashville, and Tri-Cities Early Action Compact Areas'' (FRL No. 7956–9) received August 22, 2005; to the Committee on Environment and Public Works.

EC–3788. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Texas; Attainment Demonstration of the Austin Early Action Compact Area'' (FRL No. 7955–9) received August 22, 2005; to the Committee on Environment and Public Works

EC–3789. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Texas; Attainment Demonstration of the San Antonio Early Action Compact Area'' (FRL No. 7955–8) received August 22, 2005; to the Committee on Environment and Public Works.

EC–3790. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Texas; Clean Air Action Plan and Attainment Demonstration for the Northeast Texas Early Action Compact Area; Agreed Orders Regarding Control of Air Pollution for the Northeast Texas Area'' (FRL No. 7956–1) received August 22 2005; to the Committee on Environment and Public Works.

EC–3791. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Maine; Negative Declaration'' (FRL No. 7956–4) received August 22, 2005; to the Committee on Environment and Public Works.

EC–3792. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Virginia; Attainment Demonstration for the Roanoke Metropolitan Statistical Area (MSA) Ozone Early Action Compact Area'' (FRL No. 7954–1) received August 22, 2005; to the Committee on Environment and Public Works.

EC–3793. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Attainment Demonstration for the Eastern Panhandle Region Ozone Early Action Compact Area'' (FRL No. 7954–3) received August 22, 2005; to the Committee on Environment and Public Works.

EC–3794. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maryland; Attainment Demonstration for the Washington County Ozone Early Action Compact Area'' (FRL No. 7954–2) received August 22, 2005; to the Committee on Environment and Public Works.

EC–3795. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; State of Texas; Control of Air Pollution from Motor Vehicles, Mobile Source Incentive Programs'' (FRL No. 7956–3) received August 22, 2005; to the Committee on Environment and Public Works.

EC–3796. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Virginia; Attainment Demonstration for the Northern Shenandoah Valley Ozone Early Action Compact Area'' (FRL No. 7954–4) received August 22, 2005; to the Committee on Environment and Public Works.

EC–3797. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Waste Management System; Standardized Permit for RCRA Hazardous Waste Management Facilities'' (FRL No. 7948–4) received August 22, 2005; to the Committee on Environment and Public Works.

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. DAYTON:

S. 1717. A bill to prevent gas and oil gouging during natural disasters; to the Committee on Commerce, Science, and Transportation.

By Mr. ENZI (for himself and Mr. KENNEDY):

S. 1718. A bill to provide special rules for disaster relief employment under the Workforce Investment Act of 1998 for individuals displaced by Hurricane Katrina; read the first time.

By Mr. INOUYE (for himself, Mr. BENNETT, and Mr. AKAKA):

S. 1719. A bill to provide for the preservation of the historic confinement sites where Japanese Americans were detained during World War II, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CORNYN:

S. 1720. A bill to provide enhanced penalties for crimes committed using funds appropriated for remediation of any injury or damage caused by Hurricane Katrina; to the Committee on the Judiciary.

By Mr. VOINOVICH (for himself, Mr. CHAFEE, Mr. GRASSLEY, Mr. KERRY, Mr. KENNEDY, Mr. HARKIN, Mr. GRAHAM, Mr. REED, Mrs. CLINTON, Mr. SCHUMER, Mr. DEWINE, and Mr. CORZINE):

S. 1721. A bill to amend the Omnibus Parks and Public Lands Management Act of 1996 to extend the authorization for certain national heritage areas, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. MURKOWSKI (for herself, Mr. JOHNSON, Mr. COLEMAN, Mr. DURBIN, Mr. DODD, and Mrs. MURRAY):

S. 1722. A bill to amend the Public Health Service Act to reauthorize and extend the Fetal Alcohol Syndrome prevention and services program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. COLLINS:

S. 1723. A bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to establish a grant program to ensure waterfront access for commercial fisherman, and for other purposes; to the Committee on Finance.

By Ms. SNOWE (for herself, Mr. VITTER, and Mr. TALENT):

S. 1724. A bill to provide assistance for small businesses damaged by Hurricane Katrina, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. AKAKA, Mr. LEVIN, and Mr. MCCAIN):

S. 1725. A bill to strengthen Federal leadership, provide grants, enhance outreach and guidance, and provide other support to State and local officials to enhance emergency communications capabilities, to achieve communications interoperability, to foster improved regional collaboration and coordination, to promote more efficient utilization of funding devoted to public safety communications, to promote research and development by both the public and private sectors for first responder communications, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

ADDITIONAL COSPONSORS

S. 132

At the request of Mr. SMITH, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 132, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance.

S. 191

At the request of Mr. SMITH, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 191, a bill to extend certain trade preferences to certain least-developed countries, and for other purposes.

S. 380

At the request of Ms. COLLINS, the name of the Senator from Washington

(Ms. CANTWELL) was added as a cosponsor of S. 380, a bill to amend the Public Health Service Act to establish a State family support grant program to end the practice of parents giving legal custody of their seriously emotionally disturbed children to State agencies for the purpose of obtaining mental health services for those children.

S. 508

At the request of Mr. DEWINE, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 508, a bill to provide for the environmental restoration of the Great Lakes.

S. 696

At the request of Mr. BURNS, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 696, a bill to amend the Elementary and Secondary Education Act of 1965 regarding the transfer of students from certain schools.

S. 709

At the request of Mr. DEWINE, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 709, a bill to amend the Public Health Service Act to establish a grant program to provide supportive services in permanent supportive housing for chronically homeless individuals, and for other purposes.

S. 769

At the request of Ms. SNOWE, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 769, a bill to enhance compliance assistance for small businesses.

S. 770

At the request of Mr. LEVIN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 770, a bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to reauthorize and improve that Act.

S. 772

At the request of Mr. CORNYN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 772, a bill to amend the Internal Revenue Code of 1986 to expand workplace health incentives by equalizing the tax consequences of employee athletic facility use.

S. 1139

At the request of Mr. SANTORUM, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1139, a bill to amend the Animal Welfare Act to strengthen the ability of the Secretary of Agriculture to regulate the pet industry.

S. 1172

At the request of Mr. SPECTER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1172, a bill to provide for programs to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers.

S. 1272

At the request of Mr. NELSON of Nebraska, the names of the Senator from Maryland (Mr. SARBANES) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 1272, a bill to amend title 46, United States Code, and title II of the Social Security Act to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II.

S. 1286

At the request of Mr. KENNEDY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1286, a bill to require States to report data on medicaid beneficiaries who are employed.

S. 1313

At the request of Mr. CORNYN, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 1313, a bill to protect homes, small businesses, and other private property rights, by limiting the power of eminent domain.

S. 1350

At the request of Mr. SPECTER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1350, a bill to amend the Communications Act of 1934 to protect the privacy rights of subscribers to wireless communications services.

S. 1360

At the request of Mr. SMITH, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1360, a bill to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage to designated plan beneficiaries of employees, and for other purposes.

S. 1418

At the request of Mr. ENZI, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1418, a bill to enhance the adoption of a nationwide inter operable health information technology system and to improve the quality and reduce the costs of health care in the United States.

S. 1512

At the request of Mr. SARBANES, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1512, a bill to grant a Federal charter to Korean War Veterans Association, Incorporated.

S. 1513

At the request of Ms. MIKULSKI, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1513, a bill to reauthorize the HOPE VI program for revitalization of severely distressed public housing, and for other purposes.

S. 1615

At the request of Mrs. CLINTON, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1615, a bill to establish the Federal Emergency Management Agency as an independent agency, and for other purposes.

S. 1622

At the request of Mrs. CLINTON, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1622, a bill to establish a congressional commission to examine the Federal, State, and local response to the devastation wrought by Hurricane Katrina in the Gulf Region of the United States especially in the States of Louisiana, Mississippi, Alabama, and other areas impacted in the aftermath and make immediate corrective measures to improve such responses in the future.

S. 1644

At the request of Mrs. BOXER, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1644, a bill to promote the employment of workers displaced by Hurricane Katrina in connection with Hurricane Katrina reconstruction efforts.

S. 1647

At the request of Mr. FEINGOLD, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1647, a bill to amend title 11, United States Code, to provide relief to victims of Hurricane Katrina and other natural disasters.

S. 1700

At the request of Mr. COBURN, the names of the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of S. 1700, a bill to establish an Office of the Hurricane Katrina Recovery Chief Financial Officer, and for other purposes.

S. 1716

At the request of Mr. GRASSLEY, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Arkansas (Mr. PRYOR) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 1716, a bill to provide emergency health care relief for survivors of Hurricane Katrina, and for other purposes.

S.J. RES. 23

At the request of Mr. COBURN, the names of the Senator from Alaska (Ms. MURKOWSKI), the Senator from Kentucky (Mr. BUNNING), the Senator from Idaho (Mr. CRAPO), the Senator from New Mexico (Mr. BINGAMAN), the Senator from North Dakota (Mr. DORGAN) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S.J. Res. 23, a joint resolution supporting the goals and ideals of Gold Star Mothers Day.

S. RES. 232

At the request of Mr. KENNEDY, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. Res. 232, a resolution celebrating the 40th anniversary of the enactment of the Voting Rights Act of 1965 and reaffirming the commitment of the Senate to ensuring the continued effectiveness of the Act in protecting the voting rights of all citizens of the United States.

S. RES. 240

At the request of Mr. SANTORUM, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. Res. 240, a resolution expressing the sense of the Senate regarding manifestations of anti-Semitism by United Nations member states and urging action against anti-Semitism by United Nations officials, United Nations member states, and the Government of the United States, and for other purposes.

S. RES. 244

At the request of Mr. SALAZAR, the names of the Senator from Wisconsin (Mr. KOHL), the Senator from Delaware (Mr. CARPER) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. Res. 244, a resolution expressing support for the Pledge of Allegiance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ENZI (for himself and Mr. KENNEDY):

S. 1718. A bill to provide special rules for disaster relief employment under the Workforce Investment Act of 1998 for individuals displaced by Hurricane Katrina; read the first time.

Mr. KENNEDY. Mr. President, it's a privilege to join my colleague Senator ENZI in introducing a bill to bring much needed employment relief to the many working men and women who suddenly lost their livelihood because of Hurricane Katrina. The bill authorizes the Secretary to use National Emergency Grant funds to create short term jobs as the region begins to rebuild.

In distributing these funds, the first priority will be the States who have suffered the greatest loss. A group of us visited the Gulf Coast area last Friday and saw firsthand the immensity of the devastation. We know these proud hard-working men and women are anxious to become self-sufficient again as soon as possible. The Nation has opened its heart to the victims of this vast tragedy, and we need to focus now on making sure that their towns, cities and parishes are ready for their return. In order to rebuild, we need to make sure that there are jobs for them and schools for their children. Last week, we took a first step in helping reopen the schools and we also need to take a similar step to see that there are jobs when they return.

The most heavily affected States—Alabama, Louisiana and Mississippi—are doing all they can to begin rebuilding the local economy, so only Governors and local elected officials will control these employment funds. Our intention is to help rebuild the local economy and give benefits to local workers through local businesses.

I commend Chairman ENZI for his leadership on this bill, and I urge my colleagues to support it.

By Mr. CORNYN:

S. 1720. A bill to provide enhanced penalties for crimes committed using funds appropriated for remediation of any injury or damage caused by Hurricane Katrina; to the Committee on the Judiciary.

Mr. CORNYN. Mr. President, our hearts go out to those who have been affected by the devastation wrought by Hurricane Katrina. By now, those who have been displaced by this disaster know that help is available to them. And true to the American spirit, assistance has poured in from people all across this great land. We have seen the Government, at every level, fail in some way to respond adequately to this emergency. Congressional hearings will examine these failures and the reasons for them to make sure that we are better prepared to respond in the future.

But there is no need for a review of the adequacy, efficiency, or responsiveness of everyday citizens who heeded distress calls from their fellow citizens. When the history of this disaster is finally written, it will document the fact that the American people rose to the challenge. Because that is what Americans do—every time, without exception.

Over the past several weeks we have seen ordinary Americans, on their own initiative, coordinate the donation of goods needed by evacuees, rent U-Haul trucks, and drive to New Orleans to deliver supplies. Others have initiated fundraisers and have donated substantial funds to aid the Red Cross and other charities that are on the ground. And still others, like those in my home State of Texas, have literally opened their doors to complete strangers to provide them with food, shelter, and other necessities, so that they can get back on their feet and begin to rebuild their lives.

Here in the Congress we have acted quickly, passing emergency relief appropriations of more than $60 billion dollars to get money into the devastated areas so people can be helped and areas can be rebuilt. The President has further proposed sending an unprecedented amount of money and incentives to aid in the rebuilding. I plan to support reasonable efforts designed to aid in accomplishing these goals. However, as we pour extraordinary amounts of money into the affected areas, we must guard against those callous people who may see this as an opportunity to wrongfully enrich themselves through fraud.

We all know that the Federal Government's track record at detecting and avoiding fraud is poor, at best. As we begin to funnel what some have said may be close to $200 billion dollars into the disaster areas, we must be vigilant to ensure that these funds go where they legitimately are supposed to go. And we must send the message here and now that the actions of those who may defraud the Government or otherwise illegally obtain a portion of these funds will not be tolerated.

That is why I have introduced the Katrina Waste, Fraud and Abuse Deterrence Act of 2005. This legislation states that anyone convicted of any crime involving funds appropriated for disaster relief in the aftermath of Hurricane Katrina face a mandatory minimum sentence of 5 years—and up to 20 years—in prison.

As I have said, a staggering amount of money will be, and currently is being sent to this area. The funds will speed the rebuilding of these areas and otherwise help those who are in need of assistance. But the American people will not tolerate misappropriation of these funds. President Bush has ordered that a team of inspectors general review all expenditures to ensure that the rebuilding work is done honestly and wisely. I applaud the President for his stewardship of this money. The bill I introduce today will put some teeth into this oversight. It will say to those who may contemplate illegally cutting corners or outright stealing disaster funds whether by fraud, theft, or embezzlement, that they will be caught, prosecuted, and imprisoned.

To those who legitimately need these funds: Your country is here to help you. To those who are inclined to take advantage of the misfortune of others by wrongfully taking these funds: You will be prosecuted.

By Ms. MURKOWSKI (for herself, Mr. JOHNSON, Mr. COLEMAN, Mr. DURBIN, Mr. DODD, and Mrs. MURRAY):

S. 1722. A bill to amend the Public Health Service Act to reauthorize and extend the Fetal Alcohol Syndrome prevention and services program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Ms. MURKOWSKI. 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. 1722

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 ''Advancing FASD Research, Prevention, and Services Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Fetal Alcohol Spectrum Disorders are the spectrum of serious, life-long disorders caused by prenatal exposure to alcohol, which include Fetal Alcohol Syndrome, Alcohol-Related Neurodevelopmental Disorder, and Alcohol-Related Birth Defects.

(2) In the decades that have passed since Fetal Alcohol Syndrome was first recognized in the United States, this fully preventable condition has continued to affect American children and families.

(3) Prenatal alcohol exposure can cause brain damage that produces cognitive and behavioral impairments. Prenatal alcohol exposure can cause mental retardation or low IQ and difficulties with learning, memory, attention, and problem-solving. It can

also create problems with mental health and social interactions.

(4) Prenatal alcohol exposure also can cause growth retardation, birth defects involving the heart, kidney, vision and hearing, and a characteristic pattern of facial abnormalities.

(5) About 13 percent of women report using alcohol during pregnancy even though there is no known safe level of alcohol consumption during pregnancy.

(6) Estimates of individuals with Fetal Alcohol Syndrome vary but are estimated to be between 0.5 and 2.0 per 1,000 births. The prevalence rate is considerably higher for all Fetal Alcohol Spectrum Disorders: about 10 out of 1,000 births (1 percent of births).

(7) Prevalence of Fetal Alcohol Spectrum Disorders can be even higher in certain populations, such as Native Americans, and in certain areas, such as those characterized by low socioeconomic status.

(8) Fetal Alcohol Spectrum Disorders pose extraordinary financial costs to the Nation, including the cost of specialized health care, education, foster care, incarceration, job training, and general support services for individuals affected by Fetal Alcohol Spectrum Disorders.

(9) Lifetime health costs for an individual with Fetal Alcohol Syndrome average $860,000, and can run as high as $4,200,000. The direct and indirect economic costs of Fetal Alcohol Syndrome in the United States were $5,400,000,000 in 2003. Total economic costs would be even higher for all Fetal Alcohol Spectrum Disorders.

(10) There is a great need for research, surveillance, prevention, treatment, and support services for individuals with Fetal Alcohol Spectrum Disorders and their families.

SEC. 3. PROGRAMS FOR FETAL ALCOHOL SPECTRUM DISORDERS.

Section 399H of the Public Health Service Act (48 U.S.C. 280f) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 399H. PROGRAMS FOR FETAL ALCOHOL SPECTRUM DISORDERS.";

(2) by redesignating subsections (a) through (d) as subsections (h) through (k), respectively;

(3) by inserting after the section heading, the following:

"(a) RESEARCH ON FAS AND RELATED DISORDERS.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the National Institutes of Health and in coordination with the Interagency Coordinating Committee on Fetal Alcohol Syndrome, shall—

"(A) establish a research agenda for Fetal Alcohol Spectrum Disorders; and

"(B) award grants, contracts, or cooperative agreements to public or private nonprofit entities to pay all or part of carrying out research under such agenda.

"(2) TYPES OF RESEARCH.—In carrying out paragraph (1), the Secretary, acting through the Director of the National Institute of Alcohol Abuse and Alcoholism, shall conduct national and international research in coordination with other Federal agencies that includes—

"(A) the identification of the mechanisms that produce the cognitive and behavioral problems associated with fetal alcohol exposure;

"(B) the development of a neurocognitive phenotype for Fetal Alcohol Syndrome and Alcohol-Related Neurodevelopmental Disorder;

"(C) the identification of biological markers that can be used to indicate fetal alcohol exposure;

"(D) the identification of fetal and maternal risk factors that increase susceptibility to Fetal Alcohol Spectrum Disorders;

"(E) the investigation of behavioral and pharmacotherapies for alcohol-dependent women to determine new approaches for sustaining recovery;

"(F) the development of scientific-based therapeutic interventions for individuals with Fetal Alcohol Spectrum Disorders;

"(G) the development of screening instruments to identify women who consume alcohol during pregnancy and the development of standards for measuring, reporting, and analyzing alcohol consumption patterns in pregnant women; and

"(H) other research that the Director determines to be appropriate.

"(3) STUDY.—The Secretary, acting through the Director of the National Institute of Mental Health, shall—

"(A) conduct a study on the behavioral disorders that may be associated with prenatal alcohol exposure;

"(B) not later than 1 year after the date of enactment of the Advancing FASD Research, Prevention, and Services Act, submit to Congress a report on the appropriateness of characterizing Fetal Alcohol Spectrum Disorders and their secondary behavioral disorders as mental health disorders; and

"(C) conduct additional research on the epidemiology of behavior disorders associated with Fetal Alcohol Spectrum Disorders in collaboration with the Centers for Disease Control and Prevention.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, such sums as may be necessary for each of fiscal years 2006 through 2010.

"(b) SURVEILLANCE, IDENTIFICATION, AND PREVENTION ACTIVITIES.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the National Center on Birth Defects and Developmental Disabilities, shall facilitate surveillance, identification, and prevention of Fetal Alcohol Spectrum Disorders as provided for in this subsection.

"(2) SURVEILLANCE, IDENTIFICATION, AND PREVENTION.—In carrying out this subsection, the Secretary shall—

"(A) develop and implement a uniform surveillance case definition for Fetal Alcohol Syndrome and a uniform surveillance case definition for Alcohol Related Neurodevelopmental Disorder;

"(B) develop a comprehensive screening process for Fetal Alcohol Spectrum Disorders that covers different age, race, and ethnic groups and is based on the uniform surveillance case definitions developed under subparagraph (A);

"(C) disseminate and provide the necessary training and support for the screening process developed under subparagraph (B) to—

"(i) hospitals, community health centers, outpatient programs, and other appropriate health care providers;

"(ii) incarceration and detainment facilities;

"(iii) primary and secondary schools;

"(iv) social work and child welfare offices;

"(v) foster care providers and adoption agencies;

"(vi) State offices and others providing services to individuals with disabilities; and

"(vii) other entities that the Secretary determines to be appropriate;

"(D) conduct activities related to risk factor surveillance including the annual monitoring and reporting of alcohol consumption among pregnant women and women of child bearing age; and

"(E) conduct applied public health prevention research and implement strategies for reducing alcohol-exposed pregnancies in women at high risk for alcohol-exposed pregnancies.

"(3) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to carry out this subsection, such sums as may be necessary for each of fiscal years 2006 through 2010.

"(c) BUILDING STATE FASD SYSTEMS.—

"(1) IN GENERAL.—The Secretary, acting through the Administrator of the Substance Abuse and Mental Health Services Administration, shall award grants, contracts, or cooperative agreements to States for the purpose of establishing or expanding statewide programs of surveillance, prevention, and treatment of individuals with Fetal Alcohol Spectrum Disorders.

"(2) ELIGIBILITY.—To be eligible to receive a grant, contract, or cooperative agreement under paragraph (1) a State shall—

"(A) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may reasonably require;

"(B) develop and implement a statewide strategic plan for preventing and treating Fetal Alcohol Spectrum Disorders;

"(C) consult with public and private nonprofit entities with relevant expertise on Fetal Alcohol Spectrum Disorders within the State, including—

"(i) parent-led groups and other organizations that support and advocate for individuals with Fetal Alcohol Spectrum Disorders; and

"(ii) Indian tribes and tribal organizations; and

"(D) designate an individual to serve as the coordinator of the State's Fetal Alcohol Spectrum Disorders program.

"(3) STRATEGIC PLAN.—The statewide strategic plan prepared under paragraph (2)(B) shall include—

"(A) the identification of existing State programs and systems that could be used to identify and treat individuals with Fetal Alcohol Spectrum Disorders and prevent alcohol consumption during pregnancy, such as—

"(i) programs for the developmentally disabled, the mentally ill, and individuals with alcohol dependency;

"(ii) primary and secondary educational systems;

"(iii) judicial systems for juveniles and adults;

"(iv) child welfare programs and social service programs; and

"(v) other programs or systems the State determines to be appropriate;

"(B) the identification of any barriers for individuals with Fetal Alcohol Spectrum Disorders or women at risk for alcohol consumption during pregnancy to access the programs identified under subparagraph (A); and

"(C) proposals to eliminate barriers to prevention and treatment programs and coordinate the activities of such programs.

"(4) USE OF FUNDS.—Amounts received under a grant, contract, or cooperative agreement under paragraph (1) shall be used for one or more of the following activities:

"(A) Establishing a statewide surveillance system.

"(B) Collecting, analyzing and interpreting data.

"(C) Establishing a diagnostic center.

"(D) Developing, implementing, and evaluating population-based and targeted prevention programs for Fetal Alcohol Spectrum Disorders, including public awareness campaigns.

"(E) Referring individuals with Fetal Alcohol Spectrum Disorders to appropriate support services.

"(F) Developing and sharing best practices for the prevention, identification, and treatment of Fetal Alcohol Spectrum Disorders.

"(G) Providing training to health care providers on the prevention, identification, and

treatment of Fetal Alcohol Spectrum Disorders.

''(H) Disseminating information about Fetal Alcohol Spectrum Disorders and the availability of support services to families of individuals with Fetal Alcohol Spectrum Disorders.

''(I) Other activities determined appropriate by the Secretary.

''(5) MULTI-STATE PROGRAMS.—The Secretary shall permit the formation of multi-State Fetal Alcohol Spectrum Disorders programs under this subsection.

''(6) OTHER CONTRACTS AND AGREEMENTS.—A State may carry out activities under paragraph (4) through contacts or cooperative agreements with public and private non-profit entities with a demonstrated expertise in Fetal Alcohol Spectrum Disorders.

''(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, such sums as may be necessary for fiscal years 2006 through 2010.

''(d) PROMOTING COMMUNITY PARTNERSHIPS.—

''(1) IN GENERAL.—The Secretary shall award grants, contracts, or cooperative agreements to eligible entities to enable such entities to establish, enhance, or improve community partnerships for the purpose of collaborating on common objectives and integrating the services available to individuals with Fetal Alcohol Spectrum Disorders, such as surveillance, prevention, treatment, and provision of support services.

''(2) ELIGIBLE ENTITIES.—To be eligible to receive a grant, contract, or cooperative agreement under paragraph (1), an entity shall—

''(A) be a public or private nonprofit entity, including—

''(i) a health care provider or health professional;

''(ii) a primary or secondary school;

''(iii) a social work or child welfare office;

''(iv) an incarceration or detainment facility;

''(v) a parent-led group or other organization that supports and advocates for individuals with Fetal Alcohol Spectrum Disorders;

''(vi) an Indian tribe or tribal organization;

''(vii) any other entity the Secretary determines to be appropriate; or

''(viii) a consortium of any of the entities described in clauses (i) through (vii); and

''(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may reasonably require, including assurances that the entity submitting the application does, at the time of application, or will, within a reasonable amount of time from the date of application, include substantive participation of a broad range of entities that work with or provide services for individuals with Fetal Alcohol Spectrum Disorders.

''(3) ACTIVITIES.—An eligible entity shall use amounts received under a grant, contract, or cooperative agreement under this subsection shall carry out 1 or more of the following activities:

''(A) Identifying and integrating existing programs and services available in the community for individuals with Fetal Alcohol Spectrum Disorders.

''(B) Conducting a needs assessment to identify services that are not available in a community.

''(C) Developing and implementing community-based initiatives to prevent, diagnose, treat, and provide support services to individuals with Fetal Alcohol Spectrum Disorders.

''(D) Disseminating information about Fetal Alcohol Spectrum Disorders and the availability of support services.

''(E) Developing and implementing a community-wide public awareness and outreach campaign focusing on the dangers of drinking alcohol while pregnant.

''(F) Providing mentoring or other support to families of individuals with Fetal Alcohol Spectrum Disorders.

''(G) Other activities determined appropriate by the Secretary.

''(4) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to carry out this subsection, such sums as may be necessary for each of fiscal years 2006 through 2010.

''(e) DEVELOPMENT OF BEST PRACTICES.—

''(1) IN GENERAL.—The Secretary, in coordination with the National Task Force on Fetal Alcohol Spectrum Disorders, shall award grants to States, Indian tribes and tribal organizations, and nongovernmental organizations for the establishment of pilot projects to identify and implement best practices for—

''(A) educating children with fetal alcohol spectrum disorders, including—

''(i) activities and programs designed specifically for the identification, treatment, and education of such children; and

''(ii) curricula development and credentialing of teachers, administrators, and social workers who implement such programs;

''(B) educating judges, attorneys, child advocates, law enforcement officers, prison wardens, alternative incarceration administrators, and incarceration officials on how to treat and support individuals suffering from Fetal Alcohol Spectrum Disorders within the criminal justice system, including—

''(i) programs designed specifically for the identification, treatment, and education of those with Fetal Alcohol Spectrum Disorders; and

''(ii) curricula development and credentialing within the justice system for individuals who implement such programs; and

''(C) educating adoption or foster care agency officials about available and necessary services for children with fetal alcohol spectrum disorders, including—

''(i) programs designed specifically for the identification, treatment, and education of those with Fetal Alcohol Spectrum Disorders; and

''(ii) education and training for potential parents of an adopted child with Fetal Alcohol Spectrum Disorders.

''(2) APPLICATION.—To be eligible for a grant under paragraph (1), an entity shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may reasonably require.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, such sums as may be necessary for each of fiscal years 2006 through 2010.

''(f) TRANSITIONAL SERVICES.—

''(1) IN GENERAL.—The Secretary shall award demonstration grants, contracts, and cooperative agreements to States, Indian tribes and tribal organizations, and nongovernmental organizations for the purpose of establishing integrated systems for providing transitional services for those affected by prenatal alcohol exposure and evaluating their effectiveness.

''(2) APPLICATION.—To be eligible for a grant, contract, or cooperative agreement under paragraph (1), an entity shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may reasonably require.

''(3) ALLOWABLE USES.—An entity shall use amounts received under a grant, contract, or cooperative agreement under paragraph (1) to—

''(A) provide housing assistance to adults with Fetal Alcohol Spectrum Disorders;

''(B) provide vocational training and placement services for adults with Fetal Alcohol Spectrum Disorders;

''(C) provide medication monitoring services for adults with Fetal Alcohol Spectrum Disorders; and

''(D) provide training and support to organizations providing family services or mental health programs and other organizations that work with adults with Fetal Alcohol Spectrum Disorders.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, such sums as may be necessary for each of fiscal years 2006 through 2010.

''(g) COMMUNITY HEALTH CENTER INITIATIVE.—

''(1) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall award grants to community health centers acting in collaboration with States, Indian tribes, tribal organizations, and nongovernmental organizations, for the establishment of a 5-year demonstration program under the direction of the Interagency Coordinating Committee on Fetal Alcohol Syndrome to implement and evaluate a program to increase awareness and identification of Fetal Alcohol Spectrum Disorders in community health centers and to refer affected individuals to appropriate support services.

''(2) APPLICATION.—To be eligible to receive a grant under paragraph (1), a community health center shall prepare and submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may reasonably require.

''(3) ACTIVITIES.—A community health center shall use amounts received under a grant under paragraph (1) to—

''(A) provide training for health care providers on identifying and educating women who are at risk for alcohol consumption during pregnancy;

''(B) provide training for health care providers on screening children for Fetal Alcohol Spectrum Disorders;

''(C) educate health care providers and other relevant community health center workers on the support services available for those with Fetal Alcohol Spectrum Disorders and treatment services available for women at risk for alcohol consumption during pregnancy; and

''(D) implement a tracking system that can identify the rates of Fetal Alcohol Spectrum Disorders by racial, ethnic, and economic backgrounds.

''(4) SELECTION OF PARTICIPANTS.—The Administrator shall determine the number of community health centers that will participate in the demonstration program under this subsection and shall select participants, to the extent practicable, that are located in different regions of the United States and that serve a racially and ethnically diverse population.

''(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, such sums as may be necessary for each of fiscal years 2006 through 2010.

''(6) REPORT TO CONGRESS.—Not later than 1 year after completion of the demonstration program under this subsection, the Administrator shall prepare and submit to Congress a report on the results of the demonstration program, including—

''(A) changes in the number of women screened for and identified as at risk for alcohol consumption during pregnancy;

''(B) changes in the number of individuals identified as having a Fetal Alcohol Spectrum Disorder; and

''(C) changes in the number of alcohol-consuming pregnant women and individuals with Fetal Alcohol Spectrum Disorders who were referred to appropriate services.'';

(4) in subsection (h)(1) (as so redesignated)—

(A) in subparagraph (C), by striking ''and'' after the semicolon;

(B) in subparagraph (D), by adding ''and'' after the semicolon; and

(C) by adding at the end the following:

''(E) national public service announcements to raise public awareness of the risks associated with alcohol consumption during pregnancy with the purpose of reducing the prevalence of Fetal Alcohol Spectrum Disorders, that shall—

''(i) be conducted by relevant Federal agencies under the coordination of the Interagency Coordinating Committee on Fetal Alcohol Syndrome;

''(ii) be developed by the appropriate Federal agencies, as determined by the Interagency Coordinating Committee on Fetal Alcohol Syndrome taking into consideration the expertise and experience of other relevant Federal agencies, and shall test and evaluate the public service announcement's effectiveness prior to broadcasting the announcements nationally;

''(iii) be broadcast through appropriate media outlets, including television or radio, in a manner intended to reach women at risk of alcohol consumption during pregnancy; and

''(iv) be measured prior to broadcast of the national public service announcements to provide baseline data that will be used to evaluate the effectiveness of the announcements.''; and

(5) in subsection (k) (as so redesignated)—

(A) in paragraph (1), by striking ''National Task Force on Fetal Alcohol Syndrome and Fetal Alcohol Effect'' and inserting ''National Task Force on Fetal Alcohol Spectrum Disorders'';

(B) in paragraph (3)—

(i) in subparagraph (B), by striking ''and'' after the semicolon;

(ii) in subparagraph (C), by adding ''and'' after the semicolon; and

(iii) by adding at the end the following:

''(D) develop, in collaboration with the Interagency Coordinating Committee on Fetal Alcohol Syndrome, a report that identifies and describes the 10 most important actions that must be taken to reduce prenatal alcohol exposure and all its adverse outcomes, and that shall—

''(i) describe the state of the current epidemiology of Fetal Alcohol Spectrum Disorders, risk factors, and successful approaches in policy and services that have reduced alcohol-exposed pregnancies and outcomes;

''(ii) identify innovative approaches that have worked in related areas such as tobacco control or HIV prevention that may provide models for Fetal Alcohol Spectrum Disorders prevention;

''(iii) recommend short-term and long-term action plans for achieving the Healthy 2010 Objectives for the United States, such as increasing abstinence from alcohol among pregnant women and reducing the occurrence of Fetal Alcohol Syndrome; and

''(iv) recommend in coordination with the National Institute on Mental Health whether Fetal Alcohol Syndrome and other prenatal alcohol disorders, or a subset of these disorders, should be included in the Diagnostic and Statistical Manual of Mental Disorders.''; and

(C) by striking ''Fetal Alcohol Syndrome and Fetal Alcohol Effect'' each place that such appears and inserting ''Fetal Alcohol Spectrum Disorders''.

SEC. 4. COORDINATION AMONG FEDERAL ENTITIES.

Part O of title III of the Public Health Service Act (42 U.S.C. 280f et seq.) is amended by adding at the end the following:

''SEC. 399K–1. COORDINATION AMONG FEDERAL ENTITIES.

''(a) INTERAGENCY COORDINATING COMMITTEE ON FETAL ALCOHOL SYNDROME.—The Secretary, acting through the Director of the National Institute on Alcohol Abuse and Alcoholism, shall provide for the continuation of the Interagency Coordinating Committee on Fetal Alcohol Syndrome so that such Committee may—

''(1) coordinate activities conducted by the Federal Government on Fetal Alcohol Spectrum Disorders, including convening meetings, establishing work groups, sharing information, and facilitating and promoting collaborative projects among Federal agencies; and

''(2) develop, in consultation with the National Task Force on Fetal Alcohol Spectrum Disorders, priority areas for years 2006 through 2010 to guide Federal programs and activities related to Fetal Alcohol Spectrum Disorders.

''(b) COORDINATION AMONG FEDERAL ENTITIES.—

''(1) IN GENERAL.—The Comptroller General of the United States shall evaluate and make recommendations regarding the appropriate roles and responsibilities of Federal entities with respect to programs and activities related to Fetal Alcohol Spectrum Disorders.

''(2) COVERED ENTITIES.—The Federal entities under paragraph (1) shall include entities within the National Institutes of Health, the Centers for Disease Control and Prevention, the Substance Abuse and Mental Health Services Administration, the Health Resources and Services Administration, the Indian Health Service, the Agency for Healthcare Research and Quality, the Interagency Coordinating Committee on Fetal Alcohol Syndrome, the National Task Force on Fetal Alcohol Spectrum Disorders, as well as the Office of Special Education and Rehabilitative Services in the Department of Education and the Office of Juvenile Justice and Delinquency Prevention in the Department of Justice.

''(3) EVALUATION.—The evaluation conducted by the Comptroller General under paragraph (1) shall include—

''(A) an assessment of the current roles and responsibilities of Federal entities with programs and activities related to Fetal Alcohol Spectrum Disorders; and

''(B) an assessment of whether there is duplication in programs and activities, conflicting roles and responsibilities, or lack of coordination among Federal entities.

''(4) RECOMMENDATION.—The Comptroller General shall provide recommendations on the appropriate roles and responsibilities of the Federal entities described in paragraph (2) in order to maximize the effectiveness of Federal programs and activities related to Fetal Alcohol Spectrum Disorders.

''(5) COMPLETION.—Not later than 1 year after the date of enactment of the Advancing FASD Research, Prevention, and Services Act, the Comptroller General shall complete the evaluation and submit to Congress a report on the findings and recommendations made as a result of the evaluation.''.

SEC. 5. SERVICES FOR INDIVIDUALS WITH FETAL ALCOHOL SYNDROME.

Section 519C(b) of the Public Health Service Act (42 U.S.C. 290bb–25c(b)) is amended—

(1) in paragraph (11), by striking ''and'' after the semicolon;

(2) by redesignating paragraph (12) as paragraph (15); and

(3) by inserting after paragraph (11), the following:

''(12) provide respite care for caretakers of individuals with Fetal Alcohol Syndrome and other prenatal alcohol-related disorders;

''(13) recruit and train mentors for adolescents with Fetal Alcohol Syndrome and other prenatal alcohol-related disorders;

''(14) provide educational and supportive services to families of individuals with Fetal Alcohol Spectrum Disorders; and''.

SEC. 6. PREVENTION, INTERVENTION, AND SERVICES IN THE EDUCATION SYSTEM.

The Secretary of Education shall direct the Office of Special Education and Rehabilitative Services to—

(1) implement screening procedures and conduct training on a nationwide Fetal Alcohol Spectrum Disorders surveillance campaign for the educational system in collaboration with the efforts of the National Center on Birth Defects and Developmental Disabilities under section 399H(b) of the Public Health Service Act (as added by this Act);

(2) introduce curricula previously developed by the National Center on Birth Defects and Developmental Disabilities and the Substance Abuse and Mental Health Services Administration on how to most effectively educate and support children with Fetal Alcohol Spectrum Disorders in both special education and traditional education settings, and investigate incorporating information about the identification, prevention, and treatment of the Disorders into teachers' credentialing requirements;

(3) integrate any special techniques on how to deal with Fetal Alcohol Spectrum Disorders children into parent-teacher or parent-administrator interactions, including after-school programs, special school services, and family aid programs;

(4) collaborate with other Federal agencies to introduce a standardized educational unit within schools' existing sexual and health education curricula, or create one if needed, on the deleterious effects of prenatal alcohol exposure; and

(5) organize a peer advisory network of adolescents in schools to discourage the use of alcohol while pregnant or considering getting pregnant.

SEC. 7. PREVENTION, INTERVENTION, AND SERVICES IN THE JUSTICE SYSTEM.

The Attorney General shall direct the Office of Juvenile Justice and Delinquency Prevention to—

(1) implement screening procedures and conduct training on a nationwide Fetal Alcohol Spectrum Disorders surveillance campaign for the justice system in collaboration with the efforts of the National Center on Birth Defects and Developmental Disabilities under section 399H(b) of the Public Health Service Act (as added by this Act);

(2) introduce training curricula, in collaboration with the National Center on Birth Defects and Developmental Disabilities and the Substance Abuse and Mental Health Services Administration, on how to most effectively identify and interact with individuals with Fetal Alcohol Spectrum Disorders in both the juvenile and adult justice systems, and investigate incorporating information about the identification, prevention, and treatment of the disorders into justice professionals' credentialing requirements;

(3) promote the tracking of individuals entering the juvenile justice system with at-risk backgrounds that indicates them as high probability for having a Fetal Alcohol Spectrum Disorder, especially those individuals whose mothers have a high record of drinking during pregnancy as reported by the appropriate child protection agency;

(4) educate judges, attorneys, child advocates, law enforcement officers, prison wardens, alternative incarceration administrators, and incarceration officials on how to treat and support individuals suffering from Fetal Alcohol Spectrum Disorders within the criminal justice system, including—

(A) programs designed specifically for the identification, treatment, and education of such children; and

(B) curricula development and credentialing of teachers, administrators, and social workers who implement such programs;

(5) conduct a study on the inadequacies of how the current system processes children with certain developmental delays and subsequently develop alternative methods of incarceration and treatment that are more effective for youth offenders identified to have a Fetal Alcohol Spectrum Disorder; and

(6) develop transition programs for individuals with Fetal Alcohol Spectrum Disorders who are released from incarceration.

SEC. 8. MISCELLANEOUS PROVISIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 399J of the Public Health Service Act (42 U.S.C. 280f–2) is amended by striking ''the part'' and all that follows through the period and inserting ''subsections (h) through (k) of section 399H, $27,000,000 for each of fiscal years 2006 through 2010''.

(b) REPEAL OF SUNSET.—Section 399K of the Public Health Service Act (42 U.S.C. 280f–3) is repealed.

Mr. JOHNSON. Mr. President, today I join Senators DODD, DURBIN, COLEMAN, MURKOWSKI, and MURRAY to introduce the ''Advancing FASD Research, Prevention, and Services Act of 2005.'' I thank them for joining me in introducing this legislation that will improve the surveillance, identification, and prevention of Fetal Alcohol Syndrome Disorders or FASD.

FASD affects 1 in 100 live births or as many as 40,000 infants each year. This illness affects more people than those impacted by spina bifida, down syndrome, and cerebral palsy combined. In my home State of South Dakota, approximately 31,777 individuals are suspected of having FASD. This statistic is alarming and it is for these reasons why I believe that this bill is so critical in helping fight this disease.

During the course of my career, I have met and worked with people whose lives have been deeply affected by this preventable illness. For a person affected by FASD, there can be numerous medical, physical, educational, and financial implications, such as severe learning disabilities, physical abnormalities, costly medical bills, and behavioral impairments.

According to the University of South Dakota School of Medicine and Health Sciences Center for Disabilities, the lifetime cost for an individual with FASD is over $2 million, and the special educational costs for South Dakota children with FASD can range from $3,781 to $17,056 per year. Additionally, over 60 percent of the individuals in South Dakota who have been diagnosed with FASD lived within a foster care home for some part of their lives. While the foster care parent cares and loves a child, the child will never really know the stability of a permanent family.

Furthermore, it is estimated that 60 percent of individuals with FASD will end up in a correctional or mental institution at some point in their lives. Most individuals with FASD will commit their first crime between the ages of 9 and 14, costing the state of South Dakota close to $165.04 per day to house a juvenile offender with FASD, the total amount of all children with FASD in the South Dakota juvenile justice system and special education program is $3,810,240.

These unfortunate statistics compel me to join with my colleagues to introduce this bill today. While we have increased awareness about the dangers of consuming alcohol during pregnancy, there is much more that needs to be done to reach the goal of elimination of FASD in this Nation.

In my home State of South Dakota, we've had great successes in working on this issue. With the leadership of the health professionals at the USD Center for Disabilities, the Black Hills State University Western Center of Fetal Alcohol Syndrome, parents, and teachers, among countless others, we have been able to make some important advancements in addressing FASD. This legislation will bolster those efforts and those of many others across the country that are working hard to prevent FASD and support the children and families who are living with its consequences.

This bill would provide much needed support in the areas of research and prevention. This legislation would require the National Institutes of Health to develop a research agenda for FASD including research related to identifying the mechanisms that produce the cognitive and behavioral problems associated with fetal alcohol exposure, and identifying biological markers that indicate fetal alcohol exposure.

This bill would also make available Federal grants to community health centers to implement and evaluate programs to increase awareness and identification of FASD in those settings. Participating health centers would be able to make available training to health care providers on identifying and educating women who are at risk for alcohol consumption during pregnancy and also provide training to health care providers on screening children for FASD, among other things.

Another provision in this bill creates public awareness and education campaigns in at-risk. areas, in order to further the prevention of this disease. This bill would authorize the development and broadcast of national public service announcements to raise public awareness of the risks associated with alcohol consumption during pregnancy.

Again, I am pleased to be introducing this bill. I would also like to take a moment to thank Senator Daschle for his leadership on FASD. His long commitment to combating this illness is ever present in South Dakota and for those who continue to work with those battling FASD every day. Without his hard work and dedication, we would not be as far today in preventing FASD as we are.

By Ms. COLLINS:

S. 1723. A bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to establish a grant program to ensure waterfront access for commercial fishermen, and for other purposes; to the Committee on Finance.

Ms. COLLINS. Mr. President, all along our Nation's coasts are harbors that were once full of the sights, sounds, and smells that accompany the fishing industry. Unfortunately, a number of factors are converging to lead to the loss of our Nation's vital fishing infrastructure, which is essential for the continuance of the commercial fishing industry. I have drafted legislation that will help to combat the loss of commercial access to our waterfronts and to support the fishing industry's role in our maritime heritage.

In July, I was contacted by Andy Hawke of Boothbay Harbor, ME, a lobsterman who explained that the local lobstermen's cooperative had recently come up for sale. Unfortunately, the local fishermen could not come up with the resources to purchase the cooperative's facilities, and they were looking for Federal assistance in order to keep this coastal property accessible to the commercial fishing industry. Their goal was to keep the cooperative in operation for the lobstermen of Boothbay Harbor and the ''upcoming youth who will be in the lobster industry.''

There was little assistance that I could offer beyond identifying some grant programs that might apply. I discovered quickly that there is no targeted, Federal program to help the commercial fishing industry gain or preserve access to waterfront areas. At the same time, the pressures that drive the commercial fishing industry from these vital pieces of industry infrastructure are mounting. I rise today to introduce legislation that would create a program to assist our Nation's commercial fishermen, the Working Waterfront Preservation Act.

I can best speak to this issue by pointing to the loss of commercial waterfront access in Maine. Only 25 of Maine's 3,500 miles of coastline are devoted to commercial access. Sadly, portions of Maine's working waterfront are being sold weekly and converted to other uses, most often second homes and condominiums.

The reasons for the loss of Maine's working waterfront are complex. In some cases, burdensome fishing regulations have led to a decrease in landings, hindering the profitability of shore-side infrastructure, like the Portland Fish Exchange. In other cases, soaring land values and rising taxes have made the current use of commercial land unprofitable. Property is being sold and quickly converted into private spaces and second

homes that no longer are the center of economic activity.

Maine's lack of commercial waterfront access has prompted the formation of a Working Waterfront Coalition. This coalition is comprised of an impressive number of industry associations, non-profit groups, and State agencies, who have come together to preserve Maine's working waterfront.

Preservation of the working waterfront is essential to protect a way of life that is unique to our coastal States and is vital to economic development along the coast. Maine's Working Waterfront Coalition identified 18 projects that would increase Maine's available working waterfront. These 18 projects would create or preserve over 875 Maine jobs. All that is needed is a modest investment in Maine's working waterfront.

The loss of commercial waterfront access affects the fishing industry throughout all coastal States. On August 28, 2005, a story appeared in the Providence Journal about the fishing port of Galilee in Rhode Island. Fishermen from Galilee are getting pushed out of the waterfront as their profitability shrinks and land values soar. This article detailed plans to create more condominiums in Galilee and $2 million beach houses marketed to buyers from Connecticut and New York.

On July 26, 2005, the Los Angeles Times ran a story on the disappearance of working waterfront in Florida. In June of this year, Governor Bush signed a law aimed at protecting that State's working waterfront.

On February 20, 2005, the Seattle Times profiled the Washington town of Anacortes's struggle with development and the future of this port. In this story, the city attorney and planner said that the biggest issue facing this town is whether they can continue to have a working waterfront, as Anacortes ''is still a real town where people are making a real living.''

Another region of the country where this bill will help the local community and stimulate economic growth is a region we have heard a lot about in recent news, the gulf coast. On September 6, 2005, the Houston Chronicle ran a story on the havoc caused by Hurricane Katrina to Alabama's fishing industry. This disaster hit the town of Bayou La Batre; it destroyed oyster beds, upended fishing boats, and damaged the docks and piers on which the fishing industry relies. The Working Waterfront Preservation Act would assist the victims of this storm in rebuilding the shore-side infrastructure vital to the industry.

No matter the coastal State, our Nation's fishermen are affected by the loss of access to commercial waterfront properties. I have drafted legislation targeting this exact problem, as no Federal program exists to assist States like Maine, Florida, Washington, and Alabama, which are trying to cope with the loss of this valuable infrastructure.

The loss of commercial waterfront access is apparent. The Working Waterfront Preservation Act would assist by providing Federal grant funding to municipal and State governments, nonprofit organizations, and fishermen's cooperatives for the purchase of property or easements or for the maintenance of working waterfront facilities. The bill contains a $50 million authorization for grants that would require a 25 percent local match. Applications for grants would be considered by both the Department of Commerce and State fisheries agencies, which have the local expertise to understand the needs of each coastal State. Grant recipients would agree not to convert coastal properties to noncommercial uses, as a condition of receiving Federal assistance.

This legislation also has a tax component included. When properties or easements are purchased, sellers would only be taxed on half of the gain they receive from this sale. Taxing only half of the gain on conservation sales is a proposal that has been advanced by the President in all of his budget proposals. This is a vital aspect of my bill because it would diminish the pressure to quickly sell waterfront property that would then, most likely, be converted to noncommercial uses, and would increase the incentives for sellers to take part in this grant program. This is especially important given that the application process for Federal grants does not keep pace with the coastal real estate market.

This legislation is crucial for our Nation's commercial fisheries, which are coming under increasing pressures from many fronts. This new grant program would preserve important commercial infrastructure and promote economic development along our coast. I am committed to creating a Federal mechanism to preserve working waterfronts and will pursue this legislation during the 109th Congress.

By Ms. SNOWE (for herself, Mr. VITTER, and Mr. TALENT):

S. 1724. A bill to provide assistance for small businesses damaged by Hurricane Katrina, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, I rise today to bring to the attention of the Senate a bill which provides a comprehensive package for immediate emergency resources to help the victims of Hurricane Katrina rebuild their lives and their businesses.

As we are well aware, the entire Gulf Coast of the United States has been ravaged by the disaster of Hurricane Katrina. No natural disaster in this country in recent memory has carried with it the devastation and horror we have witnessed in the recent weeks. Many lives have been lost and damages are projected in the hundreds of billions of dollars. The President and Congress have already provided over $61 billion in emergency funds.

While we work to re-establish communities and provide some stability to the affected areas, we must consider the enormous economic impact this catastrophe has had on the region and on our entire Nation. This impact is particularly pronounced for the vital small business sector. With over 800,000 firms damaged in the Hurricane-affected region, employment in the Louisiana, Mississippi and Alabama area may be reduced by over a million jobs! Moreover, our economy which has recently recovered from recession, thanks largely to our small businesses which have created three-quarters of all new jobs, could be dampened by as much as a full percentage point.

As Chair of the Committee on Small Business and Entrepreneurship, I am committed to do everything in my power to provide immediate and necessary support to rebuild this region and to help sustain our economy. I want to ensure that every American affected by this Hurricane has the resources to begin rebuilding their lives, their businesses and their dreams.

The provisions of this bill were contained in an amendment that I proposed, Amendment #1717, to the Commerce, Justice, and Science Appropriations Act of 2005, H.R. 2862. I would like to thank my colleagues, Senator VITTER, Senator TALENT, Senator KERRY, and Senator LANDRIEU, for co-sponsoring that amendment. The amendment was approved in the Senate by a rollcall vote of 96 to 0 on September 15, 2006, and subsequently passed the Senate in the Commerce, Justice, and Science Appropriations Act on that same day.

Because the Federal Disaster Loan program administered by the Small Business Administration issues Disaster Loans to businesses, homeowners, and renters, this legislation would have a significant impact on many facets of the efforts to rebuild the areas damaged by Hurricane Katrina.

I will also be holding a hearing in the Small Business Committee on September 22, 2005 to address the impact that Hurricane Katrina has had on small businesses.

The Small Business Administration is and must be at the forefront of this massive relief effort, playing a significant role in assisting impacted communities. This bill will strengthen the SBA's resources and will enable them to pave the pathway to recovery. I have faith that American small businesses will persevere through these difficult times and help lead the region's recovery. It is essential that we work together here in Congress, and put forth the best possible proposal to stimulate our economy and foster job growth.

I have spoken with SBA's Administrator Barreto concerning the various ways to respond to this disaster and assist with the recovery. He informed me that FEMA has referred over 500,000 cases for loan assistance to the SBA, and that the SBA is receiving up to

20,000 calls per day. This is a tremendous volume and a vital challenge that the SBA must satisfy. To date, the SBA has sent out almost 500,000 applications for loans to individuals and businesses, and has received 810 loan applications as of Monday morning, which demonstrates that much assistance is yet to be provided by the SBA. Therefore, it is critical that we act now!

I firmly believe this legislation is the best possible package to aid families, businesses and communities through these challenging times. Small businesses must have a fighting chance to survive the economic disaster caused by Hurricane Katrina.

I have included many provisions in my bill that would assist hurricane victims applying for SBA disaster loans. My legislation increases the maximum size of an SBA Disaster Loan from $1.5 million per loan to $10 million per loan and makes it possible for non-profit institutions damaged by Hurricane Katrina to be eligible for Disaster Loans.

I have also provided the SBA with the authority to grant victims of Hurricane Katrina up to 12 months to begin repaying their SBA disaster loans which would assist both small and large businesses, homeowners, and renters. This 12 month period could be extended to 24 months at the discretion of the SBA Administrator if he determines that Katrina victims would need additional time to begin repaying their loans. This would allow also homeowners and businesses additional time to get their lives and businesses restored before being required to begin repaying loans.

This legislation also proposes lowering fees for the 7(a) program to make borrowing more affordable for small businesses outside the disaster areas, many of which have been impacted by the disaster, and are struggling to cover higher costs in health care and energy, and rising interest rates.

Recognizing the increased demand this disaster will place on all small business lending programs, the amendment proposes increasing the 7(a) lending program from a program level of $17 billion to $20 billion, and the 504 lending program from a program level of $7.5 billion to $10 billion. Both the 504 and 7(a) lending programs are funded entirely through fees, so the increases require no appropriation.

Moreover, this bill increases the program level for SBA Disaster Loans—Physical and Economic Injury—by approximately $800 million, requiring an appropriation of approximately $117 million. The Committee is concerned there will not be enough funding for disaster loans available to meet the scope of this disaster, given that the economic injury disaster loans alone for 9–11 amounted to about $1 billion, and the physical damage for Katrina is considered much more extensive.

The bill also includes a provision requiring the SBA to treat these special provisions as separate from the regular programs, to avoid increasing future subsidy rates, and therefore, the costs for borrowers who rely on those programs. This same protection was provided for emergency 7(a) loans after 9–11 and for the special disaster loans for 9–11.

Additionally, many small businesses in the disaster areas will require relief from making payments and interest on 7(a) and 504 loans they had before Katrina hit. Therefore, this amendment includes a provision that directs the SBA to cover the payments and interest on existing loans for up to two years, or until the small business can resume payments.

Similar to the Supplementary Terrorist Activity Relief (STAR) loans enacted by Congress after 9–11, this bill allows the SBA to provide similar loans with lower fees for small businesses located outside the disaster zones but are nonetheless indirectly impacted by Hurricane Katrina. The lower fees also provide the lenders with an incentive to lend to these businesses.

Importantly, the bill includes protections to mitigate recent reports of past misdirection of loans to non-disaster victims. The protections include requiring lenders to inform borrowers that they are receiving Katrina relief loans, requiring lenders to document to the SBA how the borrower was adversely affected by Hurricane Katrina, and for the Government Accountability Office to collect the explanations and report to the Senate Committee on Small Business and Entrepreneurship and House Committee on Small Business every six months, verifying loans are being used for the intended purposes. These added protections will ensure that only applicants who really need these loans to recover from the horrific effects of Hurricane Katrina will receive the loans.

Furthermore, the legislation authorizes $400 million to the affected state governments of Louisiana, Mississippi, Alabama, Texas, and Florida to provide emergency bridge loans or grants to small businesses in the disaster areas that have been adversely impacted by Hurricane Katrina and require immediate access to capital until they can secure other loans or financial assistance. The goal is to disburse the funds within seven days, and this measure is based on a successful program that helped victims of the hurricanes in Florida.

With the cost of Katrina relief and rebuilding estimated at over $100 billion, small businesses, particularly those located in the disaster area and that employ individuals in the affected areas, should receive their fair share of federal contracting and subcontracting dollars. My bill also attempts to provide critical assistance to small businesses that have been operating in the areas devastated by the Hurricane Katrina by expanding access to Federal contract and subcontracts.

Government projects provide solid business opportunities and prompt, steady pay for small businessmen and businesswomen. In addition, government procurement would open doors for many local small businesses to participate in the long-term reconstruction work in the Gulf Coast areas. Prior to the disaster, small construction companies in Alabama, Mississippi, and Louisiana brought home nearly $500 million in Federal contracts a year. Total small business contracts in the Gulf Coast region exceeded $3 billion a year. While many small businesses would benefit from other forms of disaster assistance, many of them are ready to get back to work and into business as soon as possible.

To that end, my bill designates the Hurricane Katrina disaster area as a HUBZone. A HUBZone designation would enable small businesses locating in the disaster area and employing people in that area to receive contracting preferences and price evaluation preferences to offset greater costs of doing business. The HUBZone program was created to direct federal contacting dollars to economically distressed areas. Extending the HUBZone designation to the Gulf Coast would bring needed businesses development tools to affected areas.

In addition, my bill would increase the maximum size of surety bonds from $2 million to $5 million for Katrina-related contracts. Small contractors vying for work need an increase in bonds to handle greater projects for Hurricane Katrina relief. Local small businesses in the Gulf Coast can use higher bonds to compensate for the damage to their assets from the Hurricane.

My bill would also direct the SBA, its resources partners, and the Federal offices of small and disadvantaged business utilization to create a contracting outreach program for small businesses located or willing to locate in the Katrina disaster area. Finally, my bill would establish small business contracting and subcontracting goals for all Katrina-related contracts and subcontracts to promote greater jobs creation and development, while providing reasonable flexibility to Federal agencies in meeting that goal in light of difficult circumstances on the ground.

Finally I would also like to comment on the funding levels provided for the SBA in this bill. I have authorized the appropriation of $24.25 million for grants to increase business counseling in the damaged areas for several SBA entrepreneurial development programs including: Small Business Development Centers (SBDCs); SCORE; Womens Business Centers (WBCs); Veteran's Business Centers, and Microloan Technical Assistance.

Our Nation's 25 million small businesses prove time and again to breathe new life into our economy, by growing at twice the rate of all firms. And when a disaster strikes, the spirit, determination and will of America's small

businesses help to create the firm economic foundation, propelling our nation's economic growth. Therefore, we in turn must create an atmosphere favorable for small businesses and provide this emergency package to the SBA. We must allow Nation's small businesses to do what they do best—''create jobs.''

I urge my colleagues to support this bill. Too much is at stake for small businesses, and the economy as a whole, to allow this critical legislation to languish. Congress must find essential agreement and fulfill its obligation to America's small businesses. Clearly, if we strive for anything less, we fail to support the backbone of our economy, our hope for new innovation, and the entrepreneurs reach for the American dream.

By Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. AKAKA, Mr. LEVIN, and Mr. MCCAIN):

S. 1725 A bill to strengthen Federal leadership, provide grants, enhance outreach and guidance, and provide other support to State and local officials to enhance emergency communications capabilities, to achieve communications interoperability, to foster improved regional collaboration and coordination, to promote more efficient utilization of funding devoted to public safety communications, to promote research and development by both the public and private sectors for first responder communications, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. LIEBERMAN. Mr. President, I rise today to introduce the Assure Emergency and Interoperable Communications for First Responders Act of 2005—or EICOM—as a step towards improving emergency communications nationwide so no community experiences the communications failure we saw in parts of the Gulf Coast in the wake of Hurricane Katrina.

I want to thank my cosponsors, Senators COLLINS, LEVIN, AKAKA, and MCCAIN, for joining me in this effort.

The attack of 9/11 dramatically showed how vulnerable our first responders are in an emergency when they are unable to communicate with each other.

Four years after 9/11, solving the problem of interoperability remains the number one priority for our Nation's first responders.

Whether responding to a terrorist attack, natural disaster, fire, a missing child, or a fleeing suspect, police, fire fighters, emergency medical technicians and other responders still all too frequently arrive at the scene with incompatible communications equipment and can't share crucial, life-saving information with each other.

This puts at risk both the lives of our first responders and those they were sworn to protect.

I have previously introduced legislation that addresses the problems of interoperability. But Hurricane Katrina spotlighted an even more severe problem—operability—the need for systems that themselves can survive a disaster, either natural or manmade. Katrina has shown us that without a working communications system a coordinated response to an emergency becomes close to impossible.

This bill seeks to address the challenges of both interoperability and operability.

Hurricane Katrina blew down power lines, knocked out cell phone towers and wiped out regular phone service in blasts of wind and water. In too many areas the result was no regular or cell phone service and portable radios that slowly went dead because there was no way to charge the batteries.

What do you do when you are down to zero communications? Gulf Coast emergency officials were repeatedly reduced to using runners to communicate between command centers and first responders in the field.

And this is not the first time this has happened in the United States.

Some have suggested that the scenes out of the Gulf Coast had a third world quality about them. But runners? That isn't Third World. That is the ancient world. That is Athens in 490 BC when legend has it a runner covered 300 miles in a week to share information and coordinate the defense of the City of Marathon—thus the name of the race.

But certainly between 490 BC and the 21st Century we've made greater advancement in communications technologies than better running shoes.

This bill seeks to remedy the communications nightmare we saw in New Orleans and the Gulf Coast—and make sure we don't have the same nightmare in future disasters.

This bill establishes an Office for Emergency Communications, Interoperability and Compatibility—or ECIC—within the Department of Homeland Security, replacing and strengthening the present Office for Interoperability and Compatibility.

This new and stronger ECIC will be charged with finding ways to establish emergency communications capabilities when a terrorist attack, natural disaster or other large-scale emergency has damaged or destroyed usual communications and electrical infrastructure.

This bill also tells the Secretary of DHS to establish a comprehensive, competitive research and development program to identify and answer the policy and technology questions necessary to sustain emergency communications capabilities and achieve interoperability.

This includes promoting research through the Directorate of Science and Technology Homeland Security Advanced Research Projects Agency, (HSARPA) and considering establishing a Center of Excellence.

The bill also directs the Secretary of DHS to establish at least two pilot projects to help us develop and test working emergency communications systems for first responders and government officials that will survive a natural disaster or terrorist attack where there has been damage to or destruction to critical infrastructure.

Finally, this bill establishes a grant program for States and regional consortiums to develop and implement short-term and long-term solutions for emergency communications capabilities and interoperability. Total grant amounts would start at $400,000,000 for fiscal year 2006, rising to $1 billion by 2010.

9/11 showed us the danger of non-interoperable communications for our first responders and the people they try to protect. Lives were likely lost that day because some first responders didn't get the orders to evacuate.

Katrina showed us the further peril that comes with zero communications. First responders tried to react to the disaster but didn't know where to go or what to do.

And, again, we know lives were lost.

This is 21st Century America, not ancient Athens. We've moved beyond runners. We have technologies at our disposal undreamed of even just a few years ago and breakthroughs still to come.

Let's marshal our resources and summon our will and—with a sense of urgency—create communications systems that survive disaster so our first responders can do their jobs—helping others when lives are on the line and seconds matter.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 1725

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 ''Assure Emergency and Interoperable Communications for First Responders Act of 2005''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Communications among those responding to a natural disaster, terrorist attack, or other large-scale emergency are critical to an effective response and to save lives.

(2) Ordinary modes of communications are often difficult or impossible during a natural disaster, terrorist attack, or other catastrophic emergency, because of damage to critical infrastructure, including the destruction of phone lines and cellular towers, and loss of power sources and because of increased demand placed on already strained systems.

(3) In the days after Hurricane Katrina devastated the Gulf Coast of the United States, the communications infrastructure in the affected areas was decimated, and difficulties in communicating among officials and first responders significantly impeded the rescue and relief efforts.

(4) A further major barrier to sharing information among police, firefighters, and others who may be called on to respond to natural disasters, terrorist attacks, and other large-scale emergencies is the lack of

interoperable communications systems, which can enable public safety agencies to talk to one another and share important, sometimes critical, information in an emergency. Police and firefighters responding to the attacks at the World Trade Center on September 11, 2001, had difficulty communicating with each other. Initial press reports indicate that conflicting radio frequencies also contributed to the difficulties in communications among law enforcement and government relief agencies in the aftermath of Hurricane Katrina.

(5) The Department of Homeland Security has identified communications interoperability as 1 of the key national priorities for first responders to achieve the National Preparedness Goal that the Department of Homeland Security has established for the Nation and has identified emergency response communications as an essential target capability needed to respond to a major event.

(6) The lack of emergency communication capabilities and interoperability costs lives not only during terrorist attacks or natural disasters, but also during everyday emergency operations.

(7) Assuring emergency communications capabilities and achieving interoperability is difficult because some 50,000 local agencies typically make independent decisions about communications systems. This lack of coordination also dramatically increases the cost of public safety communications to Federal, State, local, and tribal governments.

(8) Achieving the level of emergency communications capabilities and communications interoperability that is needed will require an unprecedented level of coordination and cooperation among Federal, State, local, and tribal public safety agencies. Establishing multidisciplinary, cross-jurisdictional governance structures to achieve the necessary level of collaboration is essential to accomplishing this goal.

(9) The Intelligence Reform and Terrorism Prevention Act of 2004 requires the Secretary of Homeland Security, in consultation with other Federal officials, to establish a program to ensure public safety interoperable communications at all levels of government.

(10) However, much more remains to be done. For example, in January 2005, the National Governors Association reported that while achieving interoperability ranked as the top priority for States, obtaining the equipment and technology to fulfill this goal remains a challenge. The large majority of States report that they have not yet achieved interoperability in their States.

(11) Much of the communications equipment used by emergency responders is outdated and incompatible, which inhibits communication between State and local governments and between neighboring local jurisdictions. Additional grant funding would facilitate the acquisition of new technology to enable interoperability.

(12) Stronger and more effective national, statewide, and regional leadership are required to improve emergency communications capabilities and interoperability. The Department of Homeland Security must provide national leadership by conducting nationwide outreach to each State, fostering the development of regional leadership, and providing substantial technical assistance to State, local, and tribal public safety officials, while more effectively utilizing grant programs that fund interoperable equipment and systems.

(13) The Department of Homeland Security must implement pilot programs and fund and conduct research to develop and promote adoption of next-generation solutions for public safety communications. The Department of Homeland Security must also further develop its own internal expertise to enable it to better lead national interoperability efforts and to provide technically sound advice to State and local officials.

(14) Achieving emergency communications capabilities and interoperability requires the sustained commitment of substantial resources. Nonetheless, emergency communications capabilities and interoperability can be accomplished at a much lower cost than would otherwise be possible if strong national leadership drives cooperation and adoption of smart, new technology solutions.

(15) The private sector has a critical role to play in developing cost-effective solutions to these problems.

SEC. 3. OFFICE FOR EMERGENCY COMMUNICATIONS, INTEROPERABILITY, AND COMPATIBILITY.

(a) IN GENERAL.—Section 7303(a)(2) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(a)(2)) is amended to read as follows:

''(2) OFFICE FOR EMERGENCY COMMUNICATIONS, INTEROPERABILITY, AND COMPATIBILITY.—

''(A) ESTABLISHMENT OF OFFICE.—There is established an Office for Emergency Communications, Interoperability, and Compatibility within the Directorate of Science and Technology of the Department of Homeland Security to carry out this subsection.

''(B) DIRECTOR.—There shall be a Director of the Office for Emergency Communications, Interoperability, and Compatibility, who shall be appointed by the Secretary of Homeland Security.

''(C) RESPONSIBILITIES.—The Director of the Office for Emergency Communications, Interoperability, and Compatibility shall—

''(i) assist the Secretary of Homeland Security in developing and implementing the program described in paragraph (1);

''(ii) carry out the Department of Homeland Security's responsibilities and authorities relating to the SAFECOM Program;

''(iii) carry out section 510 of the Homeland Security Act of 2002; and

''(iv) conduct extensive, nationwide outreach and foster the development of emergency communications capabilities and interoperable communications systems by State, local, and tribal governments and public safety agencies, and by regional consortia thereof, by—

''(I) in coordination with the National Communications System, developing, updating, and implementing a national strategy to achieve emergency communications capabilities, with goals and timetables;

''(II) developing, updating, and implementing a national strategy to achieve communications interoperability, with goals and timetables;

''(III) developing a national architecture, which defines the components of an interoperable system and how they fit together;

''(IV) establishing and maintaining a task force that represents the broad customer base of State, local, and tribal public safety agencies, as well as Federal agencies, involved in public safety disciplines such as law enforcement, firefighting, emergency medical services, public health, and disaster recovery, in order to receive input and coordinate efforts to achieve emergency communications capabilities and communications interoperability;

''(V) working with the Office of Domestic Preparedness Interoperable Communications Technical Assistance Program to—

''(aa) provide technical assistance to State, local, and tribal officials; and

''(bb) facilitate the creation of regional task forces in each State, with appropriate governance structures and representation from State, local, and tribal governments and public safety agencies and from the Federal Government, to effectively address emergency communications capabilities, interoperability, and other communications and information-sharing needs;

''(VI) promoting a greater understanding of the importance of emergency communications capabilities, interoperability, and the benefits of sharing resources among all levels of State, local, tribal, and Federal government;

''(VII) promoting development of standard operating procedures for incident response and facilitating the sharing of information on best practices (including from governments abroad) for achieving emergency communications capabilities and interoperability;

''(VIII) making recommendations to Congress about any changes in Federal law necessary to remove barriers to achieving emergency communications capabilities and communications interoperability;

''(IX) funding and conducting pilot programs, as necessary, in order to—

''(aa) evaluate and validate new technology concepts in real-world environments to achieve emergency communications capabilities and public safety communications interoperability;

''(bb) encourage more efficient use of existing resources, including equipment and spectrum; and

''(cc) test and deploy public safety communications systems that are less prone to failure, support new non-voice services, consume less spectrum, and cost less;

''(X) liaisoning with the private sector to develop solutions to improve emergency communications capabilities and achieve interoperability; and

''(XI) performing other functions necessary to improve emergency communications capabilities and achieve communications interoperability.

''(D) SUFFICIENCY OF RESOURCES.—The Secretary of Homeland Security shall provide the Office for Emergency Communications, Interoperability, and Compatibility with the resources and staff necessary to carry out the purposes of this section. The Secretary shall further ensure that there is sufficient staff within the Office of Emergency Communications, Interoperability, and Compatibility, the Office for Domestic Preparedness, the National Communications Systems, and other offices of the Department of Homeland Security as necessary, to provide dedicated support to public safety organizations consistent with the responsibilities set forth in subparagraph (C)(iv).''.

(b) DEFINITIONS.—Section 7303(g) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(g)) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) INTEROPERABLE COMMUNICATIONS AND COMMUNICATIONS INTEROPERABILITY.—The terms 'interoperable communications' and 'communications interoperability' mean the ability of emergency response providers and relevant Federal, State, and local government agencies to communicate with each other as necessary, utilizing information technology systems and radio communications systems, and to exchange voice, data, or video with one another on demand, in real time, as necessary.''; and

(2) by adding at the end the following:

''(3) EMERGENCY COMMUNICATIONS CAPABILITIES.—The term 'emergency communications capabilities' means the ability to provide and maintain, throughout an emergency response operation, a continuous flow of information among emergency responders, agencies, and government officials from multiple disciplines and jurisdictions and at all levels of government in the event of a natural disaster, terrorist attack, or other large-scale

or catastrophic emergency, including where there has been significant damage to, or destruction of, critical infrastructure, substantial loss of ordinary telecommunications infrastructure, and sustained loss of electricity.''.

(c) ASSESSMENTS AND REPORTS.—Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.) is amended by adding at the end the following:

''SEC. 314. EMERGENCY COMMUNICATIONS AND INTEROPERABILITY ASSESSMENTS AND REPORTS.

''(a) BASELINE INTEROPERABILITY ASSESSMENT.—The Secretary, acting through the Director of the Office for Emergency Communications, Interoperability, and Compatibility, shall conduct a nationwide assessment to determine the degree to which communications interoperability has been achieved to date and to ascertain the needs that remain for interoperability to be achieved.

''(b) EVALUATION OF EMERGENCY COMMUNICATIONS CAPABILITIES.—The Secretary, acting through the Director of the Office for Emergency Communications, Interoperability, and Compatibility and the National Communications System, shall—

''(1) conduct an assessment of the ability of communities to provide and maintain emergency communications among emergency response providers and government officials in the event of a natural disaster, terrorist attack, or other large-scale emergency, including where there is substantial damage to ordinary communications infrastructure and sustained loss of electricity;

''(2) compile a list of best practices among communities for providing and maintaining communications in the event of a natural disaster, terrorist attack, or other large-scale emergency; and

''(3) conduct a study to evaluate the feasibility and desirability of the Department developing, on its own or in conjunction with the Department of Defense, a mobile communications capability, modeled on the Army Signal Corps, that could be deployed to support emergency communications at the site of a natural disaster, terrorist attack, or other large-scale emergency.

''(c) BIANNUAL REPORTS.—Not later than 1 year after the date of enactment of this section, and biannually thereafter, the Secretary, acting through the Director of the Office for Emergency Communications, Interoperability, and Compatibility, shall submit to the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security and the Committee on Energy and Commerce of the House of Representatives a report on the Department's progress in implementing and achieving the goals of the Assure Emergency and Interoperable Communications for First Responders Act of 2005. The first report submitted under this subsection shall include a description of the findings of the assessments, evaluations, and study conducted under subsections (a) and (b).''.

SEC. 4. RESEARCH AND DEVELOPMENT.

Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), as amended by section 3, is amended by adding at the end the following:

''SEC. 315. EMERGENCY COMMUNICATIONS INTEROPERABILITY RESEARCH AND DEVELOPMENT.

''(a) IN GENERAL.—The Secretary shall establish a comprehensive research and development program to promote emergency communications capabilities and communications interoperability among first responders, including by—

''(1) promoting research on a competitive basis through the Directorate of Science and Technology Homeland Security Advanced Research Projects Agency; and

''(2) considering establishment of a Center of Excellence under the Department of Homeland Security Centers of Excellence Program, using a competitive process, focused on enhancing information and communications systems for first responders.

''(b) PURPOSES.—The purposes of the program established under subsection (a) include—

''(1) understanding the strengths and weaknesses of the diverse public safety communications systems currently in use;

''(2) examining how current and emerging technology can make public safety organizations more effective, and how Federal, State, and local agencies can utilize this technology in a coherent and cost-effective manner;

''(3) exploring Federal, State, and local policies that will move systematically towards long-term solutions;

''(4) evaluating and validating new technology concepts, and promoting the deployment of advanced public safety information technologies for emergency communications capabilities and interoperability; and

''(5) advancing the creation of a national strategy to enhance emergency communications capabilities, promote interoperability and efficient use of spectrum in communications systems, improve information sharing across organizations, and use advanced information technology to increase the effectiveness of first responders in valuable new ways.''.

SEC. 5. PILOT PROJECTS.

Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), as amended by sections 3 and 4, is amended by adding at the end the following:

''SEC. 316. EMERGENCY COMMUNICATIONS PILOT PROJECTS.

''(a) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary shall establish not fewer than 2 pilot projects to develop and evaluate strategies and technologies for providing and maintaining emergency communications capabilities among emergency response providers and government officials in the event of a natural disaster, terrorist attack, or other large-scale emergency in which there is significant damage to, or destruction of, critical infrastructure, including substantial loss of ordinary telecommunications infrastructure and sustained loss of electricity.

''(b) SELECTION CRITERIA.—In selecting areas for the location of the pilot projects, the Secretary shall consider—

''(1) the risk to the area from a large-scale terrorist attack or natural disaster;

''(2) the number of potential victims from a large-scale terrorist attack or natural disaster in the area;

''(3) the existing capabilities of the area's emergency communications systems; and

''(4) such other criteria as the Secretary may determine appropriate.''.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

In addition to the funds authorized to be appropriated by section 7303(a)(3) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(a)(3)), there are authorized to be appropriated for the operations of the Office for Emergency Communications, Interoperability, and Compatibility, to provide technical assistance through the Office for Domestic Preparedness, to fund and conduct research under section 315 of the Homeland Security Act of 2002, to fund pilot projects under section 316 of the Homeland Security Act of 2002, and for other appropriate entities within the Department of Homeland Security to support the activities described in section 7303 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194) and sections 314 through 316 of the Homeland Security Act of 2002, as added by this Act—

(1) $127,232,000 for fiscal year 2006;

(2) $126,549,000 for fiscal year 2007;

(3) $125,845,000 for fiscal year 2008;

(4) $125,121,000 for fiscal year 2009; and

(5) such sums as are necessary for each fiscal year thereafter.

SEC. 7. DEDICATED FUNDING TO ACHIEVE EMERGENCY COMMUNICATIONS CAPABILITIES AND INTEROPERABILITY.

The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the following:

''TITLE XVIII—DEDICATED FUNDING TO ACHIEVE EMERGENCY COMMUNICATIONS CAPABILITIES AND INTEROPERABILITY.

''SEC. 1801. EMERGENCY COMMUNICATIONS AND INTEROPERABILITY GRANTS.

''(a) IN GENERAL.—The Secretary, through the Office, shall make grants to States and eligible regions for initiatives necessary to improve emergency communications capabilities and to achieve short-term or long-term solutions to statewide, regional, national and, where appropriate, international interoperability.

''(b) USE OF GRANT FUNDS.—Grants awarded under subsection (a) may be used for initiatives to achieve short-term or long-term solutions for emergency communications and interoperability within the State or region and to assist with any aspect of the communication life cycle, including—

''(1) statewide or regional communications planning;

''(2) system design and engineering;

''(3) procurement and installation of equipment;

''(4) training and exercises; and

''(5) other activities determined by the Secretary to be integral to the achievement of emergency communications capabilities and communications interoperability.

''(c) COORDINATION.—The Secretary shall ensure that the Office coordinates its activities with the Office of Emergency Communications, Interoperability, and Compatibility, the Directorate of Science and Technology, the National Communications System, and other Federal entities so that grants awarded under this section, and other grant programs related to homeland security, fulfill the purposes of this Act and facilitate the achievement of emergency communications capabilities and communications interoperability consistent with the national strategy.

''(d) APPLICATION.—

''(1) IN GENERAL.—A State or eligible region desiring a grant under this section shall submit an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

''(2) MINIMUM CONTENTS.—At a minimum, each application submitted under paragraph (1) shall—

''(A) identify the critical aspects of the communications life cycle, including planning, system design and engineering, procurement and installation, and training for which funding is requested;

''(B) describe how—

''(i) the proposed use of funds would be consistent with and address the goals in any applicable State homeland security plan, and, unless the Secretary determines otherwise, are consistent with the national strategy and architecture; and

''(ii) the applicant intends to spend funds under the grant, to administer such funds,

and to allocate such funds among any participating local governments; and

''(C) be consistent with the Interoperable Communications Plan required by section 7303(f) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(f)).

''(e) STATE REVIEW AND SUBMISSION.—

''(1) IN GENERAL.—To ensure consistency with State homeland security plans, an eligible region applying for a grant under this section shall submit its application to each State within which any part of the eligible region is located for review before submission of such application to the Secretary.

''(2) DEADLINE.—Not later than 30 days after receiving an application from an eligible region under paragraph (1), each such State shall transmit the application to the Secretary.

''(3) STATE DISAGREEMENT.—If the Governor of any such State determines that a regional application is inconsistent with the State homeland security plan of that State, or otherwise does not support the application, the Governor shall—

''(A) notify the Secretary in writing of that fact; and

''(B) provide an explanation of the reasons for not supporting the application at the time of transmission of the application.

''(f) AWARD OF GRANTS.—

''(1) CONSIDERATIONS.—In approving applications and awarding grants under this section, the Secretary shall consider—

''(A) the nature of the threat to the State or eligible region from a terrorist attack, natural disaster, or other large-scale emergency;

''(B) the location, risk, or vulnerability of critical infrastructure and key national assets, including the consequences from damage to critical infrastructure in nearby jurisdictions as a result of a terrorist attack, natural disaster, or other large-scale emergency;

''(C) the size of the population, as well as the population density of the area, that will be served by the interoperable communications systems, except that the Secretary shall not establish a minimum population requirement that would disqualify from consideration an area that otherwise faces significant threats, vulnerabilities, or consequences from a terrorist attack, natural disaster, or other large-scale emergency;

''(D) the extent to which grants will be utilized to implement emergency communications and interoperability solutions—

''(i) consistent with the national strategy and compatible with the national architecture; and

''(ii) more efficient and cost effective than current approaches;

''(E) the number of jurisdictions within regions participating in the development of emergency communications capabilities and interoperable communications systems, including the extent to which the application includes all incorporated municipalities, counties, parishes, and tribal governments within the State or eligible region, and their coordination with Federal and State agencies;

''(F) the extent to which a grant would expedite the achievement of emergency communications capabilities and interoperability in the State or eligible region with Federal, State, and local agencies;

''(G) the extent to which a State or eligible region, given its financial capability, demonstrates its commitment to expeditiously achieving emergency communications capabilities and communications interoperability by supplementing Federal funds with non-Federal funds;

''(H) whether the State or eligible region is on or near an international border;

''(I) whether the State or eligible region encompasses an economically significant border crossing;

''(J) whether the State or eligible region has a coastline bordering an ocean or international waters;

''(K) the extent to which geographic barriers pose unusual obstacles to achieving emergency communications capabilities or communications interoperability;

''(L) the threats, vulnerabilities, and consequences faced by the State or eligible region related to at-risk site or activities in nearby jurisdictions, including the need to respond to terrorist attacks, natural disasters, or other large-scale emergencies arising in those jurisdictions;

''(M) the need to achieve nationwide emergency communications capabilities and interoperability, consistent with the national strategies; and

''(N) such other factors as are specified by the Secretary in writing.

''(2) REVIEW PANEL.—

''(A) IN GENERAL.—The Secretary shall establish a review panel under section 871(a) to assist in reviewing grant applications under this section.

''(B) RECOMMENDATIONS.—The review panel established under subparagraph (A) shall make recommendations to the Secretary regarding applications for grants under this section.

''(C) MEMBERSHIP.—The review panel established under subparagraph (A) shall include individuals with technical expertise in emergency communications and communications interoperability as well as emergency response providers and other relevant State and local officials.

''(3) AVAILABILITY OF FUNDS.—Any grant funds awarded that may be used to support emergency communications or interoperability shall, as the Secretary may determine, remain available for up to 3 years, consistent with section 7303(e) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(e)).

''(g) DEFINITIONS.—In this section, the following definitions apply:

''(1) ELIGIBLE REGION.—The term 'eligible region' means—

''(A) 2 or more contiguous incorporated municipalities, counties, parishes, Indian tribes or other general purpose jurisdictions that—

''(i) have joined together to enhance emergency communications capabilities or communications interoperability between first responders in those jurisdictions and with State and Federal officials; and

''(ii) includes the largest city in any metropolitan statistical area, as defined by the Office of Management and Budget; or

''(B) any other area the Secretary determines to be consistent with the definition of a region in the national preparedness guidance issued under Homeland Security Presidential Directive 8.

''(2) OFFICE.—The term 'office' refers to the Office of Domestic Preparedness of the Office of State and Local Government Preparedness and Coordination within the Department of Homeland Security.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the purposes of this section—

''(1) $400,000,000 for fiscal year 2006;

''(2) $500,000,000 for fiscal year 2007;

''(3) $600,000,000 for fiscal year 2008;

''(4) $800,000,000 for fiscal year 2009;

''(5) $1,000,000,000 for fiscal year 2010; and

''(6) such sums as are necessary for each fiscal year thereafter.''.

SEC. 8. DEFINITIONS.

Section 2 of the Homeland Security of Act of 2002 (6 U.S. C. 101) is amended—

(1) by redesignating paragraphs (9) through (16) as paragraphs (11) through (18), respectively;

(2) by redesignating paragraphs (6) through (8) as paragraphs (7) through (9), respectively;

(3) by inserting after paragraph (5) the following:

''(6) The term 'emergency communications capabilities' means the ability to provide and maintain, throughout an emergency response operation, a continuous flow of information among emergency responders, agencies, and government officials from multiple disciplines and jurisdictions and at all levels of government, in the event of a natural disaster, terrorist attack, or other large-scale or catastrophic emergency, including where there has been significant damage to, or destruction of, critical infrastructure, including substantial loss of ordinary telecommunications infrastructure and sustained loss of electricity.''; and

(4) by inserting after paragraph (8) the following:

''(9) The terms 'interoperable communications' and 'communications interoperability' mean the ability of emergency response providers and relevant Federal, State, and local government agencies to communicate with each other as necessary, utilizing information technology systems and radio communications systems, and to exchange voice, data, or video with one another on demand, in real time, as necessary.''.

SEC. 9. INTERAGENCY COMMITTEE.

(a) ESTABLISHMENT.—There is established an Interagency Committee on Emergency Communications and Interoperability (referred to in this section as ''the Committee'').

(b) COMPOSITION.—The Committee shall be composed of:

(1) a representative of the Department of Homeland Security, who shall serve as Chair of the Committee;

(2) a representative of the Federal Communications Committee;

(3) a representative of the Department of Commerce;

(4) a representative of the Department of Defense;

(5) a representative of the Department of Justice;

(6) a representative of the Department of Health and Human Services;

(7) a representative of the National Institute of Standards and Technology; and

(8) a representative of any other department or agency determined to be necessary by the President.

(c) REPORT.—Not later than 90 days after the date of enactment of this Act, the Committee shall submit a report to the President and to Congress that includes—

(1) a proposal as to how to most effectively accelerate the development of national standards for public safety interoperable communications in accordance with section 7303 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194); and

(2) a proposal on how to ensure that Federal officials responding to a natural disaster, terrorist attack, or other large-scale emergency, have the means to provide and maintain emergency communications capabilities to support their response efforts where there is significant damage to, or destruction of, critical infrastructure, including substantial loss of ordinary telecommunications infrastructure and sustained loss of electricity.

SEC. 10. TECHNICAL AND CONFORMING AMENDMENTS.

The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101) is amended by—

(1) inserting after the item relating to section 313 the following:

''Sec. 314. Emergency communications and interoperability assessments and report.

''Sec. 315. Emergency communications and interoperability research and development.

''Sec. 316. Emergency communications pilot projects.''.

(2) adding at the end the following:

''TITLE XVIII—DEDICATED FUNDING TO ACHIEVE EMERGENCY COMMUNICATIONS CAPABILITIES AND INTEROPERABILITY

''Sec. 1801. Emergency communications and interoperability grants.''.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1732. Mr. NELSON, of Nebraska submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.

SA 1733. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 3010, making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table.

SA 1734. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table.

SA 1735. Mr. COCHRAN proposed an amendment to the bill H.R. 2744, supra.

TEXT OF AMENDMENTS

SA 1732. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page 173, after line 24, insert the following:

SEC. 7_____. None of the funds made available under this Act shall be used by the Secretary of Agriculture for the purpose of developing a final rule relating to the proposed rule entitled ''Importation of Whole Cuts of Boneless Beef from Japan'', dated August 18, 2005 (70 Fed. Reg. 48494), to allow the importation of beef from Japan, unless the President certifies to Congress that Japan has granted open access to Japanese markets for beef and beef products produced in the United States.

SA 1733. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 3010, making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 158, line 12, strike ''$1,883,000,000'' and insert ''$5,100,000,000: *Provided,* That the entire amount is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006''.

On page 158, line 14, strike ''$300,000,000'' and insert ''$1,300,000,000''.

SA 1734. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 126, between lines 3 and 4, insert the following:

HISTORIC BARN PRESERVATION PROGRAM

For the historic barn preservation program established under section 379A of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008o), $2,000,000.

On page 144, line 7, strike ''$98,386,000'' and insert ''$96,386,000''.

SA 1735. Mr. COCHRAN proposed an amendment to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

SEC. __. Notwithstanding any other provision of law, the Secretary of Agriculture may consider the Municipality of Carolina, Puerto Rico as meeting the eligibility requirements for loans and grants programs in the Rural Development mission area.

NOTICES OF HEARINGS/MEETINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. COLEMAN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs will hold a hearing entitled ''The Defense Travel System: Boon or Boondoggle?'' This Subcommittee hearing on the Department of Defense's (DOD) Defense Travel System (DTS) is part of its continuing investigation of DOD's travel policies and practices. The DTS was intended to be a seamless integrated computer-based travel system that would facilitate travel for DOD employees and lead to increased efficiency and substantial cost savings. However, reports by the DOD Inspector General, the DOD Program Analysis and Evaluation Division, the Government Accountability Office, The Corporate Solutions Group and Citizens Against Government Waste have questioned whether DTS is effective and provides a cost benefit to DOD. These reports indicate that DTS has cost more than was anticipated, has not been fully deployed, does not appear to be widely used, does not list all available airfares and may end up costing more than it has saved. The questions raised by these reports remain largely unanswered by DOD. The hearing will explore whether DTS can deliver on the increased efficiency and cost savings that were anticipated when the program was established.

The Subcommittee hearing is scheduled for Thursday, September 2, 2005, at 9:30 a.m. in Room 342 of the Dirksen Senate Office Building. For further information, please contact Raymond V. Shepherd, III, Staff Director and Chief Counsel to the Permanent Subcommittee on Investigations, at 224–3721.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, September 19, 2005, at 2:30 p.m. to hold a hearing on Nominations.

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

MORNING BUSINESS

MEASURE READ THE FIRST TIME—S. 1718

Mr. FRIST. I understand there is a bill at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1718) to provide special rules for disaster employment under the Workforce Investment Act of 1988 for individuals displaced by Hurricane Katrina.

Mr. FRIST. Now I ask for its second reading and in order to place the bill on the calendar under rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard.

Mr. FRIST. This was the Enzi Workforce Investment Act for victims of Katrina, S. 1718. I mention that only because there were a couple of bills this morning, and then this bill, all of which reflect a lot of activity that is going on behind the scenes. By ''behind the scenes,'' I mean off the floor, in committees with members and chairmen working with their ranking members. There is a lot of work focused on the response and the appropriate support for recovery after Katrina.

As several people have mentioned on the floor over the course of today, there were seven Republicans and seven Democrats who represented this body last Friday in New Orleans and along the gulf coast, Mississippi, and on to Mobile, AL. We all learned a lot. We saw a lot. It contributed to our own education.

Then, later tonight, a number of us will continue that work as we figure out how best to respond to this catastrophe, this disaster which is ongoing, to respond in a way that will rebuild and reconstruct in very positive ways to help those affected. Our hearts and our prayers and our thoughts and our efforts on the floor all go out to the victims, both those in Mississippi and

Alabama and Louisiana and the half-a-million people, predominantly people from New Orleans but also from the gulf coast, Mississippi and Alabama, who are in other States beyond those three.

ORDERS FOR TUESDAY, SEPTEMBER 20, 2005

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:45 a.m. on Tuesday, September 20; I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate proceed to a period of morning business for up to 60 minutes with the first 30 minutes under the control of the Democratic leader or his designee and the final 30 minutes under the control of the majority leader or his designee; provided that following morning business, the Senate resume consideration of H.R. 2744, the Agriculture appropriations bill.

I further ask unanimous consent that the Senate stand in recess from 12:30 to 2:15 to accommodate the weekly party luncheons.

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

PROGRAM

Mr. FRIST. Mr. President, tomorrow we will return to the Agriculture appropriations bill. This bill was laid down last Thursday and we resumed that bill today. Unfortunately, Members did not take advantage of their opportunity to offer amendments during those 2 days. I very much appreciate the Democratic leader, on behalf of one of his colleagues, offering an amendment a few minutes ago.

I am prepared to tell the managers that if no one comes to offer amendments, we should go to third reading and passage of the bill. We give Senators the opportunity to offer amendments, they say they are going to offer amendments in the future, and they do not come to the floor. That leaves us with the only alternative, which is going to third reading and passage of the bill. We will talk to the committee and see if we can vote on the amendment that the Democratic leader just introduced prior to the policy recess.

But having said that, I do need to forewarn all of our colleagues that the managers on these appropriations bills, both the ones over the last 2 weeks as well as the Agriculture appropriations bill we are dealing with, are very patient. They have been very patient. They stay on the floor throughout the day, and they are here many nights and Mondays and Fridays, waiting for our colleagues to offer the amendments that they say they want to offer. It is now time for people to get very serious and come over and, if they have amendments, to offer those amendments. There is no reason to wait for a Wednesday night or a Thursday night to offer amendments. I do ask our colleagues to contact Senators BENNETT and KOHL now, to work through their amendments.

We are going to have a busy week. Real progress has been made on the judicial nomination to the Supreme Court—last week with the hearings and this week at the committee level. Next week that nomination will be brought to the floor of the Senate, and ultimately we will all have the opportunity to speak and vote.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:42 p.m., adjourned until Tuesday, September 20, 2005, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate September 19, 2005:

DEPARTMENT OF DEFENSE

PETER CYRIL WYCHE FLORY, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE JACK DYER CROUCH, II, TO WHICH POSITION HE WAS APPOINTED DURING THE RECESS OF THE SENATE FROM JULY 29, 2005, TO SEPTEMBER 1, 2005.

ERIC S. EDELMAN, OF VIRGINIA, TO BE UNDER SECRETARY OF DEFENSE FOR POLICY, VICE DOUGLAS JAY FEITH, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE RECESS OF THE SENATE FROM JULY 29, 2005, TO SEPTEMBER 1, 2005.

DEPARTMENT OF STATE

JOHN ROBERT BOLTON, OF MARYLAND, TO BE THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS, WITH THE RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY, AND THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA IN THE SECURITY COUNCIL OF THE UNITED NATIONS, TO WHICH POSITION HE WAS APPOINTED DURING THE RECESS OF THE SENATE FROM JULY 29, 2005, TO SEPTEMBER 1, 2005.

JOHN ROBERT BOLTON, OF MARYLAND, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS DURING HIS TENURE OF SERVICE AS REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS, TO WHICH POSITION HE WAS APPOINTED DURING THE RECESS OF THE SENATE FROM JULY 29, 2005, TO SEPTEMBER 1, 2005.

MILLENNIUM CHALLENGE CORPORATION

JOHN J. DANILOVICH, OF CALIFORNIA, TO BE CHIEF EXECUTIVE OFFICER, MILLENNIUM CHALLENGE CORPORATION, VICE PAUL V. APPLEGARTH, RESIGNED.

NATIONAL LABOR RELATIONS BOARD

PETER SCHAUMBER, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING AUGUST 27, 2010, TO WHICH POSITION HE WAS APPOINTED DURING THE RECESS OF THE SENATE FROM JULY 29, 2005, TO SEPTEMBER 1, 2005.

DEPARTMENT OF JUSTICE

ALICE S. FISHER, OF VIRGINIA, TO BE AN ASSISTANT ATTORNEY GENERAL, VICE CHRISTOPHER A. WRAY TO WHICH POSITION SHE WAS APPOINTED DURING THE RECESS OF THE SENATE FROM JULY 29, 2005, TO SEPTEMBER 1, 2005.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 624:

To be lieutenant colonel

CHRISTINA A. AUSTINSMITH, 0000
ROBERT ALLAN BORICH, JR., 0000
RANDON H. DRAPER, 0000
STEVEN DOUGLAS DUBRISKE, 0000
SCOTT T. ECTON, 0000
NORINE P. FITZSIMMONS, 0000
DEREK IVAN GRIMES, 0000
JOHN EUGENE HARTSELL, 0000
GRAEME S. HENDERSON, 0000
THOMAS J. HERTHEL, 0000
TROY R. HOLROYD, 0000
PATRICIA A. MCHUGH, 0000
ROBERT C. MCNEIL, 0000
MARK W. MILAM, 0000
RICHARD D. MINK, 0000
WILLIAM C. MULDOON, JR., 0000
LESLEA T. PICKLE, 0000
MICHAEL J. ROBERTS, 0000
SEAN A. SABIN, 0000
JAIME SAMPAYO, 0000
MARLESA K. SCOTT, 0000
TISHLYN ESTELLE TAYLOR, 0000
PETER W. TELLER, 0000
DEVONNIA MARIA TENTMAN, 0000
DONALD L. TWYMAN, JR., 0000
MICHAEL G. VECERA, 0000
JERRY A. VILLARREAL, 0000
ELIZABETH S. WALDROP, 0000
ANDREW S. WILLIAMS, 0000

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

MICHAEL L. HOWE, 0000
KARL F. SUHR, JR., 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

JOHNATHAN T. BALL, 0000
DANIEL M. KRUMREI, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

DANIELLE N. BIRD, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY DENTAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

RYAN J. ALLOWITZ, 0000
ALFRED C. ANDERSON, 0000
DARIN N. ANDERSON, 0000
COLON E. BERMUDEZ, 0000
JAMES BUCHANAN, 0000
NATHAN CARLSON, 0000
STEVEN K. CRISLER, 0000
RITA M. DEVORE, 0000
DAVID ECKEL, 0000
JAMES FREEMAN, 0000
TYRUS N. HATCHER, 0000
ERICH HEITMAN, 0000
DANA HESS, 0000
JASON R. HUSE, 0000
SHAWN JEPSEN, 0000
LOUIS KUBALA, 0000
STACY L. LARSEN, 0000
JON D. LIBBESMEIER, 0000
MURGESH J. LOYNES, 0000
DOLORES LUQUE, 0000
JAMES D. LUSSIER, 0000
WENDY J. OHAVER, 0000
JAY OWENS, 0000
SCOTT RANKIN, 0000
GARY STONE, 0000
MARK A. VANCE, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

ERIC D. AGUILA, 0000
MARK D. AIERSTOK, 0000
JULIE A. AMBROSE, 0000
DEVRY C. ANDERSON, 0000
JOHN ANDERSON, 0000
ROGER A. ANDERSON, 0000
RICHARD A. ANGEL, 0000
ELENA ANTEDOMENICO, 0000
TODD E. ARKAVA, 0000
RAJIV ARORA, 0000
JENNIFER M. BAGER, 0000
DAVID A. BAKER, 0000
JAY B. BAKER, 0000
TROY R. BAKER, 0000
JEFFREY A. BANKS, 0000
THAD J. BARKDULL, 0000
KATINA D. BARNES, 0000
MATTHEW J. BARRY, 0000
JEREMY T. BEAUCHAMP, 0000
KENT S. BENNETT, 0000
TODD C. BENNETT, 0000
PHILIP BERRAN, 0000
AMIT K. BHAVSAR, 0000
ROBERT E. BLEASE, 0000
ANDREW S. BOSTAPH, 0000
LYNDEN P. BOWDEN, 0000
MICHAEL BOWEN, 0000
ROBYN A. BRAND, 0000

MARK E. BRAUN, 0000
KENYA H. BROOKS, 0000
THEODORE R. BROWN, 0000
CATHERINE P. BROWNE, 0000
JAY R. BUCCI, 0000
KRISTA K. BUCKLEY, 0000
JESSICA L. BUNIN, 0000
JEAN E. BURR, 0000
LISA R. CARCHEDI, 0000
CHRISTIAN L. CARLSON, 0000
DANIEL W. CARLSON, 0000
DAL W. CHUN, 0000
JOSE R. CILLIANI, 0000
WESLEY A. CLARKSON, 0000
ELIZABETH A. CLAWSON, 0000
EMILY C. CLAY, 0000
PETER CLEMENS, 0000
ROBERT A. CLINTON, 0000
CINDY A. CODISPOTI, 0000
CHRISTOPHER J. COLOMBO, 0000
THERESA A. CONOLOGUE, 0000
CORINNE M. CONROY, 0000
CHAD S. CRYSTAL, 0000
ROSELYNN W. CUENCA, 0000
JENNIFER J. DACUS, 0000
MARK D. DALTON, 0000
JONATHAN M. DAVISON, 0000
RICHARD P. DEGAETANO, 0000
MICHAEL D. DEMARCO, 0000
MICHAEL S. DEMPSEY, 0000
ROBERT W. DEMUTH, 0000
DAVID H. DENNISON, 0000
SHERI K. DENNISON, 0000
SANAZ B. DEVLIN, 0000
KEVIN R. DIEL, 0000
CRAIG DOBSON, 0000
NICOLE R. DOBSON, 0000
SEAN N. DOOLEY, 0000
DAVID DOYLE, JR., 0000
ANTHONY L. DRAGOVICH, 0000
THOMAS P. EBERLE, JR., 0000
DAWN E. ELLIOTT, 0000
THOMAS E. ELLWOOD, 0000
JASON L. ENGERISER, 0000
ARMAN FARAVARDEH, 0000
SEAN J. FORTSON, 0000
KRISTEN M. FOSTER, 0000
ROBERT G. FOWERS, 0000
TODD R. FOWLER, 0000
BRITNEY G. FRAZIER, 0000
TRAVIS C. FRAZIER, 0000
BRETT A. FREEDMAN, 0000
DONALD R. GLADDEN, 0000
BRIAN L. GLADWELL, 0000
ANDREW E. GLOVER, 0000
DIANE F. GODOROV, 0000
BRANDON J. GOFF, 0000
MITCHELL J. GOFF, 0000
SCOTT R. GOLARZ, 0000
JAMES W. GRAHAM, 0000
WILLIAM J. GRIEF, 0000
NATHANIEL L. GRIFFITH, 0000
CHRISTOPHER T. GRUBB, 0000
GARY V. HALVERSEN, 0000
MICHAEL T. HAMILTON, 0000
MATTHEW D. HAMMOND, 0000
MICHAEL G. HARTMANN, 0000
JESSICA HELLER, 0000
BRIAN A. HEMANN, 0000
JEFFERY S. HENNING, 0000
SHAWN HERMENAU, 0000
MICHAEL D. HEUMAN, 0000
JAMES O. HILL, 0000
CHRISTOPHER E. HINES, 0000
BRIAN J. HOLLAND, 0000
KEVIN HORDE, 0000
TROY P. HOUSEWORTH, 0000
MATTHEW A. HRASTICH, 0000
MATTHEW T. HUEMAN, 0000
RICHARD W. HUSSEY, 0000
PATRICIA A. HUTCHINSON, 0000
LONG P. HUYNH, 0000
THOMAS J. ISENOVSKI, 0000
JERRY K. IZU, 0000
SEAN P. JAVAHERI, 0000
DAVID E. JOHNSON, 0000
JEREMY D. JOHNSON, 0000
GREGORY JOHNSTON, 0000
LAURA JOINER, 0000
CAMTU L. JONES, 0000
MICHAEL D. JONES, 0000
JAMIE M. JUNTUNEN, 0000
ALEXANDER KEDZIERSKI, 0000
TIMOTHY A. KELSCH, 0000
RIMANI C. KELSEY, 0000
JASON D. KENDELHARDT, 0000
RYAN J. KENEALLY, 0000
JULIE T. KERR, 0000
KIHYUN KIM, 0000
SEUNG W. KIM, 0000
MITCHELL P. KOK, 0000
PAUL O. KWON, 0000
JASON M. LAKE, 0000
JENNIFER L. LAY, 0000
JOHN P. LAY, JR., 0000
JESSICA D. LEE, 0000
WALTER S. LEITCH, 0000
GEORGE T. LEONARD, 0000
STEPHANIE L. LEONG, 0000
MARC E. LEVSKY, 0000
THEODORE T. LLANSO, 0000
JOANNA D. LUSK, 0000
CHAD T. MARLEY, 0000
JASON D. MARQUART, 0000
LAURA N. MARQUART, 0000
ERICK MARTELL, 0000
AIMEE MARTIN, 0000
LUTHER P. MARTIN, 0000
THERESA M. MATUSZAK, 0000
JENNIFER W. MBUTHIA, 0000
RICHARD MCCARTIN, 0000
MATTHEW B. MCCAULEY, 0000
SCOTT F. MCCLELLAN, 0000
KELLY C. MCDONALD, 0000
JASON M. MEHRTENS, 0000
SUMERU G. MEHTA, 0000
MELISSA A. MESSINA, 0000
BEATRIZ E. MEZAVALENCIA, 0000
WENDY E. MIKLOS, 0000
SHANE J. MILLS, 0000
ANNA K. MIRK, 0000
JITENDRAKUMAR R. MODI, 0000
MITCHELL J. MOFFITT, 0000
MATTHEW A. MONSON, 0000
JAMES E. MOON, 0000
PAUL C. MORGAN, 0000
GLENVILLE G. MORTON, 0000
RICHARD P. MOSER, 0000
PHILIP S. MULLENIX, 0000
KEVIN M. NAKAMURA, 0000
ROBERT T. NEFF, 0000
NATHAN S. NEGIN, 0000
KENNETH J. NELSON, 0000
LEON J. NESTI, 0000
JAMES L. NEWLON, 0000
WILLIAM NEWTON, 0000
JOHN P. NEY, 0000
KARIN L. NICHOLSON, 0000
WILLIAM E. NORRIS, 0000
THOMAS E. NOVAK, 0000
THOMAS P. NOWLIN IV, 0000
DANIEL F. OCONNOR, 0000
SCOTT C. ORR, 0000
JUAN A. ORTIZPEREZ, 0000
MATTHEW W. PANTSARI, 0000
HYUN K. PARK, 0000
BHAVESH B. PATEL, 0000
RUSSELL M. PECKHAM, 0000
RICK A. PELLANT, 0000
MERRITT A. PEMBER, 0000
ROBERT M. PERKINS, 0000
DOMINIC A. PERROTTA, 0000
MICHAEL W. PETERSON, 0000
KEVIN G. PETTUS, 0000
DAVID A. PHILIPS, 0000
CARLO L. PIKE, 0000
CARL L. PILERI, 0000
MATTHEW PONTZER, 0000
WILLIAM D. PORTER, 0000
IVAN D. PUGH, 0000
JENNIFER M. RAEL, 0000
CHARLES D. REDGER, JR., 0000
MARY L. REED, 0000
RICHARD D. REED, 0000
JULIE M. REMO, 0000
JASON T. REXROAD, 0000
ERIC R. RICHTER, 0000
RONALD G. RIECHERS, 0000
ROBERT G. RIVARD, 0000
STEVEN J. ROGERS, JR., 0000
JOHN G. RUMBAUGH, 0000
HARLAN I. RUMJAHN, 0000
RENA SALYER, 0000
DAVIS R. SAND, 0000
JOHN T. SANDERS, 0000
DAVID L. SAUNDERS, 0000
PAUL A. SAVEL, 0000
JOHN P. SCALLY, 0000
BRADFORD J. SCANLAN, 0000
DAVID E. SCHAEFFER, 0000
ALEXANDER W. SCHERMER, 0000
CHRISTOPHER M. SCIPIONE, 0000
TONY SERRANOPADIN, 0000
SANDRA J. SHELMERDINE, 0000
JEFFREY L. SHERE, 0000
CARMEN R. SHERER, 0000
MATTHEW W. SHORT, 0000
BRIAN R. SHUNK, 0000
DAVID M. SICKLE, 0000
PHAELON H. SILVA, 0000
DIRK L. SLADE, 0000
AHMAD M. SLIM, 0000
CHRISTOPHER J. SMITH, 0000
SEAN T. SMITH, 0000
MICHAEL J. SOCHER, 0000
KAREN M. SPANGLE, 0000
JOSHUA D. SPARLING, 0000
MICHAEL L. STAKER, 0000
BENJAMIN STENZLER, 0000
ATHENA J. STOYAS, 0000
CHRISTOFER A. STRODE, 0000
JENNIFER E. STRONG, 0000
KYLE E. SWANSON, 0000
LORI B. SWEENEY, 0000
MICHAEL J. TARPEY, 0000
NEIL M. TAUFEN, 0000
MELISSA V. TERRY, 0000
LORI M. THELEN, 0000
WILLIAM THOMAS, 0000
DOUGLAS M. TILTON, 0000
SCOTT A. TRAPMAN, 0000
CHRISTOPHER TROLLMAN, 0000
CLESSON E. TURNER, 0000
GREGORY W. UMPHREY, 0000
ECHO D. VAN, 0000
JEFFERY W. VANDENBROEK, 0000
MEIDE A. VANDER, 0000
MEIDE J. VANDER, 0000
PRAMVIR S. VERMA, 0000
MICHAEL T. VEST, 0000
RAUL VILLALON, 0000
NEIL C. VINING, 0000
CHRISTINE E. WAASDORP, 0000
MICHAEL WALDEN, 0000
ROBERT S. WALLACH, 0000
JACK R. WALTER, 0000
TANGENEARE D. WARD, 0000
CHRISTOPHER H. WARNER, 0000
PAIGE E. WATERMAN, 0000
SYLVIA V. WATERS, 0000
JAMES A. WAYNE, JR., 0000
RONALD S. WELLS, 0000
MICHAEL J. WELSCH, 0000
THOMAS M. WERTIN, 0000
PAUL WHITE, 0000
RONALD L. WHITE, 0000
EUGENE W. WILSON, 0000
RAMEY L. WILSON, 0000
DEREK A. WOESSNER, 0000
KURT P. WOHLRAB, 0000
DANIEL WOJTUSIAK, 0000
ALLISON L. WOODWARD, 0000
HARRY J. WRIGHT, 0000
EDWIN A. WYMER, 0000
GARY H. WYNN, 0000

IN THE NAVY

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT IN THE GRADES INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be commander

MARTIN C. HOLLAND, 0000
JEFFERY R. JENIGAN, 0000

To be lieutenant commander

PAUL M. CLARK III, 0000
LAWRENCE P. MCCHESNEY, 0000
MOHAMMAD NAEEM, 0000
KATHARINEA F. PELLEGRIN, 0000
AMY L. REDMER, 0000
JOHN M. WOO, 0000

WITHDRAWAL

Executive Message transmitted by the President to the Senate on September 19, 2005 withdrawing from further Senate consideration the following nomination:

TERRY NEESE, OF OKLAHOMA, TO BE DIRECTOR OF THE MINT FOR A TERM OF FIVE YEARS, WHICH WAS SENT TO THE SENATE ON JULY 29, 2005.