United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, FIRST SESSION

Vol. 149 WASHINGTON, WEDNESDAY, MARCH 5, 2003 No. 35

Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Dr. Michael J. Flavin of the Presbyterian Church of New Providence, New Providence, NJ.

PRAYER

The guest Chaplain offered the following prayer:

Dear Father who is in heaven, You are a God of justice and grace, power and love, and above all else—freedom. It is You who puts a hunger for freedom in each of our hearts. It is You who sent Your Son to die that we might be set free. It is You who guided America's founders to build on the firm foundation of freedom. And it is You who has given us gifted leaders determined to protect that freedom. Thank you!

Father, You know these are difficult days. The weight of leadership rests heavy on the shoulders of the women and men of this Senate. So, we pray for them this morning. Please encourage them. Be very present here. In the words of the prophet Isaiah, please empower, renew, and strengthen them. In so doing may these women and men walk and not faint, run and not be weary. May they mount up with wings like eagles today.

Similarly, we pray with the Apostle Paul that You would give them not a spirit of timidity but a spirit of power—Your power, love—Your love and self control—Your self control. We pray that these three qualities would be here in abundance today.

Lord, because of You we approach the future with confidence and great hope. May Your Kingdom come, may Your will be done in this Chamber and throughout the earth as it is in heaven. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore. Senator BENNETT, will you lead us in the Pledge of Allegiance, please.

The Honorable ROBERT F. BENNETT, a Senator from the State of Utah, 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 ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The Chair recognizes the acting majority leader.

SCHEDULE

Mr. BENNETT. Mr. President, today there will be a period of morning business until the hour of 11 a.m. The first half of morning business will be under the control of the Democratic leader or his designee, and the second half will be reserved for this side of the aisle. At 11 a.m., the Senate will resume consideration of the nomination of Miguel Estrada.

As a reminder, a cloture motion was filed on that nomination yesterday. Therefore, the vote will occur sometime on Thursday morning. We will announce the precise time of that vote later today.

At 12 noon today, the Senate will begin consideration of the Moscow Treaty. Under the consent agreement reached yesterday, only amendments in order to the resolution of ratification are those that are relevant to the resolution or the treaty. It is my understanding that there will be relevant amendments offered by some of my colleagues on the Democratic side, and therefore rollcall votes are expected today. Members who desire to offer amendments to the Moscow Treaty should work with the chairman and the ranking member of the Foreign Relations Committee to set up the appropriate time for consideration of their amendments. The Senate will complete action on the Moscow Treaty this week.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, I haven't had an opportunity to check with floor staff, but I want to alert Members. At 11 o'clock, Senator ROBERTS and I, who were chairman and ranking member of the committee for many years, are going to make a statement on a longtime person who is leaving. We will work this out. I want to alert Members that we would like to have about 10 or 15 minutes between us at that time to speak about someone who is leaving and who has been involved in the committee work for many years.

The PRESIDENT pro tempore. The Senator from New Jersey is recognized.

THE GUEST CHAPLAIN

Mr. LAUTENBERG. Mr. President, I rise today to welcome Dr. Michael J. Flavin to the Senate. Dr. Flavin comes to us from New Providence, NJ and we are very happy that he is joining us today as the Senate's Guest Chaplain. Dr. Flavin received his Bachelor's Degree from Bemidji State University and he currently serves as Associate Pastor at New Providence Presbyterian Church in New Providence. He received his theology degree from Bethel Seminary and his doctorate from Eastern Theological Seminary. He spends much of his time working with students.

I am always excited when we can welcome someone from New Jersey to the Senate Chamber and I am honored to welcome Dr. Michael J. Flavin to lead us in our morning prayer.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. BROWNBACK.) Leadership time is reserved.

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

Printed on recycled paper.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the of hour of 11 a.m. Under the previous order, the first half of the time shall be under the control of the Democratic leader or his designee.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

(The remarks of Mr. LAUTENBERG pertaining to the submission of S. Con. Res. 13 are printed in today's RECORD under ''Statements on Submitted Resolutions.'')

Mr. LAUTENBERG. Mr. President, I send the resolution to the desk and ask unanimous consent that it be held there.

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

Mr. LAUTENBERG. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I thank my colleague from New Jersey. I think the resolution that he and other colleagues bring before us is certainly one that should be considered seriously for those who are committed to human rights.

THE STATE OF THE AMERICAN ECONOMY

Mr. DURBIN. Mr. President, I would like to move the spotlight of the comments on the Senate floor this morning from the international scene to the domestic scene, and point to the front page headline of the New York Times, Wednesday, March 5: ''U.S. Budget Deficit Seen Rising Fast.'' This is an analysis that they report which comes from the Republican-controlled House Budget Committee. It is a startling piece of information. I will read the first two paragraphs from this article:

> The federal deficit is growing much more quickly than expected, even before Congress takes up President Bush's tax-cutting proposals and without factoring in the costs of a war in Iraq, Congressional analysts have concluded.
>
> Analysts for the Republican-controlled House Budget Committee have raised their estimates of this year's budget shortfall by about $30 billion, some 15 percent beyond the forecast . . . issued only five weeks ago.

We come today to discuss many issues, but certainly one of the overriding issues is the state of the American economy and what we are doing on Capitol Hill to deal with the challenges we face.

There was a time, not that long ago, when the Republican leaders, conservative in philosophy, really condemned the whole problem of deficits in our country and said they were dedicated to eliminating them. Now we hear from Treasury Secretary Snow and others that deficits are meaningless: Don't worry. Be happy.

The concept of going to a $400 billion deficit next year is not only a troubling prospect but represents a dramatic turnaround in terms of Federal spending in Washington, DC.

When this President came to power—President George W. Bush—he inherited a surplus. He came into office with a set of circumstances that any President, any Executive, would be happy to find. We had reached the point where we were not overspending.

Of course, the President, as he came to office, saw the beginning of a recession which has become progressively worse under his administration to the point now where we see consumer confidence at historic lows, unemployment at historic highs, people in business across America depressed and sometimes despondent over whether we are going to find our way out of this budget problem.

Second, the President—and this, of course, in fairness, is not his doing by any means—inherited the age of terrorism and the threat of terrorism which has created a dampening problem across the economy that cannot be diminished. That is a major factor.

So he has a recession which has become progressively worse while he has been in the White House, terrorism which has cast a pall over the economy, but then this President made matters worse. Two years ago he said to this country, even though we are facing deficits, the thing we should do first is to cut taxes. Any politician who announces a tax cut is going to get applause. People love that idea. Of course, they would, to think they would have more money that is not taken by the Government. But the President came up with this proposal at exactly the wrong time in exactly the wrong way. In a deficit situation, he made it worse.

Two years ago, he proposed a tax cut which took more money out of the treasury and, frankly, did not invigorate the economy. He gave a tax cut to the wealthiest people of America. It is the age-old Republican approach. They believe if tax cuts are given to the wealthiest people, somehow that will eventually help middle-income families and those in the lower income categories. It didn't work 2 years ago. People in the lower income categories saw a $300 check, and they didn't change their lifestyle. It did not invigorate the economy. Things went from bad to worse. Now this President comes and tells us what we need for the economy is more of the same, tax cuts for the wealthiest people.

Quite honestly, if it didn't work 2 years ago, it is not going to work now. It won't invigorate the economy. It will drive up the deficit at a time when the bottom is falling out of the Federal budget.

Don't take my word for it. The Republican House Budget Committee tells us we are about to see a record deficit. This President's proposal for tax cuts over a 10-year period of time will dramatically increase the national debt. It means our children and our grandchildren will have to shoulder the burden of the debt we are leaving them. It means programs such as Social Security are likely to languish and suffer because of this President's reckless economic policies.

To think this deficit is coming out of the Social Security trust fund should give us all pause. You know the demographics. The baby boomers are about to reach an age when they qualify for Social Security and Medicare. We should be mindful of that. We should be preparing for that. We should be cautious and prudent.

Instead, this White House and many who support it have said: Forget it; don't worry about it. Keep borrowing money from the Social Security trust fund. Keep jeopardizing the future of Medicare, drive up the deficits, increase the tax cuts so that tax breaks can be given to the wealthiest people.

Why in the world would we follow this course of action? Those who call themselves conservatives should have an examination of conscience, as the nuns used to tell me many years ago in grade school. They should sit down and ask themselves, Is this really why I came to Congress, to build up a national debt to record levels?

Let me add one important footnote. There is another tax out there that this administration will not talk about. It is called the alternative minimum tax. It was created years ago to make sure people who escaped all tax liability, people in the highest income categories, would pay something, an alternative minimum tax. But sadly, this tax, without reform, has grown in terms of its application, has grown in terms of the people who are being affected by it to the point that in just a few years you will see more and more middle-income Americans paying more in an alternative minimum tax than they are paying in their regular income tax rates.

Who will be the people affected by this? People with incomes below $100,000, middle-income families. People with a teacher in the family and a policeman, for example, will find themselves paying an alternative minimum tax.

What does it take to fix this problem? A lot of money; to eliminate it, $600 billion that this President has not budgeted for.

This President and his administration refuse to tell Congress and the people what we are getting into in terms of our exposure in the war in Iraq, how much it will cost. Larry Lindsey, the President's economic advisor until he was asked to leave a few weeks ago, blurted out that this war

would cost us $100 to $200 billion. He was asked to leave the administration for his candor. Now we can't get the administration to even tell us what this war, not only the waging of it but the cost of the occupation force afterwards, is going to cost. It isn't even factored into the budget deficit.

Make no mistake, I will say this as a person who has questioned this administration's approach on foreign policy. If and when this war begins, I will join an overwhelming bipartisan majority in Congress to provide every penny necessary to wage this war successfully and bring our men and women home safely, having completed their mission. We are going to do that. It is a given. To ask the administration what this is likely to cost is not unreasonable. We went into a bidding war over the last several weeks when it came to Turkey, how much money we would send to Turkey, if they would allow us to base our troops there for an invasion of Iraq. The numbers went from $15 billion to $26 billion. We were bidding right and left. What is it going to cost overall?

This administration is not putting money into homeland security. This administration is not budgeting what it takes to defend America against terrorism. We are budgeting what it takes to prepare to attack in Iraq; we are not budgeting what it takes to prepare to defend in America.

When all these are put together, understand that we are headed down a perilous course with President Bush's economic policy. It is a course which, frankly, is not going to invigorate the economy; it is not going to create jobs; it will not create consumer confidence. It will create a debt and deficit at the expense of Social Security and Medicare for generations to come. We should not, in a weak moment, rally behind a President who clearly is on the wrong course when it comes to America's economy. We need to stand up and make certain that we are going to work for a sound economy, a fiscal approach that is prudent and cautious and takes into consideration the needs of America in the long term.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from Nevada.

EXTENSION OF MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent—this has been cleared with the majority—that the Democrats be entitled to 45 minutes in morning business, and the Republicans 45 minutes, because of the prayer.

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

The PRESIDING OFFICER. The Senator from Michigan.

MEDICARE

Ms. STABENOW. Mr. President, I rise to thank my colleague from Illinois for his eloquence regarding the direction of our economy and the Federal budget and the grave concern he has that I share about the looming and massive long-term debt that is accumulating by the policies of this administration.

When we look at where we are going and the fact that the entire Medicare and Social Security trust funds are currently being used to fund tax cuts geared to the very top, the very wealthiest 1 percent, and when we look at the discussions we are having in the Budget Committee, we begin to see a picture that is disturbing. Because when we ask what will happen, when we are using all of these funds for other purposes, and we know that in just a matter of a few years, the baby boomers will begin to retire en masse and they have the expectation, as they should, that Social Security and Medicare will be there for them, they have paid into the system, and we are told, when we ask, how will we afford that, how will we be able to keep that commitment, well, that assumes that Medicare and Social Security will be structured the way they are today. That assumes there will be no reform.

What is becoming clear is that reform is a code word for privatizing; that there is a real interest, a commitment and movement to privatize or eliminate Medicare and Social Security, as we know it, in the long term.

Today I wish to speak again very specifically about Medicare because I believe that is the most imminent threat because the debate that has occurred since 1965, when Medicare passed, in various forms is occurring yet again today. That is the question of whether Medicare is a big American success story, which I believe it is, or just a big Government program, which I believe this administration feels it is.

I wish to speak specifically about special interest politics versus the needs of the public, the willingness to provide tax policy that benefits only a few, rather than the middle class, and small businesses that drive our economy, as well as the fact that in Medicare, we are seeing a willingness to move the system in a way that benefits, again, special interests over the needs of all of our seniors and the disabled in our country.

On page A6 of the Washington Post this morning, there is a very disturbing article. It says: ''Bush Plan a Boon to Drug Companies.'' The President went before the American Medical Association yesterday and spoke about his plans for Medicare, again using the word ''reform,'' which we know now is a code word for ''privatization.'' Reform equals privatize when we talk about this issue of Medicare. We now find that it also directly relates, once again, to special interest politics, which is very disturbing.

The second headline is: ''Medicare Prescription Proposal Would Also Benefit Insurers, Analysts Say.'' Not the insured, not the seniors about whom we all talk, not the disabled people about whom we all talk, but the insurance industry.

It begins:

> Health care economists said the drug benefit President Bush proposed for Medicare yesterday would be a bonanza for the pharmaceutical and managed-care industries, both of which are huge donors to Republicans.

It went on to say:

> Marilyn Moon, a health economist at the Urban Institute, said Bush's plan would hand tremendous negotiating power to health insurance companies.
>
> ''By making the private plans such a central part of the future of Medicare, the government is going to have to meet their demands for greater contributions to the cost of care, over and above the subsidy for prescription drugs,'' Moon said.
>
> Bush's proposal is vague on many points, including the terms for insurers. Tricia Neuman, a vice president of the Kaiser Family Foundation, said the plan would have to provide a windfall for the companies—

''Would have to provide a windfall for the companies.''

> or too few would participate for the plan to work.
>
> The analysts said drug companies also could be expected to reap huge profits under Bush's approach.

Huge profits under Bush's approach. We have to ask ourselves: Is that the purpose of Medicare? Is that the purpose of health care? Is it the same as purchasing a pair of tennis shoes, purchasing soup, purchasing a new shirt so that we are talking about what profit margin we have off our Medicare recipients, or is the goal to make sure we have quality health care for every senior citizen?

I believe it is our responsibility to make sure this is a streamline system with as few dollars as possible going into administration and that the dollars should go directly to health care for our seniors, not into huge profits. We welcome profits in many areas. We need profits in our economy. We want businesses to be successful. But when we are talking about Medicare, we have a different priority in what we need to do to help our seniors make sure they have care.

To continue with the article:

> Bruce C. Vladeck, who was President Clinton's head of the federal agency that runs Medicare, said Bush's plan ''strikes me as the kind of proposal that pharmaceutical companies would write if they were writing their own bill.''

These are the kind of comments we heard last year when we were debating prescription drug coverage and were told—in fact, we heard comments coming from staff in the House quoted in the paper as to how they were running their proposals by the pharmaceutical industry to make sure they were OK. It is clear this one is OK, and we should all be very concerned about who we are trying to help.

Continuing to quote:

> ''A slew of private health plans would have nowhere near the negotiating power that Medicare would have if there was national drugs benefit,'' said Vladeck, now a health

policy professor at Mount Sinai School of Medicine in New York City.

If Bush's proposal were enacted, it could provide a high-profile benefit for industries that are reliable donors to Republican candidates and committees. The Center for Responsive Politics said that for the past two elections combined, pharmaceutical manufacturers gave $30 million to Republicans and $8 million to Democrats.

Health service companies and HMOs, a leading form of managed care, donated $10 million to Republicans and $5 million to Democrats over the past two elections, according to the center's figures.

This should be a deep concern of every American, as well as my colleagues on both sides of the aisle and on the other side of this building about how this issue is being framed because of the realities it points out what is really going on with this issue.

I will make one more point. The article continues, quoting President Bush yesterday:

Bush, promising to bring more free enterprise to medicine, denounced ''government-run health care ideas.''

I have been saying for a long time that those who want to privatize Medicare believe that Medicare is a big Government-run program, and there is a major philosophical difference that has gone on since 1965 when only 12 colleagues from the other side of the aisle joined in passing Medicare. There is a huge chasm of difference as to whether we ought to even have Medicare.

Fundamentally, that is what this debate is about. It is not about what the premiums should be, what the copay should be. It is about who runs the system as to whether there should be a guarantee so that every person who turns 65 and gets that Medicare card knows they can choose their doctor, that they can get the medicine they need, that they know what the copay is, what the premium is, regardless of where they live in the country.

In a State such as Michigan, where we have the major metropolitan area of Detroit all the way up to Ironwood, MI, in the western part of the UP, people today know that under Medicare they can get the health care they need. That was a promise made by the United States of America in 1965, and now under a lot of different pretty words, a lot of different connotations of reform, we see an effort clearly outlined—and even in the President's own words—to put more free enterprise into the health care system. That is privatizing the health care system. That is privatizing Medicare.

In general, I do believe there is an important partnership between the public and the private sector. We have an employer model of health care in this country that has worked for workers and their families. I appreciate there is a benefit in having partnerships.

We have said as a country that once an American citizen reaches the age of 65 or they are disabled, we think it is important that whether one has private plans in their community, whether they can find them and/or whether they can afford them, they should be able to have health care. The reason Medicare came into being was that over half the seniors could not find or afford private insurance. That is why Medicare was created.

I, for one, will not quietly stand by to see a promise of some 38 years eroded by this administration or in this Congress. I know there are colleagues of mine on both sides of the aisle who have concerns. I am hopeful we can come together under Medicare.

What is very clear is—and in this article the outside analysts, independent voices, are saying—the fight is about how we administer the prescription drug benefit. The companies want to keep it disbursed in the private sector because they know if the some 40 million beneficiaries of Medicare today are in one insurance plan, they will be able to negotiate a group discount for the first time. They will not be paying retail. They will not be paying the highest prices in the world in order to get their medicine. They will be able to get a group discount.

The fight is on to make sure that seniors in this country do not have the collective power to be able to get that discount through Medicare. That is what this is about. It is one of the most fundamental fights we will have in this Congress and on the floor of the Senate, and I hope my colleagues on both sides of the aisle will come together and be willing to stand up and say Medicare works, Medicare is a great American success story, and we continue to promise that the Medicare plan will be there for every single senior and the disabled in our country.

This is a fundamental fight, and I hope my colleagues will join me in making sure this plan that is passed is not a boon for the drug companies or for the HMOs but is a boon for the seniors of America.

ECONOMIC STIMULUS

Ms. STABENOW. I move now to another very important topic, and that is the question of stimulating this economy. We know that to get out of the massive debt that is being accumulated, we have got to stimulate the economy. We have to reverse the trend right now. We have seen over 2 million private sector jobs lost in the last 2 years. We have to go back to the Eisenhower Presidency to find those kinds of numbers, those kinds of huge private sector losses and this massive debt. We know that has to be turned around.

Part of what needs to happen to begin to get us back to the balanced budget and out of this massive debt, so we can protect Social Security and Medicare, is to stimulate the economy and create jobs. I am very proud to be a part of an effort to do that.

We have in front of us a Democratic plan that has been introduced by our leader and Members in our caucus. It will provide immediate relief for families through a broad-based tax cut that is on the front end, a tax cut to the middle class and to those in our country who we know will turn around and buy those school clothes or a new car—and coming from Michigan, I am always hopeful it is a new American-made car—and purchasing that new home and all of those things that stimulate the economy, rather than giving the tax relief to somebody who has three homes or has five cars and is not likely to buy another one.

What we want is to put that tax cut in the hands of middle-class people, working people, who will spend it now, so that our businesses will see the demand. Right now, newspaper headlines this week in Michigan relate to the auto industry cutting back on the building of new cars because the demand is not there.

We have a proposal that relates to demand, not trickle-down economics from the top but demand, to put money in the pockets of people who will spend it. That is exactly what our proposal would do. It would provide about a $1,200 tax cut this year for a family of four. It would also provide tax incentives to encourage businesses to invest and create jobs, and it would increase the current multiyear bonus depreciation so if one invested now, they would get a bonus depreciation, which is very important.

It would triple the amount of investments small businesses can write off immediately, and this is very important because the majority of new jobs are coming from small business. We need to be focusing on tax policies that will help and support job creation in small business.

It would provide a 50-percent tax credit in 2003 to help small businesses pay for their share of health insurance premiums. This relates very much to the broader question of health care and where we are going.

Later today, we are going to be introducing legislation to cut the price on prescription drugs so we can bring that health insurance premium down for small businesses. It would provide a 20-percent tax credit in 2003 for businesses investing in broadband, high-speed Internet infrastructure, focusing on rural areas, underserved areas. This is very important. We are in a high-tech new economy, and broadband access is critical as we move forward to be able to compete in the new world of high technology and helping small businesses invest, particularly in our rural areas, the hard-to-reach areas. It is an important part of our economic development structure.

Another important piece we believe must be addressed now is to provide $5 billion for hometown security that would make sure that as we are investing in the economy, we are also making sure we are safe at home. When people have an emergency, they call 9–1–1. We want to make sure people on the other end of that line have the communications equipment, the technology, the training, and the personnel

to respond in a way that will keep us safe.

We also know that part of what is happening economically across the country now is that we are seeing a ripple effect because the majority of States are in a financial crisis because of the downturn in the economy and other factors, so that as they lay off, and people are spending less because they are laid off from State or local governments, there is this ripple effect throughout the economy.

In addition to putting money directly into people's pockets, we also propose putting money into the pockets of the small business owner. We propose providing dollars in immediate aid to State and local governments so that we are not seeing that ripple effect in terms of people losing their jobs, losing purchase power in the economy. We all know common sense says if we can provide money to State, local, and municipal governments and they can focus on immediate infrastructure such as rebuilding roads, water systems, sewer systems, we create good-paying jobs by doing that, such as construction jobs. We take burdens off local property taxes, which helps individuals and businesses, and we can again stop the bleeding that is occurring right now in the States with more and more people losing their jobs and thus losing purchasing power in the economy. This is of great urgency.

We come to the floor each day to ask that we immediately go to an economic stimulus package that will get America back to work, will put money in the pockets of individuals and businesses that can get the job done, that can stimulate this economy, to help our hometown security, and to make sure that we are helping to rebuild America, which also rebuilds jobs.

UNANIMOUS CONSENT REQUEST—S. 414

Ms. STABENOW. With all sense of great urgency, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 21, S. 414, a bill to provide an economic stimulus package.

The PRESIDING OFFICER. In my capacity as the Senator from South Carolina, I object to the unanimous consent request.

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

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

THE TREATY ON STRATEGIC OFFENSIVE REDUCTIONS

Mr. ALLARD. Mr. President, I understand that the remaining time is Republican time. I am going to go ahead and start making some comments. We are doing some checking. Maybe I will ask unanimous consent to get some time for my colleague from Oregon. In the meantime, I will go ahead and start my comments.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. I thank the Chair. I appreciate the opportunity to add my thoughts to this body's consideration of the Treaty on Strategic Offensive Reductions, otherwise known as the Moscow Treaty. My understanding is that this afternoon it will be brought before the Senate. We are at a pivotal moment in our country's history. In many ways, the Senate's advise and consent to this treaty will mark the end of an era of hostility and the beginning of an age of cooperation.

It is more than a document; it is a signal to the world that the United States and Russia have moved beyond a relationship of conflict and brinkmanship to a relationship of mutual respect and shared values.

We all remember the super-power rivalry between the United States and the Soviet Union, which lasted over 45 years. I believe it is important for this debate to recall the tension and hostility that accompanies that time so that we may fully appreciate what this treaty symbolizes for the future of U.S.-Russian relations.

In 1947, a little-known foreign service officer named George Kennan under the pseudonym 'X' wrote an essay that was published in Foreign Affairs journal that was to define our approach to the Soviet Union for the next fifty years. In his essay, he described the Soviet ideology as the belief in the ''basic badness of capitalism, in the inevitability of its destruction, in the obligation of the proletariat to assist in that destruction and to take power into its own hands.''

This ideological bent would manifest itself, Mr. Kennan predicted, in an ''innate antagonism'' between the Soviet Union and Western world. He said that we should expect secretiveness, a lack of frankness, duplicity, a wary suspiciousness, and the basic unfriendliness of purpose. Mr. Kennan warned us that the Soviet government might sign documents that might indicate a deviation from this ideology, but that we should regard such actions as a ''tactical maneuver permissible in dealing with the enemy (who is without honor) and should be taken in the spirit of caveat emptor''. As we discovered in the decades following, Mr. Kennan was right.

The Soviet Union did indeed devote itself to exporting its ideology around the world. Its foreign policy was marked by antagonistic rhetoric and provocative actions. It signed arms control agreements and then violated them. The Soviet Union invaded its neighbors, launched proxy wars, and encouraged revolution and instability. It repeatedly proved capable of exploiting weakness and political divisions. And it was successful at taking advantage of geopolitical realities. As a result, Angola, Afghanistan, Ethiopia, Cuba, Nicaragua, El Salvador, Honduras, Granada, Vietnam, Korea, Somalia, Yemen, Greece, and Turkey all become Cold War battlegrounds.

For the most part, the United States followed Mr. Kennan's advice. We strove to contain Soviet expansionist tendencies. We forced back Soviet advances. We were firm. We were patient. And, in 1991, with the fall of the Soviet Union, our patience paid off.

It is important that we recognize that the Russia of today is nothing like the Soviet Union of yesterday. Under the leadership of President Putin, economic and political reforms are being enacted. Russia is no longer bound by a defunct ideology. The country has stepped away from its past and has worked with sincerity to help resolve many of the challenges facing the international community.

Russia has also sought to improve its relationship with the Western world. It went eventually along with inclusion of the Baltic states into the NATO Alliance, despite harboring deep concerns. Russia accepted our withdrawal from the Anti-ballistic Missile Treaty. After September 11, Russia assisted the United States in the war against terrorism by sharing intelligence information and raising no objection to the stationing of U.S. troops in the former Soviet states in Central Asia. Once inconceivable, it is now possible to imagine Russia joining the World Trade Organization and even NATO in the near future.

Another sign of improved relations between the U.S. and Russia is the treaty currently before us. The Treaty on Strategic Offensive Reductions is much different from arms control treaties agreed to during the Cold War. The text of treaty epitomizes this new relationship. Both parties pledge to:

> Embark upon the path of new relations for a new century and committed the goal of strengthening their relationship through cooperation and friendship.
>
> Believe that new global challenges and threats require the building of a qualitatively new foundation for strategic relations between the Parties.
>
> Desire to establish a genuine partnership based on the principles of mutual security, cooperation, trust, openness, and predictability.

The Joint Declaration by Presidents Bush and Putin that accompanied the treaty further expounds upon this new relationship. Let me read a couple of pertinent sections from that declaration:

> We are achieving a new strategic relationship. The era in which the United States and Russia saw each other as an enemy or strategic threat has ended. We are partners and we will cooperate to advance stability, security, and economic integration, and to jointly global challenges and to help resolve regional conflicts.
>
> We will respect the essential values of democracy, human rights, free speech and free media,tolerance, the rule of law, and economic opportunity.

We recognize that the security, prosperity, and future hopes of our peoples rest on a benign security environment, the advancement of political and economic freedoms, and international cooperation.

What is most notable about the Moscow Treaty as submitted to this body is the absence of certain provisions that normally marked Cold War era arms control treaties. Those provisions were based on distrust and antagonism. Instead, this treaty utilizes confidence-building measures based on trust and friendship.

For instance, the treaty does not establish interim warhead reduction goals or provide a detailed schedule for the reductions. The absence of such goals or schedules gives both sides flexibility over the next nine years to reduce their warheads at a pace of their own choosing.

Another missing element is precise counting rules. The Strategic Arms Reduction Treaty of 1991 provided such complex counting rules that it frequently resulted in overcounting and undercounting. Minor disparities in deployed and ''counting'' forces are no longer a significant issue given the confidence building measures included in the treaty and our positive relationship with Russia.

It should be noted that the Moscow Treaty does continue the START I verification regime, which permits on site inspections and continuous monitoring. The Moscow treaty also creates a new Bilateral Implementation Commission that will be used to any raise concerns that might arise about treaty compliance and transparency. These measures, plus our own technical means, will provide the U.S. government with significant confidence that it can monitor Russia's activities.

The Moscow Treaty is similar to previous arms control agreements in one significant way: it does not require the dismantlement of warheads. Neither Russia nor the United States sought the dismantlement for two reasons. First, the dismantlement in the past has been considered inherently unverifiable. There is no established process for dismantling warheads that can provide assurance to each party.

Second, the U.S. intends to keep some warheads in ''ready reserve.'' Such a reserve is essential if we are to retain the capability to respond to changes in the security environment and quickly replace dysfunctional warheads.

I also think it is instructive to look at the process by which the Moscow Treaty was put together and how different these negotiations were from negotiations that occurred during the cold war. Secretary of Defense Donald Rumsfeld remarked on the difference during a Senate Armed Services Committee hearing last July. Here is what he said:

. . . it's significant that while we consulted closely and engaged in a process that had been open and transparent, we did not engage in lengthy adversarial negotiations in which U.S. and Russia would keep thousands of warheads that we didn't need, as bargaining chips. We did not establish standing negotiating teams in Geneva with armies of arms control aficionados ready to do battle over every colon and every comma. . . . An illustration of how far we have come is the START treaty. . . . It is 700 pages long, and it took nine years to negotiate. . . . The Moscow treaty . . . is three pages long and it took five or six months to negotiate.

Let's take a few moments to review some of the Moscow treaty's provisions. The treaty requires the reduction of strategic nuclear warheads by each party to a level of 1,700–2,200 by the end of 2012. Each side currently has about 6,000 warheads. This treaty means a reduction of over 8,000 nuclear warheads.

The treaty allows both parties to restructure their offensive forces as each sees fit, within the prescribed numerical limit. This provision gives each flexibility to meet the deadline and permit each party to determine for itself the composition and structure of its strategic offensive arms.

The Treaty mandates that the parties will meet at least twice a year as part of a Bilateral Implementations Commission.

The Treaty allows each party, in exercising national sovereignty, the ability to withdraw from the treaty upon three months written notice.

As you can see, the treaty is simple, straight-forward, and gives each party maximum flexibility.

Last summer, the Senate Armed Services Committee held two important hearings on the national security implications of the treaty. Witnesses included: Secretary of Defense Donald Rumsfeld; Chairman of the Joint Chiefs of Staff, General Richard Myers; Combatant Commander, U.S. Strategic Command, Admiral James Ellis; and Deputy Administrator of the National Nuclear Security Administration of the Department of Energy, Dr. Everet H. Beckner. The witnesses at the Committee hearings unanimously supported ratification of the Moscow Treaty. The Chairman of the Joint chiefs, General Myers said,

The members of the Joint Chiefs of Staff and I all support the Moscow Treaty. We believe it provides for the long-term security interests of our nation. We also believe that it preserves our flexibility in an uncretain strategic environment.

Admiral Ellis added that,

This treaty allows me, as the Commander of the nation's Strategic Forces, the latitude to structure our strategic forces to better support the national security pillars of assuring our allies, dissuading those who might wish us ill, deterring potential adversaries and, if necessary, defending the nation. . . . [I]n my judgment, this treaty provides me the ability to prudently meet those national security needs and to provide a range of deterrent options to the Secretary and the President for their consideration should the need arise. . . .

I believe it is important to recognize the flexibility that this treaty gives the United States. While the U.S. nuclear stockpile may contain a large number of warheads, we only have six types of warheads, and none of these have been tested in over a decade. The average age of warheads in the U.S. stockpile is approaching 20 years—and some warheads are much older. Despite the improved effectiveness of the stockpile stewardship program, problems in the stockpile do occur. Having the responsive reserve, as envisioned by the administration, enables us to address problems in the stockpile without compromising our national security interests. This treaty is simple, flexible, and makes sense. It is a signal that the hostility of the cold war has been buried and forgotten. It has been 12 years since the collapse of the Soviet Union, and clearly it is time to move one.

As we consider this treaty, we should also keep the future in mind. I share Secretary Rumsfeld's vision for future negotiations with Russia as he described it at July 26 Armed Services Committee hearing. He said,

We are working towards the day when the relationship between our two countries is such that no arms control treaties will be necessary. that's how normal countries deal with each other. The United States and Britain both have nuclear weapons, yet we do not spend hundreds of hours negotiating the fine details of mutual reductions in our offensive systems. We do not feel the need to preserve the balance of terror between us. It would be a worthy goal for our relationship with Russia to evolve along that path.

I could not agree more with the Defense Secretary's vision. Russia and the United States are no longer adversaries and therefore should not treat each other as such.

I understand that my good friend, Senator JOHN WARNER, Chairman of the Armed Services Committee, has written to the Senate Foreign Relations Committee expressing his strong support for the Moscow treaty. I join him in that support. I believe the Senate should provide its advice and consent to the ratification of the treaty with no further changes or additional conditions to the resolution of ratification.

Some of my colleagues may offer well-intentioned amendments that might attempt to add reservations, understandings, or declarations. I appreciate their desire to amend the treaty, but I think we should keep in mind that the Senate Foreign Relations Committee unanimously approved this treaty without amendment, and the resolution of ratification before us today has only tow modest conditions. The President has indicated his opposition to any amendment to the resolution. Therefore, I encourage my colleagues to oppose all amendments. I believe it would be best for our nation security interests if this treaty remained unencumbered by items that will complicate the treaty and reduce our flexibility.

Mr. President, I thank you for the opportunity to share my views on this important treaty. I look forward to a healthy debate on this issue. I yield the floor.

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

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

Mr. WYDEN. Mr. President, I ask unanimous consent to speak for up to 15 minutes on the time the Democrats have with respect to the Estrada nomination.

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

Mr. WYDEN. Thank you very much, Mr. President, for your courtesy earlier in the morning.

THE HEALTH CARE THAT WORKS FOR ALL AMERICANS ACT

Mr. WYDEN. Mr. President, right now the eyes of the Nation are focused on international crises. The threat of war with Iraq, the conflict at the United Nations, and a diplomatic standoff with North Korea are all critical issues about which this country is concerned.

But here at home there is a domestic crisis of massive proportions that affects the lives of millions of Americans each day; that is, the failure of our health care system to work for all Americans.

I will take just a few minutes to discuss this because next week I anticipate that thousands of Americans will get together in communities across the Nation as part of the special effort to highlight the concerns of the uninsured. This is under the auspices of the Robert Wood Johnson Foundation, an organization that works in a nonpartisan fashion.

I expect to see thousands of Americans in their communities—businesspeople, senior citizens, labor organizations, those from charitable groups—so many who are falling between the cracks in our health care system speaking out and calling for congressional action. I think it is very timely because Congress must get at this critical issue.

Very shortly, the senior Senator from Utah, Mr. HATCH, and I will again go forward with our bipartisan proposal, the Health Care That Works For All Americans Act. Our legislation has been endorsed by the Chamber of Commerce, the AFL–CIO, and the American Association of Retired Persons—three groups that do not normally flock together—because I think there is a feeling that what has been tried for the last 57 years, in the effort to create a health care system that works for all, simply has not worked.

For 57 years, there has been an effort to write health care legislation in Washington, DC. The American people find these bills illegible, the special interest groups attack, and invariably nothing happens.

So what Senator HATCH and I will shortly propose is something fundamentally different, an effort to look outside the beltway here in Washington, DC, to the American people, an effort that will begin with the central questions, and coming up with a system that works for all Americans.

Those questions are, first and foremost, what are the essential services Americans want in a comprehensive health reform bill? Second, what will those services cost? And, third, who is going to pay for them?

I am of the view that getting the American people involved in those kinds of issues—issues that are central to creating a system that works for all—is the only way Congress is going to break the gridlock on this question.

Right now, we are seeing our small businesses getting annual premiums rising more than 20 percent a year. Many health care providers, particularly physicians in rural and urban areas, are leaving the Government programs because of inadequate reimbursement rates. Certainly we have heard from many health care providers about rising insurance costs. And then, of course, for seniors, their prescription drug bills are hitting them just like a wrecking ball.

All of this, of course, is happening before the demographic tsunami of millions of baby boomer retirees, as 2010 and 2011 approaches. In those years we are going to start seeing a bow wave of baby boomer retirees that is going to continue for 15 to 20 years, after it begins in 2010 and 2011, and clearly our health care system is not prepared for it.

So the question then becomes, what is going to be done to break the gridlock on this issue? You have very powerful interests. And certainly, partisan feelings on these issues run very strongly. If you go to a lot of Republican meetings and talk about the health care cost crisis, they say: Of course it is a problem. We have to act on this. It is just the trial lawyers' fault. Let's go and take them on, and things will get better.

Then if you go to a lot of Democratic meetings and talk about health care costs and the health care crisis, they will say: You bet it is the insurance companies. If you take them on, everything is going to get better.

What Senator HATCH and I have said, in this essentially unprecedented, bipartisan effort, that really would involve the American people in creating a new health care system, is that we realize so many of these powerful organizations are going to have to look at changes that have been resisted in the past. My sense is it is time for the Congress to act, and to begin by ensuring there will be congressional action on these issues.

If you look, for example, at the last time the Congress debated significant health reform, back in 1993 and 1994, there were not even any votes on this issue. After all of the debate and all of the controversy surrounding those proposals in 1993 and 1994, there were not even votes in the Congress on fundamental reforms.

So what Senator HATCH and I have done is ensure that after the public is given an opportunity to weigh in—in community meetings, on line, and across the country—on the kind of health care system that would work for all Americans, we guarantee a vote on the floor of the Senate and a vote in the House of Representatives on this issue.

I think by involving the public, and then following up promptly with an assurance there will actually be votes in the Congress on these issues, we have a chance to move this debate forward in a fashion we have not seen in the past.

What seems unfortunate is there are lots of ideas with respect to how to move forward on comprehensive health reform but no vehicle for bringing together the American people and a way for Congress to follow up on those initiatives. That is why I have believed, with Senator HATCH, we can take a fresh approach that could really break with the past.

I was struck, in preparing this legislation, how similar the efforts were over the last 58 years. If you look at what Harry Truman proposed in 1945, in the 81st Congress, it was remarkably similar, in terms of how the debate unfolded, to what President Clinton proposed in 1993 and 1994. In both cases, you began with bills written in Washington, DC. The American people found the proposals incomprehensible. They were attacked by interest groups. And the legislation died at that point.

I see the distinguished chairman of the Judiciary Committee in the Chamber. I know he is going to begin discussion on the Estrada nomination very shortly.

Since he is in the Chamber, I express my thanks to the distinguished chairman of the Judiciary Committee. He has been working with me for a substantial amount of time on our bipartisan health reform proposal. Because next week will involve thousands of Americans at the grassroots level talking about these issues, I thought it was important to come to the floor today and say that the Senate is now listening because the chairman of the Judiciary Committee has been willing to work with me on these issues, because he shares my view that it is critically important that we break the gridlock on the health care issue.

I announce to the Senate that very shortly Senator HATCH and I will be going forward with our proposal, the Health Care that Works for All Americans Act. We have gotten a formal endorsement from the Chamber of Commerce, the AFL–CIO, and the AARP—three groups that do not exactly flock together on a regular basis. To a great extent, those organizations have been involved because of the prestige and stature of the senior Senator from Utah. He is, of course, the author of the

CHIP legislation, which was a tremendous breakthrough in terms of health care coverage for young people. He has worked with me extensively on community health center legislation.

At a time when the eyes of our Nation are focused on international crises, I want to draw some attention to the incredible crisis at home with respect to health care. We have millions of citizens who are not old enough for Medicare. They are not poor enough for Medicaid. Small businesses are being crushed by annual premiums. Physicians are leaving the system. Older people are not able to afford their medicine. This Congress, with the ingenuity and the talent in this Chamber, can come up with a health care system that works for all Americans.

Toward that end, I have been very gratified that the chairman of the Judiciary Committee, the senior Senator from Utah, has joined me for a substantial time. We are going to stay at it until we get our proposal on the floor and the Congress breaks with this 57-year gridlock on the health care issue, gridlock that dates back to the days of Harry Truman. We can do it with some bipartisanship, which is what the Senator from Utah and I have tried to offer.

I will talk more about this next week when Coverage for the Uninsured Week begins across the country.

I thank again the Senator from Utah and yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from Utah.

Mr. HATCH. I thank my dear colleague from Oregon for his leadership in this area. When he was in the House, he was one of the great leaders on health care issues. He is repeating that leadership in the Senate. It is a privilege to work with him because you can rely on him. When he says he will do something, he does it. He is very intelligent in health care matters. I have a lot of respect for him, and it is a privilege to work with him. I hope people will listen to the bill that we will present because it is the way to at least move us off the dime and get us to do what we should be doing on health care. I thank him and pay tribute to him this morning.

Mr. REID. Mr. President, I appreciate the courtesy of the Senator from Utah. We are going to move to the Estrada nomination in executive session. However, prior to doing that, Senator ROBERTS and I are here. We have long served on the Ethics Committee, and we have a statement we wish to give. Senator HATCH has agreed that we can do so prior to going to executive session.

I ask unanimous consent that Senator ROBERTS and I be allowed to speak. As far as the time after that is concerned, we do not believe it needs to be equally divided. If Senator HATCH wants to take all the time, he can do that. I don't think we have anybody who wishes to speak.

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

TRIBUTE TO VICTOR BAIRD

Mr. REID. Mr. President, when I was first elected to the Senate, I spent a lot of time trying to figure out the committee structure. It is different than it is in the House. But I learned quickly that here, as in the House, the work gets done in committees.

I was fortunate early to be asked to serve on the Appropriations Committee and the Public Works Committee. I have served on these committees since I have been in the Senate. In these committees, I saw that the two ingredients necessary for successful operation of a committee were to make sure that there was not extreme partisanship and that we and a good, competent staff.

I have served in the majority and the minority while a Member of the Senate. I have been ranking member of a subcommittee, a chairman of a subcommittee. I have been chairman of a full committee on two separate occasions.

But regardless of which capacity I have served in, these ingredients remain constant.

Though I enjoyed the benefits of both good staff and bipartisanship during my years on these excellent committees, I was uncertain what to expect when I was asked to serve on the Committee on Ethics. I soon discovered that that committee was no different from any of the others, that you need a good staff and nonpartisanship.

It has been a tremendous pleasure for me to work with Senator PAT ROBERTS of Kansas. We have worked through some very difficult issues while we have served as chairman and ranking member of the committee. As we all know, Senator ROBERTS has a great sense of humor. But that sense of humor is never, ever in the way of doing the right thing for this institution. He is a person who served for many decades in the Congress, and his service here in the Senate has been a rewarding one for Members of the Senate because he has brought his experience from the House and made this place a better institution. I can speak with authority in that regard as a result of how he handled himself on the Ethics Committee during the time he and I served as chairman and ranking member or vice versa.

It is a disappointment to me that he is no longer chairman of that committee, but the rules are such that he could not serve in that capacity while serving in the same capacity on another committee. I look forward to working with Senator VOINOVICH, who has replaced him. I only hope that he is half as good in that capacity as Senator ROBERTS. If that is the case, the Senate will be well served.

The Senate Ethics Committee is truly a unique committee. Unlike other committees, it is comprised of an even number of Democrats and Republicans. It is led by a chair and vice chair. The staff is entirely nonpartisan. Most significantly, the committee's obligation is to ensure that Members of this body adhere to the high ethical standards expected of them as Members of the Senate. This is an obligation that transcends partisan political differences.

I have had the honor of serving on the Ethics Committee for a long time. I have had the privilege of being both the chair and the vice chair of the committee. Throughout all my time, however, the individual responsible for the day-to-day management of this committee has been Victor Baird. In fact, Victor has served on the Ethics Committee since 1987 as the staff director and chief counsel.

He has guided the committee through some of its most controversial cases. Regardless of the case or the controversy, however, Victor Baird could be relied on to steer the committee with a degree of impartiality, calmness, and firmness that will be a model for his successors.

It is significant to note that Victor Baird is leaving the Ethics Committee to enjoy a rich and deserved retirement. His career path is a tribute to those who look at public service as a possibility.

Prior to coming to the Senate, Victor served on the Consumers' Utility Council of Georgia, was an administrative law judge in Georgia, and served as an assistant attorney general of Georgia.

He also is another son of Georgia who found his calling in public service and is finishing his career serving the greatest deliberative body in the world. Like other Georgians in the Senate, Victor enjoyed a distinguished career in the U.S. military. He was honorably discharged in 1970 from the U.S. Air Force and was a recipient of the Bronze Star. During his 3 years in the Air Force, he served as a meteorologist and was responsible for predicting tropical storms. I am sure the storms that came after he took this job at the Ethics Committee were certainly more than any of the storms he saw in the nonpolitical environment. I am sure that Victor's ability to forecast stormy weather served him well in the Senate.

Victor Baird's professional career is marked by serving the public. That alone deserves our commendation. It is unfortunate today that public service is viewed as a short-time venture for some, but I believe it is a noble calling. The financial rewards are few and the hours can be very long. Those who commit their lives to public service retire knowing their work, no matter how great or how small, has contributed to the betterment of society. That alone is a reward that cannot be quantified in dollars.

Mr. President, on behalf of the Senate, I wish to thank Victor Baird for his 15 years of service on the Select Committee on Ethics. Victor's contributions to the betterment of this institution are significant. The Senate

has long recognized that public service is a public trust. Today there is greater trust in our Government and in this institution as a result of Victor Baird's service on the Senate Select Committee on Ethics.

I will miss calling Victor at home at night, trying to find out where he is because there is a question that has to be answered immediately. I am sure in some ways he will miss me. But I certainly wish Victor the very best in his retirement. He has been a public servant I will always admire.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, first, I wish to sincerely thank my distinguished colleague and my dear friend from Nevada—Searchlight, NV, by the way—Senator REID, for his very kind comments.

It has been a team effort in behalf of Senator REID and myself as we have tried to serve—some people would say sentenced to—the Ethics Committee. But we have been very conscientious in fulfilling this duty, and I think we have done so with Senator REID's unique ability to not only come up with what is right, according to the ethics manual, but what is basically common sense. As a matter of fact, Senator REID has this notion that continually is expressed: Gee, PAT, we ought to sit down and really see if we can rewrite the ethics manual to make it actually understood by Members of the Senate and reform it, make it adhere to a criterion—a yardstick, if you will—of common sense.

I always tried to dissuade him from that. No. 1, I did not want to undertake that mountain to climb, and it would be a big mountain to climb, because just as soon as you start that, why, other Members add other mountains.

At any rate, Senator REID has been a joy to work with. I admire his leadership. He is soft spoken and, as I have indicated, has brought a lot of common sense and has tried to make the Ethics Committee proactive and very helpful to Members. As a matter of fact, with every new class of Senators that comes in, we have a briefing, and HARRY always points out: Ask; ask first before there is any problem. And that is certainly good advice.

I thank Senator REID for his very kind remarks. I do not know about the decades of public service that I have accrued. Gosh, decades sounds like a long time. I may be fossilized here before we are through with these remarks. I am an old piece of furniture around here, I guess, in the House and Senate.

With that experience comes at least some expertise and some real appreciation in behalf of certain staff. We are only as good as our staff, I do not care whether you are an individual Member's staff, committee staff, select committee staff, whatever. It is a real honor for me to offer a few brief remarks for our outgoing Senate Ethics staff director, Mr. Victor Baird.

He has 16 years of service, and he now leaves this to enter retirement and, doubtlessly, what will be a new phase of life. His retirement is certainly well deserved, but his absence will be a great loss to the Senate.

Sometimes the most important positions are the ones that go unacknowledged. This is certainly true with the staff director of the Ethics Committee. It is one of the few positions where accolades do not really accrue. Only when a storm or controversy presents does the spotlight focus on the staff director. When this occurs, the director faces intense challenges from all angles, including media scrutiny, public outcry, and, yes, even partisan bickering. Yet he endures all this for one supreme objective, and this is what Victor did—to preserve the integrity of this institution we call the United States Senate.

For almost a decade and a half, why, Victor Baird has assumed this thankless but important job. It is a job requiring keen attention to detail, mastery of the rules, and a precise level of foresight on how ethics rulings affect the Senate, not only in the present but for future generations. Just as the Sergeant at Arms and Capitol Police guard the physical structure of the Senate, Victor Baird guarded the reputation of these halls. He accomplished this by insistence that Members adhere and remain accountable to high ethical standards.

During his tenure, he guided the Senate through some very tumultuous times that often really threatened the reputation of the Senate. As we all know, a compromised reputation will diminish credibility, and diminished credibility threatens a mandate to govern. It is that important. With this loss, our whole system of checks and balances would suffer which is vital to the strength of our democracy. All of us, regardless of what side of the aisle we sit on, should understand this.

Thankfully, Victor handled all ethics proceedings, and particularly those with intense media focus, judiciously, without staining the dignity of the Senate. He safeguarded us. This is not an easy task, and all of us should be very grateful.

The Senate is unlike any other governing body in the world. Deliberative by design, it exists to make sure we thoroughly consider our actions. In a town fueled by hotly charged emotions that often makes decisions for the moment, thankfully Victor was always available for advice and counsel.

My friend and colleague, Senator REID, and I often sought his well-reasoned, objective legal opinions. We respected his vast institutional knowledge and understanding of how this body should conduct itself. When dealing with ethics issues, it is important Members rise above partisan politics, which is hard to do sometimes, and examine each issue on a case-by-case basis. This is what our Founding Fathers intended. Maintaining the Senate's distinguished legacy is a task all of us must assume, regardless of politics. Victor knows this; Victor knew this, and always kept this premise at the forefront of his responsibilities.

His most important contribution was understanding that the committee's ultimate goal was proactive and preventive in nature. He made sure that all Members and their staff knew the rules of acceptable conduct at the outset. In public office, innocent mistakes can quickly break a career. This is why the Ethics Committee, and in particular the staff director, is so important. He is the gatekeeper. He is the adviser. He is the counselor to us all. Victor Baird certainly filled each of these roles with the utmost professionalism and integrity.

On behalf of the entire Senate, we thank you for your service and your dedication, Victor. Your influence has preserved the reputation of this governing body for the past 16 years, and we salute you.

In the U.S. Marine Corps, we always conclude by saying: Semper Fi. That means always faithful.

You have been always faithful, Victor. Semper Fi.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I join my colleagues, the distinguished minority floor leader from Nevada, who is a dear friend of the distinguished Senator from Kansas, and my dear friend from Kansas, in paying tribute to Victor Baird. That is one of the most miserable, tough jobs I think in the whole Senate. As both of them have said, there is not a lot of thanks for doing it. I personally thank him for the efforts he has put forward, and those who worked with him, because this is a very difficult job. He has always been straightforward, honest, and decent in all of the experiences I know about. I join my colleagues in their remarks and ask that I be associated with their remarks. I wish him the very best.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. If my friend will yield—and I have already cleared this with the distinguished chairman of the Judiciary Committee—when the Senator from Utah finishes his statement and we go into executive session, I ask unanimous consent that the Senator from Vermont be recognized following the statement of the Senator from Utah for up to 12 minutes.

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

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

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and resume consideration of Executive Calendar No. 21, which the clerk will report.

The assistant legislative clerk read the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, during the course of the debate on Miguel Estrada, there have been many serious misrepresentations of the record on Mr. Estrada. I want to address in some detail one of the more serious distortions which concerns the answers Mr. Estrada gave during his extensive hearing, one of the longest hearings for a circuit court of appeals nominee, to questions members of the Judiciary Committee asked him.

The charge being leveled against Mr. Estrada is that he did not answer questions put to him in general and did not answer questions about his judicial philosophy in particular. That charge is pure bunk.

It is important to remember the circumstances under which this hearing took place. The hearing was held on September 26, 2002. It was chaired by my Democratic friend, the senior Senator from New York, Mr. SCHUMER. It lasted all day, which was unusual in and of itself. Both Democratic and Republican Senators asked scores of questions which Mr. Estrada answered. If any Senator was dissatisfied with Mr. Estrada's answers, every member of the committee had the opportunity to ask Mr. Estrada followup questions, although only two of my Democratic colleagues did.

Now, a number of the questions Mr. Estrada was asked sought directly or indirectly to pry from him a commitment on how he would rule in a particular case. Previous judicial nominees confirmed by the Senate have rightly declined to answer questions on that basis, just as Mr. Estrada did. Virtually every Clinton nominee refused to answer questions about how they would decide cases or what they would do in certain circumstances. I will give some examples.

In 1967, during his confirmation hearing for the Supreme Court, Justice Thurgood Marshall responded to a question about the fifth amendment by stating:

> I do not think you want me to be in a position of giving you a statement on the fifth amendment and then if I am confirmed and sit on the court when a fifth amendment case comes up I will have to disqualify myself.

During Justice Sandra Day O'Connor's confirmation hearing, the Senator from Massachusetts, Mr. KENNEDY, the former chairman of the Judiciary Committee, defended her refusal to discuss her views on abortion. He said:

> It is offensive to suggest that a potential Justice of the Supreme Court must pass some presumed test of judicial philosophy. It is even more offensive to suggest that a potential Justice must pass the litmus test of any single interest group.

Senator KENNEDY was concerned perhaps Justice O'Connor might possibly have difficulty with the conservative side or the pro-life side because she may have been pro-choice. The fact is nobody really knew, and there were some concerns about that, but Senator KENNEDY was right when he said:

> It is offensive to suggest that a potential Justice of the Supreme Court must pass some presumed test of judicial philosophy. It is even more offensive to suggest that a potential Justice must pass a litmus test of any single-issue interest group.

He was right then. But why is there today a different standard for Miguel Estrada? Why the comments and remarks by some on the committee who are saying Mr. Estrada should have answered these types of questions?

Likewise, I will give another. Justice John Paul Stevens testified during his confirmation hearing for the Supreme Court:

> I really don't think I should discuss this subject generally, Senator. I don't mean to be unresponsive but in all candor I must say there have been many times in my experience in the last 5 years where I found that my first reaction to a problem was not the same as the reaction I had when I had the responsibility of decisions and I think that if I were to make comments that were not carefully thought through they might be given significance that they really did not merit.

It was an excellent answer, but it was basically the same answer that Miguel Estrada gave to similar questions, and that almost every other nominee of Democrat and Republican administrations, since I have been on the committee, have given.

Why the double standard for Miguel Estrada? Why are we expecting him to answer questions that we did not expect leading Democrat judges, or other leading judges, to answer? Justice Ruth Bader Ginsburg, now sitting on the Supreme Court, also declined to answer certain questions, stating: Because I am and hope to continue to be a judge, it would be wrong for me to say or to preview in this legislative chamber how I would cast my vote on questions the Supreme Court may be called upon to decide. Were I to rehearse here what I would say and how I would reason on some questions, I would act injudiciously.

Like these previous nominees, all of whom the Senate confirmed, Mr. Estrada refused to violate the code of ethics for judicial nominees by declining to give answers that would appear to commit him on issues he will be called upon to decide as a judge. Again and again, he provided answers in direct response to questions that make his judicial philosophy an open book. I will share some specific examples.

Responding to a question to identify the most important attribute of a judge, Mr. Estrada answered that it was to have an appropriate process for decision-making. That, he said, entails having an open mind, listening to the parties, reading their briefs, doing all of the legwork on the law and facts, engaging in deliberation with colleagues, and being committed to judging as a process that is intended to give the right answer.

Now, these are not extreme views. I do not think we could ask more from any nominee for a judgeship.

When asked about the appropriate temperament of a judge, he responded that a judge should be impartial, open minded, and unbiased, courteous yet firm, and one who will give ear to people who come into his courtroom.

These are the qualities of Miguel Estrada. He testified that he is and would continue to be that type of a person who listens with both ears and who is fair to all litigants.

Mr. Estrada was asked a number of questions about his views and philosophy on following legal precedent. Let me highlight a little of those exchanges.

Question:

> Are you committed to following the precedents of higher courts faithfully and giving them full force and effect even if you disagree with such precedents?

Answer:

> Absolutely, Senator.

Question:

> What would you do if you believed the Supreme Court or the court of appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your own judgment of the merits or the best judgment of the merits?

Answer:

> My duty as a judge and my inclination as a person and as a lawyer of integrity would be to follow the orders of the higher court.

Question:

> And if there were no controlling precedent dispositively concluding an issue with which you were presented in your circuit, to what sources would you turn for persuasive authority?

Answer:

> In such a circumstance, my cardinal rule would be to seize aid from anyplace where I could get it, related case law, legislative history, custom and practice and views of academics on analysis of law.

Pretty good answers. These are better answers than most of the judgeship nominees who have come before the committee over the last 27 years.

These exchanges illustrate clearly Miguel Estrada's respect for the law and his willingness and ability to faithfully follow the law. He further testifies in response to other questions: I will follow binding case law in every case, even in accordance with the case law that is not binding but seems instructive on the area, without any influence whatever from my personal

view I may have about the subject matter.

This is what we expect good judges to do. I can see no reason anyone would be opposed to a nominee who promised to follow the law.

When asked about the role of political ideology and the legal process, Mr. Estrada replied with a response that, in my view, was entirely appropriate and within the mainstream of what all Americans expect from their judiciary. He said: Although we all have views on a number of subjects from A to Z, the first duty of the judge is to self-consciously put that aside and look at each case with an open mind and listen to the parties, and to the best of his human capacity to give judgment based solely on the arguments on the law. I think my basic idea of judging is to do it on the basis of law and to put aside whatever view I might have on the subject, to the maximum extent possible.

Pretty good answer. Why isn't that answer good enough for my colleagues on the other side? It is better than most answers given by their nominees when their President controlled the White House and the nomination process.

Mr. Estrada was asked about his views on interpreting the Constitution. Mr. Estrada was forthright and complete in his responses. For example, in an exchange regarding the literal interpretation of the words of the Constitution, Mr. Estrada responded:

> I recognize that the Supreme Court has said on numerous occasions, in the area of privacy and elsewhere, that there are unenumerated rights in the Constitution, and I have no view of any sort, whether legal or personal, that would hinder me from applying those rulings by the court. But I think the court has been quite clear that there are unenumerated rights in the Constitution. In the main, the court has recognized them as being inherent in the right of substantive due process and the liberty clause of the 14th amendment.

That is a pretty good answer, a lot better answer than many of the Clinton nominees made, although I am not meaning to criticize them. It is just that there is a different standard being applied here, a double standard. They were not expected to give these great answers he has given, that my colleagues on the other side have said he didn't give. Read the record. It is replete with decent, good, honorable, and intelligent answers to their questions.

Mr. Estrada was asked questions about the appropriate balance between Congress and the courts. His answers made clear his view that judges must review challenges to statutes with a strong presumption of the statute's constitutionality. For example, in responding to a question about environmental protection statutes he stated:

> Congress has passed a number of statutes that try to safeguard the environment. I think all judges would have to read those statutes when they come to court with a strong presumption of constitutionality.

At the same time, he recognized that as a circuit court judge he would be bound to follow the precedents established by Lopez and other Supreme Court cases. Now, some of my colleagues do not like Lopez and they wish he would be an activist judge and not follow it. But he said he would be bound by it, as he would the other Supreme Court pronouncements. That is all you can ask of a nominee.

Why the double standard? Why is it that Miguel Estrada is being held to a different standard than the Clinton judgeship nominees were?

Mr. President, it is clear from the record that Mr. Estrada did answer the questions put to him at his hearing. His judicial philosophy is an open book. But if my Democratic colleagues are still inclined to vote against him, as misguided as I believe that choice to be, they should do so in an up-or-down vote. Vote for him or vote against him or do whatever your conscience dictates. Just vote. And stop this unfair filibuster. It is unfair.

Let me make one more point. Even if my colleagues believed, despite the facts and precedent, that Mr. Estrada should answer more questions, well, they have had that chance. And in a February 27 letter, White House Counsel Al Gonzales made an offer. A copy of Mr. Gonzales' letter has already been printed in the RECORD.

I don't know what more the administration can do other than say we will make him available to you, you ask him whatever questions you want, and you can find out for yourself whether you want to support him or not.

To my knowledge, not one of our colleagues on the other side has taken advantage of this offer. Not one. How interested are they in getting the real story? Not one. Yet we had Senators on the floor yesterday saying all he has to do is answer our questions. Here is an offer: He will come right to your office and answer the questions for you. Not one has asked him to come to the office, which makes me question how serious they are about the merits of Mr. Estrada's nomination.

That brings me to another point. Mr. Estrada's hearing was held under Democratic control of the committee on September 26, 2002. If there was any question about the quality of Mr. Estrada's testimony, they could have held another hearing, they could have extended the hearing, and they could have held another hearing since they controlled the committee for another 3 months. Why didn't they hold another hearing? Why didn't they ask these questions that are so crucial? Because they thought they could kill the nomination by never bringing it up. Unfortunately for them and fortunately for the country, the election turned the other way and Mr. Estrada, of course, was nominated by the new President.

I think there is some hypocrisy, especially with regard to these responses that Mr. Estrada gave, because they are deemed sufficient for Clinton judges but they are not good enough now. Why this double standard for this Hispanic man? Some Democrats have railed against Estrada for his responses to questions from the Judiciary Committee, as I have said. The fact is, however, the Democrats routinely voted in favor of Clinton nominees who gave similar responses, maybe not as good but similar responses. These were nominees who had never been judges and had few published writings. In their responses to questions they acknowledged the law, said they would follow it, and confirmed that they would not let their personal views get in the way—responses just like Miguel Estrada gave. Not one of these nominees, however, was denied a vote on the floor, not one.

Take, for example, Blane Michael, a Clinton nominee for the Fourth Circuit. He was asked what he would do if his personal beliefs and the law collided. He said he would uphold the Constitution and the law without question. As to whether he would follow Supreme Court precedents, he said: It is not my job to circumvent or shade what the Supreme Court has done.

Was he asked to expound on his favorite or least favorite Supreme Court cases? No. The record is less than four pages on his questioning.

Sid Thomas was another Clinton nominee not subjected to the same level of interrogation as Estrada. In fact, none of them were. Thomas, who had never been a judge or even a judicial clerk, was asked what he thought about the constitutionality of capital punishment.

He said:

> I believe the Supreme Court has spoken . . . on the death penalty.

That was it. Thomas, who I should add had very few published writings, added:

> I do not possess any personal convictions which would cause me to not apply the death penalty in an appropriate case.

The Thomas hearing takes up less than 2 pages in the RECORD.

Why were they treated differently by my colleagues on the other side than Miguel Estrada? Why is it? I don't see any reason, unless they are just not going to allow this President to nominate, as all Presidents in the past have done, the people he thinks are best for these jobs; or unless they just do not want to have a conservative Hispanic nominee appointed to this important court; or maybe they just do not want Miguel Estrada to get confirmed because they believe he is on the fast track to the Supreme Court and could be the first Hispanic nominated and confirmed to the Supreme Court; or maybe it is because he is Hispanic, but he is conservative; or maybe it is because he is Hispanic and he is Republican and he is conservative; or maybe it is because he is Hispanic, he is Republican, he is conservative, and they think he may be pro-life.

It is one of those. I personally do not believe there is racism involved, although there are those who do—but I am not one of them. I believe there is

a double standard being applied to this Hispanic nominee, the first Hispanic nominee to the Circuit Court of Appeals for the District of Columbia, and I think it is a crying shame.

Merrick Garland, a Clinton nominee to the Fourth Circuit, was asked if he personally favored the death penalty. I personally was very much in favor of Merrick Garland, but there were some on our side who were not very much enthused about him. He was a controversial nominee, as were these others. But he was a Clinton nominee to the Fourth Circuit. He was personally asked if he favored the death penalty. He responded by saying it is a matter of settled law. When asked about the independent counsel law, Garland said that, too, was settled and that he would follow that ruling.

These sound an awful lot like the responses of Miguel Estrada, the ones he gave, responses that Democrats say do not give them enough information. These Clinton nominees were all not only voted out of committee but were allowed an up-or-down vote on the floor, regardless of the fact that some of them were controversial—to borrow some of the language of my colleagues on the other side.

My colleague from New York has stated that according to an article that appeared in the Legal Times in April 2002, DC Circuit Judge Laurence Silberman has advised President Bush's judicial nominees to ''keep their mouths shut.'' As the rest of the article explains, in fact, Judge Silberman simply explained that the rules of judicial ethics prohibit nominees from indicating how they would rule in a given case or on a given issue—or even appearing to indicate how they would rule.

As the same article reported, Judge Silberman stated:

> It is unethical to answer such questions. It can't help but have some effect on your decisionmaking process once you become a judge.

A copy of this article has also been printed in the RECORD.

Yet I heard my colleagues on the other side yesterday blowing smoke over there, using a quote out of context to try to indicate that Judge Silberman was giving them radical advice. The fact is, he gave them advice that every Democrat President and every Democrat President's Justice Department has given to the Democrat nominees for these courts. It is proper advice.

This advice is consistent with Canon 5A(3)(d) of the ABA's Model Code of Judicial Conduct, which states that prospective judges:

> [S]hall not . . . make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of office . . . [or] make statements that commit or appear to commit the candidate with respect to cases, controversies, or issues that are likely to come before the court.

Justice Thurgood Marshall made the same point in 1967 when he refused, as I mentioned before, to answer questions about the fifth amendment during his confirmation hearing for the Supreme Court. I referenced that quote earlier.

Let me go to this letter from Seth Waxman, on behalf of Seth Waxman, Walter Dellinger, Drew S. Days, Kenenth W. Starr, Charles Fried, Robert Bork, and Archibald Cox. That is seven of the living former Solicitors General. Seth Waxman, Walter Dellinger, Drew Days, and Archibald Cox are Democrat former Solicitors General.

Here is what they said, and they said it in response to the Democrats, who have been saying we have to get these privileged materials because we do not know enough about Miguel Estrada, even though we have had a full day of hearings conducted where we could have asked any questions we wanted to, where we could have held additional hearings, we could have filed written questions—only two of them did—we could have asked additional questions, only two of them did. They even said the hearing was fair and fairly conducted. But this is a letter.

Let me just go back. They are hiding behind this red herring, demanding papers they know no self-respecting administration can give because it would interrupt, disturb the flow, and make it more difficult for the Solicitor General of the United States to do his or her job. I think this letter says it all. It was a letter written to the Honorable PATRICK J. LEAHY on June 24, 2002, better than 18 months ago:

> DEAR CHAIRMAN LEAHY: We write to express our concern about your recent request that the Department of Justice turn over ''appeal recommendations, certiorari recommendations, and amicus recommendations'' that Miguel Estrada worked on while in the Office of the Solicitor General.
>
> As former heads of the Office of Solicitor General—under Presidents of both parties—we can attest to the vital importance of candor and confidentiality in the Solicitor General's decisionmaking process. The Solicitor General is charged with the weighty responsibility of deciding whether to appeal adverse decisions in cases where the United States is a party, whether to seek Supreme Court review of adverse appellate decisions, and whether to participate as amicus curiae in other high-profile cases that implicate an important Federal interest. The Solicitor General has the responsibility of representing the interests not just of the Justice Department, nor just of the executive branch, but of the entire Federal Government, including Congress.
>
> It goes without saying that, when we made these and other critical decisions, we relied on frank, honest and thorough advice from our staff attorneys like Mr. Estrada. Our decisionmaking process required the unbridled open exchange of ideas—an exchange that simply cannot take place if attorneys have reason to fear that their private recommendations are not private at all, but vulnerable to public disclosure. Attorneys inevitably will hesitate before giving their honest, independent analysis if their opinions are not safeguarded from future disclosure. High-level decisionmaking requires candor, and candor in turn requires confidentiality.
>
> Any attempt to intrude into the Office's highly privileged deliberations would come at the cost of the Solicitor General's ability to defend vigorously the U.S. litigation interests—a cost that also would be borne by Congress itself.
>
> Although we profoundly respect the Senate's duty to evaluate Mr. Estrada's fitness for the Federal judiciary, we do not think that the confidentiality and integrity of internal deliberations should be sacrificed in the process.

Four of those former Solicitors General were Democrat Solicitors General. Mr. Estrada served three of those Democrat Solicitors General because he served, as I recall, 4 years in the Clinton administration in the Solicitor General's Office without any bad reaction. Then he served 1 year in the Bush administration.

Most people would say Archibald Cox is a person of the highest legal integrity and highest legal abilities. Knowing him personally, I have to say that is true. Most people would say Drew Days is one of the fine lawyers and law professors in this country. Most people would say—in fact, I think everybody would say with regard to these Democrat former Solicitors General who have said these records should be privileged, that Walter Dellinger was one of the great law professors at Duke, also a great public servant, and now one of the leading lawyers in one of the major law firms in the country, himself mentioned for the Supreme Court from time to time, a man I have to admit I have gained increasing respect for through the years.

It is pretty hard to find a better lawyer than Seth Waxman. He is a great lawyer. And he is somebody on whom I think the Democrats could rely. Have those colleagues on the other side asked those four people? The fact is those four people have basically said Miguel Estrada did a great job at the Solicitor Generals's Office. In fact, Seth Waxman, in particular, said he did a fine job there. The performance evaluations that described Mr. Estrada's work there are of the highest laudatory evaluation of staff. The only person who has raised any conflict is Professor Paul Bender, who gave those glowing performance evaluations at a time closest to the service of Miguel Estrada, but who is a very left-wing liberal Democrat law professor who has entered into this debate—and in an improper way, in my opinion—to try to smear Mr. Estrada, which he has done. He is the only one they can point to who has any real criticism of Miguel Estrada's work at the Solicitor General's Office.

I think those Democrat Senators on the other side of the floor would do very well to talk to Seth Waxman, Walter Dellinger, Drew S. Days, III, and Archibald Cox to say what is wrong with Mr. Estrada. I think they won't do it because they know these people will say Mr. Estrada is an exceptionally fine lawyer, which he, of course, is.

This is a man who has the highest rating from the American Bar Association—the gold standard of our friends, the Democrats—and, of course, he has

all the credentials in the world as one of the leading appellate lawyers in the country. Even though he suffers from a disability, a speech impediment, he has still risen to the top of the appellate court.

I know my colleague from Vermont is waiting. So I yield the floor at this time.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

THE PRICE OF WAR

Mr. JEFFORDS. Mr. President, for many months now, the administration has shown its determination to wage war against Saddam Hussein.

I am very concerned that the Bush administration's intense focus on Iraq has blinded it to the critical needs here at home.

While the administration prepares for a war with sky-rocketing cost estimates now in the range of $100 billion or more, it pleads poverty when it comes to funding our domestic needs.

While the administration fixates on Iraq, the economy teeters, the stock market tumbles, the terrorist threat at home persists, and schools are threatened with premature closings for lack of money.

Last week, our Nation's governors met here in Washington and issued a troubling warning. They told us our States are hurting. They told us they do not have the money they need to do their jobs and serve the people of their States. They told us their situations would only worsen if the President were to enact his tax-cutting plans.

They told us they would need more than $15 billion this year alone in emergency funds for schools and domestic security. And as the headline in the New York Times put it, ''Governors Get Sympathy From Bush, But No More Money.''

Sympathy will not pay our Nation's bills. We have the obligation to address the crisis in America's schools with the same urgency as the crises abroad. Our children deserve at least that much.

We have fallen woefully short in our commitment to our students, our teachers and our parents. We have failed to meet a promise that we made to our States nearly three decades ago to provide our fair share of special education funding.

And now, only 1 year after passage of the No Child Left Behind Act, we are hearing that States don't have the money they need to make that law work.

Yet the administration continues to devote extraordinary resources to its campaign against Iraq, and to its pursuit of allies for that campaign.

While critical education needs go unmet, the administration was able to cobble together the necessary funds to offer almost $30 billion dollars to enlist Turkish support for the war.

I suspect untold billions are also being promised to other nations around the globe. The President apparently is confident that all of these expenses can be borne along with a significant tax cut. I sincerely question that logic.

There is no doubt that Saddam Hussein's rule in Iraq has been marked by brutality. He is an evil dictator with clearly evil intentions, and is a long-term threat to the United States and its allies in the Middle East.

Yet despite the well-documented atrocities associated with his rule and his clear flouting of U.N. resolutions, there still is no evidence of an imminent threat to the United States that justifies the administration's march to war.

Iraq is of obvious importance to the United States and the world because of its geographical location and its oil reserves. Much of the world depends upon fair access to Iraq's oil.

We went to war a decade ago to throw Iraq out of Kuwait and restore Kuwait's right to control its oil. Similarly, control of Iraq's oil must be put in the hands of the Iraqi people.

I praise the administration for abandoning its initial go-it-alone strategy toward Iraq. I congratulate the President for his willingness to work through the United Nations and for the results he and the U.N. have achieved since that decision.

An increasingly robust inspection process is under way, U2 planes are flying over Iraq under U.N. supervision, illegal missiles are being destroyed by Iraq, and additional measures are under consideration to more aggressively seek out illegal Iraqi weapons and programs.

The administration should continue to work with the U.N. to strengthen the inspection efforts and seek peaceful means for achieving the disarmament of Iraq. Instead, the administration appears bent on cutting this process short.

The administration has displayed a troubling lack of focus in articulating a rationale for military action in Iraq. Initial discussion of ''regime change'' shifted for some time to talk of disarmament.

However, recent comments from the White House now indicate that we are back to ''regime change.''

The administration's expectations for post-Saddam Iraq are equally troubling.

I am worried that the administration nurtures a naïve belief that there will be rapid transformation of the Middle East from an area in which autocratic governments and Islamist opposition forces vie for power to one in which democracy and Western ideals carry the day.

Talk of installing an American as temporary administrator of Iraq is also very troubling. We should be sending the message to the Iraqi people that we plan to put them in control of their country. The American people are not interested in becoming Iraq's overlord. We should be clear that we do not plan to rule Iraq as an American protectorate.

We need to be much more explicit in setting forth the goals and timetable for any post-war Western presence in Iraq.

Intelligence assessments make clear that the greatest threat today to the United States is the threat posed by terrorist attacks.

We know that the fight against terrorism and the fight against the proliferation of weapons of mass destruction can only be waged successfully with a robust set of international institutions and relationships.

The administration's push for war with Iraq undermines our relations with other countries and the strength of our international bodies at precisely the moment when they are most important to the United States.

We must ensure that any action against Iraq does not jeopardize our counterterrorism and counterproliferation fights.

President Bush has sought for many months to rally this Nation and the world community behind the notion that the threat from Iraq is imminent and that preemptive military action is required. He has not succeeded in making his case.

With no clear evidence of an imminent threat from Iraq, and with no credible plan for postwar Iraq, we should be supporting the U.N. in its work on the ground to bring about Iraqi compliance with U.N. resolutions.

Going to the U.N. must not be viewed merely as a cynical, tactical move designed to justify and aid preparations for war. Instead, the United States owes it to the world community, and to the institutions it worked so hard to establish in the period since World War II, to make a sincere effort to work with the U.N. to resolve the threat posed by Iraq in a peaceful fashion.

American Presidents have labored for many decades to construct relationships and international bodies capable of handling situations such as this.

They, the American people, and our allies deserve a patient, balanced, and considered approach to the current situation.

More importantly, the American people deserve an Administration that devotes the same degree of energy and concentration to the crises here at home.

I think, on more careful inspection, the President will realize that the domestic crises are truly imminent, and that they actually pose more of a threat to America's long-term security than the situation today in Iraq.

I urge the President to stop before he has irrevocably committed us to the destruction and rebuilding of Iraq, which will draw away the resources that are so badly needed here at home.

It will take courage and true leadership, but I implore him to act in this regard before it is too late.

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. JEFFORDS. 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. JEFFORDS. Mr. President, I would like to direct my colleagues to a few of the more than 40 editorials or op-eds from around the Nation expressing concerns about Mr. Estrada's nomination to the D.C. Circuit.

Here are just a few of them. I ask unanimous consent that the following be printed in today's RECORD: the editorial of the Rutland Daily Herald of Vermont on February 24, 2003; the editorial of the Boston Globe on February 15, 2003; the recent editorial of the New York Times; and the op-ed in the Washington Post on February 14, 2003.

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

[From the Rutland Daily Herald, Feb. 24, 2003]

PARTISAN WARFARE

Senate Democrats are expected to continue their filibuster this week against the appointment of Miguel Estrada, a 41-year-old lawyer whom President Bush has named to the federal appeals court in Washington, D.C.

Sen. Patrick Leahy, ranking Democrat on the Judiciary Committee, is in the middle of the fight over the Estrada appointment. He and his fellow Democrats should hold firm against the Estrada nomination.

Much is at stake in the Estrada case, most importantly the question of whether the Democrats have the resolve to resist the efforts of the Bush administration to pack the judiciary with extreme conservative judges.

The problem with the Estrada nomination is that Estrada has no record as a judge, and senators on the Judiciary Committee do not believe he has been sufficiently forthcoming about his views. It is their duty to advise and consent on judicial nominees, and Estrada has given them no basis for deciding whether to consent.

President Bush has called the Democrats' opposition to Estrada disgraceful, and his fellow Republicans have made the ludicrous charge that, in opposing Estrada, the Democrats are anti-Hispanic. For a party on record against affirmative action, the Republicans are guilty of cynical racial politics for nominating Estrada in the first place. He has little to qualify him for the position except that he is Hispanic.

Unless the Democrats are willing to stand firm against Bush's most extreme nominations. Bush will have the opportunity to push the judiciary far to the right of the American people. Leahy, for one, has often urged Bush to send to the Senate moderate nominees around whom Democrats and Republicans could form a consensus. In a nation and a Congress that is evenly divided politically, moderation makes sense.

But Bush's Justice Department is driven by conservative ideologues who see no reason for compromise. That being the case, the Senate Democrats have no choice but to hold the line against the most extreme nominees.

Leahy has drawn much heat for opposing Bush's nominees. But he has opposed only three. In his tenure as chairman of the committee, he sped through to confirmation far more nominees than his Republican predecessor had done. But for the Senate merely to rubber stamp the nominees sent their way by the White House would be for the Senate to surrender its constitutional role as a check on the excesses of the executive.

The Republicans are accusing the Democrats of partisan politics. Of course, the Republicans are expert at the game, refusing even to consider numerous nominees sent to the Senate by President Clinton.

The impasse over Estrada is partisan politics of an important kind. The Republicans must not be allowed to shame the Democrats into acquiescence. For the Democrats to give in would be for them to surrender to the fierce partisanship of the Republicans.

The wars over judicial nominees are likely to continue as long as Bush, with the help of Attorney General John Ashcroft, believes it is important to fill the judiciary with extreme right-wing judges.

The Democrats, of course, would like nothing better than to approve the nomination of a Hispanic judge. But unless the nominee is qualified, doing so would be a form of racial pandering. That is the game in which the Republicans are engaged, and the Democrats must not allow it to succeed.

[From the Boston Globe, Feb. 15, 2003]

RUSH TO JUDGES

The Senate Judiciary Committee ought to come with a warning sign: Watch out for fast-moving judicial nominees. Controlled by Republicans, the committee is approving President Bush's federal court nominees at speeds that defy common sense.

One example is Miguel Estrada, nominated to the US Court of Appeals for the District of Columbia. Nominated in May 2001, Estrada has been on a slow track, his conservative views attracting concern and criticism.

Some Republicans called Democrats anti-Hispanic for challenging Estrada. He came to the United States from Honduras at the age of 17, improved his English, earned a college degree from Columbia, a law degree from Harvard, and served as a Supreme Court clerk for Justice Anthony Kennedy.

What has raised red flags is Estrada's refusal to answer committee members' questions about his legal views or to provide documents showing his legal work. This prompted the Senate minority leader, Thomas Daschle, to conclude that Estrada either ''knows nothing or he feels he needs to hide something.''

Nonetheless, Estrada's nomination won partisan committee approval last month. All 10 Republicans voted for him; all nine Democrats voted against. On Tuesday Senate Democrats began to filibuster Estrada's nomination, a dramatic move to block a full Senate vote that could trigger waves of political vendettas.

It's crucial to evaluate candidates based on their merits and the needs of the country.

Given that the electorate was divided in 2000, it's clear that the country is a politically centrist place that should have mainstream judges, especially since many of these nominees could affect the next several decades of legal life in the United States.

Further, this is a nation that believes in protecting workers' rights, especially in the aftermath of Enron. It's an America that struggles with the moral arguments over abortion but largely accepts a woman's right to make a private choice. It's an America that believes in civil rights and its power to put a Colin Powell on the international stage.

Does Estrada meet these criteria? He isn't providing enough information to be sure. And the records of some other nominees fail to meet these standards.

Debating the merits of these nominees is also crucial because some, like Estrada, could become nominees for the Supreme Court.

The choir—Democrats, civil rights groups, labor groups, and women's groups—is already singing about how modern-day America should have modern-day judges. It's time for moderate Republicans and voters to join in so that the president can't ignore democracy's 21st-century judicial needs.

[From the New York Times]

KEEP TALKING ABOUT MIGUEL ESTRADA

The Bush administration is missing the point in the Senate battle over Miguel Estrada, its controversial nominee to the powerful D.C. Circuit Court of Appeals. Democrats who have vowed to filibuster the nomination are not engaging in ''shameful politics,'' as the president has put it, nor are they anti-Latino, as Republicans have cynically charged. They are insisting that the White House respect the Senate's role in confirming judicial nominees.

The Bush administration has shown no interest in working with Senate Democrats to select nominees who could be approved by consensus, and had dug in its heels on its most controversial choices. At their confirmation hearings, judicial nominees have refused to answer questions about their views on legal issues. And Senate Republicans have rushed through the procedures on controversial nominees.

Mr. Estrada embodies the White House's scorn for the Senate's role. Dubbed the ''stealth candidate,'' he arrived with an extremely conservative reputation but almost no paper trail. He refused to answer questions, and although he had written many memorandums as a lawyer in the Justice Department, the White House refused to release them.

The Senate Democratic leader, Tom Daschle, insists that the Senate be given the information it needs to evaluate Mr. Estrada. He says there cannot be a vote until senators are given access to Mr. Estrada's memorandums and until they get answers to their questions. The White House can call this politics or obstruction. But in fact it is senators doing their jobs.

[From the Washington Post, Feb. 14, 2003]

ESTRADA'S OMERTA

(By Michael Kinsley)

Like gangsters taking the Fifth, nominees for federal judgeships have reduced their reason for not talking to a mantra. Repeat after me: ''My view of the judicial function, Senator, does not allow me to answer that question.'' Miguel Estrada, President Bush's nominee for the U.S. Court of Appeals for the D.C. Circuit, used variations on that one many times in refusing to express any opinion on any important legal topic during Judiciary Committee hearings last fall. Democrats are now trying to block the Estrada nomination with a filibuster.

Estrada's ''view of the judicial function'' is shared by President Bush, congressional Republicans and conservative media voices hoarse with rage that Democratic senators want to know what someone thinks before making him or her a judge. The Estrada view is that judges should not prejudge the issues that will come before them. As Estrada amplified in this testimony, ''I'm very firmly of the view that although we all have views on a number of subjects from A to Z, the job of a judge is to subconsciously put that aside and look at each case . . . with an open mind.''

Obviously, Estrada's real reason for evasiveness is the fear that if some senators knew what his views are, they would vote against him. However, this kind of high-minded bluster is a powerful weapon in the ongoing judicial wars. Over the past couple of decades, talk like this has intimidated many a senator who aspires to a reputation for thoughtfulness. And it does sound swell. Until you think about it.

Potential judges should not reveal their views on legal issues because a judge should

have an open mind? Hiding your views doesn't make them go away. If the problem is judges having views on judicial topics, rather than judges expressing those views, then allowing people to become judges without revealing their views is a solution that doesn't address the problem. And if the problem is judges who fail to put their previous views aside, rather than judges having such views to begin with, then allowing judicial nominees to hide those views until it's too late is still a solution that is logically unrelated to the problem.

So Estrada's Rule of Silence does not solve the problem, And the supposed problem—of ''prejudging''—makes no sense either. To see why, consider—or reconsider—Justice Clarence Thomas. In his 1991 confirmation hearings, Thomas testified that he had no ''personal opinion'' about Roe v. Wade, probably the most controversial Supreme Court decision of the 20th century. In 1992 Justice Thomas joined in a minority opinion calling for Roe to be overturned. By 2000 he was writing that the Roe decision was ''grievously wrong'' and ''illegitimate'' and part of ''a particularly virulent strain on constitutional exegesis'' and generally not something he cared for the least little bit.

This does not prove that Thomas was lying under oath in claiming that he hadn't prejudged Roe in 1991 (though no reasonable person could doubt that). It does prove that Thomas had prejudged Roe in 1992. But this is a point tht Justice Thomas needn't bother to lie about, because no one objects. It's perfectly okay for a sitting judge to have and express views about an issue that comes before his or her court. That is his job.

In fact it's inevitable that anyone who has been an appellate judge for a while will have published opinions that touch on many of the issues he or she must decide in the future. There is not even an expectation of open-mindedness. Although a willingness to reconsider your own assumptions is regarded as admirable, no one is accused of prejudging a case just for ruling the same way this year as last year. Quite the opposite: Intellectual consistency is the hallmark of a fine legal mind. And following precedent is a sign of judicial professionalism.

Most legal rulings come from judges who have been on the bench for a while. If that is not a problem, why is it a problem if they have thought and reached conclusions on some important legal issues before they join the bench? The answer is that it is not a problem. It ought to be a problem if a potential judge has not thought about important legal issues and has no views on them. But instead, the problem is how to keep a judgeship candidate's opinions hidden until he or she is safely confirmed for a lifetime appointment, and the phony issue of ''prejudging'' is a strategy for doing that.

Judgeship nominations bring out the hypocrite in politicians of both parties, but the Republican hypocrisy here is especially impressive. When Bill Clinton was appointing judges, the senior Judiciary Committee Republican, Sen. Orrin Hatch, called for ''more diligent and extensive . . . questioning of nominees' jurisprudential views.'' Now Hatch says democrats have no right to demand any such thing. President Bush fired the American Bar Association as official auditor of judicial nominations because the ABA gave some Republican nominees a lousy grade. Now Hatch cites the ABA's judgment as ''the gold standard'' because it unofficially gave Estrada a high grade.

The seat Republicans want to give Estrada is open only because Republicans successfully blocked a Clinton nominee. Two Clinton nominations to the D.C. Court were blocked because Republicans said the circuit had too many judges already. Now Bush has sent nominations for both those seats. Hatch and others accuse Democrats of being anti-Hispanic for opposing Estrada. With 42 circuit court vacancies to fill, Estrada is the only Hispanic Bush has nominated. Clinton nominated 11, three of whom the Republicans blocked.

I could go on and on. Which is just what Senate Democrats are doing.

Mr. LEAHY. Mr. President, as I have previously mentioned before the Judiciary Committee and here before the Senate, I have significant concerns about Mr. Estrada's nomination. Significant concerns have been raised and not answered. Many of us would like to have sufficient confidence based on a record and a strong confidence about the type of judge he would be. Sadly that record is not there and the administration continues to deny us access to Government files that might be helpful to us.

While he has some experience arguing appeals in criminal cases, he appears to have little experience handling the types of civil cases that make up the majority of the docket of the D.C. Circuit, a court on which Republicans blocked appointments during the last 4-year term of the Clinton administration in order to shift the ideological balance of the court.

His confirmation has been opposed by many including people and groups who represent the Latino community. The opposition of so many Hispanic organizations and the Congressional Hispanic Caucus should be of concern.

Mr. Estrada's selection for this court has generated tremendous controversy across the country and within the Hispanic community. For more than 2 years I have been calling upon the President to be a uniter and not a divider. Here is another matter on which the White House has chosen divisive, partisanship and narrow ideology over what is best for the Senate, the D.C. Circuit, the Hispanic community and the American people. This has been yet another in a string of controversial nominations that has divided, not united, the American people and the Senate.

Senate Democrats demonstrated in the last Congress that we would bend over backwards to work with the Administration to fill judicial vacancies.

We proceeded with more than 100 nominations in 17 months, held hearings and confirmed nominees at a pace almost twice that of Republicans with a Democratic President. Unlike President Clinton, however, this President has continued to insist on doing things his way and only his way and simply refuses to work with us.

Last May, at the behest of a number of Senators seeking a solid basis on which to evaluate this nomination, I wrote to the nominee and to the Attorney General requesting access to his work while employed by the Government at the Department of Justice between 1992 and 1997. In that capacity he worked for the government of which Congress is a part. Similar papers have been provided to the Senate in connection with a number of previous nominations, including those of William Rehnquist, Robert H. Bork, William Bradford Reynolds, Benjamin Civiletti, and Stephen Trott. Despite this precedent, over 300 days have passed without cooperation from the administration.

The administration has unfortunately, chosen to treat the request for relevant information of a coequal branch like a litigation discovery request that it must resist at all costs. Their approach reminds me of how the tobacco companies treated requests for information about what they knew about the cancer causing properties of cigarettes for years and years. In connection with this nomination, the administration took three weeks to study the files then dismissed the request out of hand and called it without precedent.

The administration claimed that no administration had ever provided such materials in connection with a nomination. As we have now demonstrated over and over that precedent exists going back over the last 20 years.

When presented with irrefutable evidence that these types of materials had been provided, the administration shifted its defense to trying to distinguish those past nominations and even claimed that the documents previously produced by the Department of Justice to the Senate had, instead, been ''leaked'' to the Senate. They all but called Senator SCHUMER a liar in response to his January letter seeking to resolve the matter.

Then we provided documents from the Department of Justice that conclusively demonstrate that the materials had been furnished in response to Senate requests. This refutes the second round of misrepresentations by the Department of Justice. The proof is in a letter from Acting Assistant Attorney General Thomas Boyd to Chairman BIDEN in May 1988 which notes that:

> [M]any of the documents provided to the Committee, 'reflect or disclose purely internal deliberations within the Executive Branch, the work product of attorneys in connection with government litigation or confidential legal advice received from or provided to client agencies within the Executive Branch.' We provided these privileged documents to the Committee in order to respond fully to the Committee's request and to expedite the confirmation process.

It is now beyond dispute that ''the work product of attorneys in connection with government litigation or confidential legal advice'' has provided to the Senate in connection with past nominations.

Rather than admit their errors and work with us to resolve this impasse, the administration simply shifts ground while remaining recalcitrant. The longstanding policy of the Justice Department, until now, has been a practice of accommodation with the Senate in providing access to materials requested in connection with nominations.

On February 11, the Democratic leader and I wrote the President urging cooperation. Instead, we received another

diatribe from the White House Counsel's office. It is as if this administration thinks it has a blank slate and a blank check notwithstanding tradition, history, precedent or the shared powers explicitly provided by our Nation's Constitution. There is certainly a nexus between our request and the powers committed to the legislative branch, yet the Department has failed to take any efforts to try to resolve this dispute. There is part of a pattern of hostility by this administration to requests for information by Congress acting pursuant to powers granted to it by the Constitution, regarding nominees and other important matters.

Despite the stonewalling by the administration, the Judiciary Committee proceeded with a hearing on the Estrada nomination toward the end of the last session. I had said in January that I intended to proceed with such a hearing. The administration took advantage of my good faith declaration and my willingness to proceed on some of their most controversial nominees, including Mr. Estrada. Of course, in addition to Mr. Estrada we also proceeded with hearing on Judge Dennis Shedd, Professor Michael McConnell, Judge Charles Pickering, Judge D. Brooks Smith, Justice Priscilla Owen and many others. In spite of all our good faith efforts to make progress, the administration continues its hostile and partisan ways.

Confirmation of 100 judicial nominations in record time, proceeding on nearly twice as many confirmations as Republicans had in the recent past, confirming new judges for the Fifth, Sixth and Tenth Circuits after years of Republican delays, counted for naught with this administration. Still, in spite of the administration's stonewalling, the committee fulfilled my commitment by proceeding with a hearing last September after waiting in vain for six months for the Administration to show some sign of accommodation to us.

Senator SCHUMER chaired that hearing for Mr. Estrada last September. I was hoping that the hearing might allay concerns that have been raised about this nomination, but I was left with more questions than answers after all of the steps Mr. Estrada took to avoid answering questions at that hearing. I was also left with little hope that he would ever answer any of the concerns raised about entrusting him for the rest of his life with the responsibility for deciding cases fairly and without favor toward any ideological agenda.

When President Clinton was nominating moderates to judicial vacancies, Republicans insisted on considering the judicial philosophy and ideology of the nominees. Many took a pledge not to vote for anyone that might turn out to be an activist. In those years any concern among Republicans could forestall a hearing or committee vote. Anonymous holds were the order of the day. The committee proceeded with few hearings on few nominees and voted on even fewer. In the entire 1996 legislation session not a single circuit judge was approved by the Republican-led Senate all year not one.

Overall, during the 6½ years of prior Republican control, the Senate averaged only seven circuit court confirmations a year. During the recent 17 months in which Democrats led the Senate, by contrast we confirmed 17 circuit court nominees for a President of another party who nominated a string of highly controversial nominees. In fact, we held hearings on 20 circuit court nominees. Two of the most controversial, on whom we proceeded at the request of Republican Senators, were voted down before the committee last year. This year Mr. Estrada's nomination was reported even though all Democrats on the Committee voted against it.

Much like the administration's false claim that materials like those requested with regard to the Estrada nomination had no precedent when, if fact, there is ample precedent, the administration and Senate Republicans are now claiming that this Senate debate is without precedent. That, too, is false. In fact, a number of judicial nominations have been subjected to extensive debate over the years since Senator Thurmond filibustered the nomination of Justice Fortas to be Chief Justice in 1968. More than a dozen nominations have resulted in almost one and one-half dozen cloture votes on judicial nominations.

Among those nominations ''filibustered'' by Republicans were Stephen G. Breyer's nomination to the First Circuit; Rosemary Barkett's nomination to the Eleventh Circuit; H. Lee Sarokin's nomination to the Third Circuit; Marsha Berzon's nomination to the Ninth Circuit; and Richard Paez's nomination to the Ninth Circuit. In addition, the Democratic leadership of the Senate had to overcome Republican objection and obtain a cloture to proceed with three of President Bush's nominations in 2002, Richard Clifton to be a Ninth Circuit judge, Julia Smith Gibbons to be a Sixth Circuit judge, and Lavenski Smith to be a Eighth Circuit judge.

Of course, during the previous six and one-half years of Republican control of the Senate, Republicans often chose less public methods to end nominations. Almost 80 of President Clinton's judicial nominations were not confirmed by the Congress during which they were first nominated and more than 50 were never accorded a Senate vote. Most often Republicans would just refuse to proceed to a hearing or a committee vote on a nomination without explanation. Anonymous holds before the committee ended almost a dozen Clinton judicial nominations without anyone having to take a vote. Anonymous holds on the Senate floor delayed consideration of nominations for months and months without debate, explanation or accountability. Democratic opposition has not taken that route. Instead, we ended the secrecy of the home State Senators' blue slips and did not allow anonymous holds to long delay Senate consideration of nominations.

The Republican spin machine is repeatedly asserting that cloture votes and the use of the filibuster are ''unprecedented'' with respect to judicial nominees. Such assertions are false and misleading. Cloture, the Senate's procedure to end a filibuster, was sought on more nominations during the 103rd Congress, from 1993 to 1994, when President Clinton was President and Republicans used the filibuster when they were in the Senate minority than at any other time in our history. In that Congress, cloture was sought on 12 nominations—judicial and executive. For the remainder of President Clinton's presidency, Republicans controlled the Senate and defeated scores of judicial nominations by deliberate inaction or anonymous holds in committee and on the floor. By using other extreme delaying tactics, they did not need to use filibusters, they defeated nominations without public explanation through other tactics available to them in the Senate majority.

Individuals from all parties have sought cloture and used the filibuster in response to judicial and other nominees. In fact, the use of the filibuster and cloture has increased in recent years. Congressional Research Services reports that the filibuster and cloture are used much more regularly today than at any time in the Senate's past. Approximately two-thirds of all identifiable Senate filibusters have occurred since 1970.

Cloture votes on judicial nominees are well-precedented in recent history. Both Democrats and Republicans have sought cloture in response to debate or objections to judicial nominees since the cloture rule was extended to nominations in 1949. I would note that cloture was not sought on any nomination until 1968, because, prior to then, concerns over nominees were resolved, or the nominee was defeated, behind closed doors. From 1968 to 2000, there were 13 cloture attempts on judicial nominees. For the record, I should also note that last Congress, cloture was sought on four of President Bush's circuit court nominees. I further note that it was the Democratic leadership of the Senate that sought to invoke cloture and proceed. The objection that was overcome last Congress was that of a Republican Senator who was concerned with the White House's refusals to act on certain executive nominations.

Cloture votes have occurred on judicial nominees submitted by Presidents of both parties and on nominees to the U.S. District Courts, the U.S. Courts of Appeal, and the U.S. Supreme Court. Of these 13 cloture attempts on judicial nominees, in six of them, the Democrats were in the majority and in seven the Republicans were in the majority. The opposition has been based on objections to the judicial philosophy of

the nominee, concerns about whether the nominee would treat all parties fairly and on procedural grounds.

I would like to take a moment to shed some light on filibusters and the practices used to block nominees when the Republicans were last in the majority. Some Republicans have been taking a quote of mine out of context from June 1998 about judicial nominations, replacing my actual words with an ellipse, then distributing it widely and misusing it. Here is what Republicans keep quoting: ''I have stated over and over again . . . [ellipse] that I would object and fight against any filibuster on a judge, whether it is somebody I opposed or supported.'' What the Republican talking points omit with their ellipse is the essential context of that quote. My actual comment was made during floor discussion about an anonymous Republican hold on yet another of President Clinton's nominees. Here was his actual comment:

> I have stated over and over again on this floor that I would refuse to put an anonymous hold on any judge; that I would object and fight against any filibuster on a judge, whether it is somebody I opposed or supported; that I felt the Senate should do its duty.

The context of my comment—the subject of that very debate—and my reference even within the quote itself were about anonymous holds used by Republicans to defeat President Clinton's judicial nominations—anonymous filibusters, in essence. This was another instance in which sometimes only one or a handful of Republican Senators prevented Senate votes on President Clinton's judicial nominations.

The process of the anonymous holds with which Republicans prevented action on Clinton judicial nominees required not just a majority or a super-majority for the Senate to proceed to votes; Republicans were defeating President Clinton's nominees by requiring unanimity. And they were doing it anonymously, without accountability to the public. In the case of the Estrada nomination, Senate Democrats are seeking the information that the Judiciary Committee began requesting nearly a year ago, before proceeding to a vote.

It is clear from the language Republicans deliberately omit that what I was referring to the widespread Republican practice of blocking a nominee anonymously.

The debate from which my comment was taken was over the anonymous Republican hold on a Hispanic nominee, Judge Sonia Sotomayor, who was nominated by the first President Bush to a district court and who President Clinton nominated to the Second Circuit Court of Appeals.

Immediately after making this comment, I placed in the record a newspaper editorial criticizing these anonymous holds as ''Partisan Nonsense.'' That editorial notes that, ''In blunt terms, Leahy has criticized the Republicans who, behind the scenes and not for attribution, are seeking to scuttle Sotomayor's nomination.'' That editorial goes on to note:

> ''Their reasons are stupid at best and cowardly at worst,'' Leahy told a New York Times reporter. ''What they are saying is that they have a brilliant judge who happens to be a woman and Hispanic and they haven't the guts to stand up and argue publicly against her on the floor. They want to hide in their cloakrooms and do her in quiet.'''

This again makes clear that I was talking about—anonymous holds. Judge Sotomayor was reported out of the Judiciary Committee on March 5, 1998, but anonymous Republican holds had prevented her nomination from being scheduled for a vote.

On June 18, after her nomination had been pending on the floor for more than three months, I went to the floor to protest the anonymous hold against her. Republicans refused to bring her to a vote for four more months. That is, Judge Sotomayor's nomination was pending on the floor for seven months, seven times longer than Mr. Estrada's nomination, and no Republicans claimed that denying an immediate vote was somehow unconstitutional or amending the Constitution, as they have claimed in these recent days. Once Judge Sotomayor was finally allowed a vote, 23 Republicans voted against her, yet none put any statement in the record or made a statement accounting for their holds or votes.

The real double standard evident during the Estrada debate is that during the prior years of Republican control, Republicans in practice required unanimous consent to allow a vote on a judicial nominee—not a majority or even a super-majority. One or more Republicans could refuse to allow an up or down vote on a nominee, with no accountability to the public. Thus, even if as many as 80 or 90 or even 99 Senators did not object to a judicial nominee, the objection of any Republican was used to prevent an up or down vote. Republican complaints about Democratic objections and insistence on following Senate rules ring hollow in light of their own repeated practices with President Clinton nominees. They often required the consent of 100 Senators, and certainly all of the Republicans, to bring a judicial nominee to a vote.

To hold a nominee anonymously, without any accountability, is what I objected to in my full statement and full comment and in the full context of my statement during that debate. In contrast, the extended debate on the Estrada nomination is occurring in the light of day. Republicans and the White House can bring this matter to resolution by providing the documents requested and by providing responsive answers to Senators' questions. This is not a filibuster through anonymous holds. This is a public debate that Republicans can end through cooperation.

The nomination of Judge Richard Paez starkly displays this Republican double standard. Judge Paez is a Mexican American who had served for years on the bench in Los Angeles before being appointed to the Federal district court by President Clinton in 1994. Judge Paez was nominated to the 9th Circuit in January 1996. He was one of only four circuit court nominees to get a hearing that year. His hearing was in July but he was not allowed to be reported to the floor that year. No circuit court nominees were given floor votes that year by the Republicans. Only 17 judges were confirmed that session, none of them circuit judges. This was the lowest number of confirmations during an election year in modern history. Judge Paez was then renominated in January 1997, after President Clinton's reelection.

Chairman HATCH required a second hearing on the Paez nomination in 1998, 25 months after his initial nomination. Judge Paez was reported to the floor again in March 1998, but Republicans did not schedule him for a vote in April, May, June, July, August, September, or October that year. So in contrast to the Estrada nomination, by the end of that year, Judge Paez's nomination had waited on the floor for more than 8 months. That is eight times longer than the Estrada nomination has been pending on the floor and Judge Paez still did not get a vote, due to anonymous, unaccountable Republican holds. His nomination was returned to the President without action at the end of that Congress. By then his nomination had been pending for almost three years.

Judge Paez was renominated again in January 1999. Chairman HATCH refused to place him on the committee's agenda for a vote until July 1999—another 6 months of delay, after his nomination had then been pending for more than 1000 days. Republicans continued anonymously to block a vote on the Paez nomination and refused to schedule him for a vote in July, August or September. By that time his nomination had been before the Senate for more than 1,300 days.

On September 21, 1999, Democratic Senators, having spent months and then years pleading for a vote on the Paez nomination, made a motion to proceed to his nomination. All Republicans voted against bringing his nomination up for a vote, including Chairman HATCH.

Finally, in March 2000, after his nomination had been pending for more than 1,500 days, Republicans failed in their effort to stop cloture from being invoked. The next day, Judge Paez was confirmed, and 39 Republicans voted for confirmation—two shy of the number necessary to prevent cloture or to filibuster the nomination. If they had two more votes, I wonder whether they would have ever allowed Judge Paez's nomination to come to a vote.

Mr. Estrada's nomination has been pending on the floor for less than one month. Judge Paez's nomination was pending on the floor for more than 20

months before Republicans allowed him a vote. The result was that Judge Paez's nomination waited on the floor for a vote for almost two years, and his nomination was before the Senate for more than four years, before he was given an up or down vote on confirmation. Mr. Estrada's nomination has been on the floor for less than one month—not 20 months—and Senate Democrats have raised serious and legitimate concerns about the Senate proceeding to a final vote, concerning the incompleteness of the record, the lack of responsive answers to basic questions and the refusal to turn over memos equivalent to those provided in other nominations.

It was no secret that the Republicans delayed the nominations of Judge Marsha Berzon and Judge Richard Paez to the U.S. Court of Appeals for the Ninth Circuit for years, culminating in filibusters in 2000, just three years ago. After the Republican-controlled Senate repeatedly delayed action on their nominations—over four years for Judge Paez and over two years for Judge Berzon—Republicans engaged in a filibuster and cited the filibusters of Justice Fortas, Justice Rehnquist and others as precedents. At that time, Republicans argued that they were not setting new precedent.

As Senator Robert Smith stated during the debate on these two nominees:

> [I]t is no secret that I have been the person who has filibustered these two nominees, Judge Berzon and Judge Paez. The issue is, why are we here? What is the role of the Senate in judicial nominations? The Constitution gave the Senate the advise-and-consent role. We are supposed to advise the President and consent if we think the judge should be put on the court. . . .
>
> I was criticized by some for filibustering, that 'we are on a dangerous precedent' of filibustering judges. . . .
>
> Filibuster in the Senate has a purpose. It is not simply to delay for the sake of delay. It is to get information. It is to take the time to debate and to find out about what a judge's thoughts are and how he or she might act once they are placed on the court.

So, those who came before the Senate just prior to our recent recess and said that no Republican ever filibustered a Clinton judicial nominee were wrong, dead wrong. Senator SMITH was characteristically forthright about what he was doing.

Senator SMITH went on to explain:

> As far as the issue of going down a dangerous path and a dangerous precedent, that we somehow have never gone before, as I pointed out yesterday and I reiterate this morning, since 1968, 13 judges have been filibustered by both political parties appointed by Presidents of both political parties, starting in 1968 with Abe Fortas and coming all the way forth to these two judges today.
>
> It is not a new path to argue and to discuss information about these judges. In fact, Mr. President . . . [w]hen William Rehnquist was nominated to the Court, he was filibustered twice.
>
> Then, after he was on the Court, he was filibustered again when asked to become the chief Justice. In that filibuster, it is interesting to note, things that happened prior to him sitting on the Court were regurgitated and discussed. So I do not want to hear that I am going down some trail the Senate has gone down before by talking about these judges and delaying. It is simply not true.

This straight-forward Republican from New Hampshire proclaimed:

> Don't pontificate on the floor and tell me that somehow I am violating the Constitution . . . by blocking a judge or filibustering a judge that I don't think deserves to be on the court. That is my responsibility. That is my advise-and-consent role, and I intend to exercise it.

Thus, the Republicans' claim that Democrats are taking ''unprecedented'' action, like the White House claim that our request for Mr. Estrada's work while paid by taxpayers was ''unprecedented,'' is simply untrue. Republicans' desire to rewrite their own history is understandable but unavailing.

They cannot change the plain facts to fit their current argument and purposes. I note in passing how many Republicans now demanding a vote on Mr. Estrada, opposed cloture on Judge Berzon and Judge Paez. I have already noted how every Republican, many of whom are now insisting on a vote on the Estrada nomination, opposed even proceeding to consider the Paez nomination.

I also recall a motion that truly was unprecedented, the motion of Senator SESSIONS to recommit the Paez nomination to the Judiciary Committee after it had twice been voted out over a period of four years. In fact, Senator SESSIONS made a motion to indefinitely postpone the nomination of Judge Paez, and 31 Republicans voted in support of that motion, including most of the people on the other side of the aisle who have come to the floor to claim that the Constitution requires an immediate up or down vote on Mr. Estrada's nomination. After cloture was invoked, Senator SESSIONS made a motion to indefinitely postpone a vote on Judge Paez's nomination. The motion to indefinitely postpone failed by a vote of 31 to 67. After this motion failed on March 9, 2000 the day Paez was ultimately confirmed—Senator HATCH spoke about the unprecedented nature of that motion and admitted that there had been a filibuster on Paez's nomination. Here is what he said:

> I have to say, I have served a number of years in the Senate, and I have never seen a ''motion to postpone indefinitely'' that was brought to delay the consideration of a judicial nomination post-cloture.
>
> Indeed, I must confess to being somewhat baffled that, after a filibuster is cut off by cloture, the Senate could still delay a final vote on a nomination. A parliamentary ruling to this effect means that, after today, our cloture rule is further weakened.

While some Republicans would prefer to ignore that filibuster of this Ninth Circuit nominee in their quest to move as quickly as possible on the Estrada's nomination, but that would be to ignore the recent history of their conduct.

There were likewise two judicial nominees in 1994 whom the Republicans filibustered. Judge H. Lee Sarokin, nominated by President Clinton to the Third Circuit, was a qualified nominee who served as a Federal district judge for 15 years. He was opposed by conservative Republicans who argued, among other things, that he was too liberal. Senator Thurmond led the filibuster against Judge Sarokin in calling him a ''liberal judicial activist.'' That effort to defeat Judge Sarokin failed.

In 1994, the Republicans also used delay tactics to block the nomination of Judge Rosemary Barkett to the U.S. Court of Appeals for the Eleventh Circuit. Judge Barkett was criticized by those on the other side of the aisle as being a judicial activist. Senators Thurmond and SPECTER led the opposition to Barkett. After announcing the Republican intention to filibuster the nomination, Democratic Majority Leader George Mitchell stepped in and filed a cloture motion.

I could describe other filibusters in detail, such as the Republican filibuster of Justice Breyer to be on the U.S. Court of Appeals for the First Circuit in 1980. And I could quote those on the other side of the aisle, who have said time and time again how important it is to debate a nominee and to scrutinize a nominee's record and views. In 1997, Senator HATCH said that he had ''no problem with those who want to review these nominees with great specificity'' and, in fact, he supported such efforts while chairman of the Judiciary Committee and reviewing the nomination of a Democratic President.

So, when Republicans say that a filibuster or extended debate on judicial nominees is unprecedented, I would like to ask them about their filibusters and extended debates on Judge Berzon, Judge Paez, Judge Sarokin, Judge Barkett. And, I would like to ask them about all the other judicial nominees and executive nominees that they defeated through deliberate inaction, anonymous holds, or other extreme delaying tactics.

Of course, this debate on the Estrada nomination is not, given the definition used by Republicans, a ''true filibuster.'' As the statements of the Democratic Leader and the exchange that I had with Senator BENNETT and Senator REID on February 12 made clear and as should be plain to all, we are seeking cooperation and information before proceeding to a vote. The current debate could have been shortened had the Administration at any time since last May shown any interest in working with us. It has not. Despite the efforts we have made, including the Democratic leader's letter on February 11 seeking accommodation and pointed the way out of this impasse, the Administration has steadfastly refused all of our efforts to work through these difficulties. The administration is intent on forcing this confrontation and division. That is too bad.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that editorials concerning the Estrada nomination from

the Portland Oregonian, the Omaha World, and the Los Angeles Times, and an article on the same topic by Chris Mooney that appeared in TomPaine.com, be printed in the RECORD.

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

[From the Los Angeles Times, Jan. 13, 2003]

BUSH'S FULL-COURT PRESS

There are at least two explanations—one even more cynical than the other—for President Bush's renomination last week of Judge Charles W. Pickering, a man the Senate rightly rejected last year for a seat on the federal appeals court.

Perhaps Bush really didn't mean it last month when he denounced as ''offensive . . . and wrong'' Mississippi Sen. Trent Lott's nostalgic musings about the segregated South. The Republican Party has long tried to have it both ways on race: ardently courting minority voters while winking at party stalwarts who consistently fight policies to establish fairness and opportunity for minorities. Even Bush has not always been above such doublespeak, encouraging African Americans to vote GOP and touting his Spanish-language facility on the campaign trail as a come-on to Latino voters even as he dropped in at Bob Jones University, which, until three years ago, barred interracial couples from sharing a pizza.

Bush's renomination of Pickering, a man whose law career is unremarkable but for his longtime friendship with Lott and his dogged defense of Mississippi's anti-miscegenation laws, throws another steak to the far right and sand in the eyes of most Americans.

There could be another explanation for Bush's decision, just weeks after denouncing Lott, to again shove Pickering on the American people. Perhaps the president doesn't really care whether Pickering, whom he's indignantly defended as ''a fine jurist . . . a man of quality and integrity,'' is confirmed.

Maybe Bush calculates that Sens. Edward M. Kennedy (D–Mass.), Charles E. Schumer (D–N.Y.) and others, justly incensed that the judge is back before them, will embarrass a Republican or two into joining them and defeat his nomination a second time. The president may be figuring that if they can call in enough chits on Pickering, the Democrats won't have the votes to stop the many other men and women he hopes to place in these powerful, lifetime seats on the federal bench.

None of those nominees can be tarred with Pickering's in-your-face defense of segregation. But many, including Texas Supreme Court Justice Priscilla Owen, lawyers Miguel Estrada and Jay S. Bybee, North Carolina Judge Terrence Boyle and Los Angeles Superior Court Judge Carolyn B. Kuhl, share a disdain for workers' rights, civil liberties guarantees and abortion rights. Their confirmations would be no less a disservice to the American people than that of Pickering, who now has been nominated two times too many.

[From the Omaha World-Herald Feb. 13, 2003]

ANSWERS, PLEASE

NOMINEE ESTRADA REFUSES TO DISCLOSE JUDICIAL VIEWS, PHILOSOPHIES TO THE SENATE

A filibuster is a drastic tactic. In regard to federal judicial nominees, we would typically be against it. Now, Senate Democrats have promised to use it to stall a confirmation vote on judicial nominee Miguel Estrada. Yet given the current tight-lipped atmosphere, we understand what is pushing them in that direction.

Both sides agree that Estrada, nominated by President Bush to the District of Columbia Court of Appeals, has exceptional legal credentials. However, he has refused to answer many basic yet important questions, giving senators scarcely any way to assess his judicial temperament. Democrats contend, rightly or wrongly, that Bush seeks to pack the federal courts with hard-right ''stealth'' activists, and Estrada personifies that goal.

Estrada would not tell senators which judges he might uses as role models if he were appointed to the bench, for instance. That is a forthright question. The answer sheds light on a nominee's thinking and potential judicial approach. He also declined to say which Supreme Court opinions he disagreed with, another fundamental query.

Most judicial candidates won't, and shouldn't, give their personal views on a broad-brush basis—in effect judging hypothetical cases in advance. But Estrada, who has been mentioned as a potential Supreme Court justice, went beyond that—refusing to discuss well-known prior cases because, he said, he had no firsthand knowledge.

Judicial philosophy is important as senators considers an appointment to the court that has been called the second most important in the land after the Supreme Court. The D.C. appeals court considers, among other issues, many challenges to federal environmental regulations. And Estrada's views of, for instance, federalism vs. states' prerogatives would be crucial.

The president and Republican leaders have charged that Democrats don't want to approve a Hispanic conservative, an implicit accusation of racism. But Estrada isn't universally popular with Hispanic groups, either. One, the Puerto Rican Legal Defense and Education Fund, said he has ''made strong statements that have been interpreted as hostile to criminal defendants' rights, affirmative action and women's rights.''

In fairness, Democrats aren't above playing their own political games. They change that Estrada ''lacks judicial experience,'' as if that were a disqualifying flaw. Before their appointments, most of the members of the D.C. appeals court ''lacked judicial experience'' much as Estrada does.

We agree with a statement made by one senator several years ago: ''I believe the Senate can and should do what it can to ascertain the jurisprudential views a nominee will bring to the bench in order to prevent the confirmation of those who are likely to be judicial activists. . . . It will require the Senate to be more diligent and extensive in its questioning of nominees' jurisprudential views.''

That was Republican Sen. Orrin Hatch, today an Estrada booster, in regard to former President Bill Clinton's nominees. The sentiment was valid then, and it's valid now.

[From Tompaine.com]

BENCHING CONGRESS—THE RISING POWER OF THE JUDICIARY

(By Chris Mooney)

When it comes to President Bush's judicial appointees, Sen. Joe Biden of Delaware has traditionally been one of the most deferential Democrats; he opposed only three out of 102 nominees during the 107th Congress. So Biden's recent speech at a hearing on the appointment of Jeffrey Sutton, a staunch states' rights defender named to the U.S. Court of Appeals for the Sixth Circuit, came as something of a surprise. ''You seem to have an incredibly restrictive view of the Congress' prerogatives,'' Biden warned Sutton. Noting that the Supreme Court reviews only a tiny fraction of cases from courts like the Sixth Circuit, Biden announced he was rethinking how the Senate should handle circuit court nominees. ''[Appellate judges] have become the final arbiters in areas where I used to be able to say, 'I know the Court will review this,''' Biden said, adding that his staff was preparing a list of roughly 200 cases where courts of appeal have changed ''basic law'' without any review by the Supreme Court.

As the showdown begins over Bush's conservative judicial nominees—and Senate Democrats contemplate using their filibuster powers to block Miguel Estrada from a place on the U.S. Court of Appeals for the District of Columbia Circuit—it is important to remember this exchange. Sutton's history of states' rights advocacy, which included filing a brief on the winning side when the Supreme Court overturned part of the Violence Against Women Act (which Biden drafted), had clearly left Biden feeling leery about giving him a lifetime appointment to the bench. The senator got a taste of conservative judicial activism first hand, and he didn't like it one bit.

If more elected Democrats awaken to how their legislative powers are being snatched away by the federal judiciary the way Biden did, perhaps they too will resolve to fight harder against Bush's more radical conservative nominees. The key factor, after all, is the one Biden cited: The Supreme Court hears only about 80 cases a year, from all the circuit courts and state supreme courts combined. This compares with the tens of thousands of cases considered by Federal appellate courts. And because of the extreme rarity of Supreme Court review, ''one could argue that the powerful actors in the United States who have the fewest real checks on what they do are federal appellate judges,'' as Georgetown law professor David Vladeck puts it. One existing check is the U.S. Senate's advice and consent role, yet from Michael McConnell to D. Brooks Smith, Senate Democrats thus far have allowed conservative after conservative to reach the federal bench.

Appellate judges interpret a huge chunk of the law that we live by. Even in simply applying Supreme Court precedent, they have immense sway, and they have it for life. The Supreme Court only ''knocks out the broad contours'' of the law, notes American University's Herman Schwartz; courts of appeal then fill in the blanks. For example, the conservative U.S. Court of Appeals for the Fourth Circuit recently ruled that the Clean Water Act allows mining companies to dump huge amounts of mountaintop rubble into rivers and streams, a process known as creating ''valley fills.'' This ''major victory for the mining industry,'' as The Washington Post put it, is precisely the sort of case that the Supreme Court never reviews. Due to the conservative tilt taken by the federal bench over the past two decades, environmental groups have become more or less resigned to these pro-business rulings. So have labor, civil-rights groups, and other liberal constituencies.

Appellate judges can't initiate legislation or make policy decisions, of course, But that's about the only sense in which they don't wield considerably more power than House members or even some senators. Whereas legislators have to sway a large group of colleagues in order to get a law passed, appellate judges need only one ally on a three-judge panel in order to rule the way they want. And most laws passed by legislators, at least controversial ones, inevitably end up being challenged in federal court and heard on appeal. Given all this, plus the fact that seven of the nine current Supreme Court justices were appellate judges first, it's something of a wonder how little attention has been paid to the ongoing

battle over the judiciary, especially compared with the extensive press coverage leading up to—and following—last year's elections. Instead all we get from the mainstream media are one-shot stories that have much more to do with how the nomination battles are waged than what's really at stake.

And appellate judges don't merely exert their power over Congress by overturning laws. They also police the federal regulatory state. Congress, after all, delegates a significant part of its lawmaking mandate to regulatory bodies like the Environmental Protection Agency. Indeed, Congress regularly sets up entire new agencies, like the Department of Homeland security, to implement its wishes. But when these expert agencies try to carry out their mandates, they frequently find their actions challenged in federal court. Once again, appellate judges make the difference when it comes to whether a regulation will be allowed. They often second-guess laboriously prepared administrative rules, but rarely have their actions reviewed by the Supreme Court.

For precisely this reason, the appellate court most responsible for ruling on federal agency decisions, the U.S. Court of Appeals for the District of Columbia Circuit, is also considered the second most powerful court in the nation. Many Senate Democrats know this. That's why they're having such a tough time weighing the pluses and minuses of filibustering Estrada's nomination. The Wall Street Journal editorial page, which rallies the right's troops on judicial nominations, recently wrote that Democrats ''have no reason to oppose Mr. Estrada other than the fact that he is a conservative who also happens to be Hispanic.'' Well, what about the fact that Estrada could be in a position to gut laws Democrats pass?

Take a closer look at the sort of cases Estrada will be deciding if he makes it to the D.C. Circuit. One well known D.C. Circuit environmental case was 1994's Sweet Home Chapter of Communities for a Great Oregon v. Babbitt, a case over applications of the Endangered Species Act. In this case, a conservative-leaning panel of the D.C. Circuit overturned a Department of the Interior regulation protecting species habitat, ruling that the Department couldn't consider ''significant habitat modification that leads to an injury to an endangered species'' as ''harm'' under the act. The ruling stood for over a year before being overruled by the Supreme Court. But then, most D.C. Circuit rulings are never reviewed at all—Sweet Home v. Babbitt was exceptional in that respect. In other cases, the D.C. Circuit has rolled back regulations to protect wetlands, corporate average fuel economy (CAFÉ) standards, and much more. And that's just in the environmental arena.

The D.C. Circuit has recently regained a degree of ideological balance. But that won't last if Bush's nominees reach the court. And with a conservative D.C. Circuit prepared to upend regulatory actions as it sees fit, legislators would be foolhardy to assume that administrative agencies will actually be able to implement the laws they pass intact.

Of course, some will inevitably object to the power comparison between appellate judges and members of Congress, and perhaps even consider it demeaning to the judiciary. They will point out that appellate judges have a duty to apply Supreme Court precedent, and in many or most cases these judges probably do just that. But even the majority of judges, acting in good faith, have considerable wiggle room under the ''broad contours'' laid out by the Supreme Court. That's what Sen. Joe Biden seems to have figured out, anyway.

Moreover, it has become increasingly clear just how often appellate judges are completely on their own—and how willing they are to use their powers. In the past decade we have witnessed an unprecedented push among conservative judges to invalidate acts of Congress on the basis of a radical reinterpretation of the constitutional relationship between the states and the federal government, sometimes called the ''New Federalism'' (though it has its origins in the philosophy of the original opponents of the U.S. Constitution, the anti-Federalists). This push has had plenty of legal cover, of course, but in effect it has been a clear attempt to wrest power away from Congress. Why shouldn't Senators try to wrest some of that power back?

They can start with Miguel Estrada.

[From the Oregonian, Mar. 3, 2003]

JUDICIAL POWER TRIP

The partisan battle in the Senate over one of President Bush's nominees to a federal judgeship escalated last week with the addition of three more conservative nominees.

This is a high-stakes contest that encompasses more than a handful of judicial appointments; it represents a naked grab at power and an attempt to stack the federal courts in favor of an ultra-conservative ideology.

For nearly three weeks, Democrats have delayed a vote on Miguel Estrada, Bush's nominee to the U.S. Court of Appeals, District of Columbia Circuit. In Senate Judiciary Committee hearings, Estrada simply refused to answer many of Democrats' questions.

The battle has led to ugly name-calling, including the charge that Democrats are treating Estrada differently because he is Latino.

That's simply preposterous. Eight of the 10 Latino appellate judges currently seated in the federal courts were appointed during the Clinton administration.

Republicans should be more careful using the ethnic card. They had no trouble holding up hearings on Latino candidates who were nominated by President Clinton. They used every tactic available to stall scads of Clinton nominees, including anonymous holds on Judge Sonia Sotomayor to the Second Circuit and a four-year delay on Judge Richard Paez to the Ninth Circuit.

Some critics have charged the Democrats are trying to extract payback. Of course, they may have overlooked that the Senate has confirmed 100 of Bush's judicial nominees.

Raising the stakes late last week, Senator Orrin Hatch, R–Utah, chairman of the Judiciary Committee forced committee approval of three more of Bush's controversial nominees. While the tactic seems designed to get some of the president's conservative nominees approved, this isn't a fight about one nominee or three or four.

The fight shows a majority trying to install one point of view and a president who has shown himself to be more doctrinaire than he gave any inkling of before his narrow success in the 2000 election.

In the case of Estrada, it is hard to know what he believes or how he would behave as a judge. He is a graduate of Harvard Law School and was a clerk for U.S. Supreme Court Justice Anthony Kennedy, but little is known about his views. He has an obligation to explain himself.

Ironically, Hatch was outspoken about the need for inquiry into nominees' view when Clinton was in office.

In the best of all possible worlds, it is better to have a judiciary of nonpartisan independent thinkers. But the process of nominating and confirming court appointments has always been far from ideal.

Democrats mustn't cave on this. The fairness and credibility of the nation's courts depend on senators finding a reasonable compromise. Moderates within the president's party should also reconsider their lockstep loyalty.

The balance of power between the executive and the legislative branches is being tested. As Senator Ted Kennedy pointed out last work, the Founding Fathers ''did not intend for the Senate to be a rubber stamp.''

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

MOSCOW TREATY

The PRESIDING OFFICER. Under the previous order, the hour of 12 noon having arrived, the Senate will now proceed to the consideration of Executive Calendar No. 1, which the clerk will report.

The senior assistant bill clerk read as follows:

Resolution of Ratification to Accompany Treaty Document 107–8, Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Madam President, the treaty we consider today, known officially as the treaty between the United States of America and the Russian Federation on strategic reductions, is truly remarkable in many respects.

The treaty is, of course, remarkable because it encompasses the most dramatic reductions in strategic nuclear weapons ever envisioned between two nuclear powers. It is also worth noting that not since 1954 have the two parties held such a low number of strategic nuclear weapons as that which will be enforced by the agreed numerical limits of this treaty.

Many have observed the extraordinary ease by which this treaty was negotiated and compare its three short pages—indeed, it is just three short pages—to the many thousands of pages of documents negotiated between the United States and the Soviet Union during the cold war.

This last point is, for me, the most significant of all, for as important as the substance of this treaty is, it is the form—the trust between the United States and Russia—that most shines through.

Perhaps this treaty should be known by the epitaph: ''Cold War RIP,'' for it is not unreasonable to hope that this treaty represents and indeed reflects the close of a long era of hostility between these two nations.

In the past few weeks, I and many of my colleagues have had the opportunity to meet with a variety of Russian Government officials who have become regular and welcome visitors in

Washington, DC. I am struck with the degree to which these meetings are about routine matters. We do not agree on everything, but what is most remarkable to me is we do not disagree on everything.

The United States and Russia are entering a new era of relations. Our two nations confront many of the same challenges in today's world, and we have found common cause in responding to the immediate threat of international terrorism. Intelligence sharing and joint action between our two governments has made both of our countries much safer. We seek broader cooperation between our institutions of government, and to that end, I am hopeful the Senate will be able to enter into a deep and longstanding relationship with the upper House of the Russian legislature, the Federation Council. This indeed will build on the excellent work that was initiated and done by my distinguished colleague in the Senate, Senator LOTT from Mississippi.

Finally, we seek to advance the growing economic relationship between our two countries. Toward that end, I will strongly support legislation to permanently remove the Russian Federation from the Jackson-Vanik agreement.

I thank Senators LUGAR and BIDEN for their fine efforts to bring this treaty to the Senate floor in a timely manner. When this treaty was submitted to the Senate, the administration set the not unreasonable expectation that the resolution of ratification not exceed the treaty in length. The committee has indeed met that goal in providing the Senate with a well-crafted resolution of ratification that nonetheless addresses several key elements of Senate prerogative.

I congratulate Chairman LUGAR and Senator BIDEN for their fine work.

Finally, I trust that all Senators have indeed had time to review the committee report on the treaty. It is my hope those who wish to discuss it will do the managers the courtesy of coming forth to speak. Although amendments are in order, I think it would be a worthy tribute to the work of the Foreign Relations Committee to support this resolution in its current form. I look forward to its approval.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Madam President, I thank the distinguished majority leader for his thoughtful commendation of the work of our committee. I appreciate especially the strong endorsement he has given to the treaty and to the procedures that have brought us to this day.

On behalf of the Committee on Foreign Relations, I am honored to bring the Treaty on Strategic Offensive Reductions, better known as the Moscow Treaty, to the floor for Senate consideration and ratification. The treaty was signed on May 24, 2002, and was transmitted by President Bush to the Senate on June 20, 2002. It reduces operational deployed strategic nuclear warheads to a level of between 1,700 and 2,200 by December 31, 2012.

This is truly a tremendous accomplishment and deserves the full support of the Senate and the Russian Duma. I believe this treaty is an important step toward a safer world.

The Foreign Relations Committee held four hearings and numerous briefings on the treaty, starting in July of last year, under the chairmanship of Senator JOE BIDEN. I thank Senator BIDEN and his staff for the timely consideration the treaty received and for the many opportunities provided to members of the committee to hear testimony and to engage in conversation with experts from the administration and from the private sector.

Moreover, during the last 2 months, Senator BIDEN has been an indispensable partner in constructing this resolution of ratification. Its provisions reflect our mutual efforts to construct a bipartisan resolution that could be broadly supported by the Senate.

The resolution, in fact, was approved unanimously by the Foreign Relations Committee. We are hopeful of a very strong vote on the Senate floor.

During the course of the committee's consideration of the Moscow Treaty, we received testimony from Secretary of State Colin Powell, Secretary of Defense Donald Rumsfeld, and the Chairman of the Joint Chiefs of Staff, Richard Myers. Each expressed a strong desire for an overwhelming vote of approval. In addition to administration witnesses, we heard from the Director of the Arms Control and Disarmament Agency, Ken Adelman; from the former commander in chief of U.S. Strategic Command, GEN Gene Habiger; and our former colleague, Sam Nunn; as well as numerous representatives of think tanks and interest groups.

In addition to efforts undertaken in the Foreign Relations Committee, Senators LEVIN and WARNER and the Committee on Armed Services conducted two hearings examining the military implications of the treaty and shared analysis of their findings with us. These letters have been made a part of the record and our committee report.

Furthermore, the Intelligence Committee conducted a thorough review of the treaty's verification procedures through numerous members only and staff briefings. The Committee on Foreign Relations appreciates the expertise of our colleagues on the Intelligence Committee and what they have lent to this process.

President Bush and President Putin have assigned a high priority to the timely ratification of the Moscow Treaty. Both point to the treaty as evidence that the U.S.-Russian relationship has turned the corner. Areas of disagreement clearly remain, but we are attempting to develop a partnership in the war against terrorism, and both Russians and Americans believe that political and economic cooperation can increase dramatically in the coming decade.

On May 1, 2001, in a speech at the National Defense University, President Bush called for a new strategic framework to transform our relationship with Russia ''from one based on a nuclear balance of terror to one based on common responsibilities and common interests.''

Less than 8 months later, President Bush announced his intention to reduce our nuclear levels unilaterally and invited President Putin to implement similar reductions. This was the beginning of a process that led to a treaty signing during the summit in Moscow last year.

The Moscow Treaty is unlike arms control agreements we have considered in the past. I remember vividly, as do many of our colleagues, visiting the START I and START II treaty negotiations. The United States and the Soviet Union faced off against each other, against conference tables. They met for years. These negotiations produced extensive treaties and verification annexes that described in detail the requirements mandated by the treaties.

To be sure, the treaty before us today could have been more expansive, rigid, and demanding. The negotiators could have followed the cold war template for arms control negotiations and entered into a multiyear discussion process. That procedure did not serve the best interest of either side. Both sides, Americans and Russians, wanted to move quickly to capitalize on the opportunity to sharply reduce strategic weaponry.

The agreement benefits not only the cause of arms control, but also the broader United States-Russia relationship. In my opinion, President Bush was wise to conclude the treaty quickly in this form rather than enter into a more lengthy and uncertain negotiation process.

Russian strategic and nuclear forces are declining. Russian leaders have indicated they would prefer warhead levels to be less than 2,200 by 2012. In fact, Moscow pushed for a limit of 1,500 nuclear warheads and settled for a range of 1,700 to 2,200. It would appear that Moscow is reluctant to accept the resource tradeoffs necessary to maintain a larger force. President Putin inherited a force structure that already was moving toward the deep reductions necessary for START II implementation. Faced with continued resource constraints, he decided to limit further spending on strategic forces while seeking a new treaty to limit the United States and Russian forces in a predictable manner.

In the past, most critics of strategic arms control treaties objected to the constraints these treaties placed on U.S. forces. They often alleged the treaties would expose U.S. security to unnecessary risk. Critics of the Moscow Treaty, however, have made the opposite complaint. They have said the treaty's constraints do not go far enough. Various analysts have suggested the treaty should include a

verification system requirement to dismantle warheads, a specific reduction schedule, and provisions dealing with tactical nuclear weapons.

I share some of the concerns expressed by these critics, but the treaty is an important step forward because it maintains the momentum of an arms control process that has been successful.

The treaty provides a mutual framework for continuing the destruction of offensive nuclear weapons whose purpose was to target the United States of America. It also underscores the importance of the United States-Russia relationship at a time when we are depending on Russian support for the war on terrorism.

Nevertheless, important questions remain and will be discussed during this debate. What happens to the nuclear warheads taken from dismantled Russian delivery systems? I have confidence in the United States storage procedures and appreciate the flexibility the treaty permits in our strategic systems, but I am concerned with the parallel Russian process. We must work with Russia to make certain that these dangerous weapons do not fall into the wrong hands. However, there are readily available means to address these deficiencies.

The primary vehicle for cooperation in reducing warheads to levels set by the Moscow Treaty and addressing the threat posed by warhead security is the Nunn-Lugar cooperative threat reduction program. Without Nunn-Lugar, it is unlikely that the benefits of the treaty will be realized.

During consideration of the treaty, the committee heard testimony from Secretary Powell asserting that increased Nunn-Lugar assistance would serve as a foundation for the cooperation necessary to meet Russian obligations under the treaty and as additional means of verifying that those obligations are met.

My concerns about treaty implementation are compounded by the impasse we experienced over the Nunn-Lugar certification process last year. Each year, our President is required by law to certify that Russia is ''committed to the goals of arms control.'' In 2002, the administration requested a waiver to this condition, pointing out that unresolved concerns in the chemical and biological arenas made this difficult. Meanwhile, existing Nunn-Lugar activities and projects were permitted to continue, but no new projects were initiated and no new contracts were finalized.

President Bush requested a permanent annual waiver to the Nunn-Lugar legislation so we could continue with important work. But some in Congress preferred just a 1-year waiver or no waiver at all. Without a permanent waiver, the President would be forced to suspend dismantling assistance each year pending congressional action to waive the requirement. This could lead to delays of up to 6 months or more, just as we experienced last year.

Let me assure my colleagues, this is not a hypothetical situation. It just happened to us. For more than 6 months, submarines on the Kola Peninsula awaited destruction. Regiments of SS–18 missiles loaded with 10 nuclear warheads apiece were left standing in Siberia, and almost 2 million rounds of chemical weapons in relatively transportable shells awaited elimination at Shchuch'ye. But the Nunn-Lugar program was powerless to address these threats because of congressional conditions drafted over a decade ago.

American dismantlement experts in Russia were forced to wait and watch as these dangerous weapons systems sat in their silos, docks, or warehouses while the conference committee process between the two Houses of Congress dragged on through the summer.

Without the changing of congressional conditions on the legislation or the granting of a permanent Presidential waiver, the current situation could reoccur in the years ahead. To say the least, this would delay full implementation of the Moscow Treaty far beyond the envisioned 10-year time period; namely, 2012.

Let me be clear. The Moscow Treaty alone is insufficient to meet our security needs. The treaty is part of the answer, but without cooperative threat reduction, dismantlement, and warhead security projects, the agreement will not reach its potential in a timely manner.

Critics of the Moscow Treaty suggest this lack of a new verification regime is a weakness that must be rectified. Some have gone so far as to suggest the treaty be shelved until verification is strengthened. But this point of view sees the treaty through a cold war prism when cooperative threat reduction programs did not exist and both sides were trying to maximize strategic nuclear force levels.

The Bush administration has been forthright in its recognition of the lack of a verification provision in the Moscow Treaty, including statements in the President's letter of transmittal and the testimony of Secretary Powell before the Foreign Relations Committee.

The administration's views on verification of the treaty are based upon three basic assumptions: First, the United States and Russia have moved beyond cold war tensions, and the United States would have undertaken these reductions of nuclear warheads regardless of Russia's view—unilateral disarmament. Second, the national security interests of the United States are better served through the flexibility of the Moscow Treaty. And third, Russia is unlikely to have the means or the incentives to violate or withdraw from this agreement.

I believe the level of verification of the Moscow Treaty is sufficient. American verification experts will have the START I treaty verification procedures in place throughout at least 2009. But perhaps more importantly, the Nunn-Lugar program has placed American dismantlement teams and equipment on the ground in Russia now. These teams work on a daily basis with their Russian counterparts to safely dismantle weapons systems. For example, at Surovatika, U.S.-provided equipment is routinely dismantling four ICBMs per month. It is hard to imagine a more complete means by which to verify the dismantlement of weapons than the systematic work occurring under cooperative threat reduction at Surovatika.

Senator BIDEN and I met with President Bush last June to discuss Senate consideration of the treaty, just after the President returned from his visit at the Moscow Summit. We committed to moving the treaty forward in a responsible, bi-partisan, and expeditious manner. The resolution before us today is a product of close cooperation and consultation. I am pleased to report that it enjoys the strong support of the administration.

The resolution of ratification contains two conditions and six declarations. I would like to describe each of these provisions for the Senate.

The first condition requires the President to submit to the Foreign Relations and Armed Services Committees an annual report on the amount of Nunn-Lugar cooperative threat reduction assistance that Russia will need to meet its obligations under the Treaty. As I mentioned earlier, without U.S. assistance, Russia cannot meet the timetable of its obligations under this treaty. Without the Nunn-Lugar program, it is likely the benefits of this treaty will be postponed or never realized.

The second condition requires the President to report to the Foreign Relations and Armed Services Committees on important items related to the treaty, including: 1, Strategic force levels; 2, planned offensive reductions; 3, treaty implementation plans; 4, efforts to improve verification and transparency; 5, status of START I treaty verification extension; 6, information regarding the ability of either side to fully implement the treaty; and 7, any efforts proposed to improve the effectiveness of the treaty.

The report contained in this condition must be submitted within 60 days of the exchange of instruments of ratification of the Treaty and by April 15 of each following year. The extensive nature of this report protects our critical Senate role in oversight of implementation and ensures that this body will remain an integral part of the process throughout the treaty's life.

The first declaration has been in each resolution of ratification for arms control treaties since the INF Treaty's resolution of ratification in 1988. It is known to colleagues here as the Byrd-Biden Condition. The condition articulates the Constitutional principles on which the common understanding of the terms of a treaty will be based.

The second declaration encourages the President to continue efforts to

eliminate the threats posed by strategic offensive nuclear weapons to the lowest level possible while not jeopardizing our country's national security or alliance obligations. Secretary Powell stated in his testimony before the Foreign Relations Committee that ''the Moscow Treaty represents significant progress in meeting the obligations set forth in Article VI of the Nonproliferation Treaty.'' This treaty takes another step in meeting the U.S. and Russian commitments under the Nonproliferation Treaty.

The treaty establishes a Bilateral Implementation Commission, as a diplomatic consultative forum to discuss issues related to implementation of the Treaty. The resolution's third declaration calls on the Executive Branch to provide briefings before and after meetings of the commission concerning: 1, issues raised during meetings; 2, any issues the United States is pursuing through other channels; and 3, Presidential determinations with regard to these issues. This provision has been included to ensure that we remain fully aware of the activities of the Bilateral Implementation Commission.

During the hearings on the treaty, Secretary Powell and Secretary Rumsfeld testified that non-strategic nuclear weapons remain an important issue and expressed a strong interest in working closely with Russia to reduce associated threats. The resolution's fourth declaration is meant to underscore the threat posed by tactical nuclear weapons. It urges the President to work closely with Russia and to provide assistance on the full accounting, safety, and security of the Russian tactical nuclear weapon stockpile.

In 1991, President George H. W. Bush and Mikhail Gorbachev announced the removal of their deployed nonstrategic nuclear weapons. In Helsinki in 1997, Presidents Clinton and Yeltsin agreed to begin talks on these weapons, but negotiations have failed to materialize.

Secretary Powell has reported that the inclusion of tactical nuclear weapons was not possible in the Moscow Treaty. Thus far, Russia has declined to engage in discussions on the future of non-strategic systems. This declaration is meant to communicate the Senate's concerns about the threats associated with non-strategic weapons. It is our hope that there will be further dialogue and, if possible, greater efforts to secure these systems.

The fifth declaration encourages the President to accelerate U.S. reductions where feasible and consistent with U.S. national security requirements so that reductions may be achieved prior to December 31, 2012.

The final declaration has been included in an attempt to address concerns put forward by some Senators regarding the treaty's withdrawal clause in Article IV. This text follows up on Secretary Powell's commitment to consult with the Senate should the President consider the utilization of the withdrawal provision.

The Foreign Relations Committee asked the Secretary: ''What role will the Congress have in any decision to withdraw from this treaty?''; and ''Will the administration agree to at least consult closely with this committee before making any such decision?'' The Secretary responded that: ''While it is the President who withdraws from treaties, the administration intends to discuss any need to withdraw from the treaty with the Congress, to include the Senate Foreign Relations Committee, prior to announcing any such action.''

While I am sympathetic to arguments from Senators regarding the need to maintain Senate prerogatives, the process governing termination and withdrawal is a point of Constitutional debate. Although the Constitution assigns a specific role for the Senate in the treaty ratification process, it is silent on the is due of treaty termination. Furthermore, nothing in the Constitution restricts the President from terminating or withdrawing from a treaty on his own authority.

Presidents have consistently terminated advice and consent treaties on their own authority since 1980. Twenty-three of the thirty treaties terminated during this period were bilateral; seven were multilateral. Prior to 1980, Senator Barry Goldwater challenged Presidents Carter's termination of the Mutual Defense Treaty with Taiwan. Senator Goldwater's challenge failed and the treaty was terminated. Since that time, objections have been raised only with respect to Presidents Bush's withdrawal from the ABM Treaty.

The White House Legal Advisor has long argued that the President is the principle spokesman of the nation in foreign affairs and restrictions on the power have been strictly construed.

Given the absence of a textual basis conferring the termination power on another branch or an established practice derogating from the President's termination power, it is difficult to envisage such a role for the Senate.

Proponents of a Senatorial role in this process will often respond by suggesting that the President cannot on his own authority terminate a treaty because it is the ''law of the land.'' Again, the White House suggests this is a fallacy. A terminated treaty no longer has effect in much the same way that a provision of a law or treaty found by the courts to be unconstitutional no longer has effect. However, in neither case is the law repealed.

Historically there is evidence of only one instance in which the Senate sought by a resolution of advice and consent to limit the President's constitutional power to terminate a treaty. The first condition to the 1919 proposed resolution of advice and consent to ratification of the Versailles Treaty would have provided: ''notice of withdrawal by the United States may be given by a concurrent resolution of the Congress of the United States.'' Vice President Thomas Marshall, addressing the Senate before the vote, called the condition an unconstitutional limitation on the President's powers—a view with which a number of leading scholars of the day concurred. However, the resolution failed to receive the required two-thirds vote and the question has remained moot for the better part of a century.

Beyond the legal issues which underlie this debate, some have expressed concern that Article IV differs from previous arms control agreements in that it only requires three months notice and permits withdrawal based upon issues related to national sovereignty. Critics point out that the START Treaty allows a Party to withdraw, after giving 6 months' notice and only ''if it decides that extraordinary events related to the subject of this Treaty have jeopardized its supreme interests.''

I do not view the withdrawal provisions as a weakness in the treaty. Instead, I believe it is another manifestation of the improved U.S.-Russian relationship. It should also be pointed out that our bilateral relationship provides us with some confidence that the time and reasons for withdrawal would not necessarily relate to the agreement. As the Secretary of State told the Committee: ''The Moscow Treaty's formulation for withdrawal reflects the likelihood that a decision to withdraw would be prompted by causes unrelated either to the Treaty or to our bilateral relationship. We believe this formulation more appropriately reflects our much-improved strategic relationship with Russia.''

Mr. President, in performing its constitutional responsibilities with respect to treaties and international agreements, the Senate has to reach a judgment as to whether, on balance, U.S. acceptance of the obligations contained in the treaty serves the national interests of the United States.

The Moscow Treaty is not without blemishes. The Senate should not be surprised that the treaty is not perfect or that it does not cover every desired area of bilateral arms control. But that is not the point. The proper question is whether on balance, the Moscow Treaty serves the national security of our nation.

For some, no arms control treaty is good enough. Indeed, the very high stakes of the cold war and the fact that arms control cheating by the Soviet Union represented a potential threat to the survival of the United States led to a legitimate focus on treaties with high standards, especially for verification and the ability to detect even minor violations.

The cold war is over, and treaty requirements must suit U.S. national interests as they exist today. The Moscow Treaty charts a course towards greater security for both the United States and Russia. I urge my colleagues to ratify this treaty and approve the resolution of ratification without amendment.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BIDEN. Mr. President, I am pleased to join our esteemed chairman, Senator LUGAR, in presenting the Senate this resolution giving the Senate's advice and consent to ratification of the Treaty on Strategic Offensive Reductions, known in the vernacular as the Moscow Treaty. Let me state flatly at the outset, I urge my colleagues to support the treaty.

On February 5, as Senator LUGAR noted, the Senate Foreign Affairs Committee approved this resolution unanimously. The committee did so, in my view, for two very good reasons.

First, the Moscow Treaty should be ratified and implemented. It is true that there is much that the Moscow Treaty does not do, which I will discuss at some length. But virtually all of the witnesses at our hearing recommended the ratification of the treaty because its implementation would be a step toward a more secure world. Reducing each nation's deployed strategic warheads from approximately 6,000 to between 1,700 and 2,200, in my view, will move us further away from the cold war era and may—I emphasize may—and I hope promote a United States-Russian relationship based upon mutual cooperation.

Second, in my view, while the resolution does not include everything we may want, it does address many of our concerns. It requires significant annual reporting by the executive branch on implementation of the treaty so that the Senate can oversee and support that implementation. These are important gains from an administration that first opposed any treaty at all and then pressed for a clean resolution of ratification. The administration has agreed to support and implement this resolution before the Senate. I think the country will benefit from that.

But there is much the Moscow Treaty does not do. So in the spirit of not engaging in false advertisement, I think we should speak about that a little bit. It is very unusual, at least in my 30 years as a Senator working on many arms control agreements from the Senate perspective, that an arms control agreement by any standard be put forward the way in which this one has.

In our hearings, the Secretary of Defense proudly compared the three pages of this treaty to the roughly 300 pages of the START treaty signed by the first President Bush. But that is just the beginning. Traditional arms control agreements usually involve the negotiated level of arms to which the parties will be held. They usually require the destruction of some weapons. Often they specify milestones that must be achieved in reducing those arms and bar withdrawal from the treaty unless there is a good reason to withdraw and the President gives or the other side gives 6 months notice.

For decades, there has been emphasis on verifying that each party is complying with its obligations. We remember the famous phrase uttered by former President Reagan: Trust but verify.

In addition, the United States worked to ban MIRV ICBMs in the START II treaty. I know the Presiding Officer knows, but for those who may be listening, the MIRV'd ICBM is a single missile, a single rocket upon which multiple nuclear warheads sit and when the rocket goes off and the head of the missile comes off, it contains more than one nuclear warhead, and you can independently target each of those nuclear warheads, in the vernacular.

So we have thought for years and years, these are the most destabilizing weapons that existed, and we worked very hard, and the first President Bush worked very hard, to eliminate either side being able to possess these multiple warhead missiles with independently targeted warheads. It was contained in the START II treaty.

We were hoping in START III to control tactical nuclear weapons. They are the weapons that are shorter range and are used at shorter distances, referred to as tactical nuclear weapons. We had hoped to have a de-alerting of weapons slated for later elimination.

That is, the purpose we initially started off with was: Look, if we are agreeing we are going to get rid of these weapons, while we are going through the process of destroying them or taking them out of the silos or out of the bellies of submarines or out of the bellies of bombers, what we will do is we will de-alert them. That is, we will pull the plug. They will sit there, but they will not be aimed at anybody. They will not be on alert.

So for the longest time our objective, for stability reasons and for security reasons, was to get rid of multiple warheads, to make sure we move to include tactical nuclear weapons which are destabilizing so we begin to reduce them and, third, to say while we are getting ready to destroy these weapons, or take them out of the inventory, we will de-alert them. That is, not keep them on a hair trigger.

None of these objectives was achieved, or for that matter attempted, in the Moscow Treaty we are about to ratify—I hope ratify.

For starters, the United States unilaterally set this treaty's arms control levels before any negotiation. Indeed, the administration saw no particular reason for this treaty in the first place. Initially they said they would not do it as a treaty.

According to the Secretary of State:

> We concluded before the Moscow Treaty was negotiated that we could and would safely reduce to 1,700 to 2,200 operationally deployed strategic nuclear warheads, regardless of what the Russians did.

Secretary Powell reports that President Bush then told President Putin:

> This is where we are going. We are going there unilaterally. Come with us or not, stay where you are or not.

In short, the Moscow Treaty does not codify an agreement. Rather, it codifies two unilateral decisions to reduce strategic forces. That is not a bad thing, but it is not such a significant thing.

Another way in which the Moscow Treaty differs from previous arms control agreements is that it does not require the elimination of any missiles, any bombers, any submarines, or any warheads. As a result, each party is free to stockpile its officially reduced weapons.

We used to fight with our conservative friends on this floor who said we could not support such-and-such arms control treaty proffered from President Nixon through to President Ford and President Reagan and President Bush—we could not do it unless we were certain that the missile was destroyed, the warhead was destroyed, the submarine was destroyed. We used to hear what is going to happen is they are going to take these missiles and they are going to hide them in barns and they are going to hide them in the woods and they are going to hide them in camouflaged areas.

Let's be clear what this treaty does. It says you have to get down to 1,700 to 2,200 of these within the next 10 years or so, but all you have to do is take them out of commission. You don't have to destroy them. You can stockpile them. You can put them in a warehouse. You can pile them up in a barn for ready reload. You can take them back out. You don't have to destroy anything. That is in fact what the United States plans to do with many of its reduced weapons. They are reduced, not destroyed.

Trident submarines that are taken off nuclear patrol will be converted to other purposes—and could presumably be reconverted to carry strategic nuclear weapons, although at some cost.

Bombers will also be converted; actually, their re-conversion to strategic nuclear uses might be rather difficult.

According to recent press stories, the United States might use ICBMs to deliver conventional payloads. That would leave the missiles still available for use with nuclear warheads instead.

And the administration says that about three-quarters of the reductions may be made simply by ''downloading''—that means by removing bombs and warheads from bombers and missiles, while leaving the delivery vehicles in service.

What happens to those ''downloaded'' warheads? Of the thousands of warheads that will be ''reduced'' by the United States, many—perhaps almost all—would be retained in some form of reserve status, available to be returned

to action in months, weeks, or even days.

The Secretary of State did not indicate that some warheads would be dismantled. But the administration has yet to earmark a single type of warhead for dismantlement.

For years, now, the Air Force has been prepared to give up the W–62 warheads on its Minuteman Three missiles.

They will be replaced by the W–87 warheads that are removed from the Peacekeeper missile, which is to be retired. But the Defense Department seems incapable of letting go of the old warheads.

I will move on. The Secretary of State did indicate, though, that some warheads would be dismantled, but the administration is yet to earmark a single type of warhead that we are going to dismantle. My support for ratification of this treaty is based in part on the administration's assurances for the record that ''some warheads are to be removed and will be destroyed or dismantled.''

Since the statement was made, however, there has been no action by the executive branch to turn this into a reality. I expect the administration to live up to Secretary Powell's commitment. If it should fail to do so, this would endanger the process by which the Senate gives advice and consent to the ratification of not only this treaty but every treaty in the future.

An equal concern for me is the question of what the Russians will do with its reduced weapons. If it follows the lead of the United States, it will try to retain as many missiles and bombers as possible, and it will stockpile its downloaded nuclear weapons rather than dismantling them and disposing of the excess fissile material.

Under this treaty, Russia can do whatever it wants with its so-called reduced weapons. But we have a stake in Russia's decision on this. That is because of the risk that Russia will not adequately protect the weapons and nuclear materials it has stockpiled.

It is one thing for us to decommission, reduce our nuclear weapon and stockpile it. We have exceedingly tight security on such material.

The Russians have incredibly, incredibly insecure facilities because they lack the money to be able to maintain these secure facilities. I worry that if Russia does not destroy them, that they will find themselves—and we will find ourselves—susceptible to the clandestine sale or the actual stealing of these materials, and they will fall into the hands of people who do not have our interests at heart.

The only threat to our very existence is the accidental launch of Russian missiles, and that is why I still worry about the MIRV'd ICBMs. But perhaps the worst other threat to America is that some Russian nuclear weapons, or material with which they make them, could be stolen or diverted to rogue states or terrorist groups. The more weapons Russia stockpiles, the greater the risk not all of them will be properly safeguarded.

To combat that danger, our chairman cofounded the Nunn-Lugar program to assist the Soviet Union—and now its successor states—in meeting their arms control obligations.

Related programs in the Energy Department and the State Department help Russia to safeguard its sensitive materials, and to find civilian careers for its thousands of weapons scientists.

These programs will have a major role to play in the years to come. With Nunn-Lugar, we can enable Russia to destroy its old delivery vehicles rather than mothballing them. Russian officials have already decided they want to move in that direction.

Let me put something in focus, by the way. The entire budget for Russia for this fiscal year is roughly $40 billion. The entire Russian military budget is $9 billion.

My neighboring States of Pennsylvania and New Jersey have budgets bigger than all of Russia. I suspect if you added up all their law enforcement and prison-related budgets, it probably exceeds the entire defense budget of Russia.

Our defense budget, and I make no apologies for it, is between $350 and $400 billion. So I want us to keep this in focus. The ability of Russia to maintain and/or take the money to destroy this fissile material and mothball nuclear capacity is very limited, increasing the need for Nunn-Lugar, the threat reduction money, to be spent on American scientists with American contractors to go to Russia to destroy these weapons for them because they do not have the money to do it.

U.S. assistance can also help Russia to secure and dispose of its excess fissile material. That is the stuff that makes nuclear explosions. That is the stuff that is the product from which chain reactions, nuclear chain reactions start.

That is an urgent and continuing task, with or without this treaty.

I think the administration understands this. The Secretary of State has laid it out:

> U.S. assistance helps to improve the security of Russia's nuclear weapons by improving their physical protection (fencing, sensors, communications); accounting (improved hardware and software); personnel reliability (better screening); and guard force capabilities (more realistic training).
>
> These improvements are particularly important because Russia faces a difficult threat environment—political instability, terrorist threats, and insider threats resulting from financial conditions in Russia.

Translated: The Russian Mafia; translated: Departments seeking money to keep their folks employed doing things that are not in the interest of Russia, and clearly not in the interest of the United States.

The Secretary of State also assured the Committee that:

> . . . we intend to continue to work with Russia, under the Cooperative Threat Reduction, CTR program, when and to the extent permitted by law, to make its warhead storage facilities more secure.
>
> Such U.S. assistance will also increase the security of the Russian warheads made excess as provided in the Moscow Treaty.

The Secretary of State continued:

> If requested by the Russian Federation, and subject to the laws related to CRT certification, the Administration would be prepared to provide additional assistance for removing, transporting, storing, and securing nuclear warheads, disassembling warheads and storing fissile material, dismantling surplus strategic missiles, and disposing of associated launchers.

I am pleased that the administration accepts the need to use Nunn-Lugar and related programs in implementing this treaty, and that the 2004 budget request has a 9-percent increase for Nunn-Lugar.

That increase is probably spoken for, however, by the cost of building—belatedly—a chemical weapons destruction facility at Shchuch'ye. So I wonder, at least, whether enough fund are budgeted for Nunn-Lugar; I hope they are but I don't think they are.

And I hope that the President will prevail upon his own party in the House to give him more than temporary authority to waive certification requirements for these programs.

Nunn-Lugar efforts cannot achieve their maximum effectiveness if every year or so the funds dry up for months at a time, while waiting for Congress to permit another presidential waiver.

The laissez-faire nature of the Moscow Treaty is also evident in the timing of its reduction requirement.

This is very unusual. Under Article I of the Treaty, the reductions must occur ''by December 31, 2012.'' Until that date, there is no reduction requirement. Indeed, until that date, there is nothing barring each party from increasing its force levels.

A party could even have more weapons than it has today, so long as it does not exceed START Treaty levels before that treaty expires in 2009. I don't expect that, of course, but there is nothing to prohibit it.

And what happens on December 31, 2012. The treaty expires.

If a party fails to achieve the reductions required by this treaty, the other party will have little recourse. The treaty codifies legally binding promises, but provides no way to make the Parties live up to them.

This is a very unusual treaty.

Most curious of all, perhaps, is the withdrawal provision in Article IV of the treaty. You might think that, with no obligations until the very last day of this treaty's existence, there would be little reason ever to withdraw from it. That is certainly what I think.

Just in case, however, the treaty has what is probably the most liberal withdrawal clause in any arms control treaty. A party can withdraw with only 3 months' notice.

There is no need for withdrawal to be due to ''extraordinary events related to the subject matter of this treaty [that]

have jeopardized its supreme interests,'' as is required in the START Treaty signed by the first President Bush.

Indeed, there is no requirement in this treaty to state any reason for withdrawal.

I hope the administration is correct in its view that we no longer need verification. The Secretary of State said, ''in the context of this new relationship, a treaty with a verification regime under the Cold War paradigm was neither required nor appropriate.''

It may be that we need not care what Russia does. That might explain why the Moscow Treaty leaves it to each party to decide what weapons it is reducing and how it will do that, and sets no benchmarks for measuring progress between now and December 31, 2012.

To this day, the Russian Federation has yet to say how it defines the term ''strategic nuclear warheads,'' or how its reductions will be made.

We can only hope that his laissez-faire approach to arms control obligations will not lead to misunderstandings down the road. With no agreed definitions and no benchmarks, I respectfully suggest that there is lots of room for quarrels over whether a party will really be in compliance by December 31, 2012.

Perhaps voluntary transparency by each party will assure the other that arms reductions are proceeding properly.

I applaud the decision to establish a transparency committee under the U.S.-Russia Consultative Group on Strategic Security.

But I am not reassured by the Secretary of State's statement that ''specific additional transparency measures are not needed, and will not be sought, at this time.''

It may be that continuing U.S. assistance to Russia under the Nunn-Lugar program and other assistance programs will give us such visibility into Russian forces that we will have no need of verification.

But if we are to rely on that window, then—as I noted earlier—President Bush ought to persuade House Republicans to let him waive the certification requirements that periodically stall the funding of our programs for months at a time because if there is no verification and no ability through the threat reduction program to look inside what Russia is doing, then we are operating in the blind.

When the President requested that authority to waive provisions allowing him to move forward with Nunn-Lugar, it was people in his own party in the House who refused to make that authority permanent.

Previous Presidents gave special attention to the need to do away with MIRVed ICBMs. The first President Bush achieved that in the START II Treaty.

But Russia refused to let that treaty enter into force unless we continued to adhere to the Anti-Ballistic Missile Treaty. When the current President Bush pulled us out of the ABM Treaty, START II died.

Why worry about MIRVed ICBMs? A MIRVed missile has multiple warheads. It's cheaper to put several warheads on a single missile than it is to build, house and launch several missiles.

But if I put 6 or 10 warheads on a missile, and you can take that missile out with only 1 or 2 warheads by attacking first, then my military planners are going to be nervous.

And that is precisely what can happen if my missile is an ICBM in a fixed silo. It may be powerful, but it is also a sitting duck.

So my military planners are going to say to me: We need to be able to fire our missiles before the attacking missiles land on them. The nuclear theologians call this: ''Use 'em or lose 'em.'' Put another way, if Russia has MIRV'd ICBMs sitting in silos, and we get to a point—hopefully, that will never happen—in the next year, decade or two decades, and they know that one of our warheads can take out that multiple warhead ICBM they have on the ground, their military planners are going to say: You better strike first with that missile because if you don't, it will be taken out. And we are going to sit here and say: We know that is what their military planners are going to do, so we better take that missile out first.

That is called destabilizing. That does not lend security or a sense of security. That is why the first President Bush, and every other President before him, said it was important, of any missile you get rid of, to do away with MIRVed warheads because they were destabilizing, they were on a hair trigger.

This ''use 'em or lose 'em'' strategy is still in play. I will use radars and satellites to tell when somebody is attacking me. My command and control system will allow me to order a launch of my nuclear-tipped missiles within 10 minutes because that is all the time I will have between the warning of a possible attack and when the warheads will start falling on my MIRVed missiles.

Now, if I am the United States, that works. But if I am Russia, my missile warning network is made of Swiss cheese. Some of my satellites do not even work if I am Russia. I lost some radars when the Soviet Union broke up. And worse yet, my rocket force troops are so poorly paid, so ill-housed, that sometimes they even go berserk and shoot each other. This is not a joke. They really do. So there are risks in basing our deterrent force on MIRVed ICBMs. And if Russia's nuclear-tipped missiles are ever launched in error, we in the United States are the ones most likely to suffer.

But the administration is confident that none of this will happen. The Secretary of State told the Foreign Relations Committee:

> We cannot conceive of any credible scenario in which we would threaten to launch our strategic forces at Russia. The scenario . . . of Russia believing it faced a ''use it or lose it'' situation with its force of MIRVed ICBMs is therefore not a credible concern.

As a former press secretary of mine used to say—Evelyn Lieberman—''My lips to God's ears.'' Hopefully, that is true.

As a result, President Bush felt at liberty to tell President Putin:

> [Y]ou can do whatever you think you have to do for your security. You can MIRV your missiles, you can keep more, you can go lower. Do what you think you need.

I sincerely hope the relationship between the United States and Russia has truly been transformed and that, as President Bush wrote in his letter of transmittal, ''Russia is not an enemy, Russia is a friend''—a friend, I might add, that is not with us right now on the Security Council and not with us with regard to Iraq, but that is a parenthetical note.

Most of all, I hope that Russia feels the same way. If President Putin fears a U.S. attack, then it won't matter what President Bush has as his intent.

If the Russian military fears a U.S. attack, their missiles may stay on a ''hair trigger'' alert even if President Putin does not share their fears.

In short, the Moscow Treaty is a treaty that is long on flexibility accorded to each party and short on provisions intended to ensure compliance. That emphasis on military flexibility is the hallmark of this administration. It is an understandable response to dangerous times, but I think it is also a vision that ignores many of the political risks.

This administration has also promoted a nuclear weapons policy that speaks of the use of new ''bunker-buster'' weapons against deeply buried targets, treating nuclear weapons as a handy tool just as any other weapon, and thus lowering the threshold for nuclear war.

This administration also speaks of possible new nuclear weapons tests. This administration speaks of the possible use of nuclear weapons against states that neither have such weapons nor are allied with states that have them, contradicting previous American statements that we made in order to maintain other countries' support for the Nuclear Non-Proliferation Treaty.

This administration has indicated possible preemptive attacks, perhaps with nuclear weapons, on states that we fear are preparing to do us harm—again, perhaps even if those states do not have nuclear weapons.

I do not doubt that if we went through this list, issue by issue, we would find that the administration has understandable reasons for its actions. But in foreign affairs, understandable reasons are not enough. We need a sensible strategy. We need statecraft that offers what Thomas Jefferson called ''a decent respect to the opinions of mankind.''

In that respect, we risk alienating ourselves from those who could be of

help to us in many areas. The issue may be to keep an American on a United Nations commission or whether to support an American use of force in Iraq. Chickens come home to roost.

The fact is, we cannot take these unilateral positions irrespective, in my view, of world public opinion and then not expect to pay for it down the road somewhere. I would respectfully suggest, parenthetically, I think we are paying for some of that right now in the United Nations Security Council.

This fixation with military power extends to the Moscow Treaty as well. How should we handle a treaty that calls for significant force reductions but also allows each party to keep its powder dry?

Retired Senator Sam Nunn, former chairman of the Armed Services Committee, has a good term for the Moscow Treaty. He calls it, not ''the Moscow Treaty,'' but the ''good-faith treaty.'' Senator Nunn adds:

> It expresses—and relies upon—good faith in our common interests and the common vision of our leaders.

I think it is a pretty good way to characterize this treaty.

But when he testified before the Senate Foreign Relations Committee, Senator Sam Nunn added a very important point about the treaty. He said:

> If it is not followed with other substantive actions, it will become irrelevant at best—counterproductive at worst.

Let me read that again. He said: ''If it is not followed with other substantive actions''—he means actions in terms of arms control and verification, and the like—''it will become irrelevant at best—counterproductive at worst.'' I share his view.

I support the Moscow Treaty because, on balance, it enhances our national interests. Put another way: To reject this treaty, in my view, would harm our national interest and, as I said at the outset, the relationship between the United States and Russia.

The arms reductions in it do not go far enough, in my view, but they are better than nothing. There is no verification provisions, but good faith, information from START verification activities, and Nunn-Lugar may be a good substitute for verification.

There is a risk that the Russians will rely upon MIRVed ICBMs that raise the threat of an accidental war, but there is also a chance that Russia will destroy those missiles as fast as they can pay for their destruction.

The flexibility built into this treaty could undermine each party's commitment to reductions and its confidence that the other side will achieve them, but the Bush-Putin relationship, which is now being somewhat strained on North Korea and on Iraq, could lead to new patterns of cooperation that make further formal agreements unnecessary.

May all the good outcomes come to pass, but they require a leap of faith. In the meantime, however, I worked with Chairman Lugar to draft a resolution of ratification that keeps Senator Nunn's admonition in mind. We must build on this treaty in order to ensure its success.

The resolution before us strengthens congressional oversight of the Moscow Treaty implementation and highlights some of the areas on which the administration should build on the treaty to secure a safer world for ourselves and future generations. The resolution includes two conditions and six declarations. Let me briefly go through them.

Condition (1) requires an annual report to the Senate Foreign Relations and Armed Services Committees on how U.S. cooperative threat reduction and nonproliferation assistance to Russia can best contribute to enabling Russia to implement its side of the bargain. Reports subsequent to the initial report will be due on February 15 so that the Senate can take them into account as it considers the budget for programs for which the administration is calling. This is vital because U.S. assistance can bring about the weapons dismantlement the Moscow Treaty fails to achieve.

Condition (2) requires an annual report to the Foreign Relations and Armed Services Committee on U.S. and Russian strategic force levels; each party's planned reductions for the current year; each party's plans for achieving the full reductions by December 31, 2012. Further, it requires reporting on any measure, including verification or transparency measures, taken or proposed by a party to assure each party that the other will achieve its reductions by December 31, 2012.

Condition (2) also requires information relevant to the treaty learned through START verification, and the status of consideration of extending the START verification regime beyond December 2009 when the START treaty is scheduled to expire; anything calling into question either party's intention or ability to achieve the full Moscow Treaty reductions by December 31, 2012; and any action taken or proposed by the parties to address such concerns. This report will provide a strong foundation for Senate oversight of the treaty's implementation.

The first declaration in the treaty reaffirms the Biden-Byrd condition on the authoritative nature of executive branch representations to the Senate and its committees during the ratification process insofar as they are directed to the meaning and legal effect of the treaty.

In other words, it says the President—this President or a future Democrat or Republican President—cannot reinterpret the treaty, cannot give it a meaning different than was suggested to us as what it meant.

There is a second declaration. It encourages the President to continue strategic offensive reductions beyond those mandated by this treaty to the lowest possible levels consistent with national security requirements and alliance obligations of the United States. Declarations, I might note, for the Presiding Officer, who knows this well, are nonbinding. But this one makes clear that the Moscow Treaty should not be the end of arms control.

President Bush also issued a joint declaration on May 24, 2002, with Russian President Putin that declared ''their intention to carry out strategic offensive reductions to the lowest possible levels consistent with our national security requirements and alliance obligations and reflecting the new nature of their strategic reductions.''

The joint declaration went on to call the Moscow Treaty a major step in this direction—not the final step, only a major one. The clear implication is that further reductions may follow. This declaration gives the arms reduction process the Senate's blessing, just as we did when considering ratification of START and the START II treaties.

The third declaration states the Senate's expectation that the executive branch will offer to brief the Senate Foreign Relations and Armed Services Committees on issues raised in the bilateral implementation commission, which is part of this treaty, on Moscow Treaty issues raised in other channels, and on any Presidential determination regarding such issues.

Given the lack of verification or transparency provisions in the Moscow Treaty, the bilateral implementation committee established by article III of the treaty may play a major role in assuring that each party knows what the other party is doing and retains confidence that the reductions required by article I will be completed on time—a very important point, on time. Remember, there are no drop-dead dates here.

The fourth declaration urges the President to engage Russia with the objective of, one, establishing cooperative measures regarding the accounting and security of nonstrategic—that is, or tactical—nuclear weapons, and two, providing U.S. and other international assistance to help Russia improve its accounting and security of these weapons. The first meeting of the U.S.-Russian Consultative Group on Strategic Security established a committee to examine these issues. The administration witnesses listed this as a top priority. This declaration, in my view, adds the Senate's encouragement to pursue the issue of tactical nuclear weapons. It does not call for bilateral agreement on reductions of those weapons because several outside witnesses said no Russian agreement to such reductions was likely.

The fifth declaration before us encourages the President to accelerate U.S. force reductions where feasible and consistent with U.S. national security and alliance obligations. The Treaty's intended reductions may be achieved prior to December 2012. To me, the wisdom of faster reductions is clear. It will reassure the world of our commitment to reduced nuclear forces to a reasonable level as speedily as we can. They will also ease any possible

Russian concerns about whether we will meet the one deadline in the treaty. Department of Energy and Air Force officials warn that absent additional resources, major bottlenecks would slow down an accelerated reduction effort.

The Congressional Budget Office report on the treaty cites specific concerns in that regard. But those concerns relate to an effort to complete all reductions by the year 2007.

I believe in the years after 2007, when the transfer of Peacekeeper warheads to the Minuteman III missile will have been completed, faster reductions will be much more feasible.

There is declaration 6. It urges the President to consult with the Senate prior to actions relevant to article IV, paragraph 2, which relate to extending or superseding a treaty, or paragraph 3, which relate to withdrawal from the treaty. This declaration builds on the statement of the Secretary of State that ''the administration intends to discuss any need to withdraw from the treaty with the Congress, to include the Senate Foreign Relations Committee, prior to announcing any such action.''

The Secretary's statement could mean only that the administration would discuss with the Senate the need to withdraw when the decision has already been made. This declaration we have in the resolution goes further, by urging the President to consult with the Senate. One may discuss after the decision has been made, but one can only consult before a decision has been taken. The latter is what the Senate expects if this treaty is passed, and this expectation extends beyond the withdrawal issue to cover actions relevant to extending or superseding the treaty. It is vital that the executive branch consult with us when it is considering changes in a treaty. That way, Senators can raise any concern before decisions are made that might jeopardize the chances of securing our advice and consent to ratification.

The resolution of ratification before us was recommended unanimously by the Senate Foreign Relations Committee. I believe it will make a real contribution to the success of this treaty, and I urge all of my colleagues to support it.

To be sure, the resolution does not address every issue we could raise. It clearly does not speak to every declaration that I think should be included in this treaty, but neither is it the only venue in which to raise those issues. For example, consider what the Foreign Relations Committee's report of the treaty says about the proposal by GEN Eugene Habiger, former commander of U.S. Strategic Command:

> Members of the committee . . . share General Habiger's view that options for reducing alert status should be evaluated by those with significant expertise on the specific weapons systems in question. If the President does not order preparation for such analyses, Congress could require the analyses or establish a commission of weapons systems experts to undertake this task. Such commissions have been created before, some under the auspices of the National Academy of Sciences, and have proven useful in considering issues of such a technical nature.

Senator LUGAR and I do not think this resolution of ratification is a proper vehicle through which to establish such a commission, but unless something has changed, which I know it has not, we will continue to pursue this proposal in a venue other than this treaty.

The committee's report also addresses two other issues we were unable to incorporate in the resolution of ratification. On verification and transparency, our report says:

> The committee believes that the absence of verification provisions in the Moscow Treaty makes confidence and transparency a high priority issue. . . . The United States should not only practice transparency, but also promote it, in close coordination with the Russian Federation.

Our report goes on to say:

> The committee urges the President to use implementation of the Moscow Treaty as a means to foster . . . mutual confidence in the national security field.

The report also calls attention to the Congressional Budget Office's estimate that further drawdowns in strategic delivery vehicles after 2007 could save some $5 billion.

Our report adds:

> The committee recommends that the President give particular attention, as the Moscow Treaty implementation proceeds, to the possibility that modest further reductions in strategic delivery systems after 2007 could lead to significant cost savings without endangering the national security.

The Armed Services Committee and the Foreign Relations Committee can pursue both of these issues as they oversee the implementation of the treaty in the coming years, and I am committed to doing so, and I believe the chairman is as well.

Some of my colleagues are concerned about still other issues. Several amendments may be proposed today. Some of them are amendments I would like to support, but I will not support any additional amendments because I think it is fair to say, speaking for myself, but I think it reflects the view of the chairman—he may have already mentioned it—we believe that in order to get the cooperation we had to add the total of eight declarations or conditions to this treaty, we would, in fact, oppose other amendments, some positive, some, in my view, very negative. So it will be my dubious distinction of possibly voting against some amendments that I think are useful because I think if that were to happen and we started to load this up, we might very well lose this treaty. I think it is very important.

It is a mild exaggeration to suggest, but not very far off, that my view is that the value of the treaty is exceeded only by the danger of failing to ratify this treaty, and there is a danger, in my view, of failing to ratify this treaty. This is not a treaty, were I in charge of negotiation—as my Grandfather Finnegan used to say, this is not the whole of it—this is not all of what I would like to have seen in this treaty. I sincerely hope this further changes the atmosphere in the positive direction it has been changing, that this administration and the Russian administration will conclude we should be dealing with MIRV missiles, we should be dealing with tactical nuclear weapons, and we should be dealing with other genuine mutual concerns that we have. I am confident if we reject this treaty, if we bog it down and it does not get the necessary supermajority required, then it will make those possibilities impossible in the near term.

So in each case, as these amendments are put forward, if they are, I will be guided also by the need to maintain administration support and Senate consensus regarding the resolution of ratification as a whole.

I say to my Democratic colleagues on my side of the aisle, I do not presume to speak for them all. Generally, I do not think it is appropriate for the chairman or a ranking member to commit his or her party to a single position that that chairman or, in this case, the ranking member takes.

I respect my colleagues who may come forward with amendments, but I hope they understand my rationale and why I will not be supporting those amendments, even the good ones, because there is no amendment I can see that is so significant that it would cure all the defects or all the things this treaty fails to address. The risk I am concerned about is bogging this treaty down.

It is a good resolution, I say to the Presiding Officer, who knows that as well as or better than anyone present—he is one of the most informed people in this body on foreign relations and arms control issues. I think it will be implemented. The reporting it requires, I think, will enable us to do our constitutional duty of watching over the treaty in the coming years.

Let's pass it and then work together to make it a success and work together to take the next steps we have to take.

I would note to my chairman that there may be a resolution unrelated to any amendment to this treaty calling for the Senate to go on record in a much more forceful way to support a comprehensive non-proliferation strategy and Nunn-Lugar cooperative threat reduction efforts. As I said in the chairman's absence, without verification, there are only two things that give me real solace, and they are the insight we get from the Nunn-Lugar initiatives and cooperative threat reduction, as well as the remaining verification process that exists within the START treaty which will expire three years before this treaty expires. But it will not, I assure my colleague, be as an amendment. It will not be as a declaration which we cannot amend. It will not be as a condition to this treaty.

I thank my colleagues for their indulgence. I do not plan on speaking on

this issue very much longer except on each amendment at some point. I hope we can move as rapidly as possible because, again, the treaty is valuable, but it is dangerous if we do not pass this treaty.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I commend the chairman and ranking member for the work they have done. I can only agree wholeheartedly with the ranking member's comments about the problems this treaty has, although I also intend to vote for it.

I came to the Senate in 1989. At that time, Vermont was a leader in the effort to reduce nuclear weapons. I, therefore, became very interested in what we could do to reduce the threat of nuclear war.

In November 1990, I traveled with seven Members of Parliament from the United States, Great Britain, and the Soviet Union. We went to the capital of each of our countries. We worked as hard as we could to raise awareness of the dangers of nuclear war and discuss what could be done to prevent the spread of nuclear weapons.

In England, we spoke with people who were involved with nuclear issues. We had a very memorable time with the Speaker of the House of Lords and also the House of Commons and gained insight into the British perspective on these issues.

We then traveled to Moscow on the evening Soviet President Gorbachev gave his annual economic speech. We were amazed when, following the speech, he spent a great deal of time with us discussing the nuclear issue. He stated that the Soviet Union would certainly welcome a prohibition on nuclear testing. At the end of that meeting, there was one light moment. I brought him a pint of maple syrup. I offered it to him and said that if he were to give a teaspoonful of this to someone, why, they would immediately seek peace. He responded: Do you have a liter? I said: No, but I will get you one. It was an interesting time.

We flew from there to Washington and met with National Security Advisor Brent Scowcroft.

This is an issue I have followed for many years. I agree with my predecessor, the ranking member, that this treaty is far from perfect. We are engaged in a global struggle to confront the terrorist threat and to curtail the dangers posed by the prospect of nuclear materials in the hands of so-called rogue nations.

While I will vote for this treaty, I cannot help but feel that the Moscow Treaty represents a tragic waste of opportunity. Instead of capitalizing on the Russian desire to reach agreement on deep cuts in nuclear warheads and instead of seeking destruction of warheads to ensure that Russian nuclear materials never fall into the hands of America's enemies, the Bush administration's distaste for arms control agreements—indeed, for any sort of internationally binding agreement—has prevented it from seizing the opportunity to make the American people more secure.

There is nothing inherently wrong with the Moscow Treaty. It requires the United States and Russia to reduce their operationally deployed strategic nuclear weapons to between 1,700 to 2,200 warheads.

In a small way, it will make the United States, Russia, and the world a safer place—a very small way. It also is consistent with the previous administration's recommendations in the 1994 Nuclear Posture Review.

The shame of the Moscow Treaty is not in what it does, but in what it does not do. The treaty represents a lost opportunity. The Bush administration's scorn for arms control blinded it to a golden opportunity presented by negotiation of the Moscow Treaty to address bigger nonproliferation and counterterrorism concerns of the United States.

The Bush administration came into this negotiation only reluctantly. It repeatedly declared its opposition to the negotiation of a legally binding treaty text, asserting that less formal agreements or statements would suffice.

Press reports are replete with examples of conflict between the Pentagon, which opposed any limitations on its offensive nuclear weapons and wanted the flexibility to increase nuclear forces, and the State Department, which supported the negotiation of a legally binding agreement.

In the end, the State Department got its legally binding agreement, and the Pentagon got an agreement that is notable not only for its brevity, but also for its lack of lasting impact.

While the treaty calls for each side to ''reduce and limit'' its strategic nuclear warheads to within the 1,700 to 2,200 range, the United States made clear early in the negotiation that it would interpret this phrase to apply only to ''operationally deployed'' warheads. In other words, there is no obligation to destroy even a single warhead under the Moscow Treaty.

Warheads can be removed from their delivery vehicles and stored close by and still count as a ''reduction'' under the treaty. The United States has made clear that it plans to dismantle some warheads, put some in deep storage, and store others as spares.

The absence of any obligation to destroy warheads leads to one of the treaty's most striking anomalies. The deadline for the reduction of operationally deployed warheads to within the 1,700 to 2,200 range is December 31, 2012. Unless otherwise agreed, the treaty expires the very same day. So the reduction in operationally deployed warheads, which are the only reductions in strategic nuclear weapons required by the treaty, lasts for only 1 day.

On January 1, 2013, each party will be free from Moscow Treaty constraints on deployment of its strategic nuclear warheads. Moreover, if either the United States or Russia decides at any time in the interim that it wants to redeploy its warheads, it need only provide 90 days notice of withdrawal, and it will be free to do so.

On May 13, 2002, the President stated that he was ''pleased to announce that the United States and Russia have agreed to a treaty which will substantially reduce our nuclear arsenals to the agreed-upon range of 1,700 to 2,200 warheads. This treaty will liquidate the legacy of the cold war.''

This statement provides one more example of the President's rhetoric not matching reality. The treaty does not reduce our nuclear warhead arsenals to the range of the 1,700 to 2,200 warheads. Far from it. The White House refused to agree to such reductions. The treaty merely removes warheads from operational deployment. There is no reduction in nuclear arsenals. The legacy of the cold war lives on. It just sits a short distance from our missiles, bombers, and submarines rather than in a deployed posture.

Faced with the opportunity to lock in reductions of Russian strategic nuclear warheads, the President let ideology get in the way of meaningful agreement. Despite well-publicized concerns over Russia's ability to control its nuclear materials, he passed on an opportunity to assist global efforts against proliferation and terrorist attack by helping Russia deal with its nuclear stockpiles.

There are a host of additional steps that could have been taken in connection with the negotiation of the Moscow Treaty.

The President could have acted upon Russian desires to make true reductions in our offensive strategic nuclear weapons. He refused, despite the fact that destruction of Russian nuclear warheads would have eliminated their vulnerability to theft or diversion to terrorists.

The President could have agreed to Russian proposals for negotiation of a verification regime to track progress toward the 2012 limits on deployed warheads.

He refused, despite the confidence it would have instilled in the reduction process.

The President could have expanded the negotiation to cover tactical nuclear weapons.

He refused, despite the fact that thousands of such weapons exist in Russia and the United States without any sort of monitoring or control by an arms control regime.

Because of their small size and battlefield application, these weapons are extremely attractive to terrorist organizations, and relatively vulnerable.

The United States is currently unable to determine the precise number of Russian tactical nuclear weapons, and therefore unable to determine the nature of Russian control over such weapons and whether some might already have been lost or stolen.

The President also could have expanded the negotiation to cover the problem of multiple independently targeted warheads known as MIRVs.

Refusal to do so by the President leaves the American people vulnerable to the loss of several sites from a single missile launch.

Steps of this sort truly would have matched the President's rhetoric, and they would have made this world far safer for our children.

The opportunities presented by the Moscow Treaty are now lost. Other opportunities exist, however, to work with Russia and others around the world to fight the proliferation of nuclear weapons, material, and knowledge.

Such work is critical to our efforts to combat terrorism and to halt the spread of nuclear weapons and know-how to countries such as North Korea, Iran, and Iraq.

It is my sincere hope that in the future the President will reconsider the narrow approach taken toward the Moscow Treaty, and to other agreements such as the Comprehensive Nuclear Test Ban Treaty.

The fight against terrorism and the spread of nuclear weapons must be fought on several fronts.

Half-hearted efforts like the Moscow Treaty will not meet the needs of the American people and the world.

Mr. LUGAR. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. DOLE). The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. HAGEL. Madam President, I rise today to support the resolution of ratification of the Treaty on Strategic Offensive Reductions—or, as we call it, the Moscow Treaty—now before the Senate.

The Moscow Treaty represents a shared commitment by the United States and Russia to step back from the cold war policies of nuclear confrontation and enter into a new era of cooperation. This is to assure that our nuclear weapons no longer threaten either our peoples or our civilization.

It was the bold vision of President Ronald Reagan, 17 years ago, at the Gorbachev summit in Reykjavik that set in motion this effort to make dramatic reductions in the nuclear weapons arsenals of the United States and then the Soviet Union. President Reagan's vision, once considered by some a fantasy or a negotiating ploy, is becoming the standard by which we should measure our success in arms control.

The Moscow Treaty avoids the strategic gamesmanship and pitfalls of the SALT treaties, the ABM Treaty, and other negotiations of the cold war.

The simplicity of this treaty, only three pages in length, betrayed its historic significance for United States-Russian relations and for global security. Its strength is the power of its objective, to dramatically reduce American and Russian strategic weapons.

On November 13, 2001, President Bush announced that the United States would reduce its strategic nuclear arsenal by two-thirds, from approximately 6,000 nuclear weapons to between 1,700 and 2,200 operationally deployed strategic nuclear weapons by December 31, 2012. The President made this determination independent of what Russia would do, knowing that these reductions would be in the overall strategic interest of the United States.

President Putin determined that comparable reductions would also be in his country's own national security interest. On May 24, 2002, Bush and Putin agreed that their commitment to these reductions would take the form of a legally binding treaty.

The negotiations over the Moscow Treaty did not fall into the traps of previous arms control agreements negotiated with the Soviet Union during the cold war. That is as much a testimony to the new spirit of U.S.-Russian relations and the realities of today's threats as it is to the strength of the treaty. For example, it took the United States Senate 3 years to ratify the START II treaty. It took the Russian Duma 7 years for ratification. And both sides put conditions unacceptable to the other side on the respective ratification agreements. As a result, that agreement never went into force.

Instead of years of back and forth negotiations, with each side seeking a strategic advantage, the Moscow Treaty illustrates a turning point in America's relationship with Russia. It should provide an environment conducive to future arms control negotiations.

The Resolution of Ratification before us today introduces just two straightforward conditions that complement rather than complicate the treaty. First, the administration must report to the Senate annually on how the United States plans to reach the required reduction goals. While this resolution does not set a rigid timetable, these reports will allow the Senate to oversee the implementation of this treaty.

The second condition deals with the Cooperative Threat Reduction or Nunn-Lugar programs. Russia is committed to meeting these reductions, but the question remains if Russia has the resources to meet them. The Nunn-Lugar program has been successful in assisting the former states of the Soviet Union to help reduce their nuclear arsenals. The Resolution of Ratification rightly includes Nunn-Lugar programs as instrumental in achieving lasting and durable arms reduction.

The Moscow Treaty should not be considered as the final chapter in U.S.-Russian arms control, but it is an important and historic step forward. The United States and Russia must do more to prevent the proliferation of dual use technology and weapons of mass destruction to Iran, North Korea, and other countries. The Nunn-Lugar Cooperative Threat Reduction programs are crucial to our shared security interests in preventing the proliferation of weapons of mass destructions. For us to succeed in making a safer world, Washington and Moscow must be strategic partners, not strategic adversaries.

The Bush Administration, Chairman LUGAR, Senator BIDEN, and others who have framed the Treaty and the Resolution of Ratification deserve credit and thanks for their leadership and steady focus. I urge my colleagues to vote yes on the resolution without amendments, for the very reasons Senator BIDEN articulated just minutes ago, and to understand the broader context and significance of this treaty for U.S.-Russian relations and global security. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

Mr. DORGAN. Madam President, I will speak briefly today about the treaty we are considering. I spoke about it in brief yesterday and said while I would vote for it, I think it is not much better than nothing with respect to arms control. I will explain a little bit about where I think we are and where I hope we might go on some of these issues.

I note that Senator LUGAR is in the Chamber, the chairman of the committee. He might or might not know that yesterday when I spoke on these issues, I spoke about the general issue of threat reduction. I spoke about the Nunn-Lugar, or Lugar-Nunn, programs by which we were actually using taxpayer money in this country to dismantle delivery systems and weapons in the old Soviet Union and in Russia, the very success of those programs, and how much I thought those programs have contributed to moving in the right direction.

We may not agree. I do not know. I suspect there are some who think this Moscow Treaty actually advances our interests. I think it probably does not, but I do not think it hurts anything. It is an agreement by which the United States and Russia decide that a number of nuclear weapons will be taken off the active delivery systems and put in storage, but at the end of the time during which this transition takes place, in 2012, we will have exactly the same number of nuclear weapons in Russia and in the United States as we have today, at least as a result of this treaty.

This treaty does not propose that any nuclear weapons be disassembled or destroyed. It is simply putting nuclear

weapons in storage facilities somewhere. Are they at the ready? Are they in storage? I think it is not a great distinction, or at least it is a distinction without much of a difference.

While Senator LUGAR is present, I want to mention, as I did yesterday, I have here a piece of a strut from a wing of a Soviet bomber. Some of my colleagues have been given pieces of this as a commemorative of a very successful effort we have made and continue to make with respect to arms reductions. I stress the word ''reductions'' of both nuclear weapons and delivery systems.

I ask unanimous consent to use this old strut of a Soviet bomber to make the point.

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

Mr. DORGAN. The point is this: I hold in my hand a piece of metal that belonged to a bomber that presumably carried nuclear weapons that threatened every American. Did we shoot this bomber down? No, we did not. We sawed the wings off and destroyed the fuselage. How did we do that? Because we had a program called Nunn-Lugar, or Lugar-Nunn, that actually recognized it is a whole lot better to reach an agreement for arms reduction and then help pay for the destruction of a Soviet bomber or a Russian bomber, or the dismantlement of a missile or a submarine and the destruction of a warhead, than it is to exchange them or to try to shoot it down or to sink the submarine. So we appropriated taxpayers' money for this purpose. This is called peace.

This is another item I showed yesterday: Ground-up copper from a dismantled Soviet submarine that carried missiles with warheads aimed at American cities. This is called progress. This submarine does not exist any longer. Why? Because we had the foresight, particularly by Senator LUGAR and Senator Nunn, to say if we can have verifiable reductions in both delivery systems and nuclear weapons, and even help pay for that destruction, it is far better than having this continued standoff and actually having to fight at some point to try to knock down a Soviet bomber or destroy a Russian submarine. We are destroying them, all right, but peacefully, through a program that works.

Because I think that is very important to understand, I made the point yesterday that there are thousands and thousands of nuclear weapons in this world. The bulk of them are contained in arsenals by Russia and the United States. Many of them are called theater nuclear weapons, lower yield, smaller nuclear weapons. Then there are strategic nuclear weapons, the larger nuclear weapons. There are thousands of each, and over time, through arms control agreements, we have reached some understanding that we want to reduce the number of warheads, the number of delivery systems. We have moved back and forth about exactly how we do that. In some cases, there has been great emphasis on dismantling or limiting the number of delivery systems, the missiles themselves, or the bombers or the submarines. They are mere delivery systems for a weapon of mass destruction. In some cases, we paid great attention to that. In other cases, we have paid attention to the number of warheads themselves.

All of that is important. But I must say a treaty is not, at the end of the day, very important to us if it discontinues the effort to actually reduce the threat of war through dismantling weapons and delivery systems. We have made some progress in arms control, progress that I think is very important to the American people, but there is so much more to be done.

A rumor that someone had stolen one nuclear weapon some many months ago caused great concern in this country. The loss of one nuclear weapon to a terrorist could hold hostage an entire American city or, for that matter, much of a country, and there are thousands and thousands of these weapons.

It seems to me, if we wish to make this a safer world for our children and grandchildren, it is our job to aggressively stop the spread of nuclear weapons. God forbid other countries will become part of the nuclear club or that terrorists and terrorist organizations will acquire weapons of mass destruction, particularly nuclear weapons. We will stop the spread of nuclear weapons. And we must be the leader to do that. This country must be in the lead. It is our job. This responsibility falls on our shoulders at this time.

No. 2, in addition to stopping the spread, we must systematically, over a period of time, begin reducing the stockpiles. We must do that.

I have been disappointed for some long while on arms control issues. I don't believe we should disarm. I don't want our country to be weak. But I believe it is in our country's best interests to stop the spread of nuclear weapons and to have a mutually agreed upon reduction in the number of nuclear weapons.

In October of 1999, this Senate rejected the Comprehensive Nuclear Test-Ban Treaty. That was a terrible disappointment, certainly for me and for many around the world. We have not tested nuclear weapons for nearly a decade, yet we send a message to the rest of the world that we do not want a Comprehensive Nuclear Test-Ban Treaty, one that much of the world has already embraced. That was a terrible setback. Since that time, by the way, the reports by former Joint Chiefs of Staff Chairman Shalikashvili and the National Academy of Sciences have endorsed the Comprehensive Test-Ban Treaty and concluded that the treaty can be verified adequately, adversaries cannot significantly advance their nuclear weapons by cheating, and the United States can maintain confidence in its nuclear stockpile without testing. We made a horrible mistake in rejecting that treaty.

This country, in December 2001, announced it would unilaterally withdraw from the ABM Treaty with Russia. In my judgment, that was a significant mistake. That treaty was the center pole of nuclear arms reduction agreements, talks, and discussions.

In January 2002, the administration released its Nuclear Posture Review, and it said the United States needs to keep a very substantial nuclear force for 20 years. It set out what that nuclear force would be. But that Nuclear Posture Review blurred the lines between conventional and nuclear weapons, calling for a new generation of smaller, easy-to-use nuclear weapons, including smaller bunker buster weapons—the wrong thing for our country if we are going to be a leader in trying to say to another nation, let's never see a nuclear weapon used again anywhere in this world. And yet we are talking about perhaps designing new bunker buster nuclear weapons—moving exactly in the opposite direction, in my judgment.

The Nuclear Posture Review called for increasing our readiness to resume testing of nuclear weapons. I don't understand that.

All of these, together, represent movement in exactly the wrong direction for this country. We have very serious challenges in the world that require our leadership. India and Pakistan don't like each other. They are shooting at each other at the border, over Kashmir. They both have nuclear weapons. It was not too many months ago we had a very serious, very tense time with respect to India and Pakistan.

The message we send as the world leader, the strongest military power in the world, is critically important. Our message ought to be that we want to make this a safer world by beginning the long process of reducing the stockpile of nuclear weapons, not by putting them in warehouses someplace. We should be really reducing the number of nuclear weapons and making sure that our efforts as the United States of America are used to try to prevent the spread of nuclear weapons to any other country in the world, any other group in the world—that is our responsibility. It is what we must be about. If that mantle of world leadership is not borne by us, that leadership will not exist. I fear our future will not be a particularly good future with more and more countries becoming a part of the nuclear club.

As I indicated, the Moscow Treaty does not require a single missile silo, submarine, bomber, missile, or bomb, for that matter, to be eliminated. Compare this with previous treaties. The Intermediate-Range Nuclear Forces Treaty required the destruction of an entire class of ballistic missiles with ranges from 2,000 to 3,000 miles.

I had a picture in the Senate one day of a few acres of sunflowers. This few

acres of sunflowers were sunflowers planted on a piece of ground that used to house missiles in the Ukraine with a warhead aimed at the United States of America. It is not a warhead. It is not a missile. It is gone. It is destroyed. And now where a missile was once buried, there grows a field of sunflowers. What a wonderful thing.

The fact is, these agreements, these treaties that we have had, have worked. The treaties require irreversible action by requiring the destruction of delivery vehicles and warheads.

As I indicated, the Moscow Treaty does not require a single nuclear warhead to be destroyed. It limits the number of strategic nuclear weapons that each side can deploy, from 1,700 to 2,200.

Admittedly, previous arms treaties did not require the destruction of warheads, but at the Helsinki summit Presidents Clinton and Yeltsin agreed to a framework of SALT III negotiations for destruction of warheads. During treaty negotiations, Russia insisted that it require the elimination of nondeployed warheads, but our country resisted because we wanted to keep warheads removed from deployment in storage.

So now we have a Moscow Treaty that says we are going to keep these warheads in storage but we will count them as a reduction in warheads because they are no longer active with respect to the ability to put them on an airplane or submarine or on the tip of a missile. Frankly, it does not reduce the number of nuclear warheads in a significant way, and in my judgment, we ought to be doing that.

We have the START treaty. We have a whole series of efforts that have occurred over a long period of time that give us a roadmap on how to succeed with respect to what I think our obligation is in these areas. There is nothing particularly objectionable about this treaty, but it does not really provide any progress for us. One can hardly object to something that does not do anything, except that my wish would be that we would engage in a manner that would allow us to make some progress.

I intended to offer an amendment. I say to my colleague from Indiana that I am not going to offer an amendment. I have the amendment, but I will not offer it because my understanding is that the ranking member would be obligated to vote against it based on an agreement the chairman and the ranking member have reached. But let me read my amendment and state what I hope this country will do at some point.

My amendment would have added a section (7):

FURTHER NEGOTIATIONS.—The Senate urges the President to build upon the foundation of the Treaty by negotiating a new treaty with the Russian Federation that would enter into force upon the termination of the Treaty on Reduction and Limitation of Strategic Offensive Arms, with Annexes, Protocols, and Memorandum of Understanding, signed at Moscow on July 31, 1991 (START Treaty), and would require deep, verifiable, and irreversible reductions in the stockpiles of strategic and non-strategic nuclear warheads of the United States and the Russian Federation.

The purpose of this would be to say that future negotiations which should occur, and should occur now, should have as an objective to reduce the stockpile of nuclear weapons contained both in Russia and the United States. I do not propose disarmament. I do propose that in circumstances where each of us has thousands and thousands and thousands of nuclear weapons—perhaps as many as 25 to 30,000 between both countries, if you include both theater and strategic nuclear weapons—I do propose we find a way to reduce the stockpiles on both sides in an irreversible way.

Then, as I indicated previously, my fervent hope and prayer is that the leadership of this country will exert itself to try to do everything it can to be a world leader to stop the spread of nuclear weapons. This country's future depends on it.

Let me conclude by saying I have great admiration for Senator BIDEN, who has had a world of experience in these areas, and for Senator LUGAR. I have already spoken of Senator LUGAR. I will not go on at great length. But his work has been extraordinary. Senator BIDEN's work, as well, contributes a great deal to this Senate and to this country.

I know he believes, as I do, that we have seen many missed opportunities in recent years to don the mantle of world leadership that we must assume dealing with these areas. While I will vote for this treaty, I am confident that Senator LUGAR and Senator BIDEN understand, perhaps even if this administration does not, based on their past actions and based on the things they have supported previously, this is a step, even if a baby step, that must be followed by very large strides, vigorous, aggressive approaches to do what we know needs to be done: A real reduction in the stockpile of nuclear weapons and a major effort on behalf of America to stop the spread of nuclear weapons in the rest of the world.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 250

(Purpose: To provide an additional condition)

Mr. DURBIN. Madam President, the resolution of ratification we have before us on the treaty between the United States of America and the Russian Federation on Strategic Offensive Reductions, also known as the Moscow Treaty, is a step forward but in many ways it is a very modest step. The treaty is a three-page document signed by Presidents Bush and Putin on May 24, 2002, to reduce deployed strategic nuclear weapons to between 1,700 and 2,200 warheads by December 31, 2012.

The treaty actually calls for no warheads or delivery vehicles to be destroyed. They can simply be stored. There are no verification provisions, other than those still in effect through 2009 from the START treaty, and the reductions in deployed warheads have to occur by December 31, 2012, the very same day the treaty expires.

However, once the reductions in deployed warheads are met, it means a large number of warheads will not be ready to launch at a moment's notice. That is a positive thing, even if no warheads are dismantled and no delivery vehicles are destroyed.

When nonnuclear countries agreed to forgo nuclear weapons in the Nuclear Nonproliferation Treaty, an essential part of the grand bargain was that nuclear countries, like the United States and the Russian Federation, were to control and reduce their nuclear weapons. Because this treaty is an effort to control and reduce the number of deployed warheads, I will vote for the resolution of ratification.

From the Nuclear Non-Proliferation Treaty flowed all the various efforts of U.S.-Soviet nuclear arms control, including the SALT and START treaties. The Nuclear Non-Proliferation Treaty was renewed in 1995, but it required a lot of arm twisting by the United States because nonnuclear countries have accused the nuclear powers of not being serious about nuclear arms control and reduction. A major reason nonnuclear states agreed to renew the Nuclear Non-Proliferation Treaty is because the United States signed and agreed to pursue ratification of the Comprehensive Nuclear Test-Ban Treaty, which sadly, this body, the Senate, rejected on October 13, 1999.

The failure of the Senate to meet its obligation and ratify the Comprehensive Nuclear Test-Ban Treaty left us with little or no leverage to keep Asia from a spiraling arms race in India, Pakistan, China, and perhaps even other countries. Pakistan and India are in a tense nuclear standoff that came to the brink of nuclear war over Kashmir and easily could again. North Korea, we all know, already has nuclear weapons and is likely to build more. Libya, Iran, and Iraq, may be seeking to acquire or develop nuclear weapons.

For those who think nuclear arms control is just a quaint leftover of the cold war, let me say we are facing a major round of nuclear proliferation with destabilizing effects that we may have no way to stop.

Let me at this point pay special tribute to the Senator from Indiana, Mr. LUGAR. Several weeks ago I went to a breakfast at which Senator LUGAR spoke relative to the issue of nuclear proliferation. Since the days of Nunn-Lugar, with Senator SAM NUNN of Georgia, DICK LUGAR of Indiana has been a leader, a global leader, on the question of nuclear proliferation. I hope more Members of the Senate on both sides of the aisle will pay particular heed to his warnings about proliferation and about the need for the

United States and other countries seeking stability and peace in the world to be mindful of the danger of proliferation of nuclear weapons.

Some of the examples he gave us from his own life experience, visiting the former Soviet Union, were chilling—chilling because we are this close to the proliferation of weapons, weapons in the hands of countries that will not deal with them in a responsible way.

Having said that, though, I am still very concerned about the policies of this administration that could, in fact, further fray the fabric of the grand bargain struck with the Nuclear Non-Proliferation Treaty and actually create an incentive for current nonnuclear states to acquire nuclear weapons—exactly the opposite of what we want to see in the world of tomorrow. This country has to do more to deal with the crisis in North Korea, do more to secure fissile materials in other countries, and do more to secure a broad international coalition against proliferation.

I have cosponsored a resolution with Senator TOM DASCHLE, which will be introduced today, calling for a more vigorous nonproliferation policy.

I am particularly concerned this administration's policy of preemption, combined with a new policy of first use of nuclear weapons, is an incentive, an invitation to proliferation of weapons of mass destruction, especially nuclear weapons. I have introduced a resolution of my own on that subject today.

Let me elaborate with just a few points. Press reports about the December 31, 2001, Nuclear Posture Review indicated that the United States might use nuclear weapons to discourage adversaries from undertaking military programs or operations that could threaten U.S. interests; that nuclear weapons could be employed against targets able to withstand nonnuclear attack, and that setting requirements for nuclear strike capabilities, North Korea, Iraq, Iran, Syria, and Libya are among the countries that could be involved in so-called contingencies. The September 17, 2002, national security strategy of the United States stated:

> As a matter of common sense and self defense, America will act against such emerging threats before they are fully formed.

It went on to say:

> To forestall or prevent such hostile acts by our adversaries, the United States will, if necessary, act preemptively.

The U.S. Under Secretary of State for Arms Control, John Bolton, recently announced this administration's abandonment of the so-called ''negative security assurance,'' the pledge to refrain from using nuclear weapons against nonnuclear weapons, which was outlined in 1978, restated in 1995, and in 2002 in the context of gaining the support of other nations for the nonproliferation treaty. Press reports indicate that in a classified document, National Security Directive 17, the President may have made explicit what had been usefully ambiguous before—a threat to use nuclear weapons in response to an attack with chemical or biological weapons. Making that threat explicit may mean that leaders of other countries that fear a United States attack will think they have to have nuclear weapons to deter the United States, leading to even more proliferation.

What we have here is an escalation of rhetoric, where we have moved beyond ''no first use of nuclear weapons,'' to the point where this administration is saying we can use nuclear weapons against those who do not have them. And now we have a new policy of preemption where the use of those weapons does not even require an imminent danger, imminent threat against the United States.

This rhetoric and this policy cannot help but escalate the situation, leading to more proliferation. That is why I think it is sad that this U.S. Congress has been so passive, while this President has sought to dramatically radicalize and change the foreign policy which has guided this Nation for decades.

The United States is currently engaged in the expansion of research and development of new types of nuclear weapons such as the so-called bunker busters, or small nuclear weapons intended to destroy underground facilities or buried chemical or biological weapons caches.

These policies and actions threaten to make nuclear weapons appear to be useful, legitimate, offensive first-strike weapons, rather than a force for deterrence, and therefore this policy undermines an essential tenet of nonproliferation.

The cumulative effect of the policies announced by President Bush is to redefine and broaden the concept of preemption, which has been understood to mean anticipatory self-defense in the face of imminent attack, and the right of every state to include preventive war without evidence of an imminent attack in which the United States may opt to use nuclear weapons against nonnuclear states.

We don't know where this dangerous policy may lead. But it is hard to imagine it will lead to a safer world. It is hard to imagine that a nonnuclear power can look at the new Bush foreign policy and say with any degree of confidence that forestalling the development of nuclear weapons is in their best interests in the long term. I am afraid the President has created an incentive for proliferation of nuclear weapons—exactly the opposite of what this world needs.

Turning back to the treaty before us today, I am going to offer an amendment, and a number of colleagues will as well. It is my hope we will be able to make constructive and responsible improvements to the Resolution of Ratification that will address some of the weaknesses.

When the Senate considered the Resolution of Ratification of the START treaty in 1992, it approved a condition that requires the President to seek a cooperative monitoring and verification arrangement in any future agreement.

I am offering an amendment to this Resolution of Ratification that requires the President to report to relevant Senate committees on how he is complying with that requirement.

The Strategic Offensive Reductions Treaty—also known as the Moscow Treaty—does not contain any verification measures other than those already required by the START treaty, which expires in 2009.

The President's position is that our new cooperative relationship with Russia means no verification is necessary. Certainly our relationship with the Russian Federation is quite different than it was during the dark and dreary days of the cold war. The preamble to the treaty makes reference to this new relationship saying the two parties desire ''. . . to establish a genuine partnership based on the principles of mutual security, cooperation, trust, openness, and predictability.''

I believe a series of cooperative measures, inspections, data sharing and other verification measures are appropriate even in a relationship based on trust, cooperation, openness, and predictability.

I am sorry to remind my colleagues on the Republican side of the aisle that it was their President, Ronald Reagan, who said, ''Trust but verify.'' He was negotiating a START treaty at the time with the Soviet Union. I think his words still apply. Verification builds trust.

As British Foreign Secretary, Lord Palmerston said in 1848—and it has become an often-quoted maxim in foreign affairs—''We have no eternal allies and we have no perpetual enemies. Our interests are eternal and perpetual, and those interests it is our duty to follow.'' In this case, the interests of both countries are served by reducing deployed warheads, but interests can change with the circumstances.

President Bush has said several times—in fact, he said it in a conversation that I was a party to—that he has developed a relationship of trust with the Russian President, Vladimir Putin. In a joint press conference with the Russian President in June, 1991, President Bush said: ''I looked the man in the eye. I found him to be very straightforward and trustworthy. We had a very good dialogue. I was able to get a sense of his soul. . . . The Cold War said loud and clear that we're opponents and that we bring the peace through the ability for each of us to destroy each other. . . . Friends don't destroy each other.''

This may well be so, but the fact is that both countries still both have, at the push of a few buttons, the capability to destroy each other, and to destroy the world. There can be no more serious matter.

President Bush and President Putin may have the best of trusting relationships, but we cannot know what the future will bring or who will be President of either country over the life of this treaty, or what kind of relationship those Presidents may have.

Condition 8 of the resolution of ratification of the START treaty requires that in connection with any subsequent agreement reducing strategic nuclear weapons, the President shall seek appropriate monitoring measures. I want to read the entire condition, because I believe it is very important for my colleagues to hear what the Senate required in 1992:

(8) NUCLEAR STOCKPILE WEAPONS ARRANGEMENT.—In as much as the prospect of a loss of control of nuclear weapons or fissile material in the former Soviet Union could pose a serious threat to the United States and to international peace and security, in connection with any further agreement reducing strategic offensive arms, the President shall seek an appropriate arrangement, including the use of reciprocal inspections, data exchanges, and other cooperative measures, to monitor—

(A) the numbers of nuclear stockpile weapons on the territory of the parties to this Treaty; and

(B) the location and inventory of facilities on the territory of the parties to this treaty capable of producing significant quantities of fissile materials.

This condition, originally offered to the START Resolution of Ratification during committee consideration, was offered by the Senator from Delaware, Mr. BIDEN, who is in the Chamber today and has been a leader, as well as Senator LUGAR, in developing the kind of arms control which can make a safer world. Senator BIDEN offered an excellent condition that reflected deep concern about nuclear warheads and fissile material falling into the hands of terrorists and irresponsible states, and anticipated that future treaties would require cooperative measures to monitor and verify reductions in strategic weapons in a post-cold-war context.

In fact, measures to monitor what becomes of the thousands of warheads to be taken off of operational deployment is one of the most important steps the United States and the Russian Federation can take to be sure those weapons or fissile materials are secured.

The START treaty contains an extremely complex verification regime. Both countries collect most of the information to verify compliance through ''National Technical Means of Verification,'' in other words, satellites and remote sensing devices. START also allows intrusive measures, such as on-site inspections and exchanges of data.

But these measures under START apply to the retirement and destruction of nuclear weapons launchers and not the warheads themselves. START has a complex way of limiting nuclear forces—rather than counting warheads, it attributes a certain number of warheads to each kind of missile or bomber.

The treaty before us does not require the destruction of launchers, or warheads. There is simply no way to verify what may happen to the thousands of warheads that are to be taken out of operational deployment.

When Senator LUGAR came to our breakfast a few weeks ago, he told a story of visiting the submarine facility at Minsk—I am sure he can fill in the details—and seeing the long line of nuclear submarines that used to be part of the Soviet Navy. He raised a serious and important question about what would happen to the nuclear payload or the nuclear materials in those submarines. Will they be taken out to sea and scuttled, or dismantled and sold? It is a serious concern.

Think about the materials we are talking about. I have seen Senator BIDEN many times come to the floor with materials no longer than a saucer, and easily transported in terms of their size. Now we are talking about a treaty before us which does not include verification procedures so that we are not certain that the Russian Federation is actually dealing with these fissile materials and nuclear weapons in a fashion to guarantee that they won't be the subject of proliferation.

Doesn't it make sense for us to have a reciprocal obligation on the part of both the United States and the Russian Federation to make certain this treaty works? To say the President of the United States and the President of Russia have a trusting working relationship is a good thing for world peace. But who knows what tomorrow will bring? Who knows where we will be or where the Russian Federation will be? And who knows who the leaders will be?

It is important for us, if we are ratifying a resolution for a treaty that will affect the United States for 9 or 10 years, that we at least consider the possibilities that things may not end up as smoothly as we hoped. It is far better for us to build into this resolution a verification procedure to make sure both sides live up to the terms of the treaty. As President Reagan said, ''Trust but verify.''

I believe that it makes sense for new verification measures to be negotiated. A Bilateral Implementation Commission and the Consultative Group for Strategic Security have both been established in connection with the treaty, and verification and transparency measures may be discussed in these fora. Secretary of State Colin Powell said in his testimony before the Senate Foreign Relations Committee that the Administration will ''consider whether to pursue expanded transparency'' at meetings of the Consultative Group.

My amendment reminds the Executive Branch that it is already required to seek an arrangement on such issues by Condition 8 of the START treaty, and simply requires a report on what it has done to comply with the requirements of that condition.

I believe this change, although small, is important. It is a change that states to every Member of the Senate and to the American people we represent and to future generations that this is more than just words on paper. It is more than just a blink of an eye and a relationship.

There is a verification procedure to make sure that the nuclear weapons that are to be set aside and not menace the rest of the world are actually set aside, verification procedures which we can trust and the Russians can trust as well. That is not too much to ask. To do anything less is to perhaps jeopardize the good, positive relationship we have today, by leaving unsaid and unmet our obligation for verification.

Madam President, I send this amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 250.

Mr. DURBIN. Madam 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 end of section 2, add the following new condition:

(3) COMPLIANCE REPORT.—Not later than 60 days after the exchange of instruments of ratification of the Treaty, and annually thereafter on April 15, the President shall submit to the Committee on Foreign Relations and the Committee on Armed Services of the Senate a report on the compliance of the President with the requirements of condition (a)(8) of the resolution of ratification of the Treaty on Reduction and Limitation of Strategic Offensive Arms, with Annexes, Protocols, and Memorandum of Understanding, signed at Moscow on July 31, 1991 (START Treaty), which states that ''[in] as much as the prospect of a loss of control of nuclear weapons or fissile material in the former Soviet Union could pose a serious threat to the United States and to international peace and security, in connection with any further agreement reducing strategic offensive arms, the President shall seek an appropriate arrangement, including the use of reciprocal inspections, data exchanges, and other cooperative measures, to monitor (A) the numbers of nuclear stockpile weapons on the territory of the parties to [the START Treaty]; and (B) the location and inventory of facilities on the territory of the parties to [the START Treaty] capable of producing or processing significant quantities of fissile materials''.

Mr. DURBIN. Madam President, I have shared a copy of this amendment with Senator LUGAR, and I hope Senator BIDEN's staff has a copy as well. If not, we will provide it to them immediately.

At this point, I do not know if Senator LUGAR would like to respond to the filing of the amendment or to engage me in a conversation about the nature of the amendment. I would welcome that.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Madam President, I thank the Senator for his very thoughtful and generous remarks about cooperative threat reduction and

the conversations we have enjoyed about that.

The Senator from Illinois has been a very strong supporter of nonproliferation in this country as we have worked with the Russians or we have tried to direct our own programs. It is always difficult to oppose an amendment of someone who has been so generous in mentioning cooperation we have had together.

I will oppose the amendment because I believe that, in fact, the Senator's objectives are being realized in many ways. Some are known to the Senator; some I would like to discuss presently.

But, first of all, I would say that in arguing in favor of the Moscow Treaty, Senator BIDEN and I have pointed out that the President had already made a determination that we were going to unilaterally destroy a good number of weapons. And the Russians, for their own reasons, had decided they wanted to do so.

This is why it is a very short and simple treaty without extensive verification protocols that have characterized other treaties. But it comes with the START I verification procedures that last through 2009. In our hearings, we have pointed out 2009 is short of 2012, which is the timetable for the total treaty to be consummated. But, at the same time, there is all of the strictness the Senator from Illinois has mentioned in previous treaties incorporated in this one.

The second point of verification is the Cooperative Threat Reduction Program, the Nunn-Lugar program. This has people from our country working with Russians on the ground in Russia. They are verifying precisely what they are doing.

I want to mention the extent of this reporting and verification by pointing to the CTR report which was just published for the year 2002. It has, on the front, so that all Senators will be able to see, the CTR logo, and says: ''Cooperative Threat Reduction annual report, Fiscal Year 2002.''

Now, page by page, the report goes through a description of cooperative threat reduction activities carried out in fiscal year 2000 in the nuclear, chemical, and biological areas, project by project and objective by objective. It discusses the 5-year plan for destruction or containment, security of each of these materials or weapons systems.

I mention this simply because that has been the objective of those of us who have tried to foster this Cooperative Threat Reduction Program; that in fact there be very close congressional scrutiny, dollar for dollar, area by area, all the way through.

Now, Senator BIDEN was prescient in his amendment that the Senator from Illinois has cited. But this clearly influenced the subsequent work under cooperative threat reduction, and does to this day.

The objectives that the Senator from Illinois has suggested that are especially important—and those were also mentioned by the distinguished Senator from North Dakota, Mr. DORGAN, early on—we are concerned about the tactical nuclear weapons. We have raised the question to Secretary Powell as to why this was not included. In essence, this is not a quote from the Secretary, but he said: It is a bridge too far. We raised this with the Russians. They are not prepared to come to agreement.

Now, other countries are deeply interested in the Russians coming to agreement, the G–8 countries that have come together in the so-called 10 plus 10 over 10 program, which means $10 billion for each of 10 years from the countries in the G–8 other than the United States, thus matching essentially what we are doing under cooperative threat reduction.

One of the objectives of the early meetings was clearly: What about the tactical weapons? These are very close to the Europeans. They are not long-range ballistic missiles. They are missiles on the continent in proximity to countries worried about their security.

So we have friends, in a multilateral way, who are helping to pursue this situation. I have some confidence—because Secretary Powell and Secretary Rumsfeld, in their testimony, indicated this is a high priority for them, they will continue to raise it with the Russians—we will make some headway. But we have not thus far.

I would just say to the distinguished Senator from Illinois, whether spurred by the Biden amendment years ago or various other activities, our activities as Members of the Senate and the House and on the ground in Russia have been vigorous.

I think the Senator cited perhaps some of my trips. But one recently, last August, was an attempt to go to the biomilitary plant at so-called Kirov 200. I sought to go there because it was identified as one of four bioweapons facilities of which we believe the Russians are simply still in denial. They are not prepared to work with us, even though at 14 other sites we do now have active programs.

Under the ISTC Program, the International Science and Technology Program, we are giving stipends to Russian scientists who now have left the weapons field and are working on HIV/AIDS or other ways to combat chemical weapons poisoning.

I would simply say that the Kirov 200 situation, for me, was almost a bridge too far, even though I thought arrangements were available for our U.S. Air Force plane to convey me and the party out there. At the airport that morning, we were informed we would not be able to land. We could fly, but we were not going to land. So we began to work our way through the bureaucracy of the foreign office of Russia, unwilling to take no for an answer. In due course, we did fly the aircraft, and we did land in Kirov.

Having gotten there, I would say that I did not see everything that I wished to see. But what I did find were retired Russians, retired at 55, who had come, from the plant that was denied to me, down to our activities and who, in essence, told me everything they were doing at either.

So I think we have a pretty good insight. I just mention this because even as we legislatively will some things to happen, they do not happen without persistence and sort of doggedly pursuing those objectives. I am just testifying that is occurring, sometimes to the discomfort of our relationship with the Russians. But in this particular case, I reported all my activities to the defense minister, Mr. Ivanov, and at least mildly admonished him we ought to be beyond this. The whole idea of the Moscow Treaty should be a new relationship, a new trust between President Putin and our President Bush. And all of us on both sides need to be fostering that.

So my response to the Senator from Illinois is to say that I think we are on the same side in pursuing congressional oversight, more vigor with regard to everything we are now doing, although I think it is fully reported annually by the Department of Energy, quite apart from CTR, and with goals to go where we have not been; namely, tactical weapons and future destruction.

Mr. DURBIN. Will the Senator yield for a question?

Mr. LUGAR. Yes, I yield for a question.

Mr. DURBIN. Am I right in my premise that this SORT treaty, this Moscow Treaty, does not destroy the nuclear warheads but simply calls for them to be stored, set aside, not in a deployable mode, so they, frankly, are at least within the grasp of either country to be reactivated? Is that accurate?

Mr. LUGAR. The Senator is correct. The treaty does not call for the destruction of warheads.

Mr. DURBIN. May I also ask the Senator from Indiana, since we live in the 21st century in fear that fissile material and nuclear weapons will be transferred either openly or covertly to countries that will misuse them, why would the Senator from Indiana believe that a verification procedure which spotlights the location and number of these weapons in both countries would not be in the best interest of reducing the likelihood of proliferation?

Mr. LUGAR. I would not disagree, in response to the distinguished Senator, that it would be ideal for this verification to occur, but I would simply respond that although we have been negotiating such verification for some time, the Russians have not agreed to do this. In other words, one reason that is not in this treaty is the negotiators have found resistance. I have found resistance. Other people have found resistance.

These things open up tediously, sort of one by one. For example, after great pressure, I was taken on a small Russian aircraft to a plant where in fact

there are warheads taken off of missiles, and they are stored almost like bodies in coffins side by side, lined there. Each one had a history of when the warhead was built, when it was taken off of the missile that would have conveyed it, when it was put there in storage, and some estimate as to its efficacy; that is, how long you can anticipate this warhead would actually be explosive. Much more ominous down the trail and something that I am pursuing is some sort of prediction as to when it might become dangerous.

The difficulty—and the Senator knows this—is these warheads are unstable sometimes in terms of their chemical composition. They may not lie there in peace forever, like a sporting goods store situation of inert matter. That is the problem for the Russians. At some point they will have to move the warheads. So they already have a railway station secured. They have procedures because they know that at some stage they will have to take the warhead out and disassemble it, a very dangerous predicament and one that then leads to problems of storage of the fissile material. So in another Nunn-Lugar program we are trying to work on the storage facilities for thousands of these warheads because, for the moment, there is not adequate storage for the fissile material itself after it is taken as plutonium or highly enriched uranium from the warhead. The Russians would like to pursue that.

So we asked the logical question the Senator has asked: Why can't we work together to verify where all these warheads are, what status they are in. We are interested in that. We don't want an accidental nuclear event in Russia. And the Russians have been resistant, in the fullness of time perhaps less resistant, but I would just say, once again, that was probably a bridge too far for this treaty. Our negotiators found the Russians not to be prepared.

Mr. DURBIN. Will the Senator yield for another question?

Mr. LUGAR. Of course.

Mr. DURBIN. Is the Senator aware that the amendment I offer calls on the President to report to the Committee on Foreign Relations and the Committee on Armed Services of the Senate not later than 60 days after the exchange of instruments of ratification, annually thereafter on April 15, on the progress toward verification, and we go on to say that we are seeking the same type of verification as in the START treaty, the numbers of nuclear stockpiled weapons in the territories of the parties and the location and inventory of the facilities?

I ask the Senator from Indiana, if we have not reached the stage we want to in verification, is it not of some value for this Senate to say as part of the agreement that we are going to ask this President, and any subsequent President affected by the treaty, to continue to report on an annual basis to the Senate the progress that is being made to reach verification?

I would think that would have real value to spur this administration on to keep negotiating, keep trying to reach agreement with the Russians. And absent that, I am afraid there would be a disincentive for that sort of thing to occur. I ask the Senator if that is a reasonable interpretation of my own amendment.

Mr. LUGAR. I think it is a reasonable interpretation, I respond to the Senator, but I would also say that in fact the President, at least through the Department of Defense, in the CDR report I have in front of me, is doing that each year. These are annual reports. Likewise the Secretary of Energy is making his own reports on the nuclear accountability issues. So it appears to me that generally the objective of the Senator is being fulfilled in current reports.

What is not being fulfilled and what the Senator and I both wish was being fulfilled is more progress toward the destruction of the warheads themselves and more openness on the part of the Russians to what their problem clearly is and one in which we could help if we had more access. Before I got into this particular vault I am talking about, General Habiger, who has been mentioned in this debate, was the last American ever to get there. This is not openness or transparency. So even though property threat reduction brings a lot of Russians and Americans together, there are areas in which we have not come together, these bioweapons plants, the four of them, for example, and some of these vaults that we have not seen.

Every year we are reporting, however, our deficiencies or our inability to reach agreement. It is a checkoff list with the Russians.

I say, on behalf of those who are in the field with the CDR, they work at it all the time, working with their compatriots out in the hinterland of Russia to see what might open up this year.

Mr. DURBIN. If I might say, by way of a question in closing so that we don't prolong this debate, I hope the Senator from Indiana will view this amendment as instructive and as friendly and not as adversarial to his goals. I took heart from the statements he made in meetings I attended about the need for all of us to be more sensitized to the problem of proliferation of nuclear weapons. What I am seeking to do is to get an ongoing relationship with the President and the Senate so that we can continue to monitor the progress being made and the incentive is there for this President and any other President in the Russian Federation or the United States to continue to move forward on this track so we can reduce the likelihood of proliferation of nuclear weapons.

I ask my colleague from Indiana if he will consider this amendment I am offering in that light, as a positive, supportive effort, a friendly effort to add something that may be of value to the conversation.

Mr. LUGAR. In response to the Senator, of course, I see it in that light. My only argument with the Senator today is that I do not believe it ought to be part of the treaty. I believe clearly the fulfillment is already occurring in terms of the reporting, with considerable vigor, but at the same time, as I have admitted to the Senator, the objectives we both seek by getting the President to indicate energy and so forth also requires the Russians to reciprocate. This particular treaty still has to be ratified by the Duma. We have our own debate here, but they will have theirs, too.

Senator BIDEN and I in our opening comments indicated we would resist amendments simply because we believe we have at least in a very general way covered territory of what we ought to be doing in terms of oversight but in ways that would not in any way be objectionable to the Russians who have to ratify the treaty and thus at least preserve the spirit in which Presidents Putin and Bush negotiated, admittedly, a limited treaty. I would ask the Senator at least for his thoughts as to whether he would be sufficiently assured by the vigor of my response to withdraw the amendment, understanding that we will continue to pursue these reports.

I will try to make available to Senators the CDR message if they do not have it which really reviews in detail the gist of what the Senator is requesting. But beyond that, it is a pledge of vigor in proceeding where we have not been, these bridges too far that I have described that are very important.

Mr. DURBIN. May I ask the Senator from Indiana a followup question? Would the Senator be willing to join with me and perhaps Senator BIDEN in a letter to the administration relative to this verification procedure, asking that the administration move forward to at least establish on an informal basis a reporting with the Senate so we can see the progress being made? I would consider that to be a step in this direction which moves us to the same goal.

Mr. LUGAR. I respond to the Senator that I would be pleased to work with the Senator on a letter which affirms, once again, the importance of the debate we are having, the interest of Members who are signing the letter, but others literally in the subject matter of what we are talking about who would acknowledge perhaps that some reports are being made and maybe ask for more vigor in being more complete. I would like to work with the Senator in that project.

Mr. DURBIN. I ask my colleague from Delaware, since I am taking his language from the START treaty and have venerated it, deified it, given it all of the credence any Senator could ask, whether he would be kind enough to join me.

Mr. BIDEN. The answer is yes. I think what the Senator is attempting

to do is very important. Let me explain to the Senator my perspective, and to state the obvious—I may very well be wrong about this. But let me tell my colleague why I honestly think what Senator LUGAR and I came up with is, quite frankly, more likely to get at what we need.

Condition 8 that has been referred to in the START treaty was a very new and important idea when we enacted it 10 years ago. It led the Clinton administration to use the Nunn-Lugar program to achieve a measure of transparency into the Russian fissile stockpiles in the mid-1990s.

In recent years, the United States has helped Russia to conduct a census of its civilian fissile material, but I doubt that either side is now prepared to allow access to the weapons stockpiles that are not on the civilian side of this equation.

It would be my expectation that a report called for on the activities pursuant to condition 8 to the START treaty resolution of ratification would only tell us there are no negotiations toward a bilateral agreement, even though there are useful efforts underway on the Nunn-Lugar related programs.

We already have a condition to the resolution before us that requires the Nunn-Lugar report; in other words, progress on Nunn-Lugar initiatives. We are required to have a report. While I will join the Senator in a letter, and I agree with what the Senator is trying to do, I honestly—not out of pride of authorship of what we came up with, but I honestly believe that what we did as a condition on the Nunn-Lugar programs on this treaty is, quite frankly, more effective than going the route of the condition 8 requirements in the START treaty. I hope I made that clear.

Again, there is no disagreement I have with the Senator from Illinois. The bottom line is that what he has pointed out is, in my view, a real deficiency in this treaty overall. His legitimate attempt to take condition 8 of START and use it as a vehicle to stand in for the absence of a verification requirement in this treaty is useful.

I honestly think, though, I say to Senator DURBIN, the way we did it in the resolution is a more effective way of accomplishing what the Senator is trying to do than through condition 8 of the START treaty.

I will conclude by saying, as I said in a necessarily lengthy statement laying out my interests, concerns, and the assets and deficiencies of this treaty when the chairman brought it to the floor, the treaty, as former Senator Sam Nunn said, in an overall context, can either be moderately helpful or it can be mischievous. I am paraphrasing.

The absence of a verification provision worries me not so much because I think we are going to be put in jeopardy if they do not do what they are supposed to do, but because it is going to allow a future administration or Members of the Senate to do what they did when we had a verbal agreement on tactical nuclear weapons in the first Bush administration.

It is going to allow some of our friends on the right, who are not going to like it when things are not going so smoothly with Russia, to say: See, these guys are liars. These guys do not keep their agreements. These guys are not doing what they said because we cannot verify that they have done what they said they were going to do.

It leads to distrust because there is always, as my friend from Illinois knows, whether in the House or the Senate—and he has been here a long time—there is always a group in this body that trusts no agreement, none whatsoever, no arms control agreement, no matter how loosely structured.

As Senator Helms, my good friend and the predecessor of the Presiding Officer, used to say: There is never a war we have lost or a treaty we have won. So it is axiomatic on the part of some, in the very conservative elements of our party, but clearly in the Republican Party, who say all treaties are bad ideas, they are just bad ideas.

Absent verification provisions, we allow for misunderstanding to creep in over the next 10 years to what is basically a good-faith agreement until December 31, 2012, the drop-dead date when we know what has happened.

I wish to make one other point because I think it will affect other legitimate points of view and amendments that are brought to the floor that I would be inclined to support.

I remind everyone who may be listening—and I know my colleagues on the floor fully understand this—the President started off with a flat assertion that this would not be a treaty, the Moscow agreement. As a matter of fact, the day on which we had the police memorial service on The Mall—and I am part of that process—I was up on the stage, and the President, who has a great sense of humor and is really an engaging guy, walked up on the stage, grabbed my arm, and said: You owe me one, Joe.

I looked at him joking and said: How is that, Mr. President?

He said: You got your treaty.

He was kidding about my owing him one. But the generic point was well taken. He never wanted this to be a treaty in the first place. The Senator from Indiana—I will not say the Senator from Indiana—the Senator from Delaware was vocal, vociferous privately and publicly with the President personally and on this floor that it had to be a treaty.

The backdrop to all of this is, in terms of additional conditions that may or may not be added to this resolution, that if push comes to shove, I am convinced this President would not be disappointed if we did not vote for this. Let me restate that—he would be disappointed if we did not vote for it. But I am worried that, if certain amendments were added that he did not like, I do not think he would have any trouble saying, I would rather not have it as a treaty, and I will keep the verbal agreement, the executive agreement with Mr. Putin, rather than have it as a treaty and have to accept these conditions.

It is very important this stay as a treaty as—flawed is the wrong word—but as incomplete as it happens to be. The Senator—I am not being solicitous—points out a deep and serious deficiency in this treaty, and I think the mechanism he chose to try to remedy it is, quite frankly, sound; but the remedy we chose to deal with the deficiency I think is a more likely way to achieve what we are seeking than condition 8 of the START treaty.

Having said all of that, I will be happy to join the Senator in a letter, as strong as he would like to make the letter. I have already sent a few missives down to the President on my views on some of these issues, for what they are worth. I would be happy to join the Senator and sign with him a letter along the lines he has been talking about.

Mr. DURBIN. I thank the Senator from Delaware.

Madam President, because I am convinced of the genuineness and commitment of both the Senator from Indiana and the Senator from Delaware to the issue of nonproliferation, of transparency in our agreement with any nation when it comes to nuclear weapons, I am going to defer to their judgment. But I will also add, were I to send a letter by myself, I am not sure what it might mean, but if they will join me in this correspondence to the administration, I am certain it will carry more weight and be a reminder that we are mindful of the need for real verification, to make certain these nuclear weapons do not end up in the wrong hands and, in fact, they are set aside so they will not be a threat to any other nation.

AMENDMENT NO. 250, WITHDRAWN

For that reason, with the assurance of Senator LUGAR, as well as Senator BIDEN, I ask unanimous consent to withdraw the amendment I filed.

The PRESIDING OFFICER. The Senator has the right to withdraw the amendment, and the amendment is withdrawn.

Mr. DURBIN. I suggest the absence of a quorum.

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

The senior assistant bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

Mr. WARNER. Madam President, I ask unanimous consent that the Senator from Virginia be allowed to proceed as in morning business for such period of time as he may require.

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

(The remarks of Mr. WARNER are printed in today's RECORD under ''Morning Business.'')

Mr. LIEBERMAN. Madam President, if I may paraphrase Winston Churchill, the ''only thing worse than this treaty would be not having this treaty at all.'' So I rise this afternoon in support of this treaty—a good but ultimately insufficient treaty—and in support of my colleagues' amendments to it.

I rise also to lend my voice to a related resolution that I drafted with the minority leader and several of my colleagues, which enunciates the beginnings of a coherent non-proliferation strategy.

A little over one decade ago we awoke to the sound of freedom. The Berlin Wall had fallen; brothers and sisters who had been kept forcibly apart were able, once more, to take up the rights which are enshrined in our own Declaration of Independence, rights which we all too often take for granted. The Soviet empire was no more. It was the beginning of a new era. The threat of nuclear war, at least between two great superpowers, had lifted. It soon became clear that the newest threat to our security, the increased chance of proliferation wrought by the fall of the Soviet empire, was perhaps an even greater challenge. The sword had slipped from the giant's hand. We knew then and we know now, that we had no choice but to take action and prevent those who would do us harm by picking the sword up again.

We in the Congress and our President acted with resolve. We moved to strengthen international institutions and systems designed to prevent the spread of nuclear, biological, and chemical weapons. And we were successful. The nuclear capable states of the former Soviet Union, one by one, renounced the use and possession of nuclear weapons and returned them to Russia. We had a few setbacks along the way, but overall we have managed to contain proliferation. But now I fear that this President has lost his way, and is undoing the good progress of previous administrations.

The fact is, the events of September 11, 2001 should be a rallying cry for non-proliferation—we can imagine all too well the results if those who masterminded the attacks on the World Trade Center and the Pentagon, had access to weapons of mass destruction. Yet since then, the Bush administration has unwisely led our Nation and the international community down a meandering path of policy choices with only one clear outcome: the increase of proliferation of weapons of mass destruction. In doing so, their choices have raised more questions instead of settling them.

Why has the administration failed to engage North Korea, the prime proliferator of missiles and the greatest threat for immediate nuclear proliferation in direct talks?

Why has the President chosen to ignore the advice of General John Shalikashvili, the former Chairman of the Joint Chiefs of Staff, and instead actively pursued new uses for, and types of, nuclear weapons, when such action will erode the nuclear firebreak?

Why has the administration failed to meet the Baker-Cutler funding benchmarks for nonproliferation and arms control programs?

Why has the administration failed to fully invest in the Nunn-Lugar program?

Where is the long-term strategy to diplomatically engage proliferating nations?

I agree with President Bush that ''history will judge harshly those who saw this coming and failed to act.'' However, at a time when the international community needs leadership and guidance on this issue, the administration is virtually silent. Too often on arms control and non-proliferation, America has become a colossus that oscillates between pouting and shouting. In contrast, the resolution that my colleagues and I are introducing today gives this nation a strong, clear, and constructive voice on these critical issues. Here and now we call for the administration to rebuild the broad international coalition against proliferation that it has permitted, and even encouraged, to deteriorate over the past two years. We call for the full funding of all Federal non-proliferation and arms control programs to the levels prescribed by the Baker-Cutler report. We call for engaging North Korea in direct and full talks. We call for the expansion of the Cooperative Threat Reduction program to include additional states willing to engage in bilateral efforts to reduce their nuclear stockpiles. These would be acts of strength by the strongest nation in the history of the world and they would be acts of wisdom because these acts would increase our security.

The bottom line: the United States must start now to rebuild the international community's consensus on stopping proliferation in its tracks. The measures outlined in our resolution will begin to do just that.

On September 11, 2001, in a single fell blow, we learned just how vulnerable we may be if we do not act with foresight and urgency on containing weapons of mass destruction. Today, I believe everyone in this chamber understands that we cannot speak of homeland security without addressing nonproliferation.

We cannot debate national security without including arms control. This Nation requires a coherent non-proliferation policy, and a clear voice on the matter in the international community. This resolution is the start.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Madam President, I rise in support of the ratification of the Moscow Treaty. I would like to begin by thanking Senators LUGAR and BIDEN who have done very good work in this instance, and I believe they are going to provide very dynamic leadership on the Foreign Relations Committee in the Senate. These Senators have been working in this area for many years.

I remember specifically the work of the distinguished Senator from Indiana after the dissolution of the Soviet Union as we had Russia and other countries grow out of that. We had the Nunn-Lugar legislation. Quite frankly, some of us were a little leery of how that program would work and whether it was the right thing to do. But looking back on that time in history, there is no question but that was a really dynamic leadership effort that needed to be made. It has been helpful. It has not been perfect, of course. But I think it has helped our relationship with Russia, and I think it has also helped to control the escape of and the misuse of some of those nuclear weapon capabilities. I want to recognize Senator LUGAR's past leadership in this area and thank him for working to get this Moscow Treaty ready.

I had occasion last year to go to Russia, to St. Petersburg and Moscow, with a delegation of Senators to meet with foreign policy leaders, defense leaders, members from the Duma, members of the Russian Federation Council, and the chairman of the foreign relations committee there in the Federation Council. It was very interesting and very informative.

I believe there is a growing opportunity for the United States to have a close working relationship with Russia. It has to be one of truths. It has to be one that covers the entire sphere of not only trusting each other when it comes to arms and treaties but also the economy and trade, foreign policy, and international issues such as the one we are working on right now.

We see today that the vote of Russia and what they do at the Security Council is going to be important as we prepare to deal with the situation in Iraq. So we need to have a growing relationship and friendship with this important country.

I think this treaty is a good one. It is one that certainly is timely.

Russia's transformation to a market economy still faces a number of challenges, obviously—its interests, and the people there. Also, the United States is working to get through problems. There are still problems we are trying to deal with. But our strategic relationship with Russia provides a strong foundation of cooperation on issues regarding nuclear weapons reduction and security.

Since 1992, the United States has spent over $3 billion in Cooperative Threat Reduction Program funds to help Russia dismantle nuclear weapons and ensure the security of its nuclear weapons, weapons-grade fissile material, and other weapons of mass destruction. This has been a very big program. It is one that I think has been very important.

In 1998, both countries agreed to share information upon detection of a ballistic missile launch anywhere in the world and to reduce each country's stockpile of weapons-grade plutonium. As Russia and the United States continue to reduce the stockpile, we must stay vigilant in our collective effort to ensure that weapons-grade nuclear materials stay under lock and key. It is easy to say, but it is not a question of just turning the lock. There has to be an ongoing effort, there has to be verification, and there has to be a lot of cooperation.

The Moscow treaty builds upon the spirit of cooperation between the United States and Russia. It serves the interests of both nations and both peoples, and makes the world a safer place. The treaty is just one element of a growing relationship between the U.S. and Russia that includes several new opportunities for cooperation including trade, energy, and economic development.

There has been some concern, noted by the opposition, that the Moscow Treaty is not substantive enough—that it is only 3 pages long—much shorter than the several hundred pages of the START treaty—that is doesn't deal with actual warheads. First, we need to recognize that the Moscow Treaty does not take the place of the START treaty. The Moscow Treaty is separate from the START treaty—the START treaty is still in full force and effect.

Perhaps more important than laying out comprehensive steps of reduction, these important three pages of the Moscow Treaty fundamentally approach Russia as a friend, not as an adversary. I believe that is a relationship that is going to grow and become more and more important in the years ahead.

This is a historic achievement. With the document we will be voting on in the next day or two, both the United States and Russia will be making a commitment to reduce the quantity of operationally deployed warheads. Undeniably, it is in the best interests of both of our countries to destroy as many warheads as possible. Both sides continue to be challenged by warhead destruction in any given year because it is a very complex process. It is not a matter of just using a bulldozer.

However, we must also not allow the complexity of the process to prevent us from our commitment to progress in this warhead reduction. Although not intended to be a detailed roadmap to accomplish that reduction, the Moscow Treaty lays out a high-level framework that is both workable and flexible.

I am greatly encouraged by the level of developing cooperation between the United States and Russia that is embodied in this treaty. I am encouraged by the prospect now of having exchanges between leaders of the Duma and the Federation Council and leaders of the House and the Senate. I think it is important that we have those ongoing relationships. Under the leadership of Senator LUGAR and Senator BIDEN, I believe we will see that continue to develop.

By bringing forth the ratification of this treaty, I think it makes good sense for our Nation. It is important for the future security of the world, and I think it will help our friendship grow so that we will have not an adversary, as we had for so many years, but a friend in Russia.

I wanted to come to the floor and endorse this treaty. I think it is an important signal of our feelings, and it is very important in a timely sense also.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, if it is agreeable to the managers of the bill, I would be pleased to address my remarks at this time to the important matter before the Senate—the treaty between the United States of America and the Russian Federation on Strategic Offensive Reduction.

I rise to express my strong support for the ratification of the treaty between the United States of America and the Russian Federation on Strategic Offensive Reduction, more commonly known as the Moscow Treaty.

In my career as a public servant, I have had a number of opportunities to work with the former Soviet Union and with the current Russian Federation.

I remember when I was Secretary of the Navy, I was asked to negotiate over a period of 2 years an executive agreement in the years 1970 to 1972 between the United States of America and the then Soviet Union. That executive agreement applied to the naval forces which I was privileged to be associated with at that time as Secretary of the Navy. It was a very important executive agreement. It is still in existence today. It has been used as a pattern for other nations for executive agreements between themselves and other countries. It related to how we operated our ships and aircraft in the international waters of the world—operated them in a manner that provided the maximum degree of safety to the vessel or aircraft itself and, of course, the crews who operated those platforms.

We had experienced, in those days, incidents not unlike the one provoked by North Korea just days ago—where one of our aircraft, on a routine mission, in international airspace, operating under clearances given by the international programmers of airspace—when we were broached upon, as we use that phrase in the military, by North Korea's fighter aircraft. And, indeed, that broaching took the form of actions that bordered on literally hostile actions, in my judgement. But time will settle out that event.

I just mention this chapter of history as showing my support for the people of Russia and the need for our two nations to work together. I still look upon Russia as a superpower, certainly in the arena of diplomacy, the arena of world economics. Indeed, I have profound respect for their armed forces today, even though those armed forces are somewhat significantly reduced in size.

But against that background, I remember so well a number of trips to the Soviet Union. I remember so well one with the distinguished senior Senator from West Virginia, ROBERT BYRD, when he put together a delegation. We were the first Members of Congress to meet with then-President Gorbachev. It was a momentous day for all of us, having traveled those long distances, and then waiting in the anteroom, and then being escorted in to see that figure of history, a very important figure of history for Russia. I have a lot of respect for President Gorbachev.

I remember another codel with Robert Dole, again, leader of the Senate, as was Senator BYRD. We went to visit President Yeltsin. At this time, I note, the delegations to visit President Putin certainly have not been large in number. I am not so sure that is for the good of our two nations. I would hope that Russia might look more favorably upon delegations of the Senate to come and visit with their leaders of today.

In any event, I commend Senators LUGAR and BIDEN for their leadership on this issue. It has been exemplary. I think this Chamber can take rightful pride in each of those individuals—one the former chairman and one, of course, Senator LUGAR, the current chairman of the distinguished Foreign Relations Committee.

I certainly commend President Bush for his vision and leadership in negotiating this treaty and establishing a new strategic relationship with Russia. It is truly remarkable how our country's relations with Russia have evolved and deepened over the past 2 years. Groundbreaking U.S.-Russian cooperation on the war on terrorism has been critical to our success in Afghanistan and more broadly in our efforts to root out terrorism and deny terrorist groups safe havens and access to money and destructive weapons.

On the subject of destructive weapons, the Nunn-Lugar program, I have had a strong interest and support for that program from the very day it was conceived. I remember Sam Nunn had a small breakfast and sat down. What an audacious concept. We stood there in awe, as the cold war was very much in evidence in those days. But I think the bold foresight of Senators Nunn and LUGAR to envision this program has reaped a great deal of mutual benefit for both nations and, indeed, perhaps the world at large, to further limit the proliferation of not only weapons of mass destruction but the materials by which those weapons are made.

Equally remarkable is President Bush's success in implementing the bold vision he set forth in his May 2001 speech at the National Defense University for a new strategic relationship with Russia. President Bush decided to move the U.S.-Russian relationship beyond the cold war not incrementally,

but in a bold leap. He articulated the controversial view that it would be possible to pursue a vigorous missile defense program to respond to the growing proliferation threats of the post-cold-war world, and at the same time dramatically reduce the numbers of nuclear weapons in the U.S. and Russian arsenals.

President Bush set out to break the cold war linkage of restraints on missile defense to reductions in nuclear weapons, and he did so in a way that caused no harm to U.S. relations with Russia. No harm—I would say, indeed, it brought about a strengthening of those relations. This was a remarkable accomplishment. There were many who thought it could not be done. But their fears proved unfounded. President Bush deserves our respect and admiration for leading the world out of its conventional cold war mindset.

Russian President Putin shares in that credit. He, too, exercised admirable vision and leadership when he understood and convinced doubters in his own country that U.S.-Russian relations had evolved to the point where the ABM Treaty was no longer critical to Russian security. Because the United States and Russia no longer threatened each other, the ABM Treaty was no longer a necessary linchpin in regulating what used to be a U.S.-Soviet nuclear arms race.

If I might just digress a minute, again, in my years of 1969 to 1974, being the Navy Secretary, and my early years in the Senate, when we experienced so many periods of tension with regard to the cold war, there was always an underlying theme, which I will describe as follows. I remember President Reagan used to say, ''Trust but verify''—a very magical phrase that captured the relationship between our two nations. But there was the feeling among the professional military who were responsible for these awesome weapons of mass destruction—and I think a feeling among those who negotiated, as did I in a very minor way on the Incidents at Sea Agreement—that the bottom line, the Russian Government, the Russian military were always there with a measure of prudent, sensible realization of these weapons, and there was an inherent responsibility in all of those individuals, both in Russia and in the United States, and their respective Governments, to exercise that judgment.

The concept of deterrence, the concept of massive retaliation always had the underlying theme that individuals had sound judgment as to any final decision, and that sound judgment would be exercised.

That is not true today with Saddam Hussein. We cannot find, in the history of his dictatorship over Iraq, that level of sensible responsibility as it relates to weapons of mass destruction. And I question whether that exists with North Korea today. I am not here to use any words of condemnation, but underlying the cold war period was that sense of some security with regard to the ability of those in possession of weapons to use good judgment, even in the times of the greatest of tensions.

President Bush's readiness to negotiate a legally binding nuclear reduction agreement was instrumental in persuading President Putin that the new strategic framework proposed by President Bush—including withdrawal from the ABM Treaty—would serve Russian interests. The result: A treaty that was negotiated in record-breaking time, will bring sweeping mutual reductions in deployed nuclear weapons, and will enhance the national security of both the United States and Russia.

The Moscow Treaty is unlike any treaty we have had before. It is the first arms control treaty to embrace the new Russian-U.S. strategic relationship. In negotiating this treaty, both sides consciously rejected the cold war mentality of distrust and hostility that previously had required lengthy negotiations and extensive legal structures and detailed verification regimes to ensure that both sides would abide by their treaty obligations.

This simplicity puts the focus where it belongs—quickly achieving deep, equitable reductions in deployed nuclear weapons.

This breakthrough treaty will reduce the United States and Russian nuclear arsenals from their present levels of approximately 6,000 strategic warheads to between 1,700 and 2,200 operationally deployed strategic nuclear warheads over the next decade. These reductions, which amount to about two-thirds of the warheads in the Russian-United States arsenals, are the most dramatic in the history of arms control agreements. Such reductions are clearly in our national security interest. Russia is no longer perceived, or in actuality, an enemy. Our strategic arsenals, swollen by the cold war, no longer need to be sustained at such high levels.

Another great strength of this treaty is the flexibility it accords our leaders to meet the uncertainties both in the international security environment and in the technological status of our nuclear stockpile. September 11 was a vivid reminder that we are vulnerable to attack in ways we never imagined. It is critical to our national security that our leaders retain the maximum flexibility to respond to emerging threats and changes on the world scene.

The witnesses who testified before the Senate Armed Services Committee during our committee's review of the military implications of the treaty unanimously supported ratification of the Moscow Treaty. General Myers, Chairman of the Joint Chiefs of Staff, stated:

> The members of the Joint Chiefs of Staff and I all support the Moscow Treaty. We believe it provides for the long-term security interests of our nation. We also believe that it preserves our flexibility in an uncertain strategic environment.

Throughout its history, the Senate Armed Services Committee has played a critical role in assessing the national security impact and military implications of arms control agreements negotiated by the executive branch. Based on the hearings conducted by the Armed Services Committee and subsequent analysis, I am convinced that the Moscow Treaty advances the national security interests of the United States and deserves the Senate's unqualified support.

I strongly urge my colleagues to join all of us in giving our advice and consent favorably to ratification of the Moscow Treaty.

Mr. President, I see others about to address the Senate. I am happy to yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Virginia, the senior Senator, who is a gentleman. The old saying is: ''He is a gentleman and a scholar.'' I have known him and worked with him, confided in him and with him for these many years. I cherish his friendship.

Mr. WARNER. Mr. President, will the Senator yield?

Mr. BYRD. Yes.

Mr. WARNER. I thank him for those remarks. I made reference to my distinguished colleague from West Virginia moments ago in addressing this treaty and recalled when he led a delegation of which I was privileged to be a member——

Mr. BYRD. Yes.

Mr. WARNER [continuing]. To meet with President Gorbachev. I remember that day as if it were yesterday.

Mr. BYRD. Yes.

Mr. WARNER. And President Gorbachev said, we have this amount of time. And you very graciously, as the leader of the delegation—Senator Thurmond was with us as well——

Mr. BYRD. Yes.

Mr. WARNER. Anyway, it was a brilliant dissertation between yourself and at that time President Gorbachev, and it was a historic meeting. I said on the floor moments ago, I only wish we could do more of that with President Putin because I felt those delegations—I went on two delegations to the Soviet Union with the distinguished senior Senator from West Virginia.

Mr. BYRD. The Senator is correct, yes.

Mr. WARNER. They were very meaningful and helpful.

Mr. BYRD. Yes. I believe on that occasion former Senator Sam Nunn was with us.

Mr. WARNER. Yes. The Senator from Rhode Island, Mr. Pell.

Mr. BYRD. Yes. And Senator Mitchell.

Mr. WARNER. Senator Mitchell, Senator SARBANES.

Mr. BYRD. Yes. It was a fine delegation.

Mr. WARNER. Yes, it was, but it was under your leadership. You were the first Member of Congress to go and meet with President Gorbachev.

Mr. BYRD. That was the first Senate delegation to go and meet with him, yes, it was.

Mr. WARNER. I thank my colleague.

Mr. BYRD. I thank the Senator for remembering that occasion.

NORTH KOREA

Mr. BYRD. Mr. President, while the United States continues its relentless march to war against Iraq, a crisis that is potentially far more perilous is rapidly unfolding halfway around the world on the Korean peninsula.

While Saddam Hussein hunkers down in Baghdad, under the thumb of the United Nations weapons inspectors, and is being forced to begin destroying some of his most prized missiles, North Korean leader Kim Jong II is aggressively taunting the United States and moving full speed ahead toward restarting his nuclear weapons program.

Over this past weekend, the North Koreans took their defiance and contempt of the United States to a new level when four North Korean fighter jets intercepted an unarmed U.S. reconnaissance plane in international airspace over the Sea of Japan.

According to news reports, the armed North Korean jets came within 50 feet of the American plane and shadowed it for 22 minutes. Initial reports suggest that one of the North Korean pilots may have engaged his radar in preparation for firing an air-to-air missile moments before the U.S. aircraft aborted its mission and returned safely to its home base in Kadena, Japan.

This latest action by North Korea is a marked escalation of the recent tensions between the U.S. and North Korea. Not since it shot down an unarmed U.S. surveillance plane in 1969—more than 30 years ago—has North Korea engaged in aerial confrontation with the United States. That last weekend's provocation by the North Koreans ended without incident is a relief, but it is not a reprieve from concern. Given the hostility and volatility of the North Korean government, this latest confrontation could easily have ended in disaster—a major disaster.

The White House branded North Korea's actions as ''reckless behavior,'' and the Pentagon promptly dispatched 24 long-range bombers to Guam in a move that was seen by some as a not-so-subtle warning to Kim Jong Il that a military response to North Korea's increasing bellicosity is not outside the realm of possibility. But the President has given no indication that he is willing to address the North Korean crisis head-on by engaging North Korea diplomatically in an effort to defuse tensions. To the contrary, the White House appears determined to continue to proceed in its no-talk policy toward North Korea while it focuses the vast weight of its energy and resources on preparing for war with Iraq.

I am increasingly alarmed that this administration's military and diplomatic fixation on waging war with Iraq is serving to overshadow and possibly eclipse the mounting crisis in North Korea.

Benign neglect is a dangerous policy to apply to North Korea. The nation is isolated and its people are starving. Kim Jong Il is hostile, erratic, and desperate for cash. He is also armed and heavily fortified. In open testimony before the Senate Armed Services Committee on February 12, CIA Director George Tenet noted that ''the United States faces a near-term ICBM (Intercontinental Ballistic Missile) threat from North Korea.''

According to intelligence estimates, North Korea already has one to two nuclear weapons and continues to develop the Taepo Dong-2 missile, which has the capability of reaching the United States with a nuclear-weapon-sized payload.

Recent relations between the United States and North Korea were far from good to begin with, but since October, when it was revealed that North Korea had a secret program to produce enriched uranium, the resulting nuclear standoff between the United States and North Korea has gone from bad to worse.

In a period of just over 4 months, North Korea has moved swiftly and boldly to take the necessary steps to resume the production of nuclear weapons. Following the disclosure of its covert nuclear program in October, North Korea in December expelled U.N. inspectors from its nuclear facilities at Yongbyon, removed U.N. monitoring seals and cameras, and announced it would reactivate the facilities. In January, a month before last, North Korea announced its withdrawal from the Nuclear Non-Proliferation Treaty and appeared to begin moving its stockpile of nuclear fuel rods out of storage. Just last week, on February 27, American intelligence sources concluded that North Korea had, indeed, reactivated the Yongbyon facility. The significance of starting up the reactor is that it could, over time, provide a continuing source of plutonium for nuclear weapons, which North Korea could either stockpile or sell. If North Korea also begins reprocessing its nuclear fuel rods, some U.S. intelligence officials have concluded that it could begin producing bomb-grade plutonium within a matter of weeks, a process that could yield enough plutonium for five to seven bombs by this summer.

In other words, North Korea could begin grinding out the essential components of nuclear weapons for its own use or for sale to the highest bidder even before the first volley is fired in Iraq.

At the same time that it has been ratcheting up its nuclear activity, North Korea has also been ratcheting up its rhetoric and its military saber-rattling. In February, a North Korean MiG fighter jet crossed briefly into South Korean air space for the first time in 20 years. On February 24, North Korea rattled the inauguration of South Korea's new president by test firing an anti-ship missile into the sea. Earlier, North Korea threatened to abandon the armistice that ended the Korean War.

And just this week on March 3, Kim Jong Il warned that nuclear war could break out if the U.S. Government attacks North Korea's nuclear program, while President Bush explicitly raised the possibility of using military force against North Korea as a ''last resort'' if diplomacy fails.

The pattern of increasingly hostile words and actions on the part of North Korea, coupled with the moves it appears to be taking toward building up its nuclear arsenal, make North Korea one of the most volatile and dangerous spots on Earth today. The Bush Administration's inattention to the problem and its unwillingness to engage in diplomacy with North Korea are only exacerbating an already precarious situation.

Under the circumstances, North Korea presents a far more imminent threat than Iraq to the security of the United States. It is ironic that the President has made it clear that a military response to the crisis in North Korea would be considered only as a last resort at the same time that he is massing forces in the Persian Gulf region to launch a preemptive military strike, possibly within a matter of weeks, if not days, against a much less potent threat to the United States.

What is particularly frustrating is that the North Korean crisis might never have reached the proportions it has reached had President Bush taken a different tack with respect to North Korea when he came into office. Today's nuclear standoff with North Korea is, in many ways, a replay of a similar crisis in 1994, when North Korea pushed the envelope on its nuclear program, nearly precipitating a military response from the United States. That crisis was resolved when the Clinton administration reached an agreement, called the Agreed Framework, to freeze nuclear production in North Korea in exchange for fuel oil and light-water reactors. Unfortunately, when he took office, President Bush put relations with North Korea in the deep freeze by heaping suspicion and disdain on the North Korean Government, branding Kim Jong Il a ''pygmy'' and including North Korea in the ''axis of evil.''

Even so, the current crisis might well have been defused weeks ago, before the two leaders started exchanging threats of war, had the United States agreed to talk directly to North Korea, as our allies in the region have been pleading with us to do. Instead, the administration drew a line in the sand, insisting that the United States would not be blackmailed into one-on-one talks with North Korea. As a result, the Americans and the North Koreans have been talking past one another for the past 4 months, and the progress has been all downhill.

It has come to the point that, whether by accident or design, the situation in North Korea could rapidly disintegrate from a war of words and gestures

into a war of bullets and bombs perhaps even nuclear bombs. As it stands now, North Korea has shown no evidence that it is willing to back down from its nuclear confrontation with the United States, and the United States has shown no evidence that it is willing to talk to North Korea.

Stalemate and neglect are not effective tools of foreign policy. Wishful thinking is not an effective tool of foreign policy. The situation in North Korea is a crisis, and the United States must come to grips with it. We must open a dialog with North Korea.

To ignore the peril presented by North Korea and its nuclear ambitions is to court—to court—disaster.

Frankly, the longer the United States procrastinates and lets North Korea set the agenda, the harder it will be to deal with the situation diplomatically. If we do not act quickly, we may inadvertently paint ourselves into a corner as we have done in Iraq.

It does not have to be that way. It is time for both nations to stop posturing and start talking. It is time for the United States to deal with the crisis in North Korea. I call on this administration to address the growing peril in North Korea, and to fully engage in a diplomatic effort to resolve what may well become an international problem of epic proportions. We can, and must, be firm, but we cannot remain aloof. We can, and should, insist that other nations with a stake in the future of North Korea be at the table, including China, Russia, Japan, and South Korea, but we can wait no longer for those nations to take the lead.

The situation in North Korea is serious, but it is not yet desperate. The window to initiate diplomacy is not yet closed, but the longer the United States drags its feet, the narrower that window becomes. It is time to start talking to the North Koreans. If the United States takes the lead, our allies in the region are likely to follow. But it is the United States that must lead the way. The only practical way to solve the crisis in North Korea, before it erupts into chaos, is with patience, skill, and determination at the negotiating table. Let us begin now, before it is too late.

Mr. WARNER. Mr. President, will the Senator entertain a question?

Mr. BYRD. I would be glad to.

Mr. WARNER. Mr. President, over my years in the Senate, I have had the privilege many times of working with my distinguished colleague. I have listened very carefully to his remarks. The bulk of the facts the Senator relates with regard to how North Korea has violated the framework agreement are accurate. I think his assessment of the potential threat as to how they address the serious issue of nuclear weapons is correct. But I respectfully say I believe this administration has been pursuing a policy—now my colleague may differ—of diplomacy to resolve this dispute. Our President recognizes the seriousness.

As the Senator said, the bombers were promptly dispatched. My understanding was that that mission of those bombers had been in the planning for some time and, coincidentally, they were dispatched right after the eve of this very serious incident by which the hostile aircraft broached our unarmed aircraft. The Senator was dead accurate in his characterization of that serious incident.

The point I wish to make is that I think our President has taken the correct tack at this time in diplomacy of saying that there may come a time in the future on bilateral talks, but at this juncture of this serious situation—and our President fully recognizes and I think shares with my colleague from West Virginia the seriousness of it—the multilateral approach; namely, that the talk should initiate with a table at which Russia, of course, South Korea, Japan, and China are there to participate. That is the way this administration quite appropriately desires to approach it.

I believe Secretary of State Powell, in his most recent trip to the region not more than 10 days to 2 weeks ago, clearly said that out of that multilateral approach could evolve the situation whereby bilateral talks between the United States and North Korea would follow.

Am I correct in my summary of how the President is approaching this? The Senator may have differences with it, but at least for the basis of our debate, I think I am correct.

Mr. BYRD. I think the Senator is correct.

Mr. WARNER. We have clearly not had the opportunity to fully exhaust the potential of a preliminary round of multinational talks such that these nations believe they are a partner with the United States. Now we may take the lead, but so often our Nation is criticized that we are the ones who are saying, you do this, you do that. Rather, in this crisis I think our country is saying that we want to work together with other nations as partners in addressing this issue before the possibility of bilateral talks.

Mr. BYRD. I think that is a good approach normally, if there is time and if there is an indication that those other nations are going to take that lead. That is one thing. But there is not time here. There is not the indication that the other nations are going to take that lead.

So I say we need to act more expeditiously. I do not think we can afford to wait. This is a crisis that is developing, and developing quickly, and there is every indication that if we continue to wait, Kim Jong Il is going to take additional steps. I understand he may have one or two nuclear weapons now, and he is fast getting into the position where he will be able to manufacture a weapon a month and then faster. We do not have the luxury of waiting until these other nations finally decide they want to do this.

They seem to be reluctant. They have not shown any dexterity in moving in to fill this void up to now. I do not think we can afford to wait.

In addition, yes, other nations have thought we acted too fast. They have done that in spades with respect to Iraq. We have gone hellbent into that. It seems the President has been determined to conduct a war in Iraq from the beginning almost. I would say as far back as last August he had said there were no plans. That was the response we received from all of the people in the administration. I know once before the Appropriations Committee, Secretary of State Powell, in answer to a question from me, said: There are no plans.

The administration and its functionaries must have taken Members of Congress as fools when the administration continued to at that time say, well, the President has no plans. Anybody could see through that. He may not have plans today. He may not have plans on his desk. That was the way it was phrased: He had no plans on his desk. It takes only a fool not to be able to see through that. Perhaps he does not have plans on his desk, but there may be plans on some other desk somewhere that the President knows about, or the President may have plans tomorrow. He is certainly not immune to knowledge of what is going on all around him. After all, he is the Commander in Chief, the top man in the executive branch; he is supposed to know what is going on.

So while we were fed that line by the administration, they simply did not want to tell us, and they do not want to tell us yet. It is not that they do not want to—that other nations have a right to complain about this administration moving pellmell into a situation without waiting for other nations, without wanting to wait for other nations. Not only that, but the administration treats us the same way in the Congress.

The administration does not want to tell us what the cost of this was is going to be. They say it is such a range of costs that it might change from day to day. They do not want to say what it will be now because, who knows, maybe tomorrow it will be different. Well, of course, that is to be expected. But I think the administration ought to be honest, upfront, and sincere with the elected representatives of the people in Congress, and say now this is the situation today, Senator, as we see it. We think the range would be somewhere between A and B. That can change, Senator. Mr. Chairman, that can change. It can change tomorrow. But as of today, we cannot pinpoint the exact figure, but it would appear that it would be thus and so.

Now, if the war lasts longer than a week, lasts longer than 2 weeks, 10 days, or 3 weeks, it may cost more. Of course, if we win the war, and win it quickly, it will not cost much. But then there is the problem of the morning after. What is the cost going to be

in helping to rebuild Iraq? If we are going to be responsible for destroying a great portion of it, we have a responsibility of rebuilding it. So, the cost would be, the estimate would be, thus and so.

If the administration would come before the Appropriations Committee and address it like that—we understand that any administration would find it difficult; it would be impossible to be sure as to what the costs would be. But if an administration sits down with the congressional committee and says: Here is the situation; we estimate it to be thus and so, because we think the war will not last more than a week, or 10 days, or 2 weeks, or a month; if it lasts longer, it will cost more—that is being honest and forthright with the elected representatives of the people. We understand that. We were not born yesterday. But to just say, ''We do not know exactly,'' what does the administration think that Members of Congress are fools?

We can see all that. We know all that. We know these things are difficult to figure. But when we also know that estimates are being kicked around internally, we believe we are entitled, on behalf of the people, to know what those estimates are.

Mr. WARNER. Mr. President, if I might reply to my good friend, first on the issue of diplomacy, I do believe our President has worked very hard with the Prime Minister of Great Britain and other heads of state of the nations willing to proceed on the diplomatic route.

Today we had a speech by the Secretary of State. I don't know if my colleagues had an opportunity to read it as I have. But it clearly says we are on a diplomatic course. No decision has been made to go to war.

What little success the diplomats have had to date—and I frankly think Resolution 1441 was a high water mark of this whole controversy—is owing to the fact that this President had the courage to put our troops in forward deployments to back up the words of the diplomats and to send a signal to Saddam Hussein and others that we have a commitment to those men and women there, 200,000 of them in that gulf region. I visited the gulf region just 10 days ago. They are there as a symbol of our commitment to make diplomacy work.

I recognize the Senator and I were with Secretary of Defense Rumsfeld the other day when my good friend from West Virginia expressed, as he has done now, the question of cost estimates. But the Secretary of Defense said he believed at this time he could not give those projections which would enable, I think, some very serious and finite parameters to be established.

My good friend might recall President Clinton one time—I am not here to be political—said about the Balkans, we would be home in a year. I think the Senator remembers that because he and I collaborated on an amendment to require the other nations to come forward with their allocation of commitments to try to resolve some of the problems in that region. I remember we stood toe to toe on that.

Here we are, 8 years later, and we are still in the Balkans with a not insignificant force. We have learned from that and experienced the need to exercise caution with regard to the questions of casualities. How well I remember being in the Chamber in 1991. The projected casualities we might encounter in the gulf war of 1991 were in the estimates of the tens of thousands. We thank the dear Lord that it did not in any way near approach that amount, although this country did lose brave soldiers, sailors, and airmen, and experienced the wounding of others in that very important conflict.

The better side of prudence is being demonstrated here by the President and his Secretaries who are entrusted with dealing with the Congress. I printed in the RECORD earlier today, I say to my good friend, a recitation of a number of hearings the Senate Armed Services Committee, on which I am privileged to say my colleague serves, has conducted. That committee has, in connection with our debates on Iraq, held a number of briefings and so forth, in which I have been in attendance, on Iraq. Those are helpful for the public in its important debate now, and which I respect the diversity of opinions on Iraq, as I respect the opinions of my colleague from West Virginia. Nevertheless, I think our Senate has taken a constructive role in addressing that conflict.

Mr. BYRD. I thank the Senator.

I think we are going pretty far from the subject that I started out with today. I was talking about the fact that we are not paying the kind of attention that should be paid; we are not addressing the real crisis that is developing. We are not looking at the real peril that is facing this country; namely, North Korea. We are being distracted by the developing situation in Iraq, which, as far as I am concerned, does not present to this country anything near the peril, the danger, that we are confronted with in North Korea.

Now, if the distinguished Senator wishes to engage in a freewheeling debate on the whole subject matter, fine, we will do that another day. But I am addressing the Senate on the need to open talks with North Korea and not wait for other nations to take the lead. We need to take the lead ourselves. Every day counts. Every 24 hours counts. We are already seeing this situation advance quickly. As long as Kim Jong II thinks we are going to be distracted with Iraq, he is likely to take further advantage of the situation. That is the issue I am addressing.

Mr. WARNER. I thank the Senator. We did start out on that subject, but I wished to make reference to other statements the Senator made.

Going back to the question of Korea, I think your concerns are important, as are mine. I simply say I think our President is vigorously trying to exercise leadership in world diplomacy with a multilateral approach with the nations of Russia, China, South Korea, and Japan at this point, and I have not read into any of the statements or actions that would say that after the full exploration of the multilateral approach, hopefully participation by those nations as partners, possibly of a bilateral approach—indeed, the Secretary of State has made an offering of food to care for the tragic situation of starvation in the North Korean section of that peninsula.

Mr. BYRD. Mr. President, I say to my friend, I hope the President will display this kind of desire to engage in multilateralism more so than he has with respect to Iraq. This is the approach I favored all along. We should get the United Nations, be sure the opinion of the world is with us in Iraq, and get the support of the United Nations.

I have a resolution I introduced some time ago urging we seek a second U.N. resolution. If the President would show more interest in a multilateral approach to that situation, I think many would feel better. I recall his saying, I think, to the U.N.: If you don't do it, we will. If the U.N. doesn't do this, I will—or we will.

That kind of an attitude has not been to my liking, certainly, and it does not show enough concern about the opinions of other nations, and it does not show enough desire to have the support of other nations. But this President is determined, apparently, to have a war in Iraq, even if he has to go it alone. That has been the impression I received thus far. When he says to the U.N., if you don't do it, I will, or we will, that doesn't show any great inclination to wait on other nations to help join in that situation.

Mr. WARNER. Mr. President, I think we have somewhat debated this issue. I believe the President has made strong overtures to the international community. Certainly he gave a brilliant speech in the U.N. He is working within the Security Council. Our Secretary of State has addressed the issue today. Perhaps at another time I would very much be privileged to engage our distinguished colleague in a debate on the subject. I thank my colleague.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I think we certainly need, more and more, to debate this situation. I think we have not debated it enough. I believe that where we missed the boat was last fall when this Congress turned over to the executive branch the authority, by a resolution, virtually to declare war. I think Congress was wrong in doing that. I voted against that resolution. I am proud of the vote that I cast at that point. I think Congress, under the Constitution, has the authority to declare war, and I think we shift aside our responsibilities and our duties under the Constitution when we attempt to shift

that duty and that responsibility and that authority over to the Chief Executive of the United States.

The time for debate was then. It is not too late to debate it now. I have been attempting to say a good bit from time to time on this matter, and will continue to, if we have much time left. But time is closing in on us, as I see our troops massing on the borders of Iraq. I don't think there is much time left to debate. But as long as that time remains, I think we ought to utilize it. We ought to tell the American people what their losses are going to be and what the cost is going to be to them.

That is where I think the administration is falling down. It ought to let the American people know the sacrifices they may have to make and what the cost of this war is going to be in terms of money, in terms of lives, and in terms of our image before the world—what it is costing us there. So let's have more from the administration on this point.

Mr. WARNER. Mr. President, if I might say in conclusion, to those who perhaps take views different from I and others, I hope that debate would include very clearly a message to Saddam Hussein in Iraq that his lack of cooperation is the root cause of the problem today.

So I thank my colleague for this opportunity. Maybe at a later date we can get into a further discussion.

Mr. BYRD. Of course there are always two sides to issues. Preston County, WV, is a great buckwheat flour-growing area. They make fine buckwheat cakes. But there is no buckwheat cake so thin that there isn't two sides to it. So there are two sides.

It seems to me we have just been recreant in not telling the American people what this is going to cost. I have a feeling they don't know very much, from the lack of debate that has gone forward, and from the fact that this administration has not come forward with the facts and told the American people what the cost may be to them. And all the while we see our young men and women being shipped out, as the National Guard goes forth and takes our schoolteachers, our policemen, our firefighters, our lawyers, and our churchmen. It takes people from all walks of life and sends them overseas—for how long we do not know. We don't know. They don't know what the duration will be. They don't know whether they will come back, of course. And I am sure their salaries are suffering when they go over as National Guardsmen.

The people are entitled to know more than this administration has been willing to tell them. So I hope the Senator will join me in urging the administration to come forward with the facts and tell the American people, his constituents and mine, what they may have to pay.

Mr. WARNER. Mr. President, I share those concerns. My State has likewise contributed many reservists and guardsmen. As a matter of fact, I have been working with colleagues today on a question relating to that.

Were it not for the sacrifices of those individuals, the reservists, active duty, and many others, we would not be where we are trying to solve this problem diplomatically.

Say what you want about this President, I have seen a measure of courage in this fine man that I have not seen in others. He has all along said: The buck stops on my desk, and I accept responsibility.

I thank my colleague.

Mr. BYRD. I say to the Senator, courage is fine. I don't think the President lacks courage. Nobody is questioning his courage. But whether he has wisdom or vision or exercises good judgment along with courage is something else. I am simply saying this administration has not been forthright with the American people and has not been forthright with the Congress. We can debate that as long as you wish, but that is the way I see it. At some future time, if the distinguished Senator wishes to debate that, I will be happy to accommodate him.

Mr. WARNER. Mr. President, I accept that challenge. I thank my friend.

Mr. BYRD. I thank the Senator.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. AKAKA. Mr. President, I ask unanimous consent to speak for 10 minutes.

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

Mr. AKAKA. Mr. President, I acknowledge my friend, the chairman of the Foreign Relations Committee, Senator LUGAR, who is in the Chamber.

Today the Senate is engaged in an important and historic debate on the Moscow Treaty. President Bush and President Putin signed the Moscow Treaty on May 24, 2002, to limit strategic offensive nuclear weapons. Unlike arms control treaties of the past, this treaty does not include definitions of terms, counting rules, elimination procedures, or monitoring and verification provisions—all conditions considered in the past as essential to an effective agreement. As President Reagan once said, ''trust but verify.''

The administration believes that the lack of these features is an asset and indicative of a new age in American-Russian relations. In the words of President Bush, it is time that the United States ''complete the work of changing our relationship from one based on nuclear balance of terror to one based on common responsibilities and common interests.''

The treaty reflects American and Russian intent to reduce strategic nuclear warheads to between 1,700 to 2,200 by December 31, 2012. Each party is free to define for itself its ''strategic nuclear warheads'' and to determine how to reduce them. The treaty does not provide for the destruction of warheads or delivery systems. Nor does it place any restrictions on either party's force structure over the next ten years. Both sides can keep warheads for testing, spare parts, and possible redeployment.

The administration plans to meet treaty requirements by moving an undefined number of warheads to a reserved force, some to storage, and dismantling others. The Russians will make similar force structure changes. Russia intends to continue to reduce weapon platforms and warhead levels and dismantle weapon systems with U.S. assistance under the important Nunn-Lugar Cooperative Threat Reduction Program.

However, the Moscow Treaty leaves many issues unresolved and many questions unanswered. For example, Article I of the treaty specifies that each party shall ''determine for itself the composition and structure of its strategic offensive arms.''

The United States has defined this to be ''operationally deployed strategic nuclear warheads,'' and has defined operationally deployed to mean ''reentry vehicles on intercontinental ballistic missiles in their launchers, reentry vehicles on submarine-launched ballistic missiles in their launchers onboard submarines, and nuclear armaments loaded on heavy bombers or stored in weapons storage areas of heavy bomber bases.''

Congress will have to wait to see how many warheads are destroyed and stored. Likewise, we will have to wait to see how Russia defines ''strategic offensive arms.'' Russia may move to redeploy multiple independently-targetable reentry vehicles, or MIRVs.

Article II of the treaty states that the Strategic Arms Reduction Treaty, START, will remain in force. During the signing of the Joint Declaration, Presidents Bush and Putin stated that the provisions of START ''will provide the foundation for providing confidence, transparency, and predictability in further strategic offensive reductions.''

But START expires in 2009. If START is not extended, we do not know how the parties will provide confidence and transparency between 2009 and 2012.

Article III of the treaty establishes a Bilateral Implementation Commission but does not establish guidelines, procedures, or even responsibilities of the Commission. We do not know if the Commission will focus on monitoring and verification of agreed reductions.

When President Bush signed the Moscow Treaty nearly a year ago, he assured the American people that he would continue to work on a separate political declaration that would create a strategic framework for the United States and Russia.

This document was to be broader in scope and would address other security and arms control issues aside from strategic reduction, including non-proliferation, counter-proliferation, anti-terrorism, and missile defenses. We have yet to receive that document.

We need a better vision and a better strategy of how to make America safer and more secure from attack with weapons of mass destruction.

I fear that the President is moving us toward a world of greater insecurity besieged by fears of nuclear weapons proliferation. Today's Washington Post indicates that the administration is willing to accept a North Korea with nuclear weapons. This is astounding, and, if true, threatens stability in northeast Asia. In addition, the administration has sought funding for new battlefield nuclear weapons that are more ''useable.''

Until now, U.S. non-proliferation policy has been based on reducing the number of nuclear weapons states, controlling the spread of nuclear weapons technology, and eliminating nuclear weapons. We need to prevent the spread of weapons of mass destruction and establish with the rest of the world a system that deters both countries and terrorist groups from gaining access to these dangerous technologies.

The resolution intended to be introduced by Senator DASCHLE and others, which I am proud to cosponsor, lays out the type of comprehensive non-proliferation policy that we need to make the world a safer place for future generations. I urge my colleagues to support it, and I urge the administration to adopt its recommendations.

Mr. President, I yield the floor, and 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. NELSON of Florida. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, I rise today to address the Senate on the treaty being considered for ratification, the Moscow Treaty. I want to praise the hard work of our chairman, Senator LUGAR, and the ranking member, Senator BIDEN, and their staffs, for the diligent efforts on this treaty. Their hard work on this treaty will ultimately enhance U.S. security.

This treaty describes what both the United States and Russia hope to do in a new era, and that is to reduce our respective strategic offensive nuclear weapons stockpile and to reduce it quite dramatically. Considering how strategic nuclear weapons policy has changed since the time I first came to Capitol Hill, to the House of Representatives, way back in 1978, this new Moscow Treaty is a significant accomplishment but one that failed to maximize the opportunity to provide the world with the real destruction of weapons. It is clearly a major step in the right direction, but I do not think it has gone far enough.

During this debate today, we have heard about the weaknesses of this treaty, and there are some. I regret, for example, that the treaty merely dealerts nuclear weapons. It does not require their destruction.

The treaty also is weak in its timetable for reaching the lowering of the target inventories, the inventories of warheads on top of the ICBMs. The treaty brings the target down from multiples of thousands to a range between 1,700 and 2,200 weapons. But it does not offer a specific timetable for how that will occur over these next several years. I believe we can remove these weapons more rapidly, and I hope the administration will do so.

I also regret the treaty does not address tactical nuclear weapons, nor does it include verification procedures beyond those of the START I treaty.

I remember when I was in the House of Representatives at the time President Reagan was President, he kept saying over and over: ''Trust but verify.'' I think we could have some more of that in this treaty.

Despite all of those weaknesses, reductions in our strategic offensive weapons are appropriate, and are a major step in the right direction. Our relationship with Russia has evolved into an important partnership, and we hope that partnership is going to be strengthened. As we continue to move in this century to develop a relationship under the premise that Russia is not an enemy, then that is a step in the right direction.

The Presiding Officer is from the South. I am from the South. We are accustomed to seeing two strange dogs approach each other. They are very leery of each other. And pretty soon they are sniffing around each other, and pretty soon those dogs decide it is OK, they can be friends. So as we start sniffing around with this former adversary, one that we hope will be a future solid partner, we must work to build mutual trust so our nations can cooperate on other important issues of common concern to our collective security, such as fighting terrorism, and such as economic reform and development.

Clearly, one of the areas we have had a very cooperative relationship in is our respective space programs.

I will never forget in the midst of the cold war there was a little bit of thought when an American astronaut crew rendezvoused and docked with a Soviet crew of cosmonauts. They lived together in space for 9 days in the Apollo-Soyuz historic mission of 1975. That started the contacts between our two space programs. That ultimately led to the joint venture we have now where the Russians are a partner of ours and they are helping us. They are our partner as we build the International Space Station. By virtue of this recent tragedy with the Space Shuttle *Columbia*, the way we can save those three humans on board should we not be able to get another space shuttle to the space station is the fact that there is a former Soviet—now Russian—spacecraft, Soyuz, that is docked to the International Space Station that can bring that crew of two Americans and one Russian home if they need to.

This relationship with Russia has extended to NATO. We look forward to cooperating with Russia on issues affecting the security of Europe and our allies. But there is one area in which the United States can provide assistance to Russia while enhancing U.S. security. In this context of the Moscow Treaty, this is critically important. Earlier today Senator BIDEN said we must continue to move forward and provide adequate funding to the Nunn-Lugar Cooperative Threat Reduction program and related nonproliferation programs in the Departments of Energy and State.

These programs collectively facilitate the destruction of nuclear weapons. They bolster the security of the facilities containing weapons-usable and fissile material. And these programs provide for retraining of scientists.

These programs are very valuable. Yet they have not been adequately funded. This administration has not come forward with the adequate request for funding for the Nunn-Lugar cooperative threat reduction program.

I will tell you, there is no one I have a greater respect for than my chairman of the Foreign Relations Committee, Senator DICK LUGAR. I think he will tell you the same thing. The spread of nuclear weapons and associated materials is a real threat. It is one particularly evident as we weigh the options available to us to deal with so many of the threats around the globe. Look at North Korea. It is one of those threats.

We must provide resources to these programs to try to stop the spread and the proliferation of nuclear materials because they enhance our security by ensuring the adequate disposal of these weapons and their fissile material.

Certainly now when we are engaged in this war against terrorists, when we are trying to prevent al-Qaida sympathizers and other terrorists from acquiring such deadly weapons, we should not lack in any resources.

I again make a pitch to my colleagues in the Senate to adequately fund the Nunn-Lugar cooperative threat reduction program.

These programs were evaluated in a report released in January 2001 by our former colleague and now the Ambassador to Japan—Howard Baker from the State of the Presiding Officer—and his partner in that report, Lloyd Cutler. Their report clearly said these threat reduction programs are being underfunded. They call the proliferation of weapons of mass destruction

and weapons-usable material to be ''the most urgent unmet national security threat to the United States today.''

That is what Howard Baker and Lloyd Cutler said in their report to the Congress in 2001.

That report was before an agreement was reached on the Moscow Treaty for reducing our nuclear arsenals.

Now with so many new nuclear weapons coming out of service, we must consider significant action to reduce proliferation to ensure that the American people and our friends and allies around the world will be safe. The most obvious way is to bolster the Nunn-Lugar programs.

I want to also speak on the subject of nuclear weapons, and I want to mention North Korea.

I was very troubled to see the report that the Bush administration is slowly accepting North Korea's status as a nuclear power. This is an unconscionable abdication of leadership by this administration. North Korea has taken provocative steps. I don't know why we weren't raising Cain—I mean shaking the rafters—when those fighter aircraft buzzed our observation aircraft—our surveillance aircraft—just 2 days ago. North Korea has taken some very provocative steps hostile to the United States.

It is likely they already have, according to our estimates, between one and three nuclear weapons because North Korea cheated on several international and bilateral agreements over the past decade. Since that time, they have renounced the Nuclear Non-Proliferation Treaty. They have renounced the International Atomic Energy Agency and their monitors who were there present by international agreements. They have renounced the 1994 Agreed Framework with the United States. They have been moving spent fuel rods to a reprocessing plant. Then, of course, this inexcusable incident with fighter jets to harass a U.S. reconnaissance flight in international airspace.

Now, lo and behold, the President of North Korea is overtly threatening a nuclear war if the United States leads any effort to isolate them.

With all of this belligerence, we have to have a plan. I would suggest that the Bush administration start working to diplomatically sit down with North Korea to start reducing tensions. We cannot and must not allow the North Koreans to develop an effective nuclear weapons arsenal.

A year ago, the President, in his State of the Union Address, referred to North Korea as an ''Axis of Evil.'' Does he think that they are evil? I think he does. Do I think that they are evil? I certainly do.

But is this the best way, diplomatically, to approach someone that we are trying to contain from becoming a nuclear power? We want them to stop their brutal actions against their own population, and we want to stop their proliferating technologies relating to weapons of mass destruction.

So in that regard, the President was correct. But we have started to see what the consequences of that speech are. Instead of, as Theodore Roosevelt would say, ''speaking softly and carrying a big stick,'' the President made a judgment to speak harshly. And I want to know, where is the policy to back it up?

This pronouncement did not cause the North Koreans to begin bad behavior and cheat on their agreements with the U.S. and the international community, but it did embolden them to harden their position and to spurn the international community and begin in earnest to openly pursue more nuclear weapons. This is now the situation in which we find ourselves. And we have to get out of it.

I want this administration to have success because I think North Korea, with, a short way behind them, the country of Iran, poses the next major threat behind the threat that we are engaged in, which is, the war against terrorists.

I think the United States needs some clear action. U.S. leadership is needed to get the world's declared nuclear powers to work together through the United Nations Security Council on a common response to the danger, not only in North Korea, but in Iran as well. If we fail to do so, the nightmare scenario of North Korea selling its nuclear weapons to terrorist groups and other rogue states, even their enriched uranium that they are trying to produce, all of that could become a reality. That is not good for anybody on planet Earth.

I believe we ought to approach a policy where we must make North Korea understand that building an arsenal of nuclear weapons will not be tolerated and that all options to combat this threat, including the military options, have to be on the table. At the same time, we must work to form a viable regional solution with China and Russia and Japan and South Korea, but not to the exclusion of bilateral dialog with North Korea.

I think all of us here are disappointed that China did not respond favorably to Secretary of State Colin Powell's recent appeals for assistance and involvement during his recent trip there. China, and other members of the Security Council, have a lot at stake. They must live up to their commitments of trying to prevent nuclear proliferation.

No policy that we pursue can possibly work unless it is carried out in concert with key countries. But we are getting to the point that we cannot wait. We are going to have to devise workable policy options that the United States and North Korea may take to de-escalate this situation.

So I call upon our colleagues here and our friends in the administration to begin a dialog with North Korea immediately. Each day that passes is a day that the danger notches up one more level.

Again, I thank Senators LUGAR and BIDEN for their strong leadership on these critical security issues facing our Nation. I thank them for their sponsorship of this Moscow Treaty. I will support the Moscow Treaty on the final result at the end of the day when we pass it. It is clearly in the interests of the United States. Indeed, it is in the interests of planet Earth.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate now return to legislative session and that it proceed to a period for morning business.

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

TRIBUTE TO RETIRING SERGEANT AT ARMS ALFONSO LENHARDT

Mr. BENNETT. Mr. President, the Democratic leader took to the floor recently to pay tribute to the retiring Sergeant at Arms, GEN Al Lenhardt.

I used to chair the Committee on Legislative Branch Appropriations, in which circumstance I had continual contact with the Office of the Sergeant at Arms. When I became the ranking member of that subcommittee was when Al Lenhardt was hired as the Senate Sergeant at Arms. I can report to my fellow Senators that he had no partisanship at all in the way he discharged his duties.

It was within a matter of days after he was sworn in as Sergeant at Arms that September 11 hit. His baptism into the procedures of the Senate was handling the disaster of September 11 and trying to work out security for the Senators, and then to handle security as we traveled to Ground Zero in New York. Since that time, he has been faced with the challenge of making the Capitol as secure as possible.

As he moves on to his next assignment, I want to make it clear that I, too, salute him for the service he has performed for the Senate. He has handled himself in a very professional way. He has done very significant things to make this building safer, things that most Senators do not see.

By virtue of my position on that subcommittee, I was privileged to be in a confidential, classified briefing, as he outlined for us the actions that have been taken to make this building safe.

Indeed, I now take some comfort out of the fact that if there is a biological or chemical attack on Capitol Hill, this building is the safest place to be of any place on Capitol Hill. And that is a tribute to the patriotism, professionalism, and service of Al Lenhardt.

So I join with my friends on the Democratic side of the aisle, and the Democratic leader, who chose him for that position, in wishing him the very

best in his professional service here forward.

Mr. REID. Will my friend yield?

Mr. BENNETT. I am happy to yield.

Mr. REID. Mr. President, I am embarrassed that I have not come prior to tonight and said something about GEN Al Lenhardt. I have served in the Senate a long time, and we have had some very fine Sergeants at Arms. But for the time and place, he was what we needed.

He is a man who had been literally under fire when he was in the military. He had been head of all the MPs in the Army. And for him to step in here, it was a perfect time, when we were going through all the trouble we had.

I have gotten to know him extremely well. He has been a personal asset to me and to all the Senators. As the distinguished Senator from Utah mentioned, staff and a number of Senators do not know how much he has done. Someday maybe something will be written about everything he personally went through to make sure this place is very safe.

I very much appreciate the Senator from Utah mentioning this fine man. This is not a partisan issue. Those of us who worked with him know what a wonderful job he has done. This is a spoils system we have here, and there are things that happen when there are new administrations, and I accept that.

I personally am going to miss him. He is a fine American. He has rendered great service to the Senate and to our country.

Mr. BENNETT. I thank the Senator from Nevada. I would also note that at the request of the majority leader, I was somewhat involved in the selection process to come up with a successor to Al Lenhardt. I can assure the Democratic whip and all other Senators that in the new Sergeant at Arms Pickle, we have a worthy replacement for Sergeant Lenhardt.

Mr. REID. General Lenhardt.

Mr. BENNETT. Now General Lenhardt. All right. I am very comfortable that the new Sergeant at Arms will carry on the same level of professionalism and provide the same level of protection for the Senators and our staffs that we have seen before.

It is a tribute to General Lenhardt that he has agreed to stay on until March 17 to see that the transition is as seamless as possible and that we do indeed maintain the level of safety we now have.

As good as the hands we have been in in the past, we will remain in good hands in the future.

SENATE ENGAGEMENT

Mr. WARNER. The public, today, across this Nation is exercising our greatest freedom, freedom of speech. Central to many town meetings, central to the media today, are the issues relating to Iraq. I find this strong and thoughtful debate, no matter on which side of the issue individuals or writers may be, extremely important at this key time in America's history.

I have been fortunate to be on planet Earth somewhat longer than many, and I have been fortunate to have been on the scene and been in a position to observe World War II, Korea, Vietnam and, this being my 25th year in the Senate, together with my colleagues in this Chamber over these many years, these wonderful years, I have been in a position to observe, and if I may say with some modesty, participate in those decisions facing our Nation as it relates to national security.

I have said many times of recent that this particular framework and decisions facing this President, President George Bush, this very courageous President, are as complicated, if not more complicated, than any I have ever seen in this span of my 76 years.

I commend our President and his team—Secretary of State Powell, Secretary Rumsfeld, National Security Adviser Rice, and many others. I followed, as I hope other colleagues did, another brilliant speech given today by the Secretary of State—no equivocations, respect for others and their views, but clearly staying the course, a course on which our Nation embarked to pursue diplomacy to resolve these issues. Iraq is foremost in our minds but close in parallel to significance is the Korean peninsula. There, again, we are being confronted with a situation that requires the strongest of commitments and the strongest of diplomacy. And our President, again, is guiding that diplomacy such that we should address this issue in a multilateral context. I think he is on the right track.

Worldwide terrorism: How many could have foreseen before September 11 that this country would be in the grip, not of state-sponsored terrorism—some state-sponsored but now more the individual. The al-Qaida, the Hamas, you can recite these organizations that challenge our freedoms, our very security, and our most precious security at home.

Yes, America is engaged in this important debate. I commend all. There is a diversity of thought, and I am perfectly willing to listen carefully and heed the thoughts of others. But in that debate a question has arisen, and an important one: What has been, what is, and what is to be, the role of the Congress, and most particularly, the Senate?

The Senate is known and respected worldwide as a debating society; an institution where we have this marvelous opportunity for unlimited debate in certain instances, but most significantly, debate among 100 individuals, well-informed, very conscientious Members who work hard at their duties. We are the world's greatest institution for deliberations, and I am proud, modestly, to be a part. But we symbolize the hope across this world for freedom such as we enjoy in the United States, the hope to fight despair and hunger and political oppression. The Senate so often and carefully addresses those issues day by day.

As there is diversity of views in debate on Iraq across this Nation, there is diversity among Members in the Senate. That is the way it should be. Therein lies our strength. But there are some who have come up with some viewpoints which I simply do not share.

Some in this Chamber have exercised their very right to criticize the body as an institution for what it has done, is doing, and, more particularly in their views, has not done. Some have gone so far as to say, ''We are sleepwalking through history;'' ''this Chamber is hauntingly silent.''

Those are strong words, and words that I heed, and listen to, and in this instance I have great respect for the marvelous Senator who stated those words.

I can remember in the debate on Iraq that we had back in November, 5 hours one day, debating with that particular Senator, whom I admire. So the debate goes on.

But my point is, even though the rafters of this Chamber are not rattling with the rhetoric on Iraq, there are many very important functions going on beyond this Chamber, in the halls of the Senate, in the committee rooms, in the offices of Senators, throughout the entire infrastructure of this institution—in our field offices in our respective States where I and others so frequently meet our constituents. The debate on Iraq is taking place in a responsible way, in my judgment, in the Senate, and this institution is fulfilling its role.

Other Senators have criticized our President. We are really at war now. Yes, I agree that diplomacy is still at work and that final decision to go or not to go is yet to be made by our President, by the very courageous Prime Minister Tony Blair, and other heads of state and government of the group of willing nations, those willing to face up to the need to remove weapons of mass destruction from Saddam Hussein. Yes, they criticize the President. But really we are at war now, and I question how severe that criticism should be.

I was with the distinguished ranking member of the Armed Services Committee, Mr. LEVIN, the distinguished chairman of the Intelligence Committee, Mr. ROBERTS, and the vice chairman, Mr. ROCKEFELLER. The four of us toured Afghanistan and the Persian Gulf region. As we were there, missions were being flown in Operation Northern Watch, Operation Southern Watch, and other activities were taking place regarding which I am not at liberty to describe, nor should I describe, here on the floor.

But men and women in the uniform of the United States, and indeed a great many civilians—particularly those of the Agencies and Departments of this Government who perform our intelligence missions throughout the

world—are taking grave risks at this very hour. For that reason, I think we should exercise a measure of restraint and caution exercising our right to criticize, be it the President or criticize this institution. I looked into the faces of those individuals, some who might well have been involved in the recent capture of this individual who allegedly plotted 9/11, planned it, and those plans might well have included the very building in which I am so privileged to stand at this time. We shall learn in due course more and more about the aims of the terrorists who struck us on 9/11, the aims of the terrorists who are still planning to strike us.

But let the debate go on. This is a strong nation, and our citizens are of strong mind, and our citizens are of a fair mind. Our citizens are very mindful of those in uniform, and those not in uniform, who today are taking the risks beyond our shores to interdict those who would bring harm to these great United States of America.

Homeland defense, how important that subject is. Our President again has led. We created that Department. But homeland defense begins beyond the shores where the men and women of the Armed Forces and civilians and others are stationed, in so many nations. It begins there for the reason that, to the extent they can interdict, to the extent they can crush the terrorists before their plans are unwrapped to inflict damage on our beloved homeland—that is where homeland defense begins.

So my reply today to my good friends who have taken this institution and called upon it in certain ways, as to what it is doing, I would say most respectfully that the Senate as a body has been, is, and will continue to be responsibly engaged in this debate; responsibly engaged in the consultation as it relates to these issues, consultation with the administration, consultation with our constituents, consultation with heads of governments and states—which I was privileged to do on this trip with my colleagues—consultation with our militaries of the United States and the military leaders of other nations.

There is a broad range of activity by many Members of this body, a broad range of activities that I think are as important as any debate that takes place on the floor of the Senate.

We had a historic debate, as I alluded, last fall. My calculation—others' may be different—is that debate lasted longer than the one we had in 1991. I remember that debate very well. I was privileged to be one of the coauthors of the resolution, as I was a coauthor of this resolution, this resolution which, after this very lengthy debate, was adopted with a strong vote of support for our President to have the authority to use force—77 strong votes.

But those activities did not end. In other words, there were many activities going on apart from the debate at that time: The same series of meetings and briefings, the same consultations going on just prior to that debate and during that debate. Those same meetings have continued on to this very hour. I am proud of the role of this institution. I am proud of it.

I ask unanimous consent to have printed in the RECORD a chronology that I put together of the meetings in which I have participated with many other Senators. For example, on September 4, a meeting to discuss Iraq with President Bush at the White House; a number of us were there; September 5, a briefing on Iraq with CIA and DOD officials; programs, 25 in number, of all of the times that I have been involved. Most particularly, I am very proud of the record of the Senate Armed Services Committee. Again in the fall, under the able chairmanship of my distinguished colleague here. We have been at business, Mr. President.

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

SASC/SENATE CHRONOLOGY OF ACTIVITY ON IRAQ

SEPTEMBER 2002

9/4: Meeting to discuss Iraq with Pres. Bush, The White House.

9/5: Briefing on Iraq with CIA/DOD officials.

9/9: Briefing on Iraq with CIA/DOD officials.

9/17: Closed SASC Hearing to discuss Iraq w/George Tenet, Admiral Jacoby.

9/19: SASC Hearing to receive testimony on Iraq from Gen. Myers and Sec. Rumsfeld.

9/23: Full SASC Hearing to discuss Iraq with Gen. Shalikashvili, Gen. Clark, Gen. Hoar, Lt. Gen. McInerney.

9/25: Full SASC Hearing to discuss Iraq, Dr. James Schlesinger and Sandy Berger.

OCTOBER 2002

10/8: Senators Briefing to discuss Iraq.

10/8–1011: Senate debate and vote on authorization of use of force against Iraq.

10/6: Senators Only Briefing with Sec. Rumsfeld and Gen. Myers.

NOVEMBER 2002

DECEMBER 2002

12/10: SASC Briefing by Sec. Wolfowitz and Gen. Pace to discuss current operations.

JANUARY 2003

1/9: Meet with Sec. Rumsfeld, Senator Levin, Congressman Skelton and Congressman Hunter, Pentagon. Budget and Iraq issues discussed.

1/15: Closed Hearing on current and potential military operations with Sec. Rumsfeld and Gen. Myers.

1/15: Closed Briefing on Iraq and weapons inspection by CIA and DIA.

1/17: Meeting with George Tenet.

1/23: Senators Only Briefing with Sec. Powell and Sec. Rumsfeld.

FEBRUARY 2003

2/5: Meeting to discuss Iraq with President Bush, Dr. Rice, Senate Leadership and Chair/Ranking Members of SASC, Intel, FR, White House.

2/12: SASC Hearing on Worldwide Threats with Director Tenet and Adm. Jacoby.

2/13: SASC Hearing regarding DOD Authorization for FY04 with Sec. Rumsfeld and Gen. Myers.

2/25: SASC Hearing to discuss DOD Authorization with Service Chiefs.

2/26: Closed SASC Briefing on Planning for Post Conflict Iraq with Feith.

MARCH 2003

3/4: Closed SASC Briefing on current operations by Lt. Gen. Schwartz (J–3) and Major Gen. Shafer (J–2).

Mr. WARNER. Here is the record. Decide for yourselves. I would like most respectfully to encourage the chairman of the Foreign Relations Committee, the chairman of the Intelligence Committee, the chairman of the Appropriations Committee, to likewise put in the RECORD the activities which they as individuals, they as leaders of their committee, have done in connection with this very important issue, or series of issues facing our Nation today.

The Armed Service Committee and the entire Senate have spent an enormous amount of time reviewing, discussing and debating Iraq. In the Armed Services Committee alone we have had at least twelve hearings or briefings since September 2002 where the issue of Iraq was discussed extensively, if not exclusively. That is in addition to numerous briefings for all Members by Secretary Rumsfeld, Secretary Powell and other Administration officials. Also, the President, Vice President and other members of the Administration have hosted countless events for Congressional leadership to exchange views on Iraq.

In October 2002, we had a thorough debate on the floor of the Senate on a resolution to authorize the use of force. That debate exceeded the amount of time we spent debating the resolution to authorize the use of force against Iraq in 1991. The resolution passed by an overwhelming vote of 77 to 23.

While there have been many developments since October, the vast majority have all reinforced the case that the authorization for the use of force should remain unchanged. The military buildup has been in support of the President's diplomatic efforts. If anything, the events since October have clearly shown that inspections are not succeeding and there is no compelling evidence that they will succeed in disarming a regime that will not cooperate with the inspectors. We must keep in mind that Iraq's weapons of mass destruction programs have been designed to operate under an inspection regime. That is why more time for inspections will not produce substantive results—if Saddam Hussein continues to deny, deceive and defy inspectors.

President George Bush wants to build a broad international coalition to confront the threat Iraq poses to global security. Far from ''going it alone,'' he has taken his case to the United Nations. President Bush presented a remarkable speech to the U.N. on September 12, 2002, that brought to the attention of the world the threat this man, Saddam Hussein, represents. Were it not for the leadership of President Bush and Prime Minister Blair, the world would not be focused on this clear and growing threat to global security.

The U.N. is really the organization that is being tested here. Is it to be a

decisive fore in international affairs that enforces the will of its members, or is it to be the organization that stands in the way of timely, decisive action and takes no action to enforce its mandates?

The United States, Britain and Spain tabled a clear resolution this week that reaffirms U.N. Security Council resolution 1441 and the 16 resolutions that came before it, and simply states what is plain to all of us: that Saddam Hussein has failed in this, his final opportunity to cooperate fully with U.N. demands that he destroy his weapons of mass destruction.

The Security Council now must decide whether it will live up to its sometimes difficult responsibilities. By failing to act, the U.N. would only damage its own credibility, not deter the U.S. and the other members of the ''coalition of the willing'' from exercising their rights and responsibilities to protect the security interests of their nations from the threat posed by Iraqi weapons of mass destruction.

Failure to achieve consensus cannot and should not be used as an excuse for inaction. If our principles, our security, our interests are at stake, we must act, in spite of differences with others, and whether or not others choose not to act for their own reasons.

A strong, clear-thinking and decisive UN can make the world stronger and safer, but a UN unable to make difficult decisions will be of little use in dealing with Iraq and other security challenges, such as North Korea.

Resolution 1441, which the security Council passed 15–0, is not about inspections, it is about disarmament. It is about offering Iraq a final—17th—opportunity to turn away from a rogue, non-cooperative status and become a responsible member of the community of nations, in this case by living up to the terms of the cease fire signed 12 years ago.

With other Senators, I had the opportunity to travel to the Middle East and Afghanistan recently, and I can say without equivocation that our brave young men and women mobilizing in support of this mission are the best trained, best equipped fighting force ever assembled, and the best defenders of freedom any country could possibly have in this situation. They are ready, and so is America, to lead a coalition of nations in disarming Saddam, if necessary.

The decision time is rapidly approaching. We will welcome UN support, but, make no mistake: we will do what is necessary, without the UN if need be. America is ready to face that challenge.

This is not a ''rush to war'' as some have suggested. Saddam Hussein agreed to disarm 12 years ago this month. The United Nations has passed 17 Security Council Resolutions with regard to Iraq and their transgressions against their own people, their neighbors and the international community. Every conceivable diplomatic, economic and military avenue, short of overwhelming force, has been tried. There is one last faint hope that diplomacy can succeed, if Saddam Hussein agrees to fully cooperate and disarm, without further delay. But, it is certainly not a rush to war.

Some have asked, ''why now?'' I would remind those who ask such a question that the risks of further delay or inaction could be far more costly and devastating than confronting Saddam Hussein now. This is a man who has used chemical agents on his own people and his neighbors. This is a man who has had 4 unimpeded years to accelerate and hide his WMD program. This is a man who is attempting to develop new means to deliver weapons of enormous danger well beyond his own borders. This is a man who has ties to terrorist groups who have sponsored terrorist attacks against U.S. interests. We cannot wait for another 9/11 or similar event before we act.

Meeting with leaders in the Persian Gulf region recently, I was persuaded that there is far more support in the entire Gulf region for disarming Saddam promptly than has been reported publicly. Most of Saddam's neighbors want him removed—quickly—so that he is no longer a threat to them, no longer a force for instability in their region, no longer repressing the quality of life of the people of Iraq.

This confrontation with Saddam Hussein is about disarming a dangerous, brutal dictator. But, it is about other things, including freedom and liberty for the Iraqi people. As our President reminded the world in his address to the United Nations in September 2002, ''Liberty for the Iraqi people is a great moral cause and a great strategic goal. The people of Iraq deserve it, and the security of all nations requires it.''

Claims that the Administration has failed to plan or prepare for a post-conflict Iraq and accommodate the humanitarian needs of the Iraqi people are simply not true. The Departments of Defense and State, along with other interaency partners and international organizations have undertaken extraordinary steps to prepare to meet the security, economic and humanitarian needs of a post-war Iraq. We have received extensive briefings at the staff and Member level detailing these preparations. Can all of the questions be answered definitively? No. To try to do so would be deceiving to our people.

While some have faulted the lack of specificity regarding cost of a conflict or of securing the peace following potential conflict, the Administration has been prudent and honest in its uncertainty about how long any conflict may last and how long it will take to transition to a democratic, free Iraq.

Past administrations have provided quick, unrealistic estimates that satisfied the immediate concerns, but later proved wrong. For example, we all remember the famous claim of the previous administration that we would be out of Bosnia in one year. That was in 1995—we are now beginning our 8th year of military presence in that nation.

I commend this Administration for its honesty. They will share information on costs and duration of any operations when they can have reasonable confidence in the estimates.

Further delay and concessions will not lead to the disarmament of Saddam Hussein. He has proven that for 12 years. He must understand through the strength of our coalition—and, if possible, with the UN—that disarmament without further delay is his only option. As history tells us, ''peace in our time'' with this man will not be achieved by appeasement. This is a time for action.

I will perhaps at a later date expand on the theme I have spoken about today. But the principal reason I come forward is to show this Senator's strong support because of the action of our President, strong support for Secretary of State Colin Powell in my remarks today, and most significantly strong support for the work of this institution, of which I am privileged to be a Member, and for the work they have done.

I yield the floor.

AMERICAN INTERESTS AT RISK IN RUSH TO WAR

Mr. KENNEDY. Mr. President, on a number of recent occasions, I have outlined here on the floor of the United States Senate my deep reservations about the Bush administration's rush to war with Iraq, particularly as U.N. inspectors are on the ground and making progress. I am especially concerned that war with Iraq at this time without the backing of our allies and the support of the United Nations will undermine the effective coalition against the more dangerous threat of terrorism. And I believe it is the wrong priority, especially in the face of the current nuclear threat from North Korea.

But I also believe that this administration's conduct of American foreign relations has angered our friends and encouraged our enemies. This chip-on-the-shoulder, my-way-or-the-highway approach to diplomacy has alienated our allies at a time when we need unity to address modern threats.

Recently, a senior member of the U.S. Foreign Service resigned in protest over the administration's approach and its policies. Mr. JOHN Brady Kiesling has served American interests as a diplomat for many years in many difficult situations. And his brave letter of resignation speaks volumes about the dangerous direction of the Bush administration in the conduct of foreign affairs.

I urge my colleagues to pay careful attention to his words, and ask unanimous consent that his thoughtful letter be printed in the RECORD.

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

DEAR MR. SECRETARY: I am writing you to submit my resignation from the Foreign Service of the United States and from my position as Political Counselor in U.S. Embassy Athens, effective March 7. I do so with a heavy heart. The baggage of my upbringing included a felt obligation to give something back to my country. Service as a U.S. diplomat was a dream job. I was paid to understand foreign languages and cultures, to seek out diplomats, politicians, scholars and journalists, and to persuade them that U.S. interests and theirs fundamentally coincided. My faith in my country and it values was the most powerful weapon in my diplomatic arsenal.

It is inevitable that during twenty years with the State Department I would become more sophisticated and cynical about the narrow and selfish bureaucratic motives that sometimes shaped our policies. Human nature is what it is, and I was rewarded and promoted for understanding human nature. But until this Administration it had been possible to believe that by upholding the policies of my president I was also upholding the interests of the American people and the world. I believe it no longer.

The policies we are now asked to advance are incompatible not only with American values but also with American interests. Our fervent pursuit of war with Iraq is driving us to squander the international legitimacy that has been America's most potent weapon of both offense and defense since the days of Woodrow Wilson. We have begun to dismantle the largest and most effective web of international relationships the world has ever known. Our current course will bring instability and danger, not security.

The sacrifice of global interests to domestic politics and to bureaucratic self-interest is nothing new, and it is certainly not a uniquely American problem. Still, we have not seen such systematic distortion of intelligence, such systematic manipulation of American opinion, since the war in Vietnam. The September 11 tragedy left us stronger than before, rallying around us a vast international coalition to cooperate for the first time in a systematic way against the threat of terrorism. But rather than take credit for those successes and build on them, this Administration has chosen to make terrorism a domestic political tool, enlisting a scattered and largely defeated Al Qaeda as its bureaucratic ally. We spread disproportionate terror and confusion in the public mind, arbitrarily linking the unrelated problems of terrorism and Iraq. The result, and perhaps the motive, is to justify a vast misallocation of shrinking public wealth to the military and to weaken the safeguards that protect American citizens from the heavy hand of government. September 11 did not do as much damage to the fabric of American society as we seem determined to so to ourselves. Is the Russia of the late Romanovs really our model, a selfish, superstitious empire thrashing toward self-destruction in the name of a doomed status quo?

We should ask ourselves why we have failed to persuade more of the world that a war with Iraq is necessary. We have over the past two years done too much to assert to our world partners that narrow and mercenary U.S. interests override the cherished values of our partners. Even where our aims were not in question, our consistency is at issue. The model of Afghanistan is little comfort to allies wondering on what basis we plan to rebuild the Middle East, and in whose image and interests. Have we indeed become blind, as Russia is blind in Chechanya, as Israel is blind in the Occupied Territories, to our own advice, that overwhelming military power is not the answer to terrorism? After the shambles of post-war Iraq joins the shambles in Grozny and Ramallah, it will be a brave foreigner who forms ranks with Micronesia to follow where we lead.

We have a coalition still, a good one. The loyalty of many of our friends is impressive, a tribute to American moral capital built up over a century. But our closest allies are persuaded less that war is justified than that it would be perilous to allow the U.S. to drift into complete solipsism. Loyalty should be reciprocal. Why does our President condone the swaggering and contemptuous approach to our friends and allies this Administration is fostering, including among its most senior officials. Has ''oderint dum metuant'' really become our motto?

I urge you to listen to America's friends around the world. Even here in Greece, purported hotbed of European anti-Americanism, we have more and closer friends than the American newspaper reader can possibly imagine. Even when they complain about American arrogance, Greeks know that the world is a difficult and dangerous place, and they want a strong international system, with the U.S. and EU in close partnership. When our friends are afraid of us rather than for us, it is time to worry. And now they are afraid. Who will tell them convincingly that the United States is as it was, a beacon of liberty, security, and justice for the planet?

Mr. Secretary, I have enormous respect for your character and ability. You have preserved more international credibility for us than our policy deserves, and salvaged something positive from the excesses of an ideological and self-serving Administration. But your loyalty to the President goes too far. We are straining beyond its limits an international system we built with such toil and treasure, a web of laws, treaties, organizations, and shared values that sets limits on our foes far more effectively than it ever constrained America's ability to defend its interests.

I am resigning because I have tried and failed to reconcile my conscience with my ability to represent the current U.S. Administration. I have confidence that our democratic process is ultimately self-correcting, and hope that in a small way I can contribute from outside to shaping policies that better serve the security and prosperity of the American people and the world we share.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred December 2, 2000 in Carlsbad, CA. Four minors beat a 34 year-old man because they believed he was gay. The assailants confronted the victim as he was walking home from a bar. The group yelled ''Hey, faggot, what are you looking at?'' then attacked the victim.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

U.S.–PAKISTAN CONNECTION

Mr. BROWNBACK. Mr. President, last week, with the help of Pakistani authorities, Khalid Shaikh Mohammed was captured and taken into custody. This represents the highest ranking al Qaeda official to be apprehended in the war on terrorism and, according to some experts, Mohammed is the most important terrorism related arrest in history.

I come to the floor today to publically express my gratitude to the government of Pakistan and to President Musharraf in particular.

The arrest, along with the intelligence information gathered at the scene, brings us one giant step closer to dismantling the al Qaeda terror network.

You don't have to dig too deeply into the recent press stories to see the significance of this event.

From the Washington Post:

U.S. authorities said they expect a trove of leads from the search of Mohammed's living quarters . . .

From the New York Times:

Al Qaeda Hobbled by Latest Arrest . . .

From Time magazine:

Pakistani authorities nab Khalid Shaikh Mohammed, the al-Qaeda bigwig who helped mastermind the Sept. 11 attacks.

It is important to note the context in which this significant accomplishment was achieved. Pakistan today is dealing with internal terrorist elements that want to turn that country into a radicalized, terrorist state. There are whole areas of the country in the mountainous boarder with Afghanistan—which are outside the control of the government. And while the campaign against the Taliban was a crucial first step in the war on terrorism, it has also shifted many of the radicals who were operating there into this part of Pakistan.

Against this backdrop, it would be easy for President Musharraf to yield to the threats and intimidation of these elements within his society. We have seen all too well what happens when leaders neglect their responsibility to educate and lead their people rather than cave to popular mob mentality. Even in Europe, we have seen elements of this in the performance of Schroeder and Chirac.

But despite some public pressure, President Musharraf has taken a bold and strong stance against a fundamentalist future for his country. He understands that it is in Pakistan's best interest to rid the country of the terrorist cells that are acting as parasites on the Pakistani people. He understands that the best way to bring investment, jobs, health care and security for his people is to join the realm of the responsible world.

It is easy to underestimate the amount of courage this type of leadership takes. Sitting in our comfortable

democracy in the U.S., it seems the obvious choice.

But I call on my colleagues to take a moment to remember the immense problems that Pakistan is dealing with: because of tensions in the region, and the war in Afghanistan, Pakistan's economy has suffered a huge loss. And despite my best efforts with some fellow colleagues, the U.S. has yet to provide the one thing Pakistan really needs: a better deal on textiles.

Textiles and textile products are Pakistan's main export. As a result of the war effort, invaluable orders for textile products made and exported by Pakistan have been canceled due to perceived instability in the region and a lack of confidence that such orders will ultimately be delivered.

According to the Pakistan Textile and Apparel Group, Pakistan has witnessed a 64 percent reduction in orders for clothes that would be made from last year alone, by the 14 largest apparel factories in Lahore, Karachi, and Faisalabad. As a result, employment in these factories has dropped 32 percent from a year ago. The Pakistani government has estimated the overall decline in orders at 40 percent. This has very real consequences for the future of Pakistan, its stability, and its ability to forge a future of economic prosperity for its people.

As a weakened market for Pakistani textile exports ultimately renders human development programs within Pakistan less effective, especially the primary education element, young Pakistani's are faced with the prospect of no education and therefore no quality employment. An all-to-frequent alternative to this prospect is for young Pakistani's to attend Madrasas—Islamic religious schools run by mullahs—where too often basic skills and primary education are supplanted by religious teachings used to indoctrinate young Pakistani's into following the perverted version of Islam followed by Osama Bin Laden, Al Queda, and the Taliban.

Mr. President, I urge all of my colleagues to work with me in the Congress to provide the President with authority to assist Pakistan in the textile market immediately. Such action is vitally important to the stability of our important ally, and victory in our Nation's war against terrorism. Failing to take quick action only strengthens our enemy.

The war on terrorism will only be won through the continued cooperation of important countries like Pakistan. The very least we can do in this body today is to recognize this support and to say thank you for it.

ENERGY OVERSIGHT

Mr. LEAHY. Mr. President, I am pleased to join Senator DIANNE FEINSTEIN in sponsoring the Energy Oversight Bill. This bill clarifies the scope of the existing regulatory authority of the Commodity Futures Trading Commission, CFTC, over markets in over-the-counter, OTC, derivatives, including its anti-fraud and anti-manipulation jurisdiction over exempt commodities such as metals and energy.

Over-the-counter derivatives markets have assumed an increasingly large role in the U.S. economy. A recent conservative estimate put the size of the global OTC derivatives market at $111 trillion. The U.S. share of that market is estimated to be at least two-thirds. Derivatives based on ''exempt commodities,'' such as energy and metals, make up a small percentage—probably no more than 2 percent—of the total OTC derivatives market. However, derivatives play an increasingly important role in energy and metals markets, which are in turn critical to our overall economy.

The energy markets are among the largest and most dynamic in the United States. Hundreds of billions of dollars in energy products—which include electricity, natural gas, crude oil, and gasoline—are traded each year in the United States—both on-exchange and in the over-the-counter markets.

We are all well aware of the tragedies that occurred last fall surrounding the collapse of Enron. For instance, there have been numerous stories in the press regarding allegations of manipulations in energy markets. I understand the CFTC currently is in the process of pursuing a comprehensive, detailed investigation of allegations raised by the Enron collapse.

However, some have suggested that following passage of Commodity Futures Modernization Act, CFMA, in 2000 the CFTC does not in fact have authority to effectively and successfully investigate and punish fraud and manipulation in derivatives markets for exempt commodities—particularly energy and metals. In a hearing held by the Senate Agriculture Committee last July, questions were raised about the CFTC's ability to prevent fraud and manipulation in the first place.

If that is the case, not only do these transactions fall outside the jurisdictional reach of the CFTC, but in most cases, they are beyond the reach of any other federal financial regulator. Thus, we have a gap in the oversight of exempt commodity transactions. And plainly, this gap was not something Congress intended when it passed the CFMA.

This legislation puts these questions to rest.

Our bill clarifies that the CFTCs anti- fraud and anti-manipulation authority applies to all exempt commodity transactions and requires derivatives marketplaces like electronic swap exchanges—like the now-defunct ''Enron Online''—to adhere to certain, minimal regulatory obligations: among them are transparency, disclosure, and reporting.

It recognizes the benefits of market innovation by preserving the long-sought legal certainty for swaps—they remain for the most part ''exempt'' from CFTC jurisdiction. At the same time, however, the bill ensures that all derivatives transactions are subject to the commission's fraud and manipulation authorities. It would not require the registration of swap counterparties, but would require that they maintain books and records of transactions—something that should be routine practice in the industry. Finally, the legislation recognizes that all exchange markets serve price discovery and hedging purposes by imposing modest transparency, disclosure, and reporting obligations.

Experience has shown that measures designed to increase market transparency instill confidence in markets, attract investment, and increase market integrity by providing regulators with the means to monitor for fraud and manipulation. Application of these principles to derivatives markets generally is sound public policy, prudent business practice, and common sense. The consequent benefits extend not only to market users, but also to consumers.

Accountability is important and must be restored because Enron is not alone. It is only a case study exposing the shortcomings in our current laws. Future debacles wait to be discovered not only by investigators or the media, but by the more than one in two Americans who depend on the transparency and integrity of our public markets.

The majority of Americans depend on capital markets to invest in the future needs of their families—from their children's college fund to their retirement nest eggs. American investors deserve action. Congress must act now to restore confidence in the integrity of the public markets.

Accountability and transparency help our markets work as they should, in ways that benefit investors, employees, consumers and our national economy. Our job is to make sure that there are adequate doses of accountability in our regulatory and legal system to prevent such occurrences in the future. The time has come for Congress to rethink and reform our laws in order to prevent corporate deceit, to protect investors and to restore full confidence in the capital markets.

Unfortunately, in the wake of Enron, we are presently witnessing some of the best arguments in favor of such changes. U.S. energy markets are suffering a crisis in confidence. This modest legislation is a good first step toward restoring this lost confidence and returning energy markets to a path of growth and efficiency.

ADDITIONAL STATEMENTS

TRIBUTE TO OPERATION EAGLE'S NEST

• Mr. BUNNING. Mr. President, I rise today to honor and pay tribute to Operation Eagle's Nest. The Military Affairs Committees of Hopkinsville and

Oak Grove, KY, and Clarksville, TN, created this fund-raising initiative to help the families of deployed soldiers from Fort Campbell.

The communities surrounding Fort Campbell have a long tradition of supporting the more than 20,000 soldiers and their families of the 101st Airborne Division and the other units stationed at Fort Campbell. Troops from Fort Campbell have played a vital role in the war against terrorism in Afghanistan and around the world. As thousands of troops and tons of machinery and equipment depart Fort Campbell for the Middle East, it is important that Americans not forget the sacrifices of the families that the men and women of our Armed Forces leave behind.

Local businesses and citizens in Kentucky and Tennessee founded Operation Eagle's Nest with the goal of raising at least $1 million as a contingency fund to be used as needed at the base. The local citizens are excited about the initiative and the opportunity to once again show our soldiers and their families how much they appreciate the sacrifices they make for our great Nation. The Fort Campbell soldiers deployed in the Middle East feel at ease with the confidence that their families are supported by local citizens.

For Campbell Division Commander MG David Petraeus recently praised "not just the monetary support but the symbolism of our communities coming together for the families." He is absolutely correct. The soldiers of Fort Campbell are heroically doing their part in the war on terror and the local citizens of Hopkinsville, Oak Grove, and Clarksville are graciously doing theirs. This is exactly what President Bush meant when he stated that all Americans must do their part in the war on terror.●

TRIBUTE TO STATE SENATOR ALVIN PENN

● Mr. LIEBERMAN. Mr. President, I rise to pay tribute to the life and career of Connecticut State Senator Alvin Penn, who died an untimely death on Friday, February 14, at the age of 54.

Alvin was a passionate and principled fighter who sought to give people of all races and backgrounds the equal opportunity that is every American's birthright. Through difficult times, he never wavered in serving his beloved city of Bridgeport. And those of us who were blessed to know him will always remember him as a larger than life human being with a generous spirit and sharp and unsinkable sense of humor.

As chairman of the State senate's public safety committee, Senator Penn banned the insidious practice of racial profiling and improved the State's witness protection program. Thanks to Senator Penn's work on this committee and others, Bridgeport has better schools, safer streets, and more prosperous neighborhoods than it did a decade ago.

The city of Bridgeport and the state of Connecticut, of course, still have their share of troubles—but Alvin never gave up, never let the steepness of the hill stop him from trying to climb. He understood that to get to the mountaintop, you must keep going up.

That is what he did. State Senator Penn did not take orders from special interests or party bosses. He listened to, and did what was right for, the people he served. Eight years ago, Alvin met with Gov. John Rowland, and told the Governor, "You're a Republican from Waterbury and I'm a Democrat from Bridgeport. We understand the issues of our urban communities." He pledged to work together—and his word was good.

The city of Bridgeport will always hold State Senator Penn close to its heart. He is a part of its history, its present, and will be a part of its future. There is not yet an Alvin Penn memorial in Bridgeport—though there may someday be. For now, his legacy, and his memorial, is in every school and business and church, and every citizen on every street corner in the city he loved to serve.●

HONORING PATRICK S. LeROY

● Mr. BUNNING. Mr. President, I have the privilege and honor today of recognizing Patrick S. LeRoy of Louisville, Kentucky. Earlier this month, Patrick was honored by the Muscular Dystrophy Association as the 2003 Kentucky State Goodwill Ambassador.

Patrick is a special child with a special condition and unique opportunity to share his story with thousands of people. Each day he lives with Duchenne muscular dystrophy. Symptoms of this disease include increasing muscle weakness in the body, concentrated mainly in the arms and legs.

Nevertheless, Patrick does not allow this condition to limit his daily activities. In fact, this 8 year old is more active than most people his age, and even adults. Currently, Patrick is a second grader at Coral Ridge Elementary in Fairdale. When not studying his favorite subjects, math and science, this young man enjoys swimming, participating in karate class, and he also shares my passion for the game of baseball. In addition to his participation in athletics, Patrick also develops his artistic abilities through drawing.

What sets Patrick apart from other children is not his health condition but his willingness to make a difference by speaking with people about muscular dystrophy, helping to remove a stigmatism that stems from lack of knowledge. Being selected as the Kentucky ambassador will give Patrick a valuable opportunity to encourage public support and education of this disease. Please join me in congratulating Patrick S. LeRoy and wishing him the best of luck in his new position of 2003 Kentucky State Goodwill Ambassador.●

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 which were referred to the appropriate committees.

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

PERIODIC REPORT ON TELECOMMUNICATIONS PAYMENTS MADE TO CUBA PURSUANT TO TREASURY DEPARTMENT SPECIFIC LICENSES—PM20

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

As required by section 1705(e)(6) of the Cuban Democracy Act of 1992, as amended by section 102(g) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, 22 U.S.C. 6004(e)(6), I transmit herewith a semiannual report prepared by my Administration detailing payments made to Cuba by United States persons as a result of the provision of telecommunications services pursuant to Department of the Treasury specific licenses.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 5, 2003.*

MEASURE HELD AT THE DESK

The following concurrent resolution was ordered held at the desk by unanimous consent:

S. Con. Res. 13. Concurrent resolution condemning the selection of Libya to chair the United Nations Commission on Human Rights, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

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

EC–1391. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "West Virginia Regulatory Program (WV–088–FOR)" received on February 27, 2003; to the Committee on Energy and Natural Resources.

EC–1392. A communication from the Deputy Congressional Liaison, Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled "Amendment to Regulation T (Credit by Brokers and Dealers): Revision to the semiannual List of Foreign Margin Stocks"

received on February 25, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–1393. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Rule Title Rev. Rule 2003–23'' received on February 27, 2003; to the Committee on Finance.

EC–1394. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Standard Meal and Snack Rates for Family Day Care Providers (Revenue Procedure 2003–22)'' received on February 27, 2003; to the Committee on Finance.

EC–1395. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Appeals Settlement Guidelines: Construction/Real Estate—Per Diem Allowances for Temporary Technical Services Employees (UIL: 62.02–06)'' received on February 27, 2003; to the Committee on Finance.

EC–1396. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Appeals Settlement Guidelines: Petroleum Cost Depletion—Recoverable Reserves (UIL: 0611.05.01)'' received on February 28, 2003; to the Committee on Finance.

EC–1397. A communication from the Regulations Coordinator, Center for Medicare Management, Centers for Medicare & Medicaid Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Physician Fee Schedule Update for Calendar Year 2003 (0938–AL21)'' received on February 27, 2003; to the Committee on Finance.

EC–1398. A communication from the Regulations Coordinator, Center for Medicare Management, Centers for Medicare & Medicaid Services, transmitting, pursuant to law, the report of a rule entitled ''31 CFR Part 50—Terrorism Risk Insurance Program (1505–AA96)'' received on February 25, 2003; to the Committee on Finance.

EC–1399. A communication from the United States Trade Representative, Executive Office of the President, transmitting, pursuant to law, the report relative to the implementation of the United States-Israel Free Trade Agreement; to the Committee on Finance.

EC–1400. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of a nomination for the position of Member, IRS Oversight Board, received on February 14, 2003; to the Committee on Finance.

EC–1401. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of a vacancy and designation of acting officer for the position Assistant Secretary, Public Affairs, received on February 14, 2003; to the Committee on Finance.

EC–1402. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of a vacancy in the position of Chief Financial Officer, received on February 14, 2003; to the Committee on Finance.

EC–1403. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of a vacancy and designation of acting officer for the position of Assistant Secretary, Management, received on February 14, 2003; to the Committee on Finance.

EC–1404. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of a vacancy, designation of acting officer and nomination for the position of Commissioner of Internal Revenue, received on February 14, 2003; to the Committee on Finance.

EC–1405. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of a vacancy, designation of acting officer and nomination for the position of Secretary of the Treasury, received on February 14, 2003; to the Committee on Finance.

EC–1406. A communication from the Trail Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Conforming the Federal Railroad Administration's Accident/Incident Reporting Requirements to the Occupational Safety and Health Administration's Revised Reporting Requirements; Other Amendments (2130–AB51)'' received February 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1407. A communication from the Senior Regulations Analyst, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, the report of a rule ''Coast Guard Board for Correction of Military Records; Procedural Regulations (2105–AD19)'' received on February 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1408. A communication from the Attorney/Advisor, Department of Transportation, transmitting, pursuant to law, the report of a nomination for the position of Under Secretary of Transportation for Policy (New Position), received on February 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1409. A communication from the Chief, Regulation and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; San Francisco Bay, California (COPT San Francisco Bay 03–002) (2115–AA97)(2003–0012)'' received on February 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1410. A communication from the Chief, Regulation and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Mississippi River, Iowa and Illinois (CGD08–02–020) (2115–AE47) (2003–0009)'' received on February 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1411. A communication from the Chief, Regulation and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations; (Including 3 regulations) (2115–AE46)(2003–0001)'' received on February 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1412. A communication from the General Counsel, Department of Commerce, transmitting, pursuant to law, the report of a draft bill entitled ''Marine Mammal Protection Act Amendments of 2003'' received on February 25, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1413. A communication from the Director, Congressional Affairs, Consumer Product Safety Commission, transmitting, pursuant to law, the report relative to the Final Rule regarding Requirements for Low-Speed Electric Bicycles; to the Committee on Commerce, Science, and Transportation.

EC–1414. A communication from the President and Chief Executive Officer, National Railroad Passenger Corporation, AMTRAK, transmitting, pursuant to law, the report of AMTRAK's Grant and Legislative Request for Fiscal Year 2004; to the Committee on Commerce, Science, and Transportation.

EC–1415. A communication from the Secretary of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Authority of the Secretary of Homeland Security; Delegations of Authority; Immigrations Laws (RIN 1601–AA06)'' received on February 28, 2003; to the Committee on the Judiciary.

EC–1416. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approvals and Promulgation of Air Quality Implementation Plans; Maryland; Revisions to Regulations for Permits, Approvals and Registration and Related Regulations (FRL 7450–4)'' received on February 25, 2003; to the Committee on Environment and Public Works.

EC–1417. A communication from the Chief, Regulation and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Connecticut; New Source Review/Prevention of Significant Deterioration Revision (FRL 7445–9)'' received on February 25, 2003; to the Committee on Environment and Public Works.

EC–1418. A communication from the Chief, Regulation and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Virginia; Reorganization of and Revisions to Administration to Administrative and General Conformity Provisions; Documents Incorporated by Reference; Recodification of Existing SIP Provisions; Correction (FRL 7455–7)'' received on February 25, 2003; to the Committee on Environment and Public Works.

EC–1419. A communication from the Chief, Regulation and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Administrative Updates, Temporary Permits (FRL 7449–4)'' received on February 25, 2003; to the Committee on Environment and Public Works.

EC–1420. A communication from the Chief, Regulation and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Florida Update to Materials Incorporated by Reference (FRL 7453–7)'' received on February 25, 2003; to the Committee on Environment and Public Works.

EC–1421. A communication from the Chief, Regulation and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; State of Kansas (FRL 7455–9)'' received on February 25, 2003; to the Committee on Environment and Public Works.

EC–1422. A communication from the Chief, Regulation and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Plans for Designated Facilities; Virginia Islands (FRL 7455–3)'' received on February 25, 2003; to the Committee on Environment and Public Works.

EC–1423. A communication from the Chief, Regulation and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the

report of a rule entitled ''Clean Air Act Approval and Promulgation of Air Quality Implementation Plan Revision for North Dakota; Revisions to the Air Pollution Control Rules (FRL 7453–4)'' received on February 25, 2003; to the Committee on Environment and Public Works.

EC–1424. A communication from the Chief, Regulation and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, Mojave Desert Air Quality Management District (FRL 7451–6)'' received on February 25, 2003; to the Committee on Environment and Public Works.

EC–1425. A communication from the Chief, Regulation and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, Ventura Air Pollution Control District (FRL 7454–4)'' received on February 25, 2003; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INHOFE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 195. A bill to amend the Solid Waste Disposal Act to bring underground storage tanks into compliance with subtitle I of that Act, to promote cleanup of leaking underground storage tanks, to provide sufficient resources for such compliance and cleanup, and for other purposes (Rept. No. 108–13).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 273. A bill to provide for the expeditious completion of the acquisition of land owned by the State of Wyoming within the boundaries of Grand Teton National Park, and for other purposes (Rept. No. 108–14).

S. 302. A bill to revise the boundaries of the Golden Gate National Recreation Area in the State of California, to restore and extend the term of the advisory commission for the recreation area, and for other purposes (Rept. No. 108–15).

S. 426. A bill to direct the Secretary of the Interior to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the initial stage of the Oahe Unit, James Division, South Dakota, to the Commission of Schools and Public Lands and the Department of Game, Fish, and Parks of the State of South Dakota for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase the parcels from the Commission, and for other purposes (Rept. No. 108–16).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Ms. COLLINS for the Committee on Governmental Affairs.

*Linda M. Springer, of Pennsylvania, to be Controller, Office of Federal Financial Management Office of Management and Budget.

*Janet Hale, of Virginia, to be Under Secretary for Management, Department of Homeland Security.

By Mr. GRASSLEY for the Committee on Finance.

*Daniel Pearson, of Minnesota, to be a Member of the United States International Trade Commission for the term expiring December 16, 2011

*Charlotte A. Lane, of West Virginia, to be a Member of the United States International Trade Commission for a term expiring December 16, 2009.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

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. BUNNING:

S. 514. A bill to amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits; to the Committee on Finance.

By Mr. CRAPO (for himself, Mr. JEFFORDS, Mr. ALLARD, Mr. THOMAS, Mr. SPECTER, Mrs. CLINTON, Mr. SANTORUM, and Mr. GRASSLEY):

S. 515. A bill to provide additional authority to the Office of Ombudsman of the Environmental Protection Agency; to the Committee on Environment and Public Works.

By Mr. BUNNING (for himself, Mrs. BOXER, Mr. INHOFE, Mr. CRAIG, Mr. ALLEN, Mr. NICKLES, Mr. BURNS, Mr. BROWNBACK, Mr. THOMAS, Ms. SNOWE, Mr. MILLER, Mr. CAMPBELL, and Mr. SESSIONS):

S. 516. A bill to amend title 49, United States Code, to allow the arming of pilots of cargo aircraft, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. MURRAY:

S. 517. A bill to amend title 38, United States Code, to provide improved benefits for veterans who are former prisoners of war; to the Committee on Veterans' Affairs.

By Ms. COLLINS (for herself, Mrs. MURRAY, Mr. BREAUX, and Mr. MILLER):

S. 518. A bill to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CAMPBELL:

S. 519. A bill to establish a Native American-owned financial entity to provide financial services to Indian tribes, Native American organizations, and Native Americans, and for other purposes; to the Committee on Indian Affairs.

By Mr. CRAPO (for himself and Mr. CRAIG):

S. 520. A bill to authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District in the State of Idaho; to the Committee on Energy and Natural Resources.

By Mr. CAMPBELL:

S. 521. A bill to amend the Act of August 9, 1955, to extend the terms of leases of certain restricted Indian land, and for other purposes; to the Committee on Indian Affairs.

By Mr. CAMPBELL (for himself and Mr. DOMENICI):

S. 522. A bill to amend the Energy Policy Act of 1992 to assist Indian tribes in developing energy resources, and for other purposes; to the Committee on Indian Affairs.

By Mr. CAMPBELL:

S. 523. A bill to make technical corrections to law relating to Native Americans, and for other purposes; to the Committee on Indian Affairs.

By Mr. BUNNING:

S. 524. A bill to expand the boundaries of the Fort Donelson National Battlefield to authorize the acquisition and interpretation of lands associated with the campaign that resulted in the capture of the fort in 1862, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEVIN (for himself, Ms. COLLINS, Mr. DEWINE, Ms. STABENOW, Mr. REED, Mr. INOUYE, Mr. VOINOVICH, Mr. KENNEDY, Mr. LEAHY, Ms. CANTWELL, Mr. JEFFORDS, Mr. WARNER, Mr. AKAKA, Mr. FITZGERALD, Mr. DURBIN, and Mr. BAYH):

S. 525. A bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to reauthorize and improve that Act; to the Committee on Environment and Public Works.

By Mr. HATCH (for himself, Mr. GRAHAM of Florida, Mr. KENNEDY, Mr. COLEMAN, Ms. MIKULSKI, Mr. ALLARD, and Mr. DAYTON):

S. 526. A bill to amend title XVIII of the Social Security Act to improve access to Medicare+Choice plans for special needs medicare beneficiaries by allowing plans to target enrollment to special needs beneficiaries; to the Committee on Finance.

By Mr. MILLER:

S. 527. A bill to establish the Southern Regional Commission for the purpose of breading the cycle of persistent poverty among the southeastern States; to the Committee on Environment and Public Works.

By Mr. BINGAMAN (for himself and Mr. BENNETT):

S. 528. A bill to reauthorize funding for maintenance of public roads used by school buses serving certain Indian reservations; to the Committee on Environment and Public Works.

By Ms. CANTWELL (for herself, Mr. THOMAS, Mr. LEAHY, Mr. SMITH, Mr. WYDEN, Ms. SNOWE, Mr. DURBIN, Mr. HAGEL, Mr. ROBERTS, and Mr. CHAMBLISS):

S. 529. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income loan payments received under the National Health Service Corps Loan Repayment Program established in the Public Health Service Act; to the Committee on Finance.

By Mr. KERRY:

S. 530. A bill to amend title 5, United States Code, to create a presumption that a disability or death of a Federal employee in fire protection activities caused by any of certain diseases is the result of the performance of such employee's duty; to the Committee on Governmental Affairs.

By Mr. DORGAN (for himself and Mr. JOHNSON):

S. 531. A bill to direct the Secretary of the Interior to establish the Missouri River Monitoring and Research Program, to authorize the establishment of the Missouri River Basin Stakeholder Committee, and for other purposes; to the Committee on Environment and Public Works.

By Mrs. HUTCHISON (for herself, Mr. DOMENICI, Mr. BINGAMAN, and Mr. MCCAIN):

S. 532. A bill to enhance the capacity of organizations working in the United States-Mexico border region to develop affordable housing and infrastructure and to foster economic opportunity in the colonias; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SCHUMER (for himself, Mr. SPECTER, Mr. SANTORUM, and Mrs. CLINTON):

S. 533. A bill to provide for a medal of appropriate design to be awarded by the President to the next of kin or other representative of those individuals killed as a result of the terrorist attacks of September 11, 2001; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ALLEN:

S. 534. A bill to provide Capitol-flown flags to the immediate family of fire fighters, law enforcement officers, emergency medical technicians, and other rescue workers who are killed in the line of duty; to the Committee on Rules and Administration.

By Mr. CAMPBELL:

S. 535. A bill to provide Capitol-flown flags to the families of law enforcement officers and firefighters killed in the line of duty; to the Committee on Rules and Administration.

By Mr. DEWINE (for himself, Mr. LEVIN, Ms. COLLINS, Mr. REED, Mr. VOINOVICH, and Ms. STABENOW):

S. 536. A bill to establish the National Invasive Species Council, and for other purposes; to the Committee on Environment and Public Works.

By Mr. CRAPO (for himself, Mr. AKAKA, and Mr. CRAIG):

S. 537. A bill to ensure the availability of spectrum to amateur radio operators; to the Committee on Commerce, Science, and Transportation.

By Mrs. CLINTON (for herself, Mr. WARNER, Ms. MIKULSKI, Ms. SNOWE, Mr. BREAUX, Mr. JEFFORDS, Mrs. MURRAY, Ms. COLLINS, Mr. KENNEDY, and Mr. SMITH):

S. 538. A bill to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DOMENICI (for himself, Mr. DORGAN, Mr. KYL, Mrs. FEINSTEIN, Ms. MURKOWSKI, Mr. BURNS, Mrs. MURRAY, Mr. MCCAIN, Mrs. HUTCHISON, Mr. COLEMAN, and Mr. BINGAMAN):

S. 539. A bill to authorize appropriations for border and transportation security personnel and technology, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. INHOFE:

S. 540. A bill to authorize the presentation of gold medals on behalf of Congress to Native Americans who served as Code Talkers during foreign conflicts in which the United States was involved during the 20th Century in recognition of the service of those Native Americans to the United States; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KYL:

S. 541. A bill for the relief of Ilko Vasilev Ivanov, Anelia Marinova Peneva, Marina Ilkova Ivanova, and Julie Ilkova Ivanova; to the Committee on the Judiciary.

By Ms. STABENOW (for herself, Mrs. BOXER, Mr. DORGAN, Mr. LEAHY, Mr. LEVIN, Mr. SCHUMER, and Mr. JOHNSON):

S. 542. A bill to amend title XIX of the Social Security Act to clarify that section 1927 of that Act does not prohibit a State from entering into drug rebate agreements in order to make outpatient prescription drugs accessible and affordable for residents of the State who are not otherwise eligible for medical assistance under the medicaid program; to the Committee on Finance.

By Mr. LIEBERMAN (for himself, Mr. CHAFEE, Mr. BIDEN, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. CORZINE, Mr. DAYTON, Mr. DODD, Mr. DURBIN, Mr. EDWARDS, Mr. FEINGOLD, Mr. GRAHAM of Florida, Mr. HARKIN, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. LAUTENBERG, Mr. LEAHY, Mrs. MURRAY, Mr. REED, Mr. SARBANES, Mr. SCHUMER, Ms. STABENOW, and Mr. WYDEN):

S. 543. A bill to designate a portion of the Artic National Wildlife Refuge as wilderness; to the Committee on Environment and Public Works.

By Mr. DODD (for himself, Mr. WARNER, Mr. HOLLINGS, Mr. REED, Mr. DASCHLE, Mr. LIEBERMAN, Mrs. CLINTON, Mr. SARBANES, and Ms. LANDRIEU):

S. 544. A bill to establish a SAFER Firefighter Grant Program; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. FEINSTEIN (for herself, Mr. SMITH, Mr. DASCHLE, Ms. LANDRIEU, Mr. BREAUX, Mr. AKAKA, Mr. BIDEN, Mrs. MURRAY, Mr. KERRY, Mr. BAYH, Mr. DURBIN, Ms. STABENOW, Mr. LEVIN, Mr. WYDEN, Mr. KENNEDY, Mr. JEFFORDS, Mr. FEINGOLD, Mr. LAUTENBERG, Ms. COLLINS, Mr. CHAFEE, Mr. HARKIN, Mr. BINGAMAN, Mr. EDWARDS, Mr. SARBANES, Mr. CORZINE, Mr. LEAHY, Mr. LIEBERMAN, Mr. REED, Mr. DAYTON, Mr. NELSON of Florida, Mr. SCHUMER, and Mrs. CLINTON):

S. Res. 74. A resolution to amend rule XLII of the Standing Rules of the Senate to prohibit employment discrimination in the Senate based on sexual orientation; to the Committee on Rules and Administration.

By Mr. CAMPBELL (for himself, Mr. LEAHY, Mr. HATCH, Mr. ALLARD, Mr. BIDEN, Mr. MILLER, Mr. GREGG, Mr. DORGAN, Mr. LOTT, Mr. DASCHLE, Mr. COCHRAN, Mr. NICKLES, Mr. DAYTON, Mr. KERRY, Mr. INHOFE, Mr. JEFFORDS, Mr. FITZGERALD, Ms. LANDRIEU, and Mr. DURBIN):

S. Res. 75. A resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers; to the Committee on the Judiciary.

By Mr. DURBIN:

S. Res. 76. A resolution expressing the sense of the Senate that the policy of preemption, combined with a policy of first use of nuclear weapons, creates an incentive for the proliferation of weapons of mass destruction, especially nuclear weapons, and is consistent with the long-term security of the United States; to the Committee on Foreign Relations.

By Mr. DASCHLE (for himself, Mr. LIEBERMAN, Mr. BIDEN, Mrs. FEINSTEIN, Mr. DODD, Mr. DURBIN, Ms. MIKULSKI, Mr. EDWARDS, Mr. REID, Mr. AKAKA, Mr. DORGAN, Mr. KERRY, Mr. LEAHY, Mr. CARPER, Mr. FEINGOLD, Mr. LAUTENBERG, Mr. REED, Mr. ROCKEFELLER, Ms. LANDRIEU, Mr. KENNEDY, Mrs. MURRAY, Mr. DAYTON, Mr. NELSON of Nebraska, Mrs. CLINTON, Mr. CORZINE, Mrs. BOXER, Mr. HARKIN, Mr. SCHUMER, Mr. WYDEN, Mr. KOHL, Mr. JOHNSON, Mr. JEFFORDS, and Ms. CANTWELL):

S. Res. 77. A resolution expressing the sense of the Senate that one of the most grave threats facing the United States is the proliferation of weapons of mass destruction, to underscore the need for a comprehensive strategy for dealing with this threat, and to set forth basic principles that should underpin this strategy; to the Committee on Foreign Relations.

By Mr. LAUTENBERG (for himself, Mr. SMITH, Mr. KENNEDY, Mrs. FEINSTEIN, and Mr. CORZINE):

S. Con. Res. 13. A concurrent resolution condemning the selection of Libya to chair the United Nations Commission on Human Rights, and for other purposes; ordered held at the desk.

By Mr. SMITH (for himself, Mr. SCHUMER, Mr. CORZINE, Mr . ENSIGN, Mr. FEINGOLD, Mrs. MURRAY, Mr. SANTORUM, Mr. VOINOVICH, and Mr. WYDEN):

S. Con. Res. 14. A concurrent resolution expressing the sense of Congress regarding the education curriculum in the Kingdom of Saudi Arabia; to the Committee on Foreign Relations.

By Mr. ALLEN:

S. Con. Res. 15. A concurrent resolution commemorating the 140th anniversary of the issuance of the Emancipation Proclamation; to the Committee on the Judiciary.

By Mr. SANTORUM:

S. Con. Res. 16. A concurrent resolution honoring the life and work of Mr. Fred McFeely Rogers; considered and agreed to.

By Mr. SANTORUM:

S. Con. Res. 17. A concurrent resolution establishing a special task force to recommend an appropriate recognition for the slave laborers who worked on the construction of the United States Capitol; to the Committee on Rules and Administration.

ADDITIONAL COSPONSORS

S. 2

At the request of Mr. NICKLES, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2, a bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives to encourage economic growth.

S. 90

At the request of Mr. GREGG, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 90, a bill to extend certain budgetary enforcement to maintain fiscal accountability and responsibility.

S. 150

At the request of Mr. ALLEN, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 150, a bill to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act.

S. 160

At the request of Mr. BAUCUS, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 160, a bill to amend the Internal Revenue Code of 1986 to allow the expensing of broadband Internet access expenditures, and for other purposes.

S. 206

At the request of Mr. ROBERTS, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S.

206, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of incentive stock options and employee stock purchase plans.

S. 207

At the request of Mr. SMITH, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 207, a bill to amend the Internal Revenue Code of 1986 to provide a 10-year extension of the credit for producing electricity from wind.

S. 215

At the request of Mrs. FEINSTEIN, the names of the Senator from Minnesota (Mr. DAYTON) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 215, a bill to authorize funding assistance for the States for the discharge of homeland security activities by the National Guard.

S. 245

At the request of Mr. BROWNBACK, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 245, a bill to amend the Public Health Service Act to prohibit human cloning.

S. 271

At the request of Mr. SMITH, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 271, a bill to amend the Internal Revenue Code of 1986 to allow an additional advance refunding of bonds originally issued to finance governmental facilities used for essential governmental functions.

S. 272

At the request of Mr. SANTORUM, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 272, a bill to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low income Americans to gain financial security by building assets, and for other purposes.

S. 310

At the request of Mr. THOMAS, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 310, a bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the medicare program, and for other purposes.

S. 330

At the request of Mr. CAMPBELL, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 330, a bill to further the protection and recognition of veterans' memorials, and for other purposes.

S. 331

At the request of Mr. DASCHLE, the names of the Senator from Colorado (Mr. CAMPBELL), the Senator from North Dakota (Mr. DORGAN), and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 331, a bill to amend part E of title IV of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas.

S. 343

At the request of Ms. MIKULSKI, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 343, a bill to amend title XVIII of the Social Security Act to permit direct payment under the medicare program for clinical social worker services provided to residents of skilled nursing facilities.

S. 349

At the request of Mrs. FEINSTEIN, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 349, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 373

At the request of Mr. KENNEDY, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 373, a bill to amend title XVIII of the Social Security Act to provide for patient protection by limiting the number of mandatory overtime hours a nurse may be required to work in certain providers of services to which payments are made under the medicare program.

S. 380

At the request of Ms. COLLINS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 380, a bill to amend chapter 83 of title 5, United States Code, to reform the funding of benefits under the Civil Service Retirement System for employees of the United States Postal Service, and for other purposes.

S. 392

At the request of Mr. REID, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 392, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 457

At the request of Mr. LEAHY, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 457, a bill to remove the limitation on the use of funds to require a farm to feed livestock with organically produced feed to be certified as an organic farm.

S. 471

At the request of Mr. ALLEN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 471, a bill to ensure continuity for the design of the 5-cent coin, establish the Citizens Coinage Committee, and for other purposes.

S. 480

At the request of Mr. HARKIN, the names of the Senator from Mississippi (Mr. LOTT), the Senator from Indiana (Mr. LUGAR), and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of S. 480, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 481

At the request of Mr. ALLEN, the names of the Senator from New York (Mrs. CLINTON) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 481, a bill to amend chapter 84 of title 5, United States Code, to provide that certain Federal annuity computations are adjusted by 1 percentage point relating to periods of receiving disability payments, and for other purposes.

S. 504

At the request of Mr. ALEXANDER, the names of the Senator from Alaska (Ms. MURKOWSKI) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. 504, a bill to establish academics for teachers and students of American history and civics and a national alliance of teachers of American history and civics, and for other purposes.

S. 509

At the request of Mrs. FEINSTEIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 509, a bill to modify the authority of the Federal Energy Regulatory Commission to conduct investigations, to increase the penalties for violations of the Federal Power Act and Natural Gas Act, to authorize the Chairman of the Federal Energy Regulatory Commission to contract for consultant services, and for other purposes.

S.J. RES. 4

At the request of Mr. HATCH, the names of the Senator from Wyoming (Mr. ENZI), the Senator from Minnesota (Mr. COLEMAN), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S.J. Res. 4, a joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

S. RES. 24

At the request of Mr. BYRD, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. Res. 24, a resolution designating the week beginning May 4, 2003, as ''National Correctional Officers and Employees Week''.

S. RES. 46

At the request of Mr. BINGAMAN, the names of the Senator from Delaware (Mr. BIDEN), the Senator from Montana (Mr. BURNS), the Senator from California (Mrs. BOXER), the Senator from Delaware (Mr. CARPER), the Senator from Connecticut (Mr. DODD), the Senator from Vermont (Mr. JEFFORDS), and the Senator from New York (Mr.

SCHUMER) were added as cosponsors of S. Res. 46, a resolution designating March 31, 2003, as ''National Civilian Conservation Corps Day''.

S. RES. 62

At the request of Mr. ENSIGN, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. Res. 62, a resolution calling upon the Organization of American States (OAS) Inter-American Commission on Human Rights, the United Nations High Commissioner for Human Rights, the European Union, and human rights activists throughout the world to take certain actions in regard to the human rights situation in Cuba.

S. RES. 71

At the request of Ms. MURKOWSKI, the names of the Senator from Missouri (Mr. BOND), the Senator from Wyoming (Mr. ENZI) and the Senator from Colorado (Mr. CAMPBELL) were added as cosponsors of S. Res. 71, a resolution expressing the support for the Pledge of Allegiance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BUNNING:

S. 514. A bill to amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits; to the Committee on Finance.

Mr. BUNNING. Mr. President, today I am introducing the Social Security Benefits Tax Relief Act of 2003. This is a simple bill that would repeal the income tax increase on Social Security benefits that went into effect in 1993.

When the Social Security system was created, beneficiaries did not pay Federal income tax on their benefits. However, in 1983, Congress passed legislation that changed all this. The 1983 law requires that 50 percent of Social Security benefits be taxed for senior whose incomes reached a certain level. The revenue this tax generated was then credited to the Social Security trust funds. Although I wasn't in Congress back in 1983, some argued that these changes were necessary because it kept Social Security taxes more in line with taxes on private pensions and because it shored up the Social Security system.

In 1993, President Clinton proposed that 85 percent of Social Security benefits be taxable for seniors meeting certain income thresholds, and that this additional money be allocated for the Medicare Program. Unfortunately, Congress passes this provision as part of a larger bill, which President Clinton then signed into law.

I was a Member of the House of Representatives at this time. I voted against this bill and didn't support this provision. This tax is unfair to our senior citizens who worked year, after year, after year, paying into Social Security, only to be faced with higher taxed once they retired.

The bill I am introducing would repeal the 85 percent tax, and would replace the funding that has been going to the Medicare Program with general funds. This tax was unfair when it was implemented in 1993, and it is unfair today. I hope my Senate colleagues can support this legislation to remove this burdensome tax on our seniors.

By Mr. BUNNING (for himself, Mrs. BOXER, Mr. INHOFE, Mr. CRAIG, Mr. ALLEN, Mr. NICKLES, Mr. BURNS, Mr. BROWNBACK, Mr. THOMAS, Ms. SNOWE, Mr. MILLER, Mr. CAMPBELL, and Mr. SESSIONS):

S. 516. A bill to amend title 49, United States Code, to allow the arming of pilots of cargo aircraft, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. BUNNING. Mr. President, I rise today with several of my senate colleagues to introduce the Arming Cargo Pilots Against Terrorism Act. This bill closes a loophole to better protect the homeland against terrorists.

As a result of the airplane hijackings on September 11, 2001, Congress took the appropriate action to prevent from ever happening again the use of an airliner as a missile and weapon of mass destruction and murder. Last year, large majorities of the Senate and House of Representatives voted to arm both cargo and passenger pilots who volunteered for a stringent training proram as part of the homeland security bill.

Arming these pilots served to protect the pilots and aircrew, passengers and those on the ground from ever being victims of another airline hijacking. It was the right thing to do. However, during conference of the homeland security bill the cargo pilots were yanked from the bill. This bill we introduce today will arm cargo pilots and close the loophole created when they were left out last year.

It is true that cargo airlines rarely have passengers, but that is no reason to disregard and ignore the safety of those cargo pilots and the aircrafts they control. Indeed, on occasions they do carry passengers, and sometimes they transport couriers and guards of some of the cargo being transported. Too many times these couriers and guards are armed while the pilots are unarmed. After September 11, that simply does not make sense.

As well, physical security around too many of our air cargo facilities and terminals is not up to the standard it should be. This lax in security has allowed stowaways a free pass in climbing aboard cargo airplanes for a free ride. Just a few months ago a woman in Fargo, ND, rushed onto a United Parcel Service plane trying to get to California. Fortunately she was caught. I guarantee that many have successfully sneaked onto cargo airplanes. And many more will continue to try. This is further evidence as to why we need to act to allow these cargo pilots to defend themselves and the cockpit.

Cargo pilots are not armed and they will never have Federal air marshals. Cargo planes do not have trained flight attendants or alert passengers to fend off hijackers. Cargo planes do not have reinforced cockpit doors, and some do not have any doors at all. Cargo areas of airports are not as secure as a passenger areas, and thousands of personnel have access to the aircraft. Finally, stowaways sometimes find their way aboard cargo aircraft. And in the future one might be a terrorist.

There are no logical reasons to exclude cargo pilots. Simply saying that since they carry no passengers unlike a passenger airliner is not a good enough reason. Cargo planes are just as big as—if not bigger than—passenger planes. They can carry larger loads of fuel and frequently carry hazardous materials, including chemicals and biological products. A cargo airplane causes just as much damage when used as a weapon as did the passenger planes hijacked on September 11.

We cannot allow what happened on September 11 to ever happen again. This loophole of excluding cargo pilots from being able to protect themselves and their aircraft and the public must be removed. This is the right thing to do, and I ask my Senate colleagues for their support.

I ask unanimous consent that this bill be printed in the RECORD.

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

S. 516

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 ''Arming Cargo Pilots Against Terrorism Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) During the 107th Congress, both the Senate and the House of Representatives overwhelmingly passed measures that would have armed pilots of cargo aircraft.

(2) Cargo aircraft do not have Federal air marshals, trained cabin crew, or determined passengers to subdue terrorists.

(3) Cockpit doors on cargo aircraft, if present at all, largely do not meet the security standards required for commercial passenger aircraft.

(4) Cargo aircraft vary in size and many are larger and carry larger amounts of fuel than the aircraft hijacked on September 11, 2001.

(5) Aircraft cargo frequently contains hazardous material and can contain deadly biological and chemical agents and quantities of agents that cause communicable diseases.

(6) Approximately 12,000 of the nation's 90,000 commercial pilots serve as pilots and flight engineers on cargo aircraft.

(7) There are approximately 2,000 cargo flights per day in the United States, many of which are loaded with fuel for outbound international travel or are inbound from foreign airports not secured by the Transportation Security Administration.

(8) Aircraft transporting cargo pose a serious risk as potential terrorist targets that could be used as weapons of mass destruction.

(9) Pilots of cargo aircraft deserve the same ability to protect themselves and the

aircraft they pilot as other commercial airline pilots.

(10) Permitting pilots of cargo aircraft to carry firearms creates an important last line of defense against a terrorist effort to commandeer a cargo aircraft.

(b) SENSE OF CONGRESS.—It is the sense of Congress that a member of a flight deck crew of a cargo aircraft should be armed with a firearm to defend the cargo aircraft against an attack by terrorists that could result in the use of the aircraft as a weapon of mass destruction or for other terrorist purposes.

SEC. 3. ARMING CARGO PILOTS AGAINST TERRORISM.

Section 44921 of title 49, United States Code, is amended—

(1) in subsection (a), by striking ''passenger'' each place that it appears; and

(2) in subsection (k)—

(A) in paragraph (2)—

(i) by striking ''or,'' and all that follows; and

(ii) by inserting ''or any other flight deck crew member.''; and

(B) by adding at the end the following new paragraph:

''(3) ALL-CARGO AIR TRANSPORTATION.—For the purposes of this section, the term air transportation includes all-cargo air transportation.''.

SEC. 4. IMPLEMENTATION.

(a) TIME FOR IMPLEMENTATION.—The training of pilots as Federal flight deck officers required in the amendments made by section 3 shall begin as soon as practicable and no later than 90 days after the date of enactment of this Act.

(b) EFFECT ON OTHER LAWS.—The requirements of subsection (a) shall have no effect on the deadlines for implementation contained in section 44921 of title 49, United States Code, as in effect on the day before the date of enactment of this Act.

By Ms. COLLINS (for herself, Mrs. MURRAY, Mr. BREAUX, and Mr. MILLER):

S. 518. A bill to increase the supply of pancreatic islet cells for research, to provide better coordinate of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy; to the Committee on Health, Education, Labor, and Pensions.

Ms. COLLINS. I am pleased to join my colleague from Washington, Senator PATTY MURRAY, as well as my colleague and co-chair of the Senate Diabetes Caucus, Senator JOHN BREAUX, in introducing the Pancreatic Islet Cell Transplantation Act of 2003, which will help to advance tremendously important research that holds the promise of a cure for the more than 1 million Americans with type 1 or juvenile diabetes.

As the founder and co-chair of the senate Diabetes Caucus, I have learned a great deal about this serious disease and the difficulties and heartbreak that it causes for so many Americans and their families as they await a cure. Diabetes is a devastating, life-long condition that affects people of every age, race, and nationality. It is the leading cause of kidney failure, blindness in adults, and amputations not related to injury. Moreover, a new study released by the American Diabetes Association last week estimates that diabetes cost the Nation $132 billion last year, and that health care spending for people with diabetes is almost double what it would be if they did not have diabetes.

The burden of diabetes is particularly heavy for children and young adults with type 1, or juvenile diabetes. Juvenile diabetes is the second most common chronic disease affecting children. Moreover, it is one that they never outgrow.

In individuals with juvenile diabetes, the body's immune system attacks the pancreas and destroys the islet cells that produce insulin. While the discovery of insulin was a landmark breakthrough in the treatment of people with diabetes, it is not a cure, and people with juvenile diabetes face the constant threat of developing devastating, life-threatening complications as well as a drastic reduction in their quality of life.

Thankfully, there is good news for people with diabetes. We have seen some tremendous breakthroughs in diabetes research in recent years, and I am convinced that diabetes is a disease that can be cured, and will be cured in the near future.

We were all encouraged by the development of the Edmonton Protocol, an experimental treatment developed at the University of Alberta involving the transplantation of insulin-producing pancreatic islet cells, which has been hailed as the most important advance in diabetes research since the discovery of insulin in 1921. Of the approximately 200 patients who have been treated using variations of the Edmonton Protocol, all have seen a reversal of their life-disabling hypoglycemia, and nearly 80 percent have maintained normal glucose levels without insulin shots for more than 1 year.

Moreover, the side effects associated with this treatment— which uses more islet cells and a less toxic combination of immunosuppressive drugs than previous, less successful protocols—have been mild and the therapy has been generally well tolerated by most patients.

Unfortunately, long-term use of toxic immunosuppressive drugs, has side effects that make the current treatment inappropriate for use in children. Researcher, however, are working hard to find a way to reduce the transplant recipient's dependence on these drugs so that the procedure will be appropriate for children in the future, and the protocol has been hailed around the world as a remarkable breakthrough and proof that islet transplantation can work. It appears to offer the most immediate chance to achieve a cure for type 1 diabetes, and the research is moving forward rapidly.

New sources of islet cells must be found, however, because, as the science advances and continues to demonstrate promise, the number of islet cell transplants that can be performed will be limited by a serious shortage of pancreases available for islet cell transplantation. There currently are only 2,000 pancreases donated annually, and, of these, only about 500 are available each year for islet cell transplants. Moreover, most patients require islet cells from two pancreases for the procedure to work effectively.

The legislation we are introducing today will increase the supply of pancreases available for these trials and research. Our legislation will direct the Centers for Medicare and Medicaid Services to grant credit to organ procurement organizations OPOs—for the purposes of their certification—for pancreases harvested and used for islet cell transplantation and research.

Currently, CMS collects performance data from each OPO based upon the number of organs procured for transplant relative to the population of the OPO's service area. While CMS considers a pancreas to have been procured for transplantation if it is used for a whole organ transplant, the OPO receives no credit towards its certification if the pancreas is procured and used for islet cell transplantation or research. Our legislation will therefore give the OPOs an incentive to step up their efforts to increase the supply of pancreases donated for this purpose.

In addition, the legislation establishes an inter-agency committee on islet cell transplantation comprised of representatives of all of the Federal agencies with an active role in supporting this research. The many advisory committees on organ transplantation that currently exist are so broad in scope that the issue of islet cell transplantation—while of great importance to the juvenile diabetes community—does not rise to the level of consideration when included with broader issues associated with organ donation, such as organ allocation policy and financial barriers to transplantation. We believe that a more focused effort in the area of islet cell transplantation is clearly warrented since the research is moving forward at such a rapid pace and with such remarkable results.

To help us collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy covered by insurance, our legislation directs the Institute of Medicine to conduct a study on the impact of islet cell transplantation on the health-related quality of life outcomes for individuals with juvenile diabetes, as well as the cost-effectiveness of the treatment.

Diabetes is the most common cause of kidney failure, accounting for 40 percent of new cases, and a significant percentage of individuals with type 1 diabetes will experience kidney failure and become Medicare-eligible before they are age 65. Medicare currently covers both kidney transplants and simultaneous pancreas-kidney transplants for these individuals. To help Medicare decide whether it should cover pancreatic islet cell transplants, our legislation authorizes a demonstration project to test the efficacy of simultaneous islet-kidney transplants

and islet transplants following a kidney transplant for individuals with type 1 diabetes who are eligible for Medicare because they have end stage renal disease ESRD.

Islet cell transplantation offers real hope for people with diabetes. Our legislation, which is strongly supported by the Juvenile Diabetes Research Foundation JDRF, addresses some of the specific obstacles to moving this research forward as rapidly as possible, and I urge all of my colleagues to join us as cosponsors.

By Mr. CAMPBELL:

S. 519. A bill to establish a Native American-owned financial entity to provide financial services to Indian tribes, Native American organizations, and Native Americans, and for other purposes; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, today I am introducing the Native American Capital Formation and Economic Development Act of 2003.

Before the Europeans landed on these shores, Indian nations were vigorous and vital: tribal governments functioned well; tribal cultures and religions flourished; and tribal economies were strong.

Over time tribal institutions failed when the independence they had known were stifled by the Federal Government.

Since 1970, Indian self-determination has assisted the tribes in rebuilding their governments and resurrecting their economies.

The bill I am introducing today will foster real self-determination and create a Native-capitalized development assistance corporation.

If enacted, the tribes themselves will be the financiers and shareholders of the Native American Capital Development Corporation which will focus on mortgage lending and Indian home ownership; provide assistance to Native financial institutions; and work to create a secondary market in Indian mortgages.

The corporation will include the Native American Economies Diagnostic Studies Fund to partner with tribes to conduct diagnostic studies of their economies and identify the inhibitors to greater levels of private sector investment and job creation. Ultimately the corporation and the tribes will work to remove those inhibitors.

The corporation's Native American Economic Incubation Center Fund will work with participating tribes to channel development assistance to those tribes with a demonstrated commitment to sound economic and political policies; good governance; and practices that create increased levels of economic growth and job creation.

It is my expectation that there will be much debate generated by this legislation which I consider a good thing. I expect to hold hearings on this important legislation in the weeks ahead.

I urge my colleagues to join me in support of this important bill.

I ask unanimous consent that a copy 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. 519

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

SECTION. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Native American Capital Formation and Economic Development Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Purposes.
Sec. 4. Definitions.

TITLE I—NATIVE AMERICAN CAPITAL DEVELOPMENT CORPORATION

Sec. 101. Establishment of the Corporation.
Sec. 102. Authorized assistance and service functions.
Sec. 103. Native American lending services grant.
Sec. 104. Audits.
Sec. 105. Annual housing and economic development reports.
Sec. 106. Advisory Council.

TITLE II—CAPITALIZATION OF CORPORATION

Sec. 201. Capitalization of the Corporation.

TITLE III—REGULATION, EXAMINATION, AND REPORTS

Sec. 301. Regulation, examination, and reports.
Sec. 302. Authority of the Secretary of Housing and Urban Development.

TITLE IV—FORMATION OF NEW CORPORATION

Sec. 401. Formation of new corporation.
Sec. 402. Adoption and approval of merger plan.
Sec. 403. Consummation of merger.
Sec. 404. Transition.
Sec. 405. Effect of merger.

TITLE V—OTHER NATIVE AMERICAN FUNDS

Sec. 501. Native American Economies Diagnostic Studies Fund.
Sec. 502. Native American Economic Incubation Center Fund.

TITLE VI—AUTHORIZATIONS OF APPROPRIATIONS

Sec. 601. Native American financial institutions.
Sec. 602. Corporation.
Sec. 603. Other Native American funds.

SEC. 2. FINDINGS.

Congress finds that—

(1) there is a special legal and political relationship between the United States and the Indian tribes, as grounded in treaties, the Constitution, Federal statutes and court decisions, executive orders, and course of dealing;

(2) despite the availability of abundant natural resources on Indian land and a rich cultural legacy that accords great value to self-determination, self-reliance, and independence, Native Americans suffer rates of unemployment, poverty, poor health, substandard housing, and associated social ills to a greater degree than any other group in the United States;

(3) the economic success and material well-being of Native Americans depends on the combined efforts and resources of the United States, Indian tribal governments, the private sector, and individuals;

(4) the poor performance of moribund Indian economies is due in part to the near-complete absence of private capital and private capital institutions; and

(5) the goals of economic self-sufficiency and political self-determination for Native Americans can best be achieved by making available the resources and discipline of the private market, adequate capital, and technical expertise.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to establish an entity dedicated to capital development and economic growth policies in Native American communities;

(2) to provide the necessary resources of the United States, Native Americans, and the private sector on endemic problems such as fractionated and unproductive Indian land;

(3) to provide a center for economic development policy and analysis with particular emphasis on diagnosing the systemic weaknesses with, and inhibitors to greater levels of investment in, Native American economies;

(4) to establish a Native-owned financial entity to provide financial services to Indian tribes, Native American organizations, and Native Americans; and

(5) to improve the material standard of living of Native Americans.

SEC. 4. DEFINITIONS.

In this Act:

(1) ALASKA NATIVE.—The term ''Alaska Native'' has the meaning given the term ''Native'' in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(2) BOARD.—The term ''Board'' means the Board of Directors of the Corporation.

(3) CAPITAL DISTRIBUTION.—The term ''capital distribution'' has the meaning given the term in section 1303 of the Federal Housing Enterprise Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502).

(4) CHAIRPERSON.—The term ''Chairperson'' means the chairperson of the Board.

(5) CORPORATION.—The term ''Corporation'' means the Native American Capital Development Corporation established by section 101(a)(1)(A).

(6) COUNCIL.—The term ''Council'' means the Advisory Council established under section 106(a).

(7) DESIGNATED MERGER DATE.—The term ''designated merger date'' means the specific calendar date and time of day designated by the Board under this Act.

(8) DEPARTMENT OF HAWAIIAN HOME LANDS.—The term ''Department of Hawaiian Home Lands'' means the agency that is responsible for the administration of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.).

(9) FUND.—The term ''Fund'' means the Community Development Financial Institutions Fund established under section 104 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4703).

(10) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(11) MERGER PLAN.—The term ''merger plan'' means the plan of merger adopted by the Board under this Act.

(12) NATIVE AMERICAN.—The term ''Native American'' means—

(A) a member of an Indian tribe; or

(B) a Native Hawaiian.

(13) NATIVE AMERICAN FINANCIAL INSTITUTION.—The term ''Native American financial institution'' means a person (other than an individual) that—

(A) qualifies as a community development financial institution under section 103 of the

Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4702);

(B) satisfies—

(i) requirements established by subtitle A of title I of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4701 et seq.); and

(ii) requirements applicable to persons seeking assistance from the Fund;

(C) demonstrates a special interest and expertise in serving the primary economic development and mortgage lending needs of the Native American community; and

(D) demonstrates that the person has the endorsement of the Native American community that the person intends to serve.

(14) NATIVE AMERICAN LENDER.—The term ''Native American lender'' means a Native American governing body, Native American housing authority, or other Native American financial institution that acts as a primary mortgage or economic development lender in a Native American community.

(15) NATIVE HAWAIIAN.—The term ''Native Hawaiian'' has the meaning given the term in section 201 of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108).

(16) NEW CORPORATION.—The term ''new corporation'' means the corporation formed in accordance with title IV.

(17) SECRETARY.—The term ''Secretary'' means the Secretary of Housing and Urban Development.

(18) TOTAL CAPITAL.—The term ''total capital'' has the meaning given the term in section 1303 of the Federal Housing Enterprise Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502).

(19) TRANSITION PERIOD.—The term ''transition period'' means the period beginning on the date on which the merger plan is approved by the Secretary and ending on the designated merger date.

TITLE I—NATIVE AMERICAN CAPITAL DEVELOPMENT CORPORATION

SEC. 101. ESTABLISHMENT OF THE CORPORATION.

(a) ESTABLISHMENT; BOARD OF DIRECTORS; POLICIES; PRINCIPAL OFFICE; MEMBERSHIP; VACANCIES.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There is established and chartered a corporation, to be known as the ''Native American Capital Development Corporation''.

(B) PERIOD OF TIME.—The Corporation shall be a congressionally chartered body corporate until the earlier of—

(i) the designated merger date; or

(ii) the date on which the charter is surrendered by the Corporation.

(C) CHANGES TO CHARTER.—The right to revise, amend, or modify the Corporation charter is specifically and exclusively reserved to Congress.

(2) BOARD OF DIRECTORS; PRINCIPAL OFFICE.—

(A) BOARD.—The powers of the Corporation shall be vested in a Board of Directors, which Board shall determine the policies that govern the operations and management of the Corporation.

(B) PRINCIPAL OFFICE; RESIDENCY.—

(i) PRINCIPAL OFFICE.—The principal office of the Corporation shall be in the District of Columbia.

(ii) VENUE.—For purposes of venue, the Corporation shall be considered to be a resident of the District of Columbia.

(3) MEMBERSHIP.—

(A) IN GENERAL.—

(i) NINE MEMBERS.—Except as provided in clause (ii), the Board shall consist of 9 members, of which—

(I) 3 members shall be appointed by the President; and

(II) 6 members shall be elected by the class A stockholders, in accordance with the bylaws of the Corporation.

(ii) THIRTEEN MEMBERS.—If class B stock is issued under section 201(b), the Board shall consist of 13 members, of which—

(I) 9 members shall be appointed and elected in accordance with clause (i); and

(II) 4 members shall be elected by the class B stockholders, in accordance with the bylaws of the Corporation.

(B) TERMS.—Each member of the Board shall be elected or appointed for a 4-year term, except that the members of the initial Board shall be elected or appointed for the following terms:

(i) Of the 3 members appointed by the President—

(I) 1 member shall be appointed for a 2-year term;

(II) 1 member shall be appointed for a 3-year term; and

(III) 1 member shall be appointed for a 4-year term;

as designated by the President at the time of the appointments.

(ii) Of the 6 members elected by the class A stockholders—

(I) 2 members shall each be elected for a 2-year term;

(II) 2 members shall each be elected for a 3-year term; and

(III) 2 members shall each be elected for a 4-year term.

(iii) If class B stock is issued and 4 additional members are elected by the class B stockholders—

(I) 1 member shall be elected for a 2-year term;

(II) 1 member shall be elected for a 3-year term; and

(III) 2 members shall each be elected for a 4-year term.

(C) QUALIFICATIONS.—Each member appointed by the President shall have expertise in 1 or more of the following areas:

(i) Native American housing and economic development matters.

(ii) Financing in Native American communities.

(iii) Native American governing bodies, legal infrastructure, and judicial systems.

(iv) Restricted and trust land issues, economic development, and small consumer loans.

(D) MEMBERS OF INDIAN TRIBES.—Not less than 2 of the members appointed by the President shall be members of different, federally-recognized Indian tribes enrolled in accordance with the applicable requirements of the Indian tribes.

(E) CHAIRPERSON.—The Board shall select a Chairperson from among the members of the Board, except that the initial Chairperson shall be selected from among the members of the initial Board who have been appointed or elected to serve for a 4-year term.

(F) VACANCIES.—

(i) APPOINTED MEMBERS.—Any vacancy in the appointed membership of the Board shall be filled by appointment by the President, but only for the unexpired portion of the term.

(ii) ELECTED MEMBERS.—Any vacancy in the elected membership of the Board shall be filled by appointment by the Board, but only for the unexpired portion of the term.

(G) TRANSITIONS.—Any member of the Board may continue to serve after the expiration of the term for which the member was appointed or elected until a qualified successor has been appointed or elected.

(b) POWERS OF THE CORPORATION.—The Corporation—

(1) shall adopt bylaws, consistent with this Act, regulating, among other things, the manner in which—

(A) the business of the Corporation shall be conducted;

(B) the elected members of the Board shall be elected;

(C) the stock of the Corporation shall be issued, held, and disposed of;

(D) the property of the Corporation shall be disposed of; and

(E) the powers and privileges granted to the Corporation by this Act and other law shall be exercised;

(2) may make and execute contracts, agreements, and commitments, including entering into a cooperative agreement with the Secretary;

(3) may prescribe and impose fees and charges for services provided by the Corporation;

(4) may, if a settlement, adjustment, compromise, release, or waiver of a claim, demand, or right of, by, or against the Corporation, is not adverse to the interests of the United States—

(A) settle, adjust, and compromise on the claim, demand, or right; and

(B) with or without consideration or benefit to the Corporation, release or waive, in whole or in part, in advance or otherwise, the claim, demand, or right;

(5) may sue and be sued, complain and defend, in any Federal, State, tribal, or other court;

(6) may acquire, take, hold, and own, manage, and dispose of any property;

(7) may—

(A) determine the necessary expenditures of the Corporation and the manner in which those expenditures shall be incurred, allowed, and paid; and

(B) appoint, employ, and fix and provide for the compensation and benefits of such officers, employees, attorneys, and agents as the Board determines reasonable and not inconsistent with this section;

(8) may incorporate a new corporation under State, District of Columbia, or tribal law, as provided in this Act;

(9) may adopt a plan of merger, as provided in this Act;

(10) may consummate the merger of the Corporation into the new corporation, as provided in this Act; and

(11) may have succession until the designated merger date or any earlier date on which the Corporation surrenders the Federal charter of the Corporation.

(c) INVESTMENT OF FUNDS; DESIGNATION AS DEPOSITARY, CUSTODIAN, OR AGENT.—

(1) INVESTMENT OF FUNDS.—Funds of the Corporation that are not required to meet current operating expenses shall be invested in—

(A) obligations of, or obligations guaranteed by, the United States (or any agency of the United States); or

(B) in obligations, participations, or other instruments that are lawful investments for fiduciary, trust, or public funds.

(2) DESIGNATION AS DEPOSITARY, CUSTODIAN, OR AGENT.—Any Federal Reserve bank or Federal home loan bank, or any bank as to which at the time of its designation by the Corporation there is outstanding a designation by the Secretary of the Treasury as a general or other depositary of public money, may—

(A) be designated by the Corporation as a depositary or custodian or as a fiscal or other agent of the Corporation; and

(B) act as such a depositary, custodian, or agent.

(d) ACTIONS BY AND AGAINST THE CORPORATION.—Notwithstanding section 1349 of title 28, United States Code, or any other provision of law—

(1) the Corporation shall be deemed to be an agency covered under sections 1345 and 1442 of title 28, United States Code;

(2) any civil action to which the Corporation is a party shall be deemed to arise under the laws of the United States, and the appropriate district court of the United States shall have original jurisdiction over any such action, without regard to amount or value; and

(3) in any case in which all remedies have been exhausted in accordance with the applicable ordinances of an Indian tribe, in any civil or other action, case, or controversy in a tribal court, State court, or in any court other than a district court of the United States, to which the Corporation is a party, may at any time before the commencement of the civil action be removed by the Corporation, without the giving of any bond or security and by following any procedure for removal of causes in effect at the time of the removal—

(A) to the district court of the United States for the district and division in which the action is pending; or

(B) if there is no such district court, to the United States District Court for the District of Columbia.

SEC. 102. AUTHORIZED ASSISTANCE AND SERVICE FUNCTIONS.

The Corporation may—

(1) assist in the planning, establishment, and organization of Native American financial institutions;

(2) develop and provide financial expertise and technical assistance to Native American financial institutions, including methods of underwriting, securing, servicing, packaging, and selling mortgage and small commercial and consumer loans;

(3) develop and provide specialized technical assistance on overcoming barriers to primary mortgage lending on Native American land, including issues relating to—

(A) trust land;

(B) discrimination;

(C) high operating costs; and

(D) inapplicability of standard underwriting criteria;

(4) provide mortgage underwriting assistance (but not in originating loans) under contract to Native American financial institutions;

(5) work with the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and other participants in the secondary market for home mortgage instruments in identifying and eliminating barriers to the purchase of Native American mortgage loans originated by Native American financial institutions and other lenders in Native American communities;

(6) obtain capital investments in the Corporation from Indian tribes, Native American organizations, and other entities;

(7) act as an information clearinghouse by providing information on financial practices to Native American financial institutions;

(8) monitor and report to Congress on the performance of Native American financial institutions in meeting the economic development and housing credit needs of Native Americans; and

(9) provide any of the services described in this section—

(A) directly; or

(B) under a contract authorizing another national or regional Native American financial services provider to assist the Corporation in carrying out the purposes of this Act.

SEC. 103. NATIVE AMERICAN LENDING SERVICES GRANT.

(a) INITIAL GRANT PAYMENT.—If the Secretary and the Corporation enter into a cooperative agreement for the Corporation to provide technical assistance and other services to Native American financial institutions, the agreement shall, to the extent that funds are available as provided in this Act, provide that the initial grant payment, anticipated to be $5,000,000, shall be made at the time at which all members of the initial Board have been appointed under this Act.

(b) PAYMENT OF GRANT BALANCE.—The payment of the remainder of the grant shall be made to the Corporation not later than 1 year after the date on which the initial grant payment is made under subsection (a).

SEC. 104. AUDITS.

(a) INDEPENDENT AUDITS.—

(1) IN GENERAL.—The Corporation shall have an annual independent audit made of the financial statements of the Corporation by an independent public accountant in accordance with generally accepted auditing standards.

(2) DETERMINATIONS.—In conducting an audit under this subsection, the independent public accountant shall determine and submit to the Secretary a report on whether the financial statements of the Corporation—

(A) are presented fairly in accordance with generally accepted accounting principles; and

(B) to the extent determined necessary by the Secretary, comply with any disclosure requirements imposed under section 301.

(b) GAO AUDITS.—

(1) IN GENERAL.—Beginning on the date that is 2 years after the date of commencement of operation of the Corporation, unless an earlier date is required by any other law, grant, or agreement, the programs, activities, receipts, expenditures, and financial transactions of the Corporation shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General.

(2) ACCESS.—To carry out this subsection, the representatives of the General Accounting Office shall—

(A) have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation that are necessary to facilitate the audit;

(B) be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians; and

(C) have access, on request to the Corporation or any auditor for an audit of the Corporation under subsection (a), to any books, accounts, financial records, reports, files, or other papers, or property belonging to or in use by the Corporation and used in any such audit and to any papers, records, files, and reports of the auditor used in such an audit.

(3) REPORTS.—The Comptroller General of the United States shall submit to Congress a report on each audit conducted under this subsection.

(4) REIMBURSEMENT.—The Corporation shall reimburse the General Accounting Office for the full cost of any audit conducted under this subsection.

SEC. 105. ANNUAL HOUSING AND ECONOMIC DEVELOPMENT REPORTS.

Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Corporation shall collect, maintain, and provide to the Secretary, in a form determined by the Secretary, such data as the Secretary determines to be appropriate with respect to the activities of the Corporation relating to economic development.

SEC. 106. ADVISORY COUNCIL.

(a) ESTABLISHMENT.—The Board shall establish an Advisory Council in accordance with this section.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall consist of 13 members, who shall be appointed by the Board, including—

(A) 1 representative from each of the 12 districts established by the Bureau of Indian Affairs; and

(B) 1 representative from the State of Hawaii.

(2) QUALIFICATIONS.—Of the members of the Council—

(A) not less than 6 members shall have expertise in financial matters; and

(B) not less than 9 members shall be Native Americans.

(3) TERMS.—Each member of the Council shall be appointed for a 4-year term, except that the initial Council shall be appointed, as designated by the Board at the time of appointment, as follows:

(A) Each of 4 members shall be appointed for a 2-year term.

(B) Each of 4 members shall be appointed for a 3-year term.

(C) Each of 5 members shall be appointed for a 4-year term.

(c) DUTIES.—The Council shall—

(1) advise the Board on all policy matters of the Corporation; and

(2) through the regional representation of members of the Council, provide information to the Board from all sectors of the Native American community.

TITLE II—CAPITALIZATION OF CORPORATION

SEC. 201. CAPITALIZATION OF THE CORPORATION.

(a) CLASS A STOCK.—The class A stock of the Corporation shall—

(1) be issued only to Indian tribes and the Department of Hawaiian Home Lands;

(2) be allocated—

(A) with respect to Indian tribes, on the basis of Indian tribe population, as determined by the Secretary in consultation with the Secretary of the Interior, in such manner as to issue 1 share for each member of an Indian tribe; and

(B) with respect to the Department of Hawaiian Home Lands, on the basis of the number of current leases at the time of allocation;

(3) have such par value and other characteristics as the Corporation shall provide;

(4) be issued in such a manner as to ensure that voting rights may be vested only on purchase of those rights from the Corporation by an Indian tribe or the Department of Hawaiian Home Lands, with each share being entitled to 1 vote; and

(5) be nontransferable.

(b) CLASS B STOCK.—

(1) IN GENERAL.—The Corporation may issue class B stock evidencing capital contributions in the manner and amount, and subject to any limitations on concentration of ownership, as may be established by the Corporation.

(2) CHARACTERISTICS.—Any class B stock issued under paragraph (1) shall—

(A) be available for purchase by investors;

(B) be entitled to such dividends as may be declared by the Board in accordance with subsection (c);

(C) have such par value and other characteristics as the Corporation shall provide;

(D) be vested with voting rights, with each share being entitled to 1 vote; and

(E) be transferable only on the books of the Corporation.

(c) CHARGES AND FEES; EARNINGS.—

(1) CHARGES AND FEES.—The Corporation may impose charges or fees, which may be regarded as elements of pricing, with the objectives that—

(A) all costs and expenses of the operations of the Corporation should be within the income of the Corporation derived from such operations; and

(B) those operations would be fully self-supporting.

(2) EARNINGS.—

(A) IN GENERAL.—All earnings from the operations of the Corporation shall be annually transferred to the general surplus account of the Corporation.

(B) TRANSFER OF GENERAL SURPLUS FUNDS.—At any time, funds in the general surplus account may, in the discretion of the Board, be transferred to the reserves of the Corporation.

(d) CAPITAL DISTRIBUTIONS.—

(1) DISTRIBUTIONS.—

(A) IN GENERAL.—Except as provided in paragraph (2), the Corporation may make such capital distributions as may be declared by the Board.

(B) CHARGING OF DISTRIBUTIONS.—All capital distributions under subparagraph (A) shall be charged against the general surplus account of the Corporation.

(2) RESTRICTION.—The Corporation may not make any capital distribution that would decrease the total capital of the Corporation to an amount less than the capital level for the Corporation established under section 301, without prior written approval of the distribution by the Secretary.

TITLE III—REGULATION, EXAMINATION, AND REPORTS

SEC. 301. REGULATION, EXAMINATION, AND REPORTS.

(a) IN GENERAL.—The Corporation shall be subject to the regulatory authority of the Department of Housing and Urban Development with respect to all matters relating to the financial safety and soundness of the Corporation.

(b) DUTY OF SECRETARY.—The Secretary shall ensure that the Corporation is adequately capitalized and operating safely as a congressionally chartered body corporate.

(c) REPORTS TO SECRETARY.—

(1) ANNUAL REPORTS.—On such date as the Secretary shall require, but not later than 1 year after the date of enactment of this Act, and annually thereafter, the Corporation shall submit to the Secretary a report in such form and containing such information with respect to the financial condition and operations of the Corporation as the Secretary shall require.

(2) CONTENTS OF REPORTS.—Each report submitted under this subsection shall contain a declaration by the president, vice president, treasurer, or any other officer of the Corporation designated by the Board to make the declaration, that the report is true and correct to the best of the knowledge and belief of that officer.

SEC. 302. AUTHORITY OF THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

The Secretary shall—

(1) have general regulatory power over the Corporation; and

(2) promulgate such rules and regulations applicable to the Corporation as the Secretary determines to be appropriate to ensure that the purposes specified in section 3 are accomplished.

TITLE IV—FORMATION OF NEW CORPORATION

SEC. 401. FORMATION OF NEW CORPORATION.

(a) IN GENERAL.—In order to continue the accomplishment of the purposes specified in section 3 beyond the terms of the charter of the Corporation, the Board shall, not later than 10 years after the date of enactment of this Act, cause the formation of a new corporation under the laws of any tribe, any State, or the District of Columbia.

(b) POWERS OF NEW CORPORATION NOT PRESCRIBED.—Except as provided in this section, the new corporation may have such corporate powers and attributes permitted under the laws of the jurisdiction of in which the new corporation is incorporated as the Board determines to be appropriate.

(c) USE OF NAME PROHIBITED.—The new corporation may not use in any manner the names ''Native American Capital Development Corporation'' or ''NACDCO'', or any variation of those names.

SEC. 402. ADOPTION AND APPROVAL OF MERGER PLAN.

(a) IN GENERAL.—Not later than 10 years after the date of enactment of this Act, after consultation with the Indian tribes that are stockholders of class A stock referred to in section 201(a), the Board shall prepare, adopt, and submit to the Secretary for approval, a plan for merging the Corporation into the new corporation.

(b) DESIGNATED MERGER DATE.—

(1) IN GENERAL.—The Board shall establish the designated merger date in the merger plan as a specific calendar date on which, and time of day at which, the merger of the Corporation into the new corporation shall take effect.

(2) CHANGES.—The Board may change the designated merger date in the merger plan by adopting an amended plan of merger.

(3) RESTRICTION.—Except as provided in paragraph (4), the designated merger date in the merger plan or any amended merger plan shall not be later than 11 years after the date of enactment of this Act.

(4) EXCEPTION.—Subject to the restriction contained in paragraph (5), the Board may adopt an amended plan of merger that designates a date under paragraph (3) that is later than 11 years after the date of enactment of this Act if the Board submits to the Secretary a report—

(A) stating that an orderly merger of the Corporation into the new corporation is not feasible before the latest date designated by the Board;

(B) explaining why an orderly merger of the Corporation into the new corporation is not feasible before the latest date designated by the Board;

(C) describing the steps that have been taken to consummate an orderly merger of the Corporation into the new corporation not later than 11 years after the date of enactment of this Act; and

(D) describing the steps that will be taken to consummate an orderly and timely merger of the Corporation into the new corporation.

(5) LIMITATION.—The date designated by the Board in an amended merger plan shall not be later than 12 years after the date of enactment of this Act.

(6) CONSUMMATION OF MERGER.—The consummation of an orderly and timely merger of the Corporation into the new corporation shall not occur later than 13 years after the date of enactment of this Act.

(c) GOVERNMENTAL APPROVALS OF MERGER PLAN REQUIRED.—The merger plan or any amended merger plan shall take effect on the date on which the plan is approved by the Secretary.

(d) REVISION OF DISAPPROVED MERGER PLAN REQUIRED.—If the Secretary disapproves the merger plan or any amended merger plan—

(1) the Secretary shall—

(A) notify the Corporation of the disapproval; and

(B) indicate the reasons for the disapproval; and

(2) not later than 30 days after the date of notification of disapproval under paragraph (1), the Corporation shall submit to the Secretary for approval, an amended merger plan that responds to the reasons for the disapproval indicated in that notification.

(e) NO STOCKHOLDER APPROVAL OF MERGER PLAN REQUIRED.—The approval or consent of the stockholders of the Corporation shall not be required to accomplish the merger of the Corporation into the new corporation.

SEC. 403. CONSUMMATION OF MERGER.

The Board shall ensure that the merger of the Corporation into the new corporation is accomplished in accordance with—

(1) a merger plan approved by the Secretary under section 402; and

(2) all applicable laws of the jurisdiction in which the new corporation is incorporated.

SEC. 404. TRANSITION.

Except as provided in this section, the Corporation shall, during the transition period, continue to have all of the rights, privileges, duties, and obligations, and shall be subject to all of the limitations and restrictions, set forth in this Act.

SEC. 405. EFFECT OF MERGER.

(a) TRANSFER OF ASSETS AND LIABILITIES.—On the designated merger date—

(1) all real, personal, and mixed property, all debts due on any account, and any other interest, of or belonging to or due to the Corporation, shall be transferred to and vested in the new corporation without further act or deed; and

(2) no title to any real, personal, or mixed property shall be impaired in any way by reason of the merger.

(b) TERMINATION OF THE CORPORATION AND FEDERAL CHARTER.—On the designated merger date—

(1) the surviving corporation of the merger shall be the new corporation;

(2) the Federal charter of the Corporation shall terminate; and

(3) the separate existence of the Corporation shall terminate.

(c) REFERENCES TO THE CORPORATION IN LAW.—After the designated merger date, any reference to the Corporation in any law or regulation shall be deemed to refer to the new corporation.

(d) SAVINGS CLAUSE.—

(1) PROCEEDINGS.—The merger of the Corporation into the new corporation shall not abate any proceeding commenced by or against the Corporation before the designated merger date, except that the new corporation shall be substituted for the Corporation as a party to any such proceeding as of the designated merger date.

(2) CONTRACTS AND AGREEMENTS.—All contracts and agreements to which the Corporation is a party and which are in effect on the day before the designated merger date shall continue in effect according to their terms, except that the new corporation shall be substituted for the Corporation as a party to those contracts and agreements as of the designated merger date.

TITLE V—OTHER NATIVE AMERICAN FUNDS

SEC. 501. NATIVE AMERICAN ECONOMIES DIAGNOSTIC STUDIES FUND.

(a) ESTABLISHMENT.—There is established within the Corporation a fund to be known as the ''Native American Economies Diagnostic Studies Fund'' (referred to in this section as the ''Diagnostic Fund''), to be used to strengthen Indian tribal economies by supporting investment policy reforms and technical assistance to eligible Indian tribes, consisting of—

(1) any interest earned on investment of amounts in the Fund under subsection (d); and

(2) such amounts as are appropriated to the Diagnostic Fund under subsection (f).

(b) USE OF AMOUNTS FROM DIAGNOSTIC FUND.—

(1) IN GENERAL.—The Corporation shall use amounts in the Diagnostic Fund to establish an interdisciplinary mechanism by which the Corporation and interested Indian tribes may jointly—

(A) conduct diagnostic studies of Native economic conditions; and

(B) provide recommendations for reforms in the policy, legal, regulatory, and investment areas and general economic environment of the interested Indian tribes.

(2) CONDITIONS FOR STUDIES.—A diagnostic study conducted jointly by the Corporation and an Indian tribe under paragraph (1)—

(A) shall be conducted in accordance with an agreement between the Corporation and the Indian tribe; and

(B) at a minimum, shall identify inhibitors to greater levels of private sector investment and job creation with respect to the Indian tribe.

(c) EXPENDITURES FROM DIAGNOSTIC FUND.—

(1) IN GENERAL.—Subject to paragraph (2), on request by the Corporation, the Secretary of the Treasury shall transfer from the Diagnostic Fund to the Corporation such amounts as the Corporation determines are necessary to carry out this section.

(2) ADMINISTRATIVE EXPENSES.—An amount not exceeding 12 percent of the amounts in the Diagnostic Fund shall be available in each fiscal year to pay the administrative expenses necessary to carry out this section.

(d) INVESTMENT OF AMOUNTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Diagnostic Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

(2) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(3) SALE OF OBLIGATIONS.—Any obligation acquired by the Diagnostic Fund may be sold by the Secretary of the Treasury at the market price.

(4) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Diagnostic Fund shall be credited to and form a part of the Diagnostic Fund.

(e) TRANSFERS OF AMOUNTS.—

(1) IN GENERAL.—The amounts required to be transferred to the Diagnostic Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Diagnostic Fund on the basis of estimates made by the Secretary of the Treasury.

(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(f) TRANSFERS TO DIAGNOSTIC FUND.—There are appropriated to the Diagnostic Fund, out of funds made available under section 603, such sums as are necessary to carry out this section.

SEC. 502. NATIVE AMERICAN ECONOMIC INCUBATION CENTER FUND.

(a) ESTABLISHMENT.—There is established within the Corporation a fund to be known as the ''Native American Economic Incubation Center Fund'' (referred to in this section as the ''Economic Fund''), consisting of—

(1) any interest earned on investment of amounts in the Economic Fund under subsection (d); and

(2) such amounts as are appropriated to the Economic Fund under subsection (f).

(b) USE OF AMOUNTS FROM ECONOMIC FUND.—

(1) IN GENERAL.—The Corporation shall use amounts in the Economic Fund to ensure that Federal development assistance and other resources dedicated to Native American economic development are provided only to Native American communities with demonstrated commitments to—

(A) sound economic and political policies;

(B) good governance; and

(C) practices that promote increased levels of economic growth and job creation.

(c) EXPENDITURES FROM ECONOMIC FUND.—

(1) IN GENERAL.—Subject to paragraph (2), on request by the Corporation, the Secretary of the Treasury shall transfer from the Economic Fund to the Corporation such amounts as the Corporation determines are necessary to carry out this section.

(2) ADMINISTRATIVE EXPENSES.—An amount not exceeding 12 percent of the amounts in the Economic Fund shall be available in each fiscal year to pay the administrative expenses necessary to carry out this section.

(d) INVESTMENT OF AMOUNTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Economic Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

(2) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(3) SALE OF OBLIGATIONS.—Any obligation acquired by the Economic Fund may be sold by the Secretary of the Treasury at the market price.

(4) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Economic Fund shall be credited to and form a part of the Economic Fund.

(e) TRANSFERS OF AMOUNTS.—

(1) IN GENERAL.—The amounts required to be transferred to the Economic Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Economic Fund on the basis of estimates made by the Secretary of the Treasury.

(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(f) TRANSFERS TO ECONOMIC FUND.—There are appropriated to the Economic Fund, out of funds made available under section 603, such sums as are necessary to carry out this section.

TITLE VI—AUTHORIZATIONS OF APPROPRIATIONS

SEC. 601. NATIVE AMERICAN FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Fund, without fiscal year limitation, such sums as are necessary to provide financial assistance to Native American financial institutions.

(b) NO CONSIDERATION AS MATCHING FUNDS.—To the extent that a Native American financial institution receives funds under subsection (a), the funds shall not be considered to be matching funds required under section 108(e) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4707(e)).

SEC. 602. CORPORATION.

There are authorized to be appropriated to the Secretary, for transfer to the Corporation, such sums as are necessary to carry out activities of the Corporation.

SEC. 603. OTHER NATIVE AMERICAN FUNDS.

There are authorized to be appropriated such sums as are necessary to carry out sections 501 and 502.

By Mr. CAMPBELL:

S. 521. A bill to amend the Act of August 9, 1955, to extend the terms of leases of certain restricted Indian land, and for other purposes; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, today I am pleased to introduce the Indian Land Leasing Act of 2003 to make routine changes to title 25 of the United States Code and to assist economic activity on Indian lands by liberalizing the Indian land leasing process.

Federal law requires tribal landowners to seek the approval of the Secretary of the Interior to lease their lands and further restricts the lease term to a period of 25 years.

This legal framework is an obstacle in the path of the tribes and their members, and year after year Indian tribes are forced to seek the Committee on Indian Affairs' assistance in extending the lease term to 99 years.

Over the years not fewer than 38 tribes have come to Congress and secured 99-year lease authority.

At the tribes' request, this bill will extend 99-year lease authority to the Confederated Tribes of the Umatilla Reservation, the Yavapai-Prescott Tribe, the Yurok Tribe, and the Hopland Band of Pomo Indians to the long list of tribes that have already secured similar extensions.

The bill also provides 99-year lease authority for tribes that wish to do so without the prior approval of the Secretary.

I urge my colleagues to join me in supporting this modest but important legislation.

I ask unanimous consent that a copy 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. 521

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 ''Indian Land Leasing Act of 2003''.

SEC. 2. AUTHORIZATION OF 99-YEAR LEASES.

(a) IN GENERAL.—Subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(a)) is amended in the second sentence—

(1) by inserting ''the reservation of the Confederated Tribes of the Umatilla Indian Reservation,'' before ''the Burns Paiute Reservation,'';

(2) by inserting ''the'' before ''Yavapai-Prescott'';

(3) by striking ''Washington,,'' and inserting ''Washington,''; and

(4) by inserting ''land held in trust for the Yurok Tribe, land held in trust for the Hopland Band of Pomo Indians of the Hopland Rancheria,'' after ''Pueblo of Santa Clara,''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to any lease entered into or renewed after the date of enactment of this Act.

SEC. 3. LEASE OF TRIBALLY-OWNED LAND BY ASSINIBOINE AND SIOUX TRIBES OF THE FORT PECK RESERVATION.

The first section of the Act of August 9, 1955 (25 U.S.C. 415) is amended by adding at the end the following:

''(g) LEASE OF TRIBALLY-OWNED LAND BY ASSINIBOINE AND SIOUX TRIBES OF THE FORT PECK RESERVATION.—

''(1) IN GENERAL.—Notwithstanding subsection (a) and any regulations under part 162 of title 25, Code of Federal Regulations (or any successor regulation), subject to paragraph (2), the Assiniboine and Sioux Tribes of the Fort Peck Reservation may lease to the Northern Border Pipeline Company tribally-owned land on the Fort Peck Indian Reservation for 1 or more interstate gas pipelines.

''(2) CONDITIONS.—A lease entered into under paragraph (1)—

''(A) shall commence during fiscal year 2011 for an initial term of 25 years;

''(B) may be renewed for an additional term of 25 years; and

''(C) shall specify in the terms of the lease an annual rental rate—

''(i) which rate shall be increased by 3 percent per year on a cumulative basis for each 5-year period; and

''(ii) the adjustment of which in accordance with clause (i) shall be considered to satisfy any review requirement under part 162 of title 25, Code of Federal Regulations (or a successor regulation).''.

SEC. 4. CERTIFICATION OF RENTAL PROCEEDS.

Notwithstanding any other provision of law, any actual rental proceeds from the lease of land acquired under section 1 of Public Law 91–229 (25 U.S.C. 488) certified by the Secretary of the Interior shall be deemed—

(1) to constitute the rental value of that land; and

(2) to satisfy the requirement for appraisal of that land.

SEC. 5. MONTANA INDIAN TRIBES; AGREEMENT WITH DRY PRAIRIE RURAL WATER ASSOCIATION, INCORPORATED.

(a) IN GENERAL.—The Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation (referred to in this section as the ''Tribes'') may, with the approval of the Secretary of the Interior, enter into a lease or other temporary conveyance of water rights recognized under the Fort Peck-Montana Compact (Montana Code Annotated 85–20–201) for the purpose of meeting the water needs of the Dry Prairie Rural Water Association, Incorporated (or any successor entity), in accordance with section 5 of the Fort Peck Reservation Rural Water System Act of 2000 (114 Stat. 1454).

(b) CONDITIONS OF LEASE.—With respect to a lease or other temporary conveyance described in subsection (a)—

(1) the term of the lease or conveyance shall not exceed 100 years; and

(2)(A) the lease or conveyance may be approved by the Secretary of the Interior without monetary compensation to the Tribes; and

(B) the Secretary of the Interior shall not be subject to liability for any claim or cause of action relating to the compensation or consideration received by the Tribes under the lease or conveyance.

(c) NO PERMANENT ALIENATION OF WATER.—Nothing in this section authorizes any permanent alienation of any water by the Tribes.

SEC. 6. LEASES OF RESTRICTED INDIAN LAND; NON-INDIAN BUSINESS PARTNERS ON INDIAN LAND.

Subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(a)) is amended by adding at the end the following: ''Notwithstanding any other provision of law, no Indian tribe shall be required to obtain the approval of the Secretary to enter into a lease of restricted Indian land (not including any lease for exploration, development, or extraction of any mineral resource) under this subsection for a term that does not exceed 99 years if the Indian tribe provides written notice in original leasing documents that the Indian tribe has the unilateral right to terminate the lease in any case in which the Indian tribe does not waive sovereign immunity from any civil action brought by a party to the lease for just compensation as a result of such a termination. Any person that is a party to a lease described in the preceding sentence may bring a civil action to enforce the lease.''.

By Mr. CAMPBELL (for himself and Mr. DOMENICI):

S. 522. A bill to amend the Energy Policy Act of 1992 to assist Indian tribes in developing energy resources, and for other purposes; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, today I am pleased to introduce the Native American Energy Development and Self-Determination Act of 2003.

Our Nation is about to be embroiled in war in the Middle East and the markets are anxious about the military action. As a result, world oil prices are soaring and now are nearly $40 per barrel.

The economic repercussions to everyday Americans of high oil prices cannot be overlooked. Industries reliant on cheap energy will contract and people will lose their jobs.

The single working mom who commutes and delivers her child to daycare will be paying much higher prices at the pump. Shoes for her kids and payments into the college fund will have to wait.

The family-owned construction firm will be forced to let people go. Families will be disrupted.

One obvious answer to our energy future is in more vigorous domestic production.

For far too long Indian-owned energy resources have been overlooked and untapped.

There are nearly 90 tribes that own significant energy resources—both renewable and nonrenewable—and with rare exception these tribes want to develop them.

The Interior Department estimates that 25 percent of oil and less than 20 percent of natural gas reserves on Indian land have been developed.

The bill I am introducing will provide financial assistance, technical expertise, and regulatory relief to the tribes in their efforts to manage and market their resources.

I urge my colleagues to join me in supporting this bill.

I ask unanimous consent that a copy 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. 522

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 ''Native American Energy Development and Self-Determination Act of 2003''.

SEC. 2. INDIAN ENERGY.

(a) IN GENERAL.—Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) is amended to read as follows:

''TITLE XXVI—INDIAN ENERGY

''SEC. 2601. FINDINGS; PURPOSES.

''(a) FINDINGS.—Congress finds that—

''(1) the energy resources of Indians and Indian tribes are among the most valuable natural resources of Indians and Indian tribes;

''(2) there exists a special legal and political relationship between the United States and Indian tribes as expressed in treaties, the Constitution, Federal statutes, court decisions, executive orders, and course of dealing;

''(3) Indian land comprises approximately 5 percent of the land area of the United States, but contains an estimated 10 percent of all energy reserves in the United States, including—

''(A) 30 percent of known coal deposits located in the western portion of the United States;

''(B) 5 percent of known onshore oil deposits of the United States; and

''(C) 10 percent of known onshore natural gas deposits of the United States;

''(4) coal, oil, natural gas, and other energy minerals produced from Indian land represent more than 10 percent of total nationwide onshore production of energy minerals;

''(5) in 2000, 9,300,000 barrels of oil, 299,000,000,000 cubic feet of natural gas, and 21,400,000 tons of coal were produced from Indian land, representing $700,000,000 in Indian energy revenue;

''(6) the Department of the Interior estimates that only 25 percent of the oil and less than 20 percent of all natural gas reserves on Indian land have been developed;

''(7) the Department of Energy estimates that the wind resources of the Great Plains could meet 75 percent of the electricity demand in the contiguous 48 States;

''(8) the development of Indian energy resources would assist—

''(A) Indian communities in carrying out community development efforts; and

''(B) the United States in securing a greater degree of independence from foreign sources of energy; and

''(9) the United States, in accordance with Federal Indian self-determination laws and policies, should assist Indian tribes and individual Indians in developing Indian energy resources.

''(b) PURPOSES.—The purposes of this title are—

''(1) to assist Indian tribes and individual Indians in the development of Indian energy resources; and

''(2) to further the goal of Indian self-determination, particularly through the development of stronger tribal governments and greater degrees of tribal economic self-sufficiency.

''SEC. 2602. DEFINITIONS.

''In this title:

''(1) COMMISSION.—The term 'Commission' means the Indian Energy Resource Commission established by section 2606(a).

''(2) DIRECTOR—The term 'Director' means the Director of the Office of Indian Energy Policy and Programs.

''(3) INDIAN.—The term 'Indian' means an individual member of an Indian tribe who owns land or an interest in land, the title to which land—

''(A) is held in trust by the United States; or

''(B) is subject to a restriction against alienation imposed by the United States.

''(4) INDIAN LAND.—The term 'Indian land' means—

''(A) any land located within the boundaries of an Indian reservation, pueblo, or rancheria;

''(B) any land not located within the boundaries of an Indian reservation, pueblo, or rancheria, the title to which is held—

''(i) in trust by the United States for the benefit of an Indian tribe;

''(ii) by an Indian tribe, subject to restriction by the United States against alienation; or

''(iii) by a dependent Indian community; and

''(C) land conveyed to a Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

''(5) INDIAN RESERVATION.—The term 'Indian reservation' includes—

''(A) an Indian reservation in existence as of the date of enactment of this paragraph;

''(B) a public domain Indian allotment;

''(C) a former reservation in the State of Oklahoma;

''(D) a parcel of land owned by a Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and

''(E) a dependent Indian community located within the borders of the United States, regardless of whether the community is located—

''(i) on original or acquired territory of the community; or

''(ii) within or outside the boundaries of any particular State.

''(6) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

''(7) NATIVE CORPORATION.—The term 'Native Corporation' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

''(8) PROGRAM.—The term 'Program' means the Indian energy resource development program established under section 2603(a).

''(9) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

''(10) TRIBAL CONSORTIUM.—The term 'tribal consortium' means an organization that consists of at least 3 entities, 1 of which is an Indian tribe.

''(11) VERTICAL INTEGRATION OF ENERGY RESOURCES.—The term 'vertical integration of energy resources' means—

''(A) the discovery and development of renewable and nonrenewable energy resources;

''(B) electricity transmission; and

''(C) any other activity that is carried out to achieve the purposes of this title, as determined by the Secretary.

''SEC. 2603. INDIAN ENERGY RESOURCE DEVELOPMENT PROGRAM.

''(a) IN GENERAL.—The Secretary shall establish and implement an Indian energy resource development program to assist Indian tribes and tribal consortia in achieving the purposes of this title.

''(b) GRANTS AND LOANS.—In carrying out the Program, the Secretary shall, at a minimum—

''(1) provide development grants to Indian tribes and tribal consortia for use in developing or obtaining the managerial and technical capacity needed to develop energy resources on Indian land;

''(2) provide grants to Indian tribes and tribal consortia for use in carrying out projects to promote the vertical integration of energy resources, and to process, use, or develop those energy resources, on Indian land; and

''(3) provide low-interest loans to Indian tribes and tribal consortia for use in the promotion of energy resource development and vertical integration or energy resources on Indian land.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2004 through 2014.

''SEC. 2604. INDIAN TRIBAL RESOURCE REGULATION.

''(a) IN GENERAL.—The Secretary may provide to Indian tribes and tribal consortia, on an annual basis, grants for use in developing, administering, implementing, and enforcing tribal laws (including regulations) governing the development and management of energy resources on Indian land.

''(b) USE OF FUNDS.—Funds from a grant provided under this section may be used by an Indian tribe or tribal consortium for—

''(1) the development of a tribal energy resource inventory or tribal energy resource;

''(2) the development of a feasibility study or other report necessary to the development of energy resources;

''(3) the development of tribal laws and technical infrastructure to protect the environment under applicable law; or

''(4) the training of employees that—

''(A) are engaged in the development of energy resources; or

''(B) are responsible for protecting the environment.

''(c) OTHER ASSISTANCE.—To the maximum extent practicable, the Secretary and the Secretary of the Interior shall make available to Indian tribes and tribal consortia scientific and technical data for use in the development and management of energy resources on Indian land.

''SEC. 2605. LEASES, BUSINESS AGREEMENTS, AND RIGHTS-OF-WAY INVOLVING ENERGY DEVELOPMENT OR TRANSMISSION.

''(a) IN GENERAL.—Notwithstanding any other provision of law—

''(1) an Indian or Indian tribe may enter into a lease or business agreement for the purpose of energy development, including a lease or business agreement for—

''(A) exploration for, extraction of, processing of, or other development of energy resources; and

''(B) construction or operation of—

''(i) an electric generation, transmission, or distribution facility located on tribal land; or

''(ii) a facility to process or refine energy resources developed on tribal land; and

''(2) a lease or business agreement described in paragraph (1) shall not require the approval of the Secretary if—

''(A) the lease or business agreement is executed under tribal regulations approved by the Secretary under subsection (e); and

''(B) the term of the lease or business agreement does not exceed 30 years.

''(b) RIGHTS-OF-WAY FOR PIPELINES OR ELECTRIC TRANSMISSION OR DISTRIBUTION LINES.—An Indian tribe may grant a right-of-way over the tribal land of the Indian tribe for a pipeline or an electric transmission or distribution line without specific approval by the Secretary if—

''(1) the right-of-way is executed under and complies with tribal regulations approved by the Secretary under subsection (e);

''(2) the term of the right-of-way does not exceed 30 years; and

''(3) the pipeline or electric transmission or distribution line serves—

''(A) an electric generation, transmission, or distribution facility located on tribal land; or

''(B) a facility located on tribal land that processes or refines renewable or nonrenewable energy resources developed on tribal land.

''(c) RENEWALS.—A lease or business agreement entered into or a right-of-way granted by an Indian tribe under this section may be renewed at the discretion of the Indian tribe in accordance with this section.

''(d) VALIDITY.—No lease, business agreement, or right-of-way under this section shall be valid unless the lease, business agreement, or right-of-way is authorized in accordance with tribal regulations approved by the Secretary under subsection (e).

''(e) TRIBAL REGULATORY REQUIREMENTS.—

''(1) IN GENERAL.—An Indian tribe may submit to the Secretary for approval tribal regulations governing leases, business agreements, and rights-of-way under this section.

''(2) APPROVAL OR DISAPPROVAL.—

''(A) IN GENERAL.—Not later than 120 days after the date on which the Secretary receives tribal regulations submitted by an Indian tribe under paragraph (1) (or such later date as may be agreed to by the Secretary and the Indian tribe), the Secretary shall approve or disapprove the regulations.

''(B) CONDITIONS FOR APPROVAL.—The Secretary shall approve tribal regulations submitted under paragraph (1) only if the regulations include provisions that, with respect to a lease, business agreement, or right-of-way under this section—

''(i) ensure the acquisition of necessary information from the applicant for the lease, business agreement, or right-of-way;

''(ii) address the term of the lease or business agreement or the term of conveyance of the right-of-way;

''(iii) address amendments and renewals;

''(iv) address consideration for the lease, business agreement, or right-of-way;

''(v) address technical or other relevant requirements;

''(vi) establish requirements for environmental review in accordance with subparagraph (C);

''(vii) ensure compliance with all applicable environmental laws;

''(viii) identify final approval authority;

''(ix) provide for public notification of final approvals; and

''(x) establish a process for consultation with any affected States concerning potential off-reservation impacts associated with the lease, business agreement, or right-of-way.

''(C) ENVIRONMENTAL REVIEW PROCESS.—Tribal regulations submitted under paragraph (1) shall establish, and include provisions to ensure compliance with, an environmental review process that, with respect to a lease, business agreement, or right-of-way under this section, provides for—

''(i) the identification and evaluation of all significant environmental impacts (as compared with a no-action alternative);

''(ii) the identification of proposed mitigation;

''(iii) a process for ensuring that the public is informed of and has an opportunity to comment on any proposed lease, business agreement, or right-of-way before tribal approval of the lease, business agreement, or right-of-way (or any amendment to or renewal of a lease, business agreement, or right-of-way); and

''(iv) sufficient administrative support and technical capability to carry out the environmental review process.

''(3) PUBLIC PARTICIPATION.—The Secretary may provide notice and opportunity for public comment on tribal regulations submitted under paragraph (1).

''(4) DISAPPROVAL.—If the Secretary disapproves tribal regulations submitted by an Indian tribe under paragraph (1), the Secretary shall—

''(A) notify the Indian tribe in writing of the basis for the disapproval;

''(B) identify what changes or other actions are required to address the concerns of the Secretary; and

''(C) provide the Indian tribe with an opportunity to revise and resubmit the regulations.

''(5) EXECUTION OF LEASE OR BUSINESS AGREEMENT OR GRANTING OF RIGHT-OF-WAY.—

If an Indian tribe executes a lease or business agreement or grants a right-of-way in accordance with tribal regulations approved under this subsection, the Indian tribe shall provide to the Secretary—

''(A) a copy of the lease, business agreement, or right-of-way document (including all amendments to and renewals of the document); and

''(B) in the case of tribal regulations or a lease, business agreement, or right-of-way that permits payment to be made directly to the Indian tribe, documentation of those payments sufficient to enable the Secretary to discharge the trust responsibility of the United States as appropriate under applicable law.

''(6) LIABILITY.—The United States shall not be liable for any loss or injury sustained by any party (including an Indian tribe or any member of an Indian tribe) to a lease, business agreement, or right-of-way executed in accordance with tribal regulations approved under this subsection.

''(7) COMPLIANCE REVIEW.—

''(A) IN GENERAL.—After exhaustion of tribal remedies, any person may submit to the Secretary, in a timely manner, a petition to review compliance of an Indian tribe with tribal regulations of the Indian tribe approved under this subsection.

''(B) ACTION BY SECRETARY.—The Secretary shall—

''(i) not later than 60 days after the date on which the Secretary receives a petition under subparagraph (A), review compliance of an Indian tribe described in subparagraph (A); and

''(ii) on completion of the review, if the Secretary determines that an Indian tribe is not in compliance with tribal regulations approved under this subsection, take such action as is necessary to compel compliance, including—

''(I)(aa) rescinding a lease, business agreement, or right-of-way under this section; or

''(bb) suspending a lease, business agreement, or right-of-way under this section until an Indian tribe is in compliance with tribal regulations; and

''(II) rescinding approval of the tribal regulations and reassuming the responsibility for approval of leases, business agreements, or rights-of-way associated with an energy pipeline or distribution line described in subsection (b).

''(C) COMPLIANCE.—If the Secretary seeks to compel compliance of an Indian tribe with tribal regulations under subparagraph (B)(ii), the Secretary shall—

''(i) make a written determination that describes the manner in which the tribal regulations have been violated;

''(ii) provide the Indian tribe with a written notice of the violation together with the written determination; and

''(iii) before taking any action described in subparagraph (B)(ii) or seeking any other remedy, provide the Indian tribe with a hearing and a reasonable opportunity to attain compliance with the tribal regulations.

''(D) APPEAL.—An Indian tribe described in subparagraph (C) shall retain all rights to appeal as provided in regulations promulgated by the Secretary.

''(f) AGREEMENTS.—

''(1) IN GENERAL.—Any agreement by an Indian tribe that relates to the development of an electric generation, transmission, or distribution facility, or a facility to process or refine renewable or nonrenewable energy resources developed on tribal land, shall not require the specific approval of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81) if the activity that is the subject of the agreement is carried out in accordance with this section.

''(2) LIABILITY.—The United States shall not be liable for any loss or injury sustained by any person (including an Indian tribe or any member of an Indian tribe) resulting from an action taken in performance of an agreement entered into under this subsection.

''(g) NO EFFECT ON OTHER LAW.—Nothing in this section affects the application of any provision of—

''(1) the Act of May 11, 1938 (commonly known as the 'Indian Mineral Leasing Act of 1938') (25 U.S.C. 396a et seq.);

''(2) the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.);

''(3) the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.); or

''(4) any Federal environmental law.

''SEC. 2606. INDIAN ENERGY RESOURCE COMMISSION.

''(a) ESTABLISHMENT.—There is established a commission to be known as the 'Indian Energy Resource Commission'.

''(b) MEMBERS.—The Commission shall consist of—

''(1) 8 members appointed by the Secretary of Interior, based on recommendations submitted by Indian tribes with developable energy resources, at least 4 of whom shall be elected tribal leaders;

''(2) 3 members appointed by the Secretary of Interior, based on recommendations submitted by the Governors of States in which are located—

''(A) 1 or more Indian reservations; or

''(B) Indian land with developable energy resources;

''(3) 2 members appointed by the Secretary of Interior from among individuals in the private sector with expertise in tribal and State taxation of energy resources;

''(4) 2 members appointed by the Secretary of Interior from among individuals with expertise in oil and gas royalty management administration, including auditing and accounting;

''(5) 2 members appointed by the Secretary of Interior from among individuals in the private sector with expertise in energy development;

''(6) 1 member appointed by the Secretary of Interior, based on recommendations submitted by national environmental organizations;

''(7) the Secretary of the Interior; and

''(8) the Secretary.

''(c) APPOINTMENTS.—Members of the Commission shall be appointed not later than 120 days after the date of enactment of the Native American Energy Development and Self-Determination Act of 2003.

''(d) VACANCIES.—A vacancy in the Commission—

''(1) shall be filled in the same manner as the original appointment was made; and

''(2) shall not affect the powers of the Commission.

''(e) CHAIRPERSON.—The members of the Commission shall elect a Chairperson from among the members of the Commission.

''(f) QUORUM.—Eleven members of the Commission shall constitute a quorum, but a lesser number may hold hearings and convene meetings.

''(g) ORGANIZATIONAL MEETING.—Not later than 30 days after the date on which at least 11 members have been appointed to the Commission, the Commission shall hold an organizational meeting to establish the rules and procedures of the Commission.

''(h) COMPENSATION OF MEMBERS.—

''(1) NON-FEDERAL EMPLOYEES.—A member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission.

''(2) FEDERAL EMPLOYEES.—A member of the Commission who is an officer or employee of the Federal Government shall serve without compensation in addition to the compensation received for the services of the member as an officer or employee of the Federal Government.

''(i) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

''(j) STAFF.—

''(1) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as are necessary to enable the Commission to perform the duties of the Commission.

''(2) CONFIRMATION OF EXECUTIVE DIRECTOR.—The employment of an executive director shall be subject to confirmation by the Commission.

''(3) COMPENSATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

''(B) MAXIMUM RATE OF PAY.—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level IV of the Executive Schedule under section 5316 of title 5, United States Code.

''(4) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the executive director may retain and fix the compensation of experts and consultants as the executive director considered necessary to carry out the duties of the Commission.

''(5) DETAIL OF FEDERAL GOVERNMENT EMPLOYEES.—

''(A) IN GENERAL.—An employee of the Federal Government may be detailed to the Commission without reimbursement.

''(B) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

''(k) DUTIES OF COMMISSION.—The Commission shall—

''(1) develop proposals to address dual taxation by Indian tribes and States of the extraction of energy minerals on Indian land;

''(2) make recommendations to improve the management, administration, accounting, and auditing of royalties associated with the production of energy minerals on Indian land;

''(3) develop alternatives for the collection and distribution of royalties associated with the production of energy minerals on Indian land;

''(4) develop proposals for incentives to foster the development of energy resources on Indian land;

''(5) identify barriers or obstacles to the development of energy resources on Indian land, and make recommendations designed to foster the development of energy resources on Indian land, in order to promote economic development;

''(6) develop proposals for the promotion of vertical integration of energy resources on Indian land; and

''(7) develop proposals on taxation incentives to foster the development of energy resources on Indian land, including investment tax credits and enterprise zone credits.

''(l) POWERS OF COMMISSION.—The Commission or, at the direction of the Commission, any subcommittee or member of the Commission, may, for the purpose of carrying out this title—

''(1) hold such hearings, meet and act at such times and places, take such testimony, receive such evidence, and administer such oaths;

''(2) secure directly from any Federal agency such information; and

''(3) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials;

as the Commission, subcommittee, or member considers advisable.

''(m) COMMISSION REPORT.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Native American Energy Development and Self-Determination Act of 2003, the Commission shall submit to the President, the Committee on Resources of the House of Representatives, and the Committee on Indian Affairs and the Committee on Energy and Natural Resources of the Senate, a report that describes the proposals, recommendations, and alternatives described in subsection (k).

''(2) REVIEW AND COMMENT.—Before submission of the report required under this subsection, the Chairperson of the Commission shall provide to each interested Indian tribe and each State in which is located 1 or more Indian reservations or Indian land with developable energy resources, a draft of the report for review and comment.

''(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission such sums as are necessary to carry out this section, to remain available until expended.

''(o) TERMINATION.—The Commission shall terminate 30 days after the date of submission of the report under subsection (m)(1).

''SEC. 2607. ENERGY EFFICIENCY AND STRUCTURES ON INDIAN LAND.

''(a) TECHNICAL ASSISTANCE TO NONPROFIT AND COMMUNITY ORGANIZATIONS.—The Secretary of Housing and Urban Development, in cooperation with Indian tribes or tribally-designated housing entities of Indian tribes, shall provide, to eligible (as determined by the Secretary of Housing and Urban Development) nonprofit and community organizations, technical assistance to initiate and expand the use of energy-saving technologies in—

''(1) new home construction;

''(2) housing rehabilitation; and

''(3) housing in existence as of the date of enactment of the Native American Energy Development and Self-Determination Act of 2003.

''(b) REVIEW.—The Secretary of Housing and Urban Development and the Secretary of the Interior, in consultation with Indian tribes or tribally-designated housing entities of Indian tribes, shall—

''(1) complete a review of regulations promulgated by the Secretary of Housing and Urban Development and the Secretary of the Interior to identify any feasible measures that may be taken to promote greater use of energy efficient technologies in housing for which Federal assistance is provided under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.);

''(2) develop energy efficiency and conservation measures for use in connection with housing that is—

''(A) located on Indian land; and

''(B) constructed, repaired, or rehabilitated using assistance provided under any law or program administered by the Secretary of Housing and Urban Development or the Secretary of the Interior, including—

''(i) the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.); and

''(ii) the Indian Home Improvement Program of the Bureau of Indian Affairs; and

''(3) promote the use of the measures described in paragraph (2) in programs administered by the Secretary of Housing and Urban Development and the Secretary of the Interior, as appropriate.

''SEC. 2608. INDIAN MINERAL DEVELOPMENT REVIEW BY SECRETARY OF THE INTERIOR.

''(a) IN GENERAL.—As soon as practicable after the date of enactment of the Native American Energy Development and Self-Determination Act of 2003, the Secretary of the Interior shall conduct and provide to the Secretary a review of all activities being conducted under the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.) as of that date.

''(b) REPORT.—Not later than 1 year after the date of enactment of the Native American Energy Development and Self-Determination Act of 2003, the Secretary shall submit to the Committee on Resources and the Committee on Energy and Commerce of the House of Representatives and the Committee on Indian Affairs and the Committee on Energy and Natural Resources of the Senate a report that includes—

''(1) the results of the review;

''(2) recommendations to ensure that Indian tribes have the opportunity to develop Indian energy resources; and

''(3)(A) an analysis of the barriers to the development of energy resources on Indian land (including legal, fiscal, market, and other barriers); and

''(B) recommendations for the removal of those barriers.

''SEC. 2609. INDIAN ENERGY STUDY BY SECRETARY OF ENERGY.

''(a) IN GENERAL.—Not later than 2 years after the date of enactment of the Native American Energy Development and Self-Determination Act of 2003, and every 2 years thereafter, the Secretary shall submit to the Committees on Energy and Commerce and Resources of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Indian Affairs of the Senate a report on energy development potential on Indian land.

''(b) REQUIREMENTS.—The report shall—

''(1) identify barriers to the development of renewable energy by Indian tribes (including legal, regulatory, fiscal, and market barriers); and

''(2) include recommendations for the removal of those barriers.

''SEC. 2610. CONSULTATION WITH INDIAN TRIBES.

''In carrying out this title, the Secretary and the Secretary of Interior shall, as appropriate and to the maximum extent practicable, involve and consult with Indian tribes in a manner that is consistent with the Federal trust and the government-to-government relationships between Indian tribes and the Federal Government.''.

(b) ENERGY EFFICIENCY IN FEDERALLY-ASSISTED HOUSING.—

(1) FINDING.—Congress finds that the Secretary of Housing and Urban Development should promote energy conservation in housing that is located on Indian land and assisted with Federal resources through—

(A) the use of energy-efficient technologies and innovations (including the procurement of energy-efficient refrigerators and other appliances);

(B) the promotion of shared savings contracts; and

(C) the use and implementation of such other similar technologies and innovations as the Secretary of Housing and Urban Development considers to be appropriate.

(2) AMENDMENT.—Section 202(2) of the Native American Housing and Self-Determination Act of 1996 (25 U.S.C. 4132(2)) is amended by inserting ''improvement to achieve greater energy efficiency,'' after ''planning,''.

By Mr. CAMPBELL:

S. 523. A bill to make technical corrections to law relating to Native Americans, and for other purposes; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, today I am introducing the Indian Technical Corrections Act of 2003 to provide routine and noncontroversial amendments to Federal statutes affecting Indian tribes and Indian people.

The vast majority of these amendments were included in legislation in the last session of Congress that failed to be enacted.

Though modest, this bill provides real relief to the many tribes that seek Congress' assistance.

I ask unanimous consent that a copy 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. 523

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

SECTION. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Native American Technical Corrections Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definition of Secretary.

TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

Subtitle A—Technical Amendments

Sec. 101. Ute Mountain Ute Tribe; oil shale reserve.
Sec. 102. Bosque Redondo Memorial Act.
Sec. 103. Navajo-Hopi Land Settlement Act.
Sec. 104. Cow Creek Band of Umpqua Indians.
Sec. 105. Pueblo de Cochiti; modification of settlement.
Sec. 106. Chippewa Cree Tribe; modification of settlement.
Sec. 107. Mississippi Band of Choctaw Indians.

Subtitle B—Other Provisions Relating to Native Americans

Sec. 111. Barona Band of Mission Indians; facilitation of construction of pipeline to provide water for emergency fire suppression and other purposes.
Sec. 112. Conveyance of Native Alaskan objects.
Sec. 113. Oglala Sioux Tribe; waiver of repayment of expert assistance loans.
Sec. 114. Pueblo of Acoma; land and mineral consolidation.
Sec. 115. Pueblo of Santo Domingo; waiver of repayment of expert assistance loans.
Sec. 116. Quinault Indian Nation; water feasibility study.

Sec. 117. Santee Sioux Tribe; study and report.
Sec. 118. Seminole Tribe of Oklahoma; waiver of repayment of expert assistance loans.
Sec. 119. Shakopee Mdewakanton Sioux Community.
TITLE II—PUEBLO OF SANTA CLARA AND PUEBLO OF SAN ILDEFONSO
Sec. 201. Definitions.
Sec. 202. Trust for the Pueblo of Santa Clara, New Mexico.
Sec. 203. Trust for the Pueblo of San Ildefonso, New Mexico.
Sec. 204. Survey and legal descriptions.
Sec. 205. Administration of trust land.
Sec. 206. Effect.
Sec. 207. Gaming.
TITLE III—DISTRIBUTION OF QUINAULT PERMANENT FISHERIES FUNDS
Sec. 301. Distribution of judgment funds.
Sec. 302. Conditions for distribution.

SEC. 2. DEFINITION OF SECRETARY.

In this Act, except as otherwise provided in this Act, the term ''Secretary'' means the Secretary of the Interior.

TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

Subtitle A—Technical Amendments

SEC. 101. UTE MOUNTAIN UTE TRIBE; OIL SHALE RESERVE.

Section 3405(c) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (10 U.S.C. 7420 note; Public Law 105–261) is amended by striking paragraph (3) and inserting the following:

''(3) With respect to the land conveyed to the Tribe under subsection (b)—

''(A) the land shall not be subject to any Federal restriction on alienation; and

''(B) no grant, lease, exploration or development agreement, or other conveyance of the land (or any interest in the land) that is authorized by the governing body of the Tribe shall be subject to approval by the Secretary of the Interior or any other Federal official.''.

SEC. 102. BOSQUE REDONDO MEMORIAL ACT.

Section 206 of the Bosque Redondo Memorial Act (16 U.S.C. 431 note; Public Law 106–511) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''2000'' and inserting ''2004''; and

(B) in paragraph (2), by striking ''2001 and 2002'' and inserting ''2005 and 2006''; and

(2) in subsection (b), by striking ''2002'' and inserting ''2007,''.

SEC. 103. NAVAJO-HOPI LAND SETTLEMENT ACT.

Section 25(a)(8) of Public Law 93–531 (commonly known as the ''Navajo-Hopi Land Settlement Act of 1974'') (25 U.S.C.40d-24(a) (8)) is amended by striking ''annually for fiscal years 1995, 1996, 1997, 1998, 1999, and 2000'' and inserting ''for each of fiscal years 2003 through 2008''.

SEC. 104. COW CREEK BAND OF UMPQUA INDIANS.

Section 7 of the Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712e) is amended in the third sentence by inserting before the period at the end the following: '', and shall be treated as on-reservation land for the purpose of processing acquisitions of real property into trust''.

SEC. 105. PUEBLO DE COCHITI; MODIFICATION OF SETTLEMENT.

Section 1 of Public Law 102–358 (106 Stat. 960) is amended—

(1) by striking ''implement the settlement'' and inserting the following: ''implement—

''(1) the settlement;'';

(2) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(2) the modifications regarding the use of the settlement funds as described in the agreement known as the 'First Amendment to Operation and Maintenance Agreement for Implementation of Cochiti Wetlands Solution', executed—

''(A) on October 22, 2001, by the Army Corps of Engineers;

''(B) on October 25, 2001, by the Pueblo de Cochiti of New Mexico; and

''(C) on November 8, 2001, by the Secretary of the Interior.''.

SEC. 106. CHIPPEWA CREE TRIBE; MODIFICATION OF SETTLEMENT.

(a) IN GENERAL.—Section 101(b)(3) of the Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106–163; 113 Stat. 1782) is amended by striking ''3 years'' and inserting ''6 years''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any decree described in section 101(b)(1) of the Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106–163; 113 Stat. 1782) entered into on or after December 9, 1999.

SEC. 107. MISSISSIPPI BAND OF CHOCTAW INDIANS.

Section 1(a)(2) of Public Law 106–228 (114 Stat. 462) is amended by striking ''report entitled'' and all that follows through ''is hereby declared'' and inserting the following: ''report entitled 'Report of May 17, 2002, Clarifying and Correcting Legal Descriptions or Recording Information for Certain Lands placed into Trust and Reservation Status for the Mississippi Band of Choctaw Indians by Section 1(a)(2) of Pub. L. 106–228, as amended by Title VIII, Section 811 of Pub. L. 106–568', on file in the Office of the Superintendent, Choctaw Agency, Bureau of Indian Affairs, Department of the Interior, is declared''.

Subtitle B—Other Provisions Relating to Native Americans

SEC. 111. BARONA BAND OF MISSION INDIANS; FACILITATION OF CONSTRUCTION OF PIPELINE TO PROVIDE WATER FOR EMERGENCY FIRE SUPPRESSION AND OTHER PURPOSES.

(a) IN GENERAL.—Notwithstanding any other provision of law, subject to valid existing rights under Federal and State law, and to any easements or similar restrictions which may be granted to the city of San Diego, California, for the construction, operation and maintenance of a pipeline and related appurtenances and facilities for conveying water from the San Vicente Reservoir to the Barona Indian Reservation, or for conservation, wildlife or habitat protection, or related purposes, the land described in subsection (b), fee title to which is held by the Barona Band of Mission Indians of California (referred to in this section as the ''Band'')—

(1) is declared to be held in trust by the United States for the benefit of the Band; and

(2) shall be considered to be a portion of the reservation of the Band.

(b) LAND.—The land referred to in subsection (a) is land comprising approximately 85 acres in San Diego County, California, and described more particularly as follows: San Bernardino Base and Meridian; T. 14 S., R. 1 E.; sec. 21: W½ SE¼, 68 acres; NW¼ NW¼, 17 acres.

(c) GAMING.—The land taken into trust by subsection (a) shall neither be considered to have been taken into trust for gaming, nor be used for gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

SEC. 112. CONVEYANCE OF NATIVE ALASKAN OBJECTS.

Notwithstanding any provision of law affecting the disposal of Federal property, on the request of the Chugach Alaska Corporation or Sealaska Corporation, the Secretary of Agriculture shall convey to whichever of those corporations that has received title to a cemetery site or historical place on National Forest System land conveyed under section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)) all artifacts, physical remains, and copies of any available field records that—

(1)(A) are in the possession of the Secretary of Agriculture; and

(B) have been collected from the cemetery site or historical place; but

(2) are not required to be conveyed in accordance with the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) or any other applicable law.

SEC. 113. OGLALA SIOUX TRIBE; WAIVER OF REPAYMENT OF EXPERT ASSISTANCE LOANS.

Notwithstanding any other provision of law—

(1) the balances of all outstanding expert assistance loans made to the Oglala Sioux Tribe under Public Law 88–168 (77 Stat. 301), and relating to Oglala Sioux Tribe v. United States (Docket No. 117 of the United States Court of Federal Claims), including all principal and interest, are canceled; and

(2) the Secretary shall take such action as is necessary to—

(A) document the cancellation under paragraph (1); and

(B) release the Oglala Sioux Tribe from any liability associated with any loan described in paragraph (1).

SEC. 114. PUEBLO OF ACOMA; LAND AND MINERAL CONSOLIDATION.

(a) DEFINITION OF BIDDING OR ROYALTY CREDIT.—The term ''bidding or royalty credit'' means a legal instrument or other written documentation, or an entry in an account managed by the Secretary, that may be used in lieu of any other monetary payment for—

(1) a bonus bid for a lease sale on the outer Continental Shelf; or

(2) a royalty due on oil or gas production; for any lease located on the outer Continental Shelf outside the zone defined and governed by section 8(g)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(2)).

(b) AUTHORITY.—Notwithstanding any other provision of law, the Secretary may acquire any nontribal interest in or to land (including an interest in mineral or other surface or subsurface rights) within the boundaries of the Acoma Indian Reservation for the purpose of carrying out Public Law 107–138 (116 Stat. 6) by issuing bidding or royalty credits under this section in an amount equal to the value of the interest acquired by the Secretary, as determined under section 1(a) of Public Law 107–138 (116 Stat. 6).

(c) USE OF BIDDING AND ROYALTY CREDITS.—On issuance by the Secretary of a bidding or royalty credit under subsection (b), the bidding or royalty credit—

(1) may be freely transferred to any other person (except that, before any such transfer, the transferor shall notify the Secretary of the transfer by such method as the Secretary may specify); and

(2) shall remain available for use by any other person during the 5-year period beginning on the date of issuance by the Secretary of the bidding or royalty credit.

SEC. 115. PUEBLO OF SANTO DOMINGO; WAIVER OF REPAYMENT OF EXPERT ASSISTANCE LOANS.

Notwithstanding any other provision of law—

(1) the balances of all expert assistance loans made to the Pueblo of Santo Domingo under Public Law 88–168 (77 Stat. 301), and relating to Pueblo of Santo Domingo v. United States (Docket No.355 of the United States Court of Federal Claims), including all principal and interest, are canceled; and

(2) the Secretary shall take such action as is necessary to—

(A) document the cancellation under paragraph (1); and

(B) release the Pueblo of Santo Domingo from any liability associated with any loan described in paragraph (1).

SEC. 116. QUINAULT INDIAN NATION; WATER FEASIBILITY STUDY.

(a) IN GENERAL.—The Secretary may carry out a water source, quantity, and quality feasibility study for the Quinault Indian Nation, to identify ways to meet the current and future domestic and commercial water supply and distribution needs of the Quinault Indian Nation on the Olympic Peninsula, Washington.

(b) PUBLIC AVAILABILITY OF RESULTS.—As soon as practicable after completion of a feasibility study under subsection (a), the Secretary shall—

(1) publish in the Federal Register a notice of the availability of the results of the feasibility study; and

(2) make available to the public, on request, the results of the feasibility study.

SEC. 117. SANTEE SIOUX TRIBE; STUDY AND REPORT.

(a) STUDY.—Pursuant to reclamation laws, the Secretary, acting through the Bureau of Reclamation and in consultation with the Santee Sioux Tribe of Nebraska (referred to in this subtitle as the ''Tribe''), shall conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water treatment and distribution system for the Santee Sioux Tribe of Nebraska that could serve the tribal community and adjacent communities and incorporate population growth and economic development activities for a period of 40 years.

(b) COOPERATIVE AGREEMENT.—At the request of the Tribe, the Secretary shall enter into a cooperative agreement with the Tribe for activities necessary to conduct the study required by subsection (a) regarding which the Tribe has unique expertise or knowledge.

(c) REPORT.—Not later than 1 year after funds are made available to carry out this subtitle, the Secretary shall submit to Congress a report containing the results of the study required by subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropropriated to the Secretary to carry out this section $500,000, to remain available until expended.

SEC. 118. SEMINOLE TRIBE OF OKLAHOMA; WAIVER OF REPAYMENT OF EXPERT ASSISTANCE LOANS.

Notwithstanding any other provision of law—

(1) the balances of all outstanding expert assistance loans made to the Seminole Tribe of Oklahoma under Public Law 88–168 (77 Stat. 301), and relating to Seminole Tribe of Oklahoma v. United States (Docket No.247 of the United States Court of Federal Claims), including all principal and interest, are canceled; and

(2) the Secretary shall take such action as is necessary to—

(A) document the cancellation under paragraph (1); and

(B) release the Seminole Tribe of Oklahoma from any liability associated with any loan described in paragraph (1).

SEC. 119. SHAKOPEE MDEWAKANTON SIOUX COMMUNITY.

(a) IN GENERAL.—Notwithstanding any other provision of law, without further authorization by the United States, the Shakopee Mdewakanton Sioux Community in the State of Minnesota (referred to in this section as the ''Community'') may lease, sell, convey, warrant, or otherwise transfer all or any part of the interest of the Community in or to any real property that is not held in trust by the United States for the benefit of the Community.

(b) NO EFFECT ON TRUST LAND.—Nothing in this section—

(1) authorizes the Community to lease, sell, convey, warrant, or otherwise transfer all or part of an interest in any real property that is held in trust by the United States for the benefit of the Community; or

(2) affects the operation of any law governing leasing, selling, conveying, warranting, or otherwise transferring any interest in that trust land.

TITLE II—PUEBLO OF SANTA CLARA AND PUEBLO OF SAN ILDEFONSO

SEC. 201. DEFINITIONS.

In this title:

(1) AGREEMENT.—The term ''Agreement'' means the agreement entitled ''Agreement to Affirm Boundary Between Pueblo of Santa Clara and Pueblo of San Ildefonso Aboriginal Lands Within Garcia Canyon Tract'', entered into by the Governors on December 20, 2000.

(2) BOUNDARY LINE.—The term ''boundary line'' means the boundary line established under section 204(a).

(3) GOVERNORS.—The term ''Governors'' means—

(A) the Governor of the Pueblo of Santa Clara, New Mexico; and

(B) the Governor of the Pueblo of San Ildefonso, New Mexico.

(4) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) PUEBLOS.—The term ''Pueblos'' means—

(A) the Pueblo of Santa Clara, New Mexico; and

(B) the Pueblo of San Ildefonso, New Mexico.

(6) TRUST LAND.—The term ''trust land'' means the land held by the United States in trust under section 202(a) or 203(a).

SEC. 202. TRUST FOR THE PUEBLO OF SANTA CLARA, NEW MEXICO.

(a) IN GENERAL.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of Santa Clara, New Mexico.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 2,484 acres of Bureau of Land Management land located in Rio Arriba County, New Mexico, and more particularly described as—

(1) the portion of T. 20 N., R. 7 E., sec. 22, New Mexico Principal Meridian, that is located north of the boundary line;

(2) the southern half of T. 20 N., R. 7 E., sec. 23, New Mexico Principal Meridian;

(3) the southern half of T. 20 N., R. 7 E., sec. 24, New Mexico Principal Meridian;

(4) T. 20 N., R. 7 E., sec. 25, excluding the 5-acre tract in the southeast quarter owned by the Pueblo of San Ildefonso;

(5) the portion of T. 20 N., R. 7 E., sec. 26, New Mexico Principal Meridian, that is located north and east of the boundary line;

(6) the portion of T. 20 N., R. 7 E., sec. 27, New Mexico Principal Meridian, that is located north of the boundary line;

(7) the portion of T. 20 N., R. 8 E., sec. 19, New Mexico Principal Meridian, that is not included in the Santa Clara Pueblo Grant or the Santa Clara Indian Reservation; and

(8) the portion of T. 20 N., R. 8 E., sec. 30, that is not included in the Santa Clara Pueblo Grant or the San Ildefonso Grant.

SEC. 203. TRUST FOR THE PUEBLO OF SAN ILDEFONSO, NEW MEXICO.

(a) IN GENERAL.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of San Ildefonso, New Mexico.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 2,000 acres of Bureau of Land Management land located in Rio Arriba County and Santa Fe County in the State of New Mexico, and more particularly described as—

(1) the portion of T. 20 N., R. 7 E., sec. 22, New Mexico Principal Meridian, that is located south of the boundary line;

(2) the portion of T. 20 N., R. 7 E., sec. 26, New Mexico Principal Meridian, that is located south and west of the boundary line;

(3) the portion of T. 20 N., R. 7 E., sec. 27, New Mexico Principal Meridian, that is located south of the boundary line;

(4) T. 20 N., R. 7 E., sec. 34, New Mexico Principal Meridian; and

(5) the portion of T. 20 N., R. 7 E., sec. 35, New Mexico Principal Meridian, that is not included in the San Ildefonso Pueblo Grant.

SEC. 204. SURVEY AND LEGAL DESCRIPTIONS.

(a) SURVEY.—Not later than 180 days after the date of enactment of this Act, the Office of Cadastral Survey of the Bureau of Land Management shall, in accordance with the Agreement, complete a survey of the boundary line established under the Agreement for the purpose of establishing, in accordance with sections 3102(b) and 3103(b), the boundaries of the trust land.

(b) LEGAL DESCRIPTIONS.—

(1) PUBLICATION.—On approval by the Governors of the survey completed under subsection (a), the Secretary shall publish in the Federal Register—

(A) a legal description of the boundary line; and

(B) legal descriptions of the trust land.

(2) TECHNICAL CORRECTIONS.—Before the date on which the legal descriptions are published under paragraph (1)(B), the Secretary may correct any technical errors in the descriptions of the trust land provided in sections 3102(b) and 3103(b) to ensure that the descriptions are consistent with the terms of the Agreement.

(3) EFFECT.—Beginning on the date on which the legal descriptions are published under paragraph (1)(B), the legal descriptions shall be the official legal descriptions of the trust land.

SEC. 205. ADMINISTRATION OF TRUST LAND.

(a) IN GENERAL.—Effective beginning on the date of enactment of this Act—

(1) the land held in trust under section 202(a) shall be declared to be a part of the Santa Clara Indian Reservation; and

(2) the land held in trust under section 203(a) shall be declared to be a part of the San Ildefonso Indian Reservation.

(b) APPLICABLE LAW.—

(1) IN GENERAL.—The trust land shall be administered in accordance with any law (including regulations) or court order generally applicable to property held in trust by the United States for Indian tribes.

(2) PUEBLO LANDS ACT.—The following shall be subject to section 17 of the Act of June 7, 1924 (commonly known as the ''Pueblo Lands Act'') (25 U.S.C. 331 note):

(A) The trust land.

(B) Any land owned as of the date of enactment of this Act or acquired after the date of

enactment of this Act by the Pueblo of Santa Clara in the Santa, Clara Pueblo Grant.

(C) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of San Ildefonso in the San Ildefonso Pueblo Grant.

(c) USE OF TRUST LAND.—

(1) IN GENERAL.—Subject to the criteria developed under paragraph (2), the trust land may be used only for—

(A) traditional and customary uses; or

(B) stewardship conservation for the benefit of the Pueblo for which the trust land is held in trust.

(2) CRITERIA.—The Secretary shall work with the Pueblos to develop appropriate criteria for using the trust land in a manner that preserves the trust land for traditional and customary uses or stewardship conservation.

(3) LIMITATION.—Beginning on the date of enactment of this Act, the trust land shall not be used for any new commercial developments.

SEC. 206. EFFECT.

Nothing in this title—

(1) affects any valid right-of-way, lease, permit, mining claim, grazing permit, water right, or other right or interest of a person or entity (other than the United States) that is—

(A) in or to the trust land; and

(B) in existence before the date of enactment of this Act;

(2) enlarges, impairs, or otherwise affects a right or claim of the Pueblos to any land or interest in land that is—

(A) based on Aboriginal or Indian title; and

(B) in existence before the date of enactment of this Act;

(3) constitutes an express or implied reservation of water or water right with respect to the trust land; or

(4) affects any water right of the Pueblos in existence before the date of enactment of this Act.

SEC. 207. GAMING.

Land taken into trust under this title shall neither be considered to have been taken into trust, nor be used for, gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

TITLE III—DISTRIBUTION OF QUINAULT PERMANENT FISHERIES FUNDS

SEC. 301. DISTRIBUTION OF JUDGMENT FUNDS.

(a) FUNDS TO BE DEPOSITED INTO SEPARATE ACCOUNTS.—

(1) IN GENERAL.—Subject to section 302, not later than 30 days after the date of enactment of this Act, the funds appropriated on September 19, 1989, in satisfaction of an award granted to the Quinault Indian Nation under Dockets 772–71, 773–71, 774–71, and 775–71 before the United States Claims Court, less attorney fees and litigation expenses, and including all interest accrued to the date of disbursement, shall be distributed by the Secretary and deposited into 3 separate accounts to be established and maintained by the Quinault Indian Nation (referred to in this title as the ''Tribe'') in accordance with this subsection.

(2) ACCOUNT FOR PRINCIPAL AMOUNT.—

(A) IN GENERAL.—The Tribe shall—

(i) establish an account for the principal amount of the judgment funds; and

(ii) use those funds to establish a Permanent Fisheries Fund.

(B) USE AND INVESTMENT.—The principal amount described in subparagraph (A)(i)—

(i) except as provided in subparagraph (A)(ii), shall not be expended by the Tribe; and

(ii) shall be invested by the Tribe in accordance with the investment policy of the Tribe.

(3) ACCOUNT FOR INVESTMENT INCOME.—

(A) IN GENERAL.—The Tribe shall establish an account for, and deposit in the account, all investment income earned on amounts in the Permanent Fisheries Fund established under paragraph (2)(A)(ii) after the date of distribution of the funds to the Tribe under paragraph (1).

(B) USE OF FUNDS.—Funds deposited in the account established under subparagraph (A) shall be available to the Tribe—

(i) subject to subparagraph (C), to carry out fisheries enhancement projects; and

(ii) pay expenses incurred in administering the Permanent Fisheries Fund established under paragraph (2)(A)(ii).

(C) SPECIFICATION OF PROJECTS.—Each fisheries enhancement project carried out under subparagraph (B)(i) shall be specified in the approved annual budget of the Tribe.

(4) ACCOUNT FOR INCOME ON JUDGMENT FUNDS.—

(A) IN GENERAL.—The Tribe shall establish an account for, and deposit in the account, all investment income earned on the judgment funds described in subsection (a) during the period beginning on September 19, 1989, and ending on the date of distribution of the funds to the Tribe under paragraph (1).

(B) USE OF FUNDS.—

(i) IN GENERAL.—Subject to clause (ii), funds deposited in the account established under subparagraph (A) shall be available to the Tribe for use in carrying out tribal government activities.

(ii) SPECIFICATION OF ACTIVITIES.—Each tribal government activity carried out under clause (i) shall be specified in the approved annual budget of the Tribe.

(b) DETERMINATION OF AMOUNT OF FUNDS AVAILABLE.—Subject to compliance by the Tribe with paragraphs (3)(C) and (4)(B)(ii) of subsection (a), the Quinault Business Committee, as the governing body of the Tribe, may determine the amount of funds available for expenditure under paragraphs (3) and (4) of subsection (a).

(c) ANNUAL AUDIT.—The records and investment activities of the 3 accounts established under subsection (a) shall—

(1) be maintained separately by the Tribe; and

(2) be subject to an annual audit.

(d) REPORTING OF INVESTMENT ACTIVITIES AND EXPENDITURES.—Not later than 120 days after the date on which each fiscal year of the Tribe ends, the Tribe shall make available to members of the Tribe a full accounting of the investment activities and expenditures of the Tribe with respect to each fund established under this section (which may be in the form of the annual audit described in subsection (c)) for the fiscal year.

SEC. 302. CONDITIONS FOR DISTRIBUTION.

(a) UNITED STATES LIABILITY.—On disbursement to the Tribe of the funds under section 301(a), the United States shall bear no trust responsibility or liability for the investment, supervision, administration, or expenditure of the funds.

(b) APPLICATION OF OTHER LAW.—All funds distributed under this title shall be subject to section 7 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407).

By Mr. LEVIN (for himself, Ms. COLLINS, Mr. DEWINE, Ms. STABENOW, Mr. REED, Mr. INOUYE, Mr. VOINOVICH, Mr. KENNEDY, Mr. LEAHY, Ms. CANTWELL, Mr. JEFFORDS, Mr. WARNER, Mr. AKAKA, Mr. FITZGERALD, Mr. DURBIN, and Mr. BAYH):

S. 525. A bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to reauthorize and improve that Act; to the Committee on Environment and Public Works.

Mr. LEVIN. Mr. President, today, my colleague from Maine, Senator COLLINS and I are very pleased to introduce the National Aquatic Invasive Species Act of 2003. This bill, which reauthorizes the Nonindigenous Aquatic Nuisance Prevention and Control Act, takes a comprehensive approach towards addressing aquatic nuisance species to protect the Nation's waters. This bill deals with the prevention of new introductions, the screening of new aquatic organisms coming into the country, the rapid response to new invasions, and the research to implement the provisions of this bill.

The problem of invasive species is a very real one. Over the past 450 years, during colonization and development of this country, more than 6,500 nonindigenous invasive species have been introduced into the United States and have become established, self-sustaining populations. These species—from microorganisms to mollusks, from pathogens to plants, from insects to fish to animals—typically encounter few, if any, natural enemies in their new environments and wreak havoc on native species. Aquatic nuisance species threaten biodiversity nationwide, especially in the Great Lakes.

Some of my colleagues may remember that back in the late eighties, the problem of aquatic nuisance species was first raised after the zebra mussel was released into the Great Lakes. The Great Lakes still have zebra mussels, and now, 20 States are fighting to control them. Zebra mussels were carried over from the Mediterranean to the Great Lakes in the ballast tanks of ships. The leading pathway for aquatic invasive species is maritime commerce. Most invasive species are contained in the water that ships use for ballast. Aquatic invaders such as the zebra mussel and round goby were introduced into the Great Lakes when ships, often from halfway around the world, pulled into port and discharged their ballast water. Aquatic invaders can also attach themselves to ships' hulls and anchor chains.

Because of the impact that the zebra mussel had in the Great Lakes, Congress passed legislation in 1990 and 1996 that have reduced, but not eliminated, the threat of new invasions by requiring ballast water management for ships entering the Great Lakes. Today, there is a mandatory ballast water management program in the Great Lakes. The current law requires that ships entering the Great Lakes must exchange their ballast water, seal their ballast tanks or use alternative treatment that is ''as effective as ballast water exchange.'' Unfortunately, the effectiveness of ballast water exchange has been left undefined. Consequently, alternative treatments have not been fully developed and widely tested on ships because the developers of ballast technology do not know what standard

they are trying to achieve. This obstacle is serious because ultimately, only onboard ballast water treatment will adequately reduce the threat of new aquatic nuisance species being introduced through ballast water.

Our bill rectifies this problem. First, this bill establishes deadlines for national interim and final standards for ballast water management. This way, technology vendors and the maritime industry know when to expect clear requirements. Second, our bill establishes what the phrase ''as effective as ballast water exchange'' means for the purposes of the interim period. Research has shown that ballast water exchange has highly variable effectiveness rates. This bill takes the maximum effectiveness that ballast water exchange could have using the safest approach—a 95-percent reduction of near coastal plankton and establishes it as the floor for treatment effectiveness which is a 95 percent kill or removal of live organisms. Within 18 months of the bill's passage, the Coast Guard is required to issue regulations implementing an interim ballast water standard that would require ships that enter any U.S. port after operating outside the Exclusive Economic Zone of 200 miles to either use ballast water treatment technology that meets the standard, retain the ship's ballast water, or exchange the ship's ballast water in the high seas. Ships operating in coastal waters would not be required to manage ballast water during the interim standard.

A 95-percent reduction of organisms will be the interim standard used for treatment technology until the EPA, with the concurrence of the Coast Guard, promulgates the final standard. This interim standard is not intended to be implemented for the long run, and it is not perfect. However, a final standard is difficult to set today or in the near future because of the limited research that has been conducted on how clean or sterile ballast water discharge should be, what is the best expression of a standard, and what is technologically achievable. Rather than wait many more years before taking action to stop new introductions, I believe that an imperfect but clear and achievable interim standard for treatment technology is the right approach. This interim standard will lead to the use of ballast treatments that are more protective of our waters than the default method of ballast water exchange provides, and it can be implemented in the very near future. Further, the bill provides the Coast Guard with the flexibility to promulgate the interim standard using a size-based standard or by whatever parameters the Coast Guard determines appropriate.

I understand that ballast water technologies are being researched and are ready to be tested onboard ships. These technologies include ultraviolet lights, filters, chemicals, deoxygenation, and several others. Each of these technologies has a different pricetag attached to it. It is not my intention to overburden the maritime industry with an expensive requirement to install technology. In fact, the legislation states that the final ballast water technology standard must be based on ''best available technology economically achievable.'' That means that the EPA must consider what technology is available, and if there is not economically achievable technology available to a class of vessels, then the standard will not require ballast technology for that class of vessels, subject to review every 3 years. I do not believe this will be the case, however, because the approach creates a clear incentive for treatment vendors to develop affordable equipment for the market. Since ballast technology will be always evolving, it is important that the EPA review and revise the standard so that it reflects what is the best technology currently available and whether it is economically achievable. Shipowners cannot be expected to upgrade their equipment upon every few years as technology develops, however, so the law provides an approval period of at least 10 years.

There are other important provisions of the bill as well. The bill requires the Army Corps of Engineers to construct and operate the Chicago Ship and Sanitary Canal project which includes the construction of a second dispersal barrier to keep species like the Asian carp from migrating up the Mississippi through the canal into the Great Lakes. Equally important, this barrier will prevent the migration of invasive species in the Great Lakes from proceeding into the Mississippi system. The bill establishes an experimental ballast treatment approval process to take effect immediately so that the treatment technology industry can begin full-scale experimental installations of treatments on ships. The bill authorizes additional funding for better coordinated research to find effective means of combating invasive species. It would help Federal, State, and regional authorities guard against future invasions by developing early detection monitoring and rapid response plans. And it provides funding for outreach and education programs to inform the public and marina owners about the dangers of inadvertently carrying aquatic invaders on the hulls of recreational boats or dumping bait buckets into the Lakes.

Invasive species threaten the region's biological diversity and are an economic drain. Estimates of the annual economic damage caused nationwide by invasive species go as high as $137 billion. Because of the system of canals connecting the Great Lakes to the Mississippi River and the Atlantic Ocean, there are no physical barriers to block the spread of invasive species, making the Great Lakes highly vulnerable. Because of the frequency of ships entering into the Great Lakes, though, our region is often ''ground zero,'' and once an exotic species establishes itself, it is almost impossible to eradicate and sometimes difficult to prevent from moving throughout the nation. Therefore, prevention is the key to controlling new introductions.

All in all, the bill would cost between $160 million and $170 million each year. This is a lot of money, but it is a critical investment. As those of us from the Great Lakes know, the economic damage that invasive species can cause is much greater. However, compared to the $137 billion annual cost of invasive species, the cost of this bill is minimal. Therefore, I urge my colleagues to cosponsor this legislation and work to move the bill swiftly through the Senate.

Ms. COLLINS. Mr. President, from Pickerel Pond to Lake Auburn, from Sebago Lake to Bryant Pond, lakes and ponds in Maine are under attack. Aquatic invasive species threaten Maine's drinking water system, recreation, wildlife habitat, lakefront real estate, and fisheries. Plants, such as variable leaf milfoil, are crowding out native species. Invasive Asian shore crabs are taking over southern New England's tidal pools, and just last year began their advance into Maine—to the potential detriment of Maine's lobster and clam industries.

Maine and many other States are attempting to fight back against these invasions. Unfortunately, their efforts have frequently been of limited success. As with national security, protecting the integrity of our lakes, streams, and coastlines from invading species cannot be accomplished by individual States alone. We need a uniform, nationwide approach to deal effectively with invasive species.

Today I am pleased to join Senator LEVIN in introducing the National Aquatic Invasive Species Act of 2003. This bill would create the most comprehensive nationwide approach to date for combating alien species that invade our shores.

The stakes are high when invasive species are unintentionally introduced into our Nation's waters. They endanger ecosystems, reduce biodiversity, and threaten native species. They disrupt people's lives and livelihoods by lowering property values, impairing commercial fishing and aquaculture, degrading recreational experiences, and damaging public water supplies.

In the 1950s, European green crabs swarmed the Maine coast and literally ate the bottom out of Maine's softshell clam industry by the 1980s. Many clam diggers were forced to go after other fisheries or find new vocations. In just one decade, this invader reduced the number of clam diggers in Maine from nearly 5,000 in the 1940s to fewer than 1500 in the 1950s. European green crabs currently cost an estimated $44 million a year in damage and control efforts in the United States.

Past invasions forewarn of the long-term consequences to our environment and communities unless we take steps to prevent new invasions. It is too late

to stop European green crabs from taking hold on the east coast, but we still have the opportunity to prevent many other species from taking hold in Maine and the United States.

Three months ago, in the town of Limerick, ME, one of North America's most aggressive invasive species—hydrilla—was found in Pickeral Pond. Hydrilla can quickly dominate its new ecosystem—already hydrilla covers 60 percent of the bottom of Pickerel Pond from the shoreline out to 6 feet deep. Never before detected in Maine, this stubborn and fast-growing aquatic plant threatens Pickerel Pond's recreational use for swimmers and boaters, and could spread to nearby lakes and ponds. Unfortunately, eradication of hydrilla is nearly impossible, so we must now work to prevent further infestation in the State.

The National Aquatic Invasive Species Act of 2003 is the most comprehensive effort ever to address the threat of invasive species. By authorizing $836 million over 6 years, this legislation would open numerous new fronts in our war against invasive species. The bill directs the Coast Guard to develop regulations that will end the easy cruise of invasive species into U.S. waters through the ballast water of international ships, and would provide the Coast Guard with $6 million per year to develop and implement these regulations.

The bill also would provide $30 million per year for a grant program to assist State efforts to prevent the spread of invasive species. It would provide $12 million per year for the Army Corps of Engineers and Fish and Wildlife Service to contain and control invasive species. Finally, the Levin-Collins bill would authorize $30 million annually for research, education, and outreach.

The most effective means of stopping invading species is to attack them before they attack us. We need an early alert, rapid response system to combat invading species before they have a chance to take hold. For the first time, this bill would establish a national monitoring network to detect newly introduced species, while providing $25 million to the Secretary of the Interior to create a rapid response fund to help States and regions respond quickly once invasive species have been detected. This bill is our best effort at preventing the next wave of invasive species from taking hold and decimating industries and destroying waterways in Maine and throughout the country.

One of the leading pathways for the introduction of aquatic organisms to U.S. waters from abroad is through transoceanic vessels. Commercial vessels fill and release ballast tanks with seawater as a means of stabilization. The ballast water contains live organisms from plankton to adult fish that are transported and released through this pathway. The bill we are introducing today would establish a framework to prevent the introduction of aquatic invasive species by ships.

Currently, the U.S. is in negotiations with the international community on the development and implementation of an international program for preventing the unintentional introduction and spread of non-indigenous species through ballast water. I commend American negotiators for working with the international community to address this global problem. This legislation offers a strong framework that the U.S. should use as a model in negotiating this important international convention. The U.S. Government must ensure that the international convention will be at least as protective as the legislation we are introducing today. The United States must take the most protective action possible to protect our waters, ecosystems, and industries from destructive invasive species before it is too late.

Ms. STABENOW. Mr. President, I would like to express my strong support for the National Aquatic Invasive Species Act of 2003, NAISA.

During the 107th Congress, I introduced S. 1034, the Great Lakes Ecology Protection Act which sought to curb the influx of invasive species into the Great Lakes. This is an immense task, as more then 87 nonindigenous aquatic species have been accidentally introduced into the Great Lakes in the past century. I am proud to say that this bill had strong bipartisan support with 12 Great Lakes Senators as original cosponsors.

Today, I am proud to join Senator LEVIN as an original cosponsor of NIASA which will provide a national strategy for preventing invasive species from being introduced in the Great Lakes and our Nation's waters. I am pleased that NIASA incorporates many of the ideas from the Great Lakes Ecology Protection Act in formulating a national standard.

Invasive species have had a devastating economic and ecological impact on the United States. They have already damaged the Great Lakes in a number of ways. They have destroyed thousands of fish and threatened our clean drinking water.

For example, Lake Michigan once housed the largest self-producing lake trout fishery in the entire world. The invasive sea lamprey, which was introduced from ballast water almost 80 years ago, has contributed greatly to the decline of trout and whitefish in the Great Lakes by feeding on and killing native trout species.

Today, lake trout must be stocked because they cannot naturally reproduce in the lake. Many Great Lakes States have had to place severe restrictions on catching yellow perch because invasive species such as the zebra mussel disrupt the Great Lakes' ecosystem and compete with yellow perch for food. The zebra mussel's filtration also increases water clarity, which may be making is easier for predators to prey upon the yellow perch. Moreover, tiny organisms like zooplankton that help form the base of the Great Lakes food chain, have declined due to consumption by exploding populations of zebra mussels.

We have made progress on preventing the spread of invasive species, but we have not yet solved this problem. NIASA will create a mandatory national ballast water management program to prevent the introduction of invasive species into our waters, as well as, encourage the development of new ballast treatment technology to eliminate invasive species. NIASA also will greatly increase research funding for these treatment and prevention technologies, and provide necessary funding and resources for invasive species rapid response plans. In addition, the bill will increase outreach and education to recreational boaters and the general public on how to prevent the spread of invasive species.

As Members of the U.S. Congress, we have a responsibility to share in the stewardship of our Nation's natural resources. As a Great Lakes Senator, I feel a particularly strong responsibility to protect a resource that is not only a source of clean drinking water for more than 30 million people in the Great Lakes, but is vital to Michigan's economy and environment. I am proud to support a bill that will provide innovative solutions and necessary resources to this longstanding environmental problem, and will also protect our precious water resources for the enjoyment and benefit of future generation of Americans.

Mr. JEFFORDS. Mr. President, I rise today to join my colleagues, Senator LEVIN and Senator SNOWE in introducing the ''National Aquatic Invasive Species Act of 2003.''

The waters of the United States continue to face threats from aquatic invasive species. Invasive species take both an economic and an environmental toll. The United States and Canada are spending $14 million a year just to try to control sea lamprey, a species that has invaded Lake Champlain and the Great Lakes. The environmental costs are also staggering. Invasive species usually have high reproductive rates, disperse easily, and can tolerate a wide range of environmental conditions, making them very difficult to eradicate. They often lack predators in their new environment and out-compete native species for prey or breeding sites.

The legislation we are introducing today will build on programs established over the last decade and focus much of our attention and resources on preventing invasive species from entering our aquatic ecosystems. This legislation establishes a mandatory ballast water management program for the entire country; makes federal funds and resources available for rapid response to the introduction of invasive species and for prevention, control and research.

Increased funding and resources for dispersal barrier projects and research to prevent the interbasin transfer of

organisms is of particular importance in my State of Vermont. We, along with New York, are home to one of this country's most beautiful lakes—Lake Champlain. However, zebra mussels, Eurasian water milfoil, water chestnuts, and sea lamprey have invaded Lake Champlain and are having a devastating impact. Like most who visit Lake Champlain, these species want to call it home, but we cannot compromise the health of the lake. Examining the feasibility and effectiveness of a dispersal barrier in the Lake Champlain Canal to control the dispersal of invasive species in the lake is another avenue toward preventing further destructive dispersal of these species.

I look forward to working with my colleagues on the Environment and Public Works Committee and in the Senate to move this important legislation forward.

By Mr. HATCH (for himself, Mr. GRAHAM of Florida, Mr. KENNEDY, Mr. COLEMAN, Ms. MIKULSKI, Mr. ALLARD, and Mr. DAYTON):

S. 526. A bill to amend title XVIII of the Social Security Act to improve access to Medicare+Choice plans for special needs medicare beneficiaries by allowing plans to target enrollment to special needs beneficiaries; to the Committee on Finance.

Mr. HATCH. Mr. President, I rise today to introduce a bill designed to provide assistance to vulnerable Medicare beneficiaries: the Medicare Improvements for Special Needs Beneficiaries Act of 2003. This legislation will improve access to health care for frail and elderly Medicare beneficiaries who reside in nursing homes or their local communities.

Approximately 6 million Medicare beneficiaries are eligible for both Medicare and Medicaid coverage. Known as ''dual eligibles,'' these beneficiaries are the most vulnerable group of Medicare recipients. They are elderly or disabled and poor. Many have serious health concerns and complex medical, social, and long-term care needs. As a result, dual eligibles represent a disproportionate share of Medicare spending.

To address the concerns of dual eligibles, a small number of health plans specialize in providing quality coordinated care to frail, elderly Medicare beneficiaries through demonstrations and the Medicare+Choice Program. These specialized plans include innovative clinical models of care that improve care and health outcomes while reducing medical costs. Today, approximately 25,000 Medicare beneficiaries, most of whom reside in nursing homes, receive their health care through these specialized plans.

Through these plans, physicians and nurse practitioners work together to provide as much primary, preventive, and acute care as possible on site—in a nursing home facility or in the patient's home. For those beneficiaries residing in nursing homes, this means fewer trips to the emergency room; for those still living at home, it delays nursing home placement. If enrollees can be treated successfully without a trip to the hospital or placement in a nursing home, they remain healthier and costs to the Medicare Program are reduced.

Currently, these specialized plans are facing regulatory barriers that prevent them from becoming permanent Medicare+Choice Program options. The Medicare Improvements for Special Needs Beneficiaries Act provides improved beneficiary access to Medicare+Choice plans by removing these barriers and allowing plans to specialize in serving dual eligible, institutionalized, and other frail beneficiaries. Specifically, the bill would allow a special Medicare+Choice program designation so these plans may continue to target enrollment to the frail elderly and provide appropriate health care to this vulnerable population.

Both the President and Members of Congress have stated their commitments to improving services provided to Medicare beneficiaries. In fact, when President Bush visited Minneapolis last July, he expressed his strong support for the Evercare program by saying that ''government should act to strengthen these private health insurance options, not replace them. By relying on competition and patient's choice and innovative programs like Evercare, we will protect our seniors now, and offer many new lifesaving services to seniors in the future and preserve our private health care system.''

These specialized programs are fulfilling the original promise of the Medicare+Choice Program to not only protect our Medicare beneficiaries but, in addition, these program improve health care quality and lower health care costs. This legislation is a no-cost way to continue this effort. Evercare plans serve a unique and valuable purpose for a vulnerable segment of our society. I hope my colleagues will join me in supporting this important bill.

By Mr. BINGAMAN (for himself and Mr. BENNETT):

S. 528. A bill to reauthorize funding for maintenance of public roads used by school buses serving certain Indian reservations; to the Committee on Environment and Public Works.

Mr. BINGAMAN. Mr. President, I rise today to introduce the Indian School Bus Route Safety Reauthorization Act of 2003. This bill continues an important Federal program begun in TEA–21 that addresses a unique problem with the roads in and around the Nation's single largest Indian reservation and the neighboring counties. Through this program, Navajo children who had been prevented from getting to school by frequently impassable roads are now traveling safely to and from their schools. Because of the unusual nature of this situation, I believe it must continue to be addressed at the Federal level.

I would like to begin with some statistics on this unique problem and why I believe a Federal solution continues to be necessary. The Navajo Nation is by far the Nation's largest Indian reservation, covering 25,000 square miles. Portions of the Navajo Nation are in three States: Arizona, New Mexico, and Utah. No other reservation comes anywhere close to the size of Navajo. To give you an idea of its size, the State of West Virginia is about 24,000 square miles. In fact, 10 States are smaller in size than the Navajo reservation.

According to the Bureau of Indian Affairs, about 9,800 miles of public roads serve the Navajo Nation. Only about one-fifth of these roads are paved. The remaining 7,600 miles, 78 percent, are dirt roads. Every day schoolbuses use nearly all of these roads to transport Navajo children to and from school.

About 6,400 miles of the roads on the Navajo reservation are BIA roads, and about 2,500 miles are State and county roads. All public roads within, adjacent to, or leading to the reservation, including BIA, State, and county roads are considered part of the Federal Indian reservation road system. However, only BIA roads are eligible for Federal maintenance funding from BIA. Moreover, construction funding and improvement funding from the Federal Lands Highways Program in TEA–21 is generally applied only to BIA or tribal roads. Thus, the States and counties are responsible for maintenance and improvement of their 2,500 miles of roads that serve the reservation.

The counties in the three States that include the Navajo reservation are simply not in a position to maintain all of the roads on the reservation that carry children to and from school. Nearly all of the land area in these counties is under Federal or tribal jurisdiction.

For example, in my State of New Mexico, three-quarters of McKinley County is either tribal or Federal land, including BLM, Forest Service, and military land. The Indian land area alone comprises 61 percent of McKinley County. Consequently, the county can draw upon only a very limited tax base as a source of revenue for maintenance purposes. Of the nearly 600 miles of county-maintained roads in McKinley County, 512 miles serve Indian land.

In San Juan County, UT, the Navajo Nation comprises 40 percent of the land area. The county maintains 611 miles of roads on the Navajo Nation. Of these, 357 miles are dirt, 164 miles are gravel, and only 90 miles are paved. On the reservation, the county has three high schools, two elementary schools, two BIA boarding schools and four preschools.

The situation is similar in neighboring San Juan County, NM, as well, Apache, Navajo, and Coconino Counties, AZ. In light of the counties' limited resources, I do believe the Federal

Government is asking the States and counties to bear too large a burden for road maintenance in this unique situation.

Families living in and around the reservation are no different from families anywhere else; their children are entitled to the same opportunity to get to school safely and to get a good education. However, the many miles of unpaved and deficient roads on the reservation are frequently impassable, especially when they are wet, muddy, or snowy. If the schoolbuses don't get through, the kids simply cannot get to school.

These children are literally being left behind.

Because of the vast size of the Navajo reservation, the cost of maintaining the county roads used by the school buses is more than the counties can bear without Federal assistance. I believe it is essential that the Federal Government help these counties deal with this one-of-a-kind situation.

In response to this unique situation, in 1998 Congress began providing direct annual funding to the counties that contain the Navajo reservation to help ensure that children on the reservation can get to and from their public schools. The funding was included at my request in section 1214(d) of TEA–21. Under this provision, $1.5 million is made available each year to be shared equally among the three States. The funding is provided directly to the counties in Arizona, New Mexico, and Utah that contain the Navajo reservation. I want to be very clear: these Federal funds can be used only on roads that are located within or that lead to a reservation, that are on the State or county maintenance system, and that serve as schoolbus routes.

This program has been very successful. For the last 6 years, the counties have used the annual funding to help maintain the routes used by schoolbuses to carry children to school and to Head Start programs. I had an opportunity in 1998 to see first hand the importance of this funding when I rode in a schoolbus over some of the roads that are maintained using funds from this program.

The bill I am introducing today provides a simple 6-year reauthorization of that program, with a modest increase in the annual funding to allow for inflation and for additional roads to be maintained in each of the three States.

I believe that continuing this program for 6 more years is fully justified because of the vast area of the Navajo reservation—by far the Nation's largest—and the unique nature of this need that only the Federal Government can deal with effectively.

I don't believe any child wanting to get to and from school safely should have to risk or tolerate unsafe roads. Kids today, particularly in rural and remote areas, face enough barriers to getting a good education. I ask all Senators to join me in assuring that Navajo schoolchildren at least have a chance to get to school safely and get an education.

My bill has the support of the Southeastern Utah Association of Local Governments and the Tri-State County Association of New Mexico, Arizona, and Utah. I ask unanimous consent that letters and resolutions from New Mexico, Arizona, and Utah be printed in the RECORD at the conclusion of my remarks.

I am pleased that Congressmen TOM UDALL of New Mexcio, RICK RENZI of Arizona, and JAMES DAVID MATHESON of Utah are introducing a companion bill today in the House. I look forward to working with them this year and with the chairman of the Environment and Public Works Committee, Senator INHOFE, and Senator JEFFORDS, the ranking member, to incorporate this legislation once again into the comprehensive 6-year reauthorization of the surface transportation bill.

Mr. President, I ask unanimous consent that text of the bill be printed in the RECORD.

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

S. 528

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 ''Indian School Bus Route Safety Reauthorization Act of 2003''.

SEC. 2. REAUTHORIZATION OF ADDITIONAL CONTRACT AUTHORITY FOR STATES WITH INDIAN RESERVATIONS.

(a) AVAILABILITY TO STATES.—Not later than October 1 of each fiscal year, funds made available under subsection (e) for the fiscal year shall be made available by the Secretary of Transportation, in equal amounts, to each State that has within the boundaries of the State all or part of an Indian reservation having a land area of 10,000,000 acres or more.

(b) AVAILABILITY TO ELIGIBLE COUNTIES.—

(1) IN GENERAL.—Each fiscal year, each county that is located in a State to which funds are made available under subsection (a), and that has in the county a public road described in paragraph (2), shall be eligible to apply to the State for all or a portion of the funds made available to the State under this section to be used by the county to maintain such public roads.

(2) ROADS.—A public road referred to in paragraph (1) is a public road that—

(A) is within, is adjacent to, or provides access to an Indian reservation described in subsection (a);

(B) is used by a school bus to transport children to or from a school or Headstart program carried out under the Head Start Act (42 U.S.C. 9831 et seq.); and

(C) is maintained by the county in which the public road is located.

(3) ALLOCATION AMONG ELIGIBLE COUNTIES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), each State that receives funds under subsection (a) shall provide directly to each county that applies for funds the amount that the county requests in the application.

(B) ALLOCATION AMONG ELIGIBLE COUNTIES.—If the total amount of funds applied for under this section by eligible counties in a State exceeds the amount of funds available to the State, the State shall equitably allocate the funds among the eligible counties that apply for funds.

(c) SUPPLEMENTARY FUNDING.—For each fiscal year, the Secretary of Transportation shall ensure that funding made available under this section supplements (and does not supplant)—

(1) any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations; and

(2) any funding provided by a State to a county for road maintenance programs in the county.

(d) USE OF UNALLOCATED FUNDS.—Any portion of the funds made available to a State under this section that is not made available to counties within 1 year after the funds are made available to the State shall be apportioned among the States in accordance with section 104(b) of title 23, United States Code.

(e) FUNDING.—

(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section—

(A) $3,000,000 for each of fiscal years 2004 and 2005;

(B) $4,000,000 for each of fiscal years 2006 and 2007; and

(C) $5,000,000 for each of fiscal years 2008 and 2009.

(2) CONTRACT AUTHORITY.—Funds made available to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

GALLUP MCKINLEY COUNTY
PUBLIC SCHOOLS,
Gallup, NM., December 11, 2002.

Hon. JEFF BINGAMAN
U.S. Senate,
Washington, DC.

DEAR HON. JEFF BINGAMAN: The Gallup McKinley County Schools serve over 15 thousand students, of which over 10 thousand are bussed daily. Our District's school buses travel 9,250 miles daily, one way. Several miles of these roads are primitive dirt roads with poor or no drainage. Several do not have guard rails and some are not maintained by any entity. The inability to safely negotiate school buses over these roads during wet, muddy and snowy conditions greatly restricts our ability to provide adequate services for families living along these particular roadways. Funding for school bus route road maintenance is vital to providing safe and efficient transportation for thousands of students throughout our County.

The School bus route maintenance programs have helped tremendously. Our County Roads Division (McKinley County) has been extremely helpful in maintaining hundreds of miles of bus route roads. The route improvements completed recently in the North Coyote Canyon, Mexican Springs, Johnson loop, Tohlakal, CR–1, Crestview, lyanbito and Bluewell have provided us with the ability to safely negotiate these areas and transport hundreds of students to various schools.

The School bus route program is a very important program. Our County Roads division worked diligently to provide safe access and passage for our school districts 160 school buses. Without the school bus route program, it would be impossible to maintain safe conditions on these roads. To insure the safety of our school children and families, it is imperative that the reauthorization of the TEA–21 Bill be realized.

Your help in sponsoring Bills, which address the unique situations with respect to school bus route roads, have been greatly appreciated. Your continuing support of the school bus route program (TEA–21 Bill) will enable us to continue to safely and efficiently transport our students. It is through

these cooperative efforts that we are able to serve the hundreds of families living in our County. Thank you for your continued efforts.

Sincerely,

BEN CHAVEZ,
Support Services Director.

COUNTY OF MCKINLEY,
Gallup, N.M., December 20, 2002.

Hon. JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

Re: Indian School Bus Route Safety Reauthorization Act of 2003.

DEAR SENATOR BINGAMAN: The Board of Commissioners supports your proposed Bill entitled, Indian School Bus Route Safety Reauthorization Act of 2003.

Currently, TEA–21 has provided a pilot program for the Counties in New Mexico, Arizona and Utah with funds to help maintain school routes accessing the Navajo Nation. This support has allowed McKinley County to improve an average of six miles per year.

The Gallup McKinley County Schools operates 143 school buses on a weekday basis traveling 16,070 miles daily. The Navajo Nation also operates a bus network for their Headstart Programs.

Our residents who live in the rural areas of our County depend on these same roads to shop, access medical services and jobs. Improved roads are critical to our region.

I appreciate your sponsorship of the Indian School Bus Route Safety Reauthorization Act of 2003.

Sincerely yours,

EARNEST C. BECENTI, Sr.,
Chairperson.

COUNTY OF MCKINLEY,
Gallup, N.M., December 20, 2002.

Hon. JEFF BINGAMAN
U.S. Senate,
Washington, DC. 20510

DEAR SENATOR BINGAMAN: We want to take this opportunity to let you know how grateful McKinley County residents are for your past efforts in obtaining the federal funding received under the TEA–21 Bill. These funds have improved approximately 30 miles of school bus routes that could not have been a reality without them. These roads were improved to all weather standards at an average cost per mile of approximately $60,000. We have enclosed a recap identifying the type of improvements made and expenditures. We have also enclosed a letter from the Gallup-McKinley County Schools identifying the enhancement of these improvements that contribute to the safe transportation of students throughout the County.

McKinley County has a total of 511.746 miles of maintained roads that lead to or are within Indian Lands that qualify under the TEA–21 funding. This total reflects that approximately 90 percent of McKinley County roads on the maintenance system serve the vast Indian population in rural McKinley County. The TEA–21 funding received thus far has improved approximately 5 percent of these miles; leaving approximately 95 percent of the remaining miles to be improved. As you can see, the miles improved thus far are small in comparison to the vast needs of McKinley County.

The unimproved roads continue to contribute to the number of school days missed during inclement weather at all grade levels, which ultimately contribute to the illiteracy of our young people, and to the high level of unemployment in this area. It is difficult to change these statistics with the insurmountable miles of unimproved roads and the lack of sufficient funding sources. It is also very difficult to attract economic growth to McKinley County and improve the job market and quality of life for families throughout rural McKinley County.

We strongly solicit support for the continuation of the TEA–21 allocation for the improvement of school bus routes in our area. Thank you once again for your past and continued support in meeting the needs of McKinley County.

Sincerely,

DAVID J. ACOSTA,
Road Superintendent.

GALLUP-MCKINLEY COUNTY
PUBLIC SCHOOLS,
December 19, 2002.

Hon. SENATOR JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BINGAMAN: Regarding the reauthorization of TEA–21 legislation, I would like to be up front in support of this bill. Our Gallup-McKinley County School District cannot function without a decent roads maintenance program. Our school district has established a good partnership with the McKinley County Commissioners Office. Mr. Irvin Harrison, McKinley County Manager, is very instrumental in addressing the many roads maintenance issues. Of course, the money to do the actual maintenance work comes from the Indian School Bus Route Safety Reauthorization Act.

Let me explain why the Gallup-McKinley County Schools consider TEA–21 is practically indispensable. Our district daily transports 9,089 students and covers 16,070 miles. The 9,089 students are almost all Native Americans residing on Indian Reservation land or Checker Board Areas. The majority of the roads are dirt or unimproved. Our bus fleet totals 146 and 27 buses are equipped with lifts. Senator, you can imagine how delicate it is to make sure the roads are safe and all-weather condition. On an annual basis, our miles driven exceed 3,047,269. Without the county's roads maintenance program, our buses would deteriorate as quickly as we buy them and absenteeism would climb astronomically. What is so unique about our district is, it's 5000 square miles size and reported unpaved road transportation nears 400,000 miles. What the McKinley County Roads Department maintains include grading, placing gravel with some degree of compaction, repair work on drainage appurtenances and providing drainage solutions to rain damaged areas. Gallup-McKinley County School District is still expanding. A new high school is under design in Pueblo Pintado. A safe bridge is absolutely essential right next to the new school site.

Senator, I recall 3 years ago that you took a ride in one of our buses west of Gallup. I understand you enjoyed the rough ride. I thank you for taking the time from your busy schedule to visit our school district.

I am confident that the reauthorization of TEA–21 will be an historic event because this piece of legislation indeed relates to the No Child Left Behind initiative. All weather and safe roads provide the means to get the children to school on time. Absentees and tardiness are discouraged with a reliable transportation to school. I urge your colleagues to jump on the bandwagon and support the Indian School Bus Route Safety Reauthorization Act of 2003. Please call me if you have any questions.

Sincerely,

KAREN S. WHITE,
Acting Superintendent.

THE NAVAJO NATION,
ROCK SPRINGS CHAPTER,
Yah-Ta-Hey, NM.

Resolution of Rock Springs Chapter Eastern Navajo Agency—District 16

Requesting and Recommending to the United States Senators, Honorable Jeff Bingaman and Honorable Pete Dominci to Reauthorize the TEA–21 Bill for Continued Funding to the County of McKinley, State of New Mexico for Improvement of School Bus Routes Leading to and within the Navajo Indian Reservation which is Supported by Rock Springs Chapter Community.

Whereas:

1. The Rock Springs Chapter is a certified chapter and recognized by the Navajo Nation Council, pursuant to CAP–34–98, the Navajo Nation Council adopted the Navajo Nation Local governance act (LGA) which directs local chapters to promote all matters that affect the local community members and to make appropriate decisions, recommendation and advocate on their behalf, and;

2. The Rock Springs Chapter is requesting and recommending to the United States Senators, Honorable Jeff Bingaman and Honorable Pete Dominci to Re-authorize the TEA–21 bill for Continued funding to the County of McKinley, State of New Mexico for improvement of school bus routes leading to and within the Navajo Indian Reservation which is supported by Rock Springs Chapter Community, and;

3. The Rock Springs Chapter is established to plan, promote, and coordinate the community, economic, and social development for the community, including an oversight of coordinator and support for federal, state, tribal, and other programs and entities; and

4. The Rock Springs Chapter Community are highly concerned of their students attendance due to poor road conditions, lack of improving and maintaining bus routes and how it effects the daily transports of students as well as daily travel for community members, and:

5. There are vest miles of (dirt roads) school bus routes that still require improvement. Poor roads contribute to poor education, health issues, economic growth, unemployment, and fatalities in our rural (community) county.

Now, therefore be it

Resolved:

1. The Rock Springs Chapter strongly supports the foregoing resolution to the United States Senators, Honorable Jeff Bingaman and Honorable Pete Dominici to Re-authorize the TEA–21 Bill for Continued funding to the County of McKinley, State of New Mexico for improvement of school bus routes leading to and within the Navajo Indian Reservation.

2. The Rock springs Chapter Community hereby supports the continuation of improving and upgrading the vast miles of dirt roads school bus routes.

CERTIFICATION

We, hereby certify that the foregoing resolution was duly presented and considered by the Rock Springs Chapter at duly called chapter meeting at Rock Springs Chapter, New Mexico (Navajo Nation) at which a quorum was present and the same was passed with a vote of 33 in favor, 00 opposed and 00 abstained on this 18th of February, 2003.

RAYMOND EMERSON,
Chapter President.
HARRIETT K. BECENTI,
Council Delegate.
LUCINDA ROANHORSE,
Acting Community Services Coordinator.

SAN JUAN COUNTY COMMISSION,
Monticello, UT, January 6, 2003.

Hon. JEFF BINGAMAN
U.S. Senator, Washington, DC.

Re: Indian School Bus Route Safety Reauthorization Act of 2003.

DEAR SENATOR BINGAMAN: San Juan County, Utah wants to express our appreciation to you for your efforts to secure funding to improve the Indian School Bus Routes. San Juan County has approximately 25% of the total land area on the Utah portion of the Navajo Nation.

The County is currently maintaining 611 miles of roads on the Navajo Nation. 357 miles are natural surface, 164 miles are of a gravel surface and 90 miles are paved. Most of these roads are used by school bus in the transportation of students to and from the different schools.

The County has three high schools that are operated by the San Juan School District on the Utah portion of the Navajo Nation (Whitehorse High School in Montezuma Creek, Monument Valley High School in Monument Valley and Navajo Mountain High School in Navajo Mountain). In addition, the school district has two elementary schools located in Halchita, near Mexican Hat and in Montezuma Creek. The Bureau of Indian Affairs has two boarding schools that also operate within the County boundaries at Aneth and Navajo Mountain. In addition there are pre-schools that are located in Monument Valley, Halchita, Toda, and montezuma Creek.

One major example of these funds that have been previously used was to pave the nearly six mile section of road in the Navajo Mountain area. Navajo Mountain is an isolated community located in the southwestern corner of San Juan County. There is a single highway in and out of the community, with the nearest community located over seventeen miles to the south in Arizona. The road still is dirt for ten miles south of the Utah boundary, but the County was able to pave the road on the Utah side this past year making the road passable year round and greatly improving the safety for the students and residents.

We would strongly encourage the re-authorization of these funds for this important need.

Very truly,

TY LEWIS,
Commissioner.
MANUEL MORGAN,
Commissioner.
LYNN H. STEVENS,
Commissioner.

SAN JUAN COUNTY,
Aztec, NM, January 9, 2003.

Senator JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

HON. SENATOR BINGAMAN:

We are aware that Congress will be considering bills to reauthorize the TEA–21 funding for local roads that provide access to the Navajo Reservation. These funds are of special significance to San Juan County.

The Public Works Department of San Juan County regularly maintains over 400 miles of roads that are adjacent to or provide access to the Navajo Reservation. These roads are critical to the population in the service areas. School buses depend on our County workers to keep the roads maintained and to provide other essential services.

Over the past five years, we have received $953,688 from the TEA–21 program for the maintenance of roads and bridges in these areas. The assistance received under this program will be crucial if we wish to continue to provide these much needed services to the residents on the Navajo Reservation and their visitors.

I would like to thank you for your hard work on behalf of the citizens on San Juan County and urge you to support legislation that would extend the TEA–21 Program.

Sincerely,

TONY ATKINSON,
County Manager.

NAVAJO COUNTY BOARD OF SUPERVISORS,
Holbrook, AZ, December 18, 2002.

Senator JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

Re: TEA–21 Funding for Maintenance of School Bus Routes.

DEAR SENATOR BINGAMAN: Navajo County has used the TEA–21 funding since its inception to maintain school bus routes located on reservation lands within the county. In order to best use these funds, we have entered into agreements with the Bureau of Indian Affairs and various established school districts. These agreements allow us to expand the budgets for roads in the school districts and receive maximum benefit for funds spent.

The funding to date has been spent as follows: Funding of road worker salaries—$63,226; Purchase of road working equipment—$215,651; Purchase of road building materials—$173,313.

The material, labor and equipment helps to maintain over 1,300 miles of school bus routes. Even though these funds are extremely helpful, the current amount of funding is inadequate to meet the needs that are encountered in these remote lands.

Navajo County fully supports your efforts to not only continue the present funding, but also the efforts to increase the annual amount. If this funding was not available, the school children on the reservation would be the ones who suffer.

Please continue your efforts to enhance the TEA–21 funds. If you need further information, please call me at (928) 524–4053.

Sincerely,

JESSE THOMPSON,
Supervisor.

RESOLUTION OF THE TRI-STATE COUNTY ASSOCIATION (NEW MEXICO, ARIZONA AND UTAH)

Whereas, the Tri-State County Association met on September 20, 2002, in St. Michael's Arizona, to discuss the proposed Bill by Senator Jeff Bingaman cited as the ''Tribal Transportation Program Improvement Act of 2002''; and,

Whereas, Counties in New Mexico, Arizona and Utah, are faced with maintaining miles of unpaved roads serving Federally owned land or Indian Reservations; and

Whereas, Section 1214 of Transportation Equity Act for the 21st Century priovided $1.5 Million per year beginning October 1, 1998, for six years; to eligible Counties to maintain public raods which provide access to an Indian Reservation or is used by school buses to transport children to Headstart Programs; and,

Whereas, Congress has designated the Secretary of Transportation to divide each fiscal year the $1.5 Million equally between the States of New Mexico, Arizona and Utah, through the State Highway Department of State Department of Transportation to eligible Counties (San Juan and McKinley, NM; Navajo, Apache, Coconino, AZ; and San Juan, UT.); and,

Whereas, Each County receiving the special appropriation were able to complete additional schools bus route improvements on roads that would not have been improved otherwise; and

Whereas, the need for school bus route improvements greatly exceed the annual allocation provided for each County and the allocation should be increased under the reauthorization of the Transportation Bill.

Now, therefore be it

Resolved, by the Tri-State County Association, to support the ''Tribal Transportation Program Improvement Act of 2002,'' as proposed by Senator Jeff Bingaman, which includes additional funding for maintenance of school bus routes on Indian Reservations.

STATE OF NEW MEXICO COUNTY OF MCKINLEY

Whereas, the Board of Commissioners did meet in *regular* session on February 27, 2001; and

Whereas, Section 1214(d) of the Transportation Equity Act for the 21st Century (TEA–21) provides additional funding for States that have within their boundaries all or part of an Indian Reservation having a land area of 10,000,000 acres or more; and,

Whereas, the only Indian Reservation meeting this criteria is the Navajo Indian Reservation in Arizona, New Mexico and Utah; and ,

Whereas, the three States equally divide the $1,500,000 among the various Counties to maintain public roads which are within, adjacent to, or accessing the Navajo Indian Reservation which are used to transport children to or from a school or Headstart Program and are maintained by the County; and

Whereas, McKinley County has demonstrated the fiscal capacity to implement and administer funds allocated through the New Mexico State Highway and Transportation Department to complete 19.3 miles through FY–00.

Now therefore be it

Resolved, by the Board of Commissioners or McKinley County, to request Congressional support to increase the allocation under Section 1214(d) of the Transportation Equity Act for the 21st Century (TEA–210 to improve school bus routes within, adjacent to, or accessing, the Navajo Reservation after FY–03.

By Ms. CANTWELL (for herself, Mr. THOMAS, Mr. LEAHY, Mr. SMITH, Mr. WYDEN, Ms. SNOWE, Mr. DURBIN, Mr. HAGEL, Mr. ROBERTS, and Mr. CHAMBLISS):

S. 529. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income loan payments received under the National Health Service Corps Loan Repayment Program established in the Public Health Service Act; to the Committee on Finance.

Ms. CANTWELL. Mr. President, I rise today with Senator CRAIG THOMAS to introduce legislation that would exclude loan repayments made through the National Health Service Corps from taxable income. I am pleased that Senators LEAHY, SMITH, WYDEN, SNOWE, DURBIN, HAGEL, ROBERTS, and CHAMBLISS are also cosponsoring this important legislation.

There have been many developments in the area of health care in the last few years from managed care reform, to increases in biomedical research, the mapping of the human genome, and the use of exciting new technologies in both rural and urban areas such as telemedicine. In fact, it seems that almost every day we hear of astounding new scientific breakthroughs. But unfortunately, while we are making great

strides in the quality of health care, we are losing ground on the access to health care for so many.

The sad truth is that there are currently 38.7 million Americans without health insurance coverage—9.2 million of whom are children. In Washington, before the recession, 13.3 percent of the population, and 155,000 children, lacked health insurance. That is undoubtedly higher today.

Access to health insurance for the uninsured is of the utmost importance—we know that at the very least, health insurance means the difference between timely and delayed treatment and at worst between life and death. In fact, the uninsured are four times as likely as the insured to delay or forego needed care—and uninsured children are six times as likely as insured children to go without needed medical care.

But even insurance isn't enough if there are no available providers. Hospitals and other health care providers across the country are facing an increasingly uncertain future. The sad truth is that it is increasingly more difficult to recruit health care providers to work with underserved communities—especially in rural areas. In addition to economic pressures, rural areas must overcome the environmental issues involved with recruiting a doctor who may have been raised, educated, and trained in an urban setting.

The National Health Service Corps was created in 1970 by Senator Warren Magnuson, one of the most distinguished Senators to come from Washington State. He saw the need to put primary care clinicians in rural communities and inner-city neighborhoods, and developed this program to fill that need.

Since then, the Corps has placed over 22,000 health professionals in rural or urban health professions shortage areas. There is no doubt that National Health Service Corps has been extremely successful. In fact, the most recent available data show that more than 70 percent of providers continued to provide services to underserved communities after their Corps obligation was fulfilled—80 percent of these health care providers stayed in the community in which they had originally been placed.

During the last August recess, I had the opportunity to travel throughout Washington State and held 15 community discussions on health care. I met patients who would not have access to health services but for the providers there through the Corps and I met many doctors who have been living in our rural communities for years because of their Corps' placements. And because it has been so successful—right now in Washington State there are 75 physicians or other health professionals working in underserved areas that would not otherwise be here—we must do everything possible to support this program.

Under current law, the National Health Service Corps provides scholarships, loan repayments, and stipends for clinicians who agree to serve in urban and rural communities with severe shortages of health care providers. In 1986 the IRS ruled that all payments made under the program are considered taxable income. Understanding the immediate detriment to scholarship recipients, who were forced to pay the tax out of their own pockets, Congress eliminated the scholarship tax in 2001. And while the scholarship program is now not considered taxable income to the IRS, the loan repayments and stipends are.

By statute, the current loan program awards also include a tax assistance payment equal to 39 percent of the loan repayment amount, which is to be used by the recipient offset his or tax liability resulting from the loan repayment ''income.'' This means that nearly 40 percent of the Federal loan repayment budget goes to pay taxes on the loan repayment ''income'' alone. If these Federal payments were not taxed, and the funding was freed up, more health professions students could take advantage of the loan repayment program, and could be placed in shortage areas, thereby increasing access to health care in both urban and rural areas.

This is not a new problem. The tax burden that accompanies the National Health Service Corps loan payments is a significant deterrent to increasing the number of clinicians enrolling in the Corps. I do not want to see a situation where, as happened several years ago, over 300 applicants actually left underserved areas because the Corps could not fully fund the loan repayment program.

The legislation we are introducing today, the National Health Service Corps Loan Repayment Act, would address this disincentive, making the Corps available to more medical and health professionals, and thereby bringing more providers into underserved areas. If loan repayments are excluded from taxation, the National Health Service Corps will have greater resources to provide aid to health professionals seeking loan repayment, and will be able to increase the number of providers in underserved areas.

There is no doubt that strengthening the National Health Service Corps is a win-win situation. Corps scholarships help finance education for future primary care providers interested in serving the underserved. In return, graduates serve those communities where the need for primary health care is greatest.

The bill is supported by over 20 national organizations including the National Rural Health Association, the National Association of Community Health Centers, the Association of American Medical Colleges, and the American Medical Student Association. I am especially pleased that the Washington State Medical Association is supporting this bill. I ask unanimous consent that the complete list be included in the RECORD after my statement.

I understand that there are no easy solutions to the health care problems we are facing right now. But we need to do something—even if it is taking small steps forward, and come in at this problem from many different angles.

I urge my colleagues to look at this bill and to join us in expanding this vitally important and immediately successful program.

Mr. THOMAS. I am pleased to rise today to introduce the National Health Service Corps Loan Repayment Act with my colleague from Washington, Ms. Cantwell. Specifically, this legislation will exclude loan repayments made through National Health Service Corps, NHSC, program from taxable income. Enactment of the National Health Service Corps Loan Repayment Act would increase the amount of Federal dollars available so more students could participate in the NHSC program.

Under current law, the NHSC provides scholarships, loan repayments, and stipends for clinicians who agree to serve in national designated underserved urban and rural communities. The tax law changes in 1986 resulted in the IRS ruling that all NHSC payments were taxable. Congress eliminated the tax on the scholarship in 2001, but the loan repayments and stipends continue to be taxed.

To assist loan repayment recipients with their tax burden, the NHSC loan program includes an additional payment equal to 39 percent of the loan repayment amount so the loan repayment recipient can pay his or her taxes. Close to 40 percent of the NHSC Federal loan repayment budget goes to pay taxes on the loan repayment ''income.'' The current situation should not be allowed to continue. Given the fiscal restraints we are facing, we must ensure that Federal dollars are spent efficiently and effectively. It is obvious that today's NHSC loan repayment structure does not meet that goal. Our legislation resolves this issue.

For over 30 years, the National Health Service Corps, NHSC, program has literally been a lifeline for many underserved communities across the country that otherwise would not have a heath care provider. I know this program is critically important to my State of Wyoming and to many other rural States that have difficulties recruiting and retaining primary health care clinicians.

There are 2,800 health professional shortage areas, 740 mental health shortage areas and 1,200 dental health shortage areas now designated across the country. However, the NHSC program is meeting less than 13 percent of the current need for primary care providers and less than 6 percent of need for mental health and dental services. The National Health Service Corps Loan Repayment Act would increase

the number of students in the program and allow more providers to be placed in these shortage areas.

The National Health Service Corps Loan Repayment Act is crucial to the future well-being of many of our rural communities. I strongly urge all my colleagues to support this important legislation.

By Mr. KERRY:

S. 530. A bill to amend title 5, United States Code, to create a presumption that a disability or death of a Federal employee in fire protection activities caused by any of certain diseases is the result of the performance of such employee's duty; to the Committee on Governmental Affairs.

Mr. KERRY. Mr. President, today I am introducing legislation on behalf of thousands of Federal firefighters and emergency response personnel worldwide who, at great risk to their own personal health and safety, protect America's defense, our veterans, Federal wildlands, and national treasures. Although the majority of these important Federal employees work for the Department of Defense, Federal firefighters are also employed by the Department of Veterans Affairs, and the U.S. Park Service. From first response emergency care services on military installations around the world to frontline defense against raging forest fires here at home, we call on these brave men and women to protect our national interests.

Yet under Federal law, compensation and retirement benefits are not provided to Federal employees who suffer from occupational illnesses unless they can specify the conditions of employment which caused their disease. This onerous requirement makes it nearly impossible for Federal firefighters, who suffer from occupational diseases, to receive fair and just compensation or retirement benefits. The bureaucratic nightmare they must endure is burdensome, unnecessary, and in many cases, overwhelming. It is ironic and unjust that the very people we call on to protect our Federal interests are not afforded the very best health care and retirement benefits our Federal Government has to offer.

Today, I introduced legislation, the Federal Fire Fighters Fairness Act of 2003, which amends the Federal Employees Compensation Act to create a presumptive disability for firefighters who become disabled by heart and lung disease, cancers such as leukemia and lymphoma, and infectious diseases like tuberculosis and hepatitis. Disabilities related to the cancers, heart, lung, and infectious diseases enumerated in this important legislation would be considered job related for purposes of workers compensation and disability retirement—entitling those affected to the health care coverage and retirement benefits that they deserve.

Too frequently, the poisonous gases, toxic byproducts, asbestos, and other hazardous substances with which Federal firefighters and emergency response personnel come in contact, rob them of their health livelihood, and professional careers. The Federal Government should not rob them of necessary benefits. Thirty-eight States have already enacted a similar disability presumption law for Federal firefighters' counterparts working in similar capacities on the State and local levels.

The effort behind the Federal Firefighters Fairness Act of 2003 marks a significant advancement for firefighter health and safety. Since September 11, there has been an enhanced appreciation for the risks that firefighters and emergency response personnel face every day. Federal firefighters deserve our highest commendation and it is time to do the right thing for these important Federal employees.

The job of firefighting continues to be complex and dangerous. The nationwide increase in the use of hazardous materials, the recent rise in both natural and manmade disasters, and the threat of terrorism pose new threats to firefighter health and safety. The Federal Fire Fighters Fairness Act of 2003 will help protect the lives of our firefighters and it will provide them with a vehicle to secure their health and safety.

I urge my colleagues to embrace this bipartisan effort and support the Federal Fire Fighters Fairness Act of 2003 on behalf of our Nation's Federal firefighters and emergency response personnel.

By Mr. DORGAN (for himself and Mr. JOHNSON):

S. 531. A bill to direct the Secretary of the Interior to establish the Missouri River Monitoring and Research Program, to authorize the establishment of the Missouri River Basin Stakeholder Committee, and for other purposes; to the Committee on Environment and Public Works.

Mr. DORGAN. Mr. President, I am pleased my colleague from South Dakota, Senator TIM JOHNSON, is joining me today in introducing this Missouri River Enhancement and Monitoring Act of 2003, and I thank him for his efforts in working with me on this legislation. This bill will establish a program to conduct research on, and monitor the health of, the Missouri River to help recover threatened and endangered species, such as the pallid sturgeon and piping plover.

This bill will enable those who are active in the Missouri River Basin to collect and analyze baseline data, so that we can monitor changes in the health of the river and in species recovery in future years, as river operations change.

The program would also provide an analysis of the social and economic impacts along the river. And it would establish a stakeholder group to make recommendations on the recovery of the Missouri River ecosystem.

The bill establishes a cooperative working arrangement between State, regional, Federal, tribal entities that are active in the Missouri River Basin. I look forward to working with all of the stakeholders in the basin to implement this important legislation.

I am especially pleased that this legislation is supported by a broad range of stakeholders, including the North Dakota State Water Commission; the North Dakota Game and Fish Department; the Missouri River Natural Resources Committee; the Missouri River Basin Association; the South Dakota Department of Game, Fish and Parks; American Rivers; and Environmental Defense.

I am confident this legislation will enjoy bipartisan support because of its significance in helping to monitor and restore the health of this historic river. Lewis and Clark traveled on this river. This river also contributes to $80 million in recreation, fishing, and tourism benefits in the basin. I look forward to participating in hearings on this bill and hope we will be able to pass it into law in the near future.

I ask unanimous consent that this bill be inserted in the RECORD.

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

S. 531

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 ''Missouri River Enhancement and Monitoring Act of 2003''.

SEC. 2. DEFINITIONS.

In this Act:

(1) CENTER.—The term ''Center'' means the River Studies Center of the Biological Resources Division of the United States Geological Survey, located in Columbia, Missouri.

(2) COMMITTEE.—The term ''Committee'' means the Missouri River Basin Stakeholder Committee established under section 4(a).

(3) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(4) PROGRAM.—The term ''program'' means the Missouri River monitoring and research program established under section 3(a).

(5) RIVER.—The term ''River'' means the Missouri River.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Biological Resources Division of the United States Geological Survey.

(7) STATE.—The term ''State'' means—

(A) the State of Iowa;

(B) the State of Kansas;

(C) the State of Missouri;

(D) the State of Montana;

(E) the State of Nebraska;

(F) the State of North Dakota;

(G) the State of South Dakota; and

(H) the State of Wyoming.

(8) STATE AGENCY.—The term ''State agency'' means an agency of a State that has jurisdiction over fish and wildlife of the River.

SEC. 3. MISSOURI RIVER MONITORING AND RESEARCH PROGRAM.

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish the Missouri River monitoring and research Program—

(1)(A) to coordinate the collection of information on the biological and water quality characteristics of the River; and

(B) to evaluate how those characteristics are affected by hydrology;

(2) to coordinate the monitoring and assessment of biota (including threatened or endangered species) and habitat of the River; and

(3) to make recommendations on means to assist in restoring the ecosystem of the River.

(b) CONSULTATION.—In establishing the program under subsection (a), the Secretary shall consult with—

(1) the Biological Resources Division of the United States Geological Survey;

(2) the Director of the United States Fish and Wildlife Service;

(3) the Chief of Engineers;

(4) the Western Area Power Administration;

(5) the Administrator of the Environmental Protection Agency;

(6) the Governors of the States, acting through—

(A) the Missouri River Natural Resources Committee; and

(B) the Missouri River Basin Association; and

(7) the Indian tribes of the Missouri River Basin.

(c) ADMINISTRATION.—The Center shall administer the program.

(d) ACTIVITIES.—In administering the program, the Center shall—

(1) establish a baseline of conditions for the River against which future activities may be measured;

(2) monitor biota (including threatened or endangered species), habitats, and the water quality of the River;

(3) if initial monitoring carried out under paragraph (2) indicates that there is a need for additional research, carry out any additional research appropriate to—

(A) advance the understanding of the ecosystem of the River; and

(B) assist in guiding the operation and management of the River;

(4) use any scientific information obtained from the monitoring and research to assist in the recovery of the threatened species and endangered species of the River; and

(5) establish a scientific database that shall be—

(A) coordinated among the States and Indian tribes of the Missouri River Basin; and

(B) readily available to members of the public.

(e) CONTRACTS WITH INDIAN TRIBES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall enter into contracts in accordance with section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) with Indian tribes that have—

(A) reservations located along the River; and

(B) an interest in monitoring and assessing the condition of the River.

(2) REQUIREMENTS.—A contract entered into under paragraph (1) shall be for activities that—

(A) carry out the purposes of this Act; and

(B) complement any activities relating to the River that are carried out by—

(i) the Center; or

(ii) the States.

(f) MONITORING AND RECOVERY OF THREATENED SPECIES AND ENDANGERED SPECIES.—The Center shall provide financial assistance to the United States Fish and Wildlife Service and State agencies to monitor and recover threatened species and endangered species, including monitoring the response of pallid sturgeon to reservoir operations on the mainstem of the River.

(g) GRANT PROGRAM.—

(1) IN GENERAL.—The Center shall carry out a competitive grant program under which the Center shall provide grants to States, Indian tribes, research institutions, and other eligible entities and individuals to conduct research on the impacts of the operation and maintenance of the mainstem reservoirs on the River on the health of fish and wildlife of the River, including an analysis of any adverse social and economic impacts that result from reoperation measures on the River.

(2) REQUIREMENTS.—On an annual basis, the Center, the Director of the United States Fish and Wildlife Service, the Director of the United States Geological Survey, and the Missouri River Natural Resources Committee, shall—

(A) prioritize research needs for the River;

(B) issue a request for grant proposals; and

(C) award grants to the entities and individuals eligible for assistance under paragraph (1).

(h) ALLOCATION OF FUNDS.—

(1) CENTER.—Of amounts made available to carry out this section, the Secretary shall make the following percentages of funds available to the Center:

(A) 35 percent for fiscal year 2004.

(B) 40 percent for fiscal year 2005.

(C) 50 percent for each of fiscal years 2006 through 2018.

(2) STATES AND INDIAN TRIBES.—Of amounts made available to carry out this section, the Secretary shall use the following percentages of funds to provide assistance to States or Indian tribes of the Missouri River Basin to carry out activities under subsection (d):

(A) 65 percent for fiscal year 2004.

(B) 60 percent for fiscal year 2005.

(C) 50 percent for each of fiscal years 2006 through 2018.

(3) USE OF ALLOCATIONS.—

(A) IN GENERAL.—Of the amount made available to the Center for a fiscal year under paragraph (1)(C), not less than—

(i) 20 percent of the amount shall be made available to provide financial assistance under subsection (f); and

(ii) 33 percent of the amount shall be made available to provide grants under subsection (g).

(B) ADMINISTRATIVE AND OTHER EXPENSES.—Any amount remaining after application of subparagraph (A) shall be used to pay the costs of—

(i) administering the program;

(ii) collecting additional information relating to the River, as appropriate;

(iii) analyzing and presenting the information collected under clause (ii); and

(iv) preparing any appropriate reports, including the report required by subsection (i).

(i) REPORT.—Not later than 3 years after the date on which the program is established under subsection (a), and not less often than every 3 years thereafter, the Secretary, in cooperation with the individuals and agencies referred to in subsection (b), shall—

(1) review the program;

(2) establish and revise the purposes of the program, as the Secretary determines to be appropriate; and

(3) submit to the appropriate committees of Congress a report on the environmental health of the River, including—

(A) recommendations on means to assist in the comprehensive restoration of the River; and

(B) an analysis of any adverse social and economic impacts on the River, in accordance with subsection (g)(1).

SEC. 4. MISSOURI RIVER BASIN STAKEHOLDER COMMITTEE.

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Governors of the States and the governing bodies of the Indian tribes of the Missouri River Basin shall establish a committee to be known as the ''Missouri River Basin Stakeholder Committee'' to make recommendations to the Federal agencies with jurisdiction over the River on means of restoring the ecosystem of the River.

(b) MEMBERSHIP.—The Governors of the States and governing bodies of the Indian tribes of the Missouri River Basin shall appoint to the Committee—

(1) representatives of—

(A) the States; and

(B) Indian tribes of the Missouri River Basin;

(2) individuals in the States with an interest in or expertise relating to the River; and

(3) such other individuals as the Governors of the States and governing bodies of the Indian tribes of the Missouri River Basin determine to be appropriate.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary—

(1) to carry out section 3—

(A) $6,500,000 for fiscal year 2004;

(B) $8,500,000 for fiscal year 2005; and

(C) $15,100,000 for each of fiscal years 2006 through 2018; and

(2) to carry out section 4, $150,000 for fiscal year 2004.

By Mrs. HUTCHISON (for herself, Mr. DOMENICI, Mr. BINGAMAN, and Mr. MCCAIN):

S. 532. A bill to enhance the capacity of organizations working in the United States-Mexico border region to develop affordable housing and infrastructure and to foster economic opportunity in the colonias; to the Committee on Banking, Housing, and Urban Affairs.

Mrs. HUTCHISON. Mr. President, today I rise to introduce legislation to improve the deplorable housing situation in the valley region of the Texas border with Mexico. Our colonias are among the most distressed areas of the country.

In 1993 when I ran for the Senate, I visited with a woman named Elida Bocanegra who led me through the streets of the colonia where she lived. Elida showed me her community and, quite frankly, I couldn't believe I was in America. Since my election to the Senate, I have worked to improve living conditions and the quality of life for people such as Elida, helping to secure more than $615 million for the colonias of my State. In fact, my first amendment as a Senator authorized $50 million for a colonias clean-up project.

Despite third world living conditions, colonias, or underdeveloped subdivisions, have grown in population. Along the 1,248 mile stretch from Cameron County to El Paso County in Texas, there are more than 1,400 colonias that suffer from such conditions as open sewage, a lack of indoor plumbing, and poor housing construction.

The Colonias Gateway Initiative Act establishes annual competitive grants for nonprofit organizations which work to develop affordable housing, improve infrastructure, and foster economic opportunities. My bill would authorize the Secretary of Housing and Urban Development to award $16 million in the fiscal year 2004 and appoint a nine-member advisory board consisting of colonias residents and service providers to facilitate communication. This bill will bring quality-of-life improvements to those who need it most, providing

the most basic services like indoor plumbing. It will also provide funds to build affordable housing. This piece of legislation I introduce today will fulfill the most basic needs of these communities. As you can see, the Colonias Gateway Initiative Act will assist our neediest people, foster economic opportunity, and vastly improve the quality of life. Mr. President, I ask unanimous consent that a copy of the bill be placed in the RECORD.

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

S. 532

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 ''Colonias Gateway Initiative Act''.

SEC. 2. COLONIAS GATEWAY INITIATIVE.

(a) DEFINITIONS.—In this section:

(1) COLONIA.—The term ''colonia'' means any identifiable community that—

(A) is located in the State of Arizona, California, New Mexico, or Texas;

(B) is located in the United States-Mexico border region;

(C) is determined to be a colonia on the basis of objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing; and

(D) was in existence and generally recognized as a colonia before the date of enactment of this Act.

(2) REGIONAL ORGANIZATION.—The term ''regional organization'' means a nonprofit organization or a consortium of nonprofit organizations with the capacity to serve colonias.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Housing and Urban Development.

(4) UNITED STATES-MEXICO BORDER REGION.—The term ''United States-Mexico border region'' means the area of the United States within 150 miles of the border between the United States and Mexico, except that such term does not include any standard metropolitan statistical area that has a population exceeding 1,000,000.

(b) GRANT PROGRAM.—To the extent amounts are made available to carry out this section, the Secretary may make grants under this section to 1 or more regional organizations to enhance the availability of affordable housing, economic opportunity, and infrastructure in the colonias.

(c) GRANTS.—

(1) IN GENERAL.—Grants under this section may be made only to regional organizations selected pursuant to subsection (d).

(2) SELECTION.—After a regional organization has been selected pursuant to subsection (d) to receive a grant under this section, the Secretary may provide a grant to such organization in subsequent fiscal years, subject to subsection (f)(2).

(d) SELECTION OF REGIONAL ORGANIZATIONS.—

(1) IN GENERAL.—The Secretary shall select 1 or more regional organizations that submit applications for grants under this section to receive such grants.

(2) COMPETITION.—The selection under paragraph (1) shall be made pursuant to a competition, which shall—

(A) consider the proposed work plan of the applicant under subsection (f); and

(B) be based upon the criteria described in paragraph (3).

(3) CRITERIA.—Criteria for the selection of a grant recipient shall include a demonstration of the extent to which the applicant organization has the capacity to—

(A) enhance the availability of affordable housing, economic opportunity, and infrastructure in the colonias by carrying out the eligible activities set forth in subsection (g);

(B) provide assistance in each State in which colonias are located;

(C) form partnerships with the public and private sectors and local and regional housing and economic development intermediaries to leverage and coordinate additional resources to achieve the purposes of this section;

(D) ensure accountability to the residents of the colonias through active and ongoing outreach to, and consultation with, residents and local governments; and

(E) meet such other criteria as the Secretary may specify.

(4) DISTRIBUTION OF FUNDING.—In making the selection under paragraph (1), the Secretary shall ensure that—

(A) each State in the United States-Mexico border region receives a grant under this Act; and

(B) each State receives not less than 15 percent of the amounts appropriated to carry out this Act.

(e) ADVISORY BOARD.—

(1) MEMBERSHIP.—The Secretary shall appoint an Advisory Board that shall consist of 9 members, who shall include—

(A) 1 individual from each State in which colonias are located;

(B) 3 individuals who are members of nonprofit or private sector organizations having substantial investments in the colonias, at least 1 of whom is a member of such a private sector organization; and

(C) 2 individuals who are residents of a colonia.

(2) CHAIRPERSON.—

(A) IN GENERAL.—The Secretary shall designate a member of the Advisory Board to serve as Chairperson for a 1-year term.

(B) ALTERNATING CHAIRPERSON.—At the end of the 1-year term referred to in subparagraph (A), the Secretary shall designate a different member to serve as Chairperson, ensuring that the Chairperson position rotates to a member from every State in which colonias are located.

(3) TERM.—Advisory Board members shall be appointed for 2-year terms that shall be renewable at the discretion of the Secretary.

(4) COMPENSATION.—Advisory Board members shall serve without compensation, but the Secretary may provide members with travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(5) FUNCTIONS.—The Advisory Board shall—

(A) assist any regional organization that receives a grant under this section in the development and implementation of its final work plan under subsection (f);

(B) review and approve all final work plans;

(C) assist the Secretary in monitoring and evaluating the performance of any regional organization in implementing its final work plan; and

(D) provide such other assistance as the Secretary may request.

(f) WORK PLANS.—

(1) APPLICATION.—Each regional organization applying for a grant under this section shall include in its application a proposed work plan.

(2) ANNUAL SUBMISSION.—To be eligible to continue receiving annual grants under this section after selection pursuant to subsection (d), a regional organization shall, on an annual basis after such selection and subject to the determination of the Secretary to continue to provide grant amounts to such regional organization, submit a proposed work plan to the Advisory Board and the Secretary for review and approval.

(3) FINAL WORK PLAN.—In any fiscal year, including the fiscal year in which any regional organization is selected pursuant to subsection (d), prior to final determination and allocation of specific grant amounts, each selected regional organization shall, with the assistance of the Advisory Board, develop a final work plan that thoroughly describes how the regional organization will use specific grant amounts to carry out its functions under this section, which shall include—

(A) a description of outcome measures and other baseline information to be used to monitor success in promoting affordable housing, economic opportunity, and infrastructure in the colonias;

(B) an account of how the regional organization will strengthen the coordination of existing resources used to assist residents of the colonias, and how the regional organization will leverage additional public and private resources to complement such existing resources;

(C) an explanation, in part, of the effects that implementation of the work plan will have on areas in and around colonias; and

(D) such assurances as the Secretary may require that grant amounts will be used in a manner that results in assistance and investments for colonias in each State containing colonias, in accordance with requirements that the Advisory Board and the Secretary may establish that provide for a minimum level of such investment and assistance as a condition of the approval of the work plans.

(4) APPROVAL.—

(A) IN GENERAL.—No grant amounts under this section for a fiscal year may be provided to a regional organization until the Secretary approves the final work plan of the organization, including a specific grant amount for the organization.

(B) CONSIDERATIONS.—In determining whether to approve a final work plan, the Secretary shall consider whether the Advisory Board approved the plan.

(C) NONAPPROVAL OF PLAN.—To the extent that the Advisory Board or the Secretary does not approve a work plan, the Advisory Board or the Secretary shall, to the maximum extent practicable, assist the selected regional organization that submitted the plan to develop an approvable plan.

(g) ELIGIBLE ACTIVITIES.—Grant amounts under this section may be used only to carry out eligible activities to benefit the colonias, including—

(1) coordination of public, private, and community-based resources and the use of grant amounts to leverage such resources;

(2) technical assistance and capacity building, including training, business planning and investment advice, and the development of marketing and strategic investment plans;

(3) initial and early-stage investments in activities to provide—

(A) housing, infrastructure, and economic development;

(B) housing counseling and financial education, including counseling and education about avoiding predatory lending; and

(C) access to financial services for residents of colonias;

(4) development of comprehensive, regional, socioeconomic, and other data, and the establishment of a centralized information resource, to facilitate strategic planning and investments;

(5) administrative and planning costs of any regional organization in carrying out this section, except that the Secretary may limit the amount of grant funds used for such costs; and

(6) such other activities as the Secretary considers appropriate to carry out this section.

(h) GRANT AGREEMENTS.—A grant under this section shall be made only pursuant to a grant agreement between the Secretary and a regional organization selected under this section.

(i) TERMINATION AND RECAPTURE.—If the Secretary determines that a regional organization that was awarded a grant under this section has not substantially fulfilled its obligations under its final work plan or grant agreement, the Secretary shall terminate the participation of that regional organization under this section, and shall recapture any unexpended grant amounts.

(j) DETAILS FROM OTHER AGENCIES.—Upon request of any selected regional organization that has an approved work plan, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to that regional organization to assist it in carrying out its duties under this section.

(k) ENVIRONMENTAL REVIEW.—For purposes of environmental review, projects assisted by grant amounts under this section shall—

(1) be treated as special projects that are subject to section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994 (42 U.S.C. 3547); and

(2) be subject to regulations issued by the Secretary to implement such section 305(c).

(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $16,000,000 for fiscal year 2004; and

(2) such sums as may be necessary for each of fiscal years 2005 through 2009.

(m) SUNSET.—No new grants may be provided under this section after September 30, 2009.

By Mr. CAMPBELL:

S. 535. A bill to provide Capitol-flown flags to the families of law enforcement officers and firefighters killed in the line of duty; to the Committee on Rules and Administration.

Mr. CAMPBELL. Mr. President, today I am introducing the Fallen Law Enforcement Officers and Firefighters Flag Memorial Act of 2003.

This bill would help honor the sacrifice of the men and women who lost their lives in the line of duty by providing Capitol-flown flags to the families of deceased law enforcement officers and firefighters.

Under this legislation, the family of a deceased law enforcement officer can request from the Attorney General that a flag be flown over the U.S. Capitol in honor of the slain officer. The Department of Justice shall pay the cost of the flags, including shipping, out of discretionary grant funds, and provide them to the victim's family.

As a former deputy sheriff, I know firsthand the risks which law enforcement officers face every day on the frontlines protecting our communities. I also have great appreciation, as the cochair of the Congressional Fire Caucus, for the service that our Nation's firefighters provide, day in and day out, and that all too often, they end up sacrificing their lives while saving others.

I believe providing a Capitol-flown flag is a fitting way to show our appreciation for fallen officers and firefighters who make the ultimate sacrifice. It also lets their families know that Congress and the Nation are grateful for their loved one's service.

I ask unanimous consent that the Fallen Law Enforcement Officers and Firefighters Flag Memorial Act of 2003 be printed in the RECORD.

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

S. 535

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 ''Fallen Law Enforcement Officers and Firefighters Flag Memorial Act of 2003''.

SEC. 2. CAPITOL-FLOWN FLAGS FOR FAMILIES OF DECEASED LAW ENFORCEMENT OFFICERS.

(a) AUTHORITY.—

(1) IN GENERAL.—The family of a deceased law enforcement officer may request, and the Attorney General shall provide to such family, a Capitol-flown flag, which shall be supplied to the Attorney General by the Architect of the Capitol. The Department of Justice shall pay the cost of such flag, including shipping, out of discretionary grant funds.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on the date on which the Attorney General establishes the procedure required by subsection (b).

(b) PROCEDURE.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall establish a procedure (including any appropriate forms) by which the family of a deceased law enforcement officer may request, and provide sufficient information to determine such officer's eligibility for, a Capitol-flown flag.

(c) APPLICABILITY.—This Act shall only apply to a deceased law enforcement officer who died on or after the date of enactment of this Act.

(d) DEFINITIONS.—In this Act—

(1) the term ''Capitol-flown flag'' means a United States flag flown over the United States Capitol in honor of the deceased law enforcement officer for whom such flag is requested; and

(2) the term ''deceased law enforcement officer'' means a person who was charged with protecting public safety, who was authorized to make arrests by a Federal, State, Tribal, county, or local law enforcement agency, and who died while acting in the line of duty.

SEC. 3. CAPITOL-FLOWN FLAGS FOR FAMILIES OF DECEASED FIREFIGHTERS.

(a) AUTHORITY.—The family of a paid or volunteer firefighter who dies in the line of duty may request, and the Director of the Federal Emergency Management Agency shall provide to such family, a capitol-flown flag, which shall be supplied to the Director by the Architect of the Capitol. The Federal Emergency Management Agency shall pay the cost of such flag, including shipping, out of discretionary grant funds.

(b) EFFECTIVE DATE.—This section shall take effect on the date on which the Attorney General establishes the procedure required by section 2(b).

By Mr. DEWINE (for himself, Mr. LEVIN, Ms. COLLINS, Mr. REED, Mr. VOINOVICH, and Ms. STABENOW):

S. 536. A bill to establish the National Invasive Species Council, and for other purposes; to the Committee on Environment and Public Works.

Mr. DEWINE. Mr. President, today I am pleased to join with Senators LEVIN, COLLINS, REED, VOINOVICH, and STABENOW, to introduce the National Invasive Species Council Act—a bill to permanently establish the National Invasive Species Council. The National Invasive Species Council was established by an Executive order so that the Federal Government can better coordinate to combat the economic, ecologic, and health threat of invasive species.

Invasive species are a national threat. Estimates of the annual economic damages caused by invasive species in this Nation are as high as $137 billion. To combat the serious threats posed by invasive species, we need Federal coordination and planning. Our bill would provide just that—on a permanent basis. Under this legislation, the Secretaries of State, Commerce, Transportation, Agriculture, Health & Human Services, Interior, Defense, and Treasury, along with the Administrators of EPA and USAID, would continue to work together through the Council to develop a National Invasive Species Management Plan.

Though the Council can continue to operate and develop invasive species management plans as they currently do, the GAO reported last year that implementing the national invasive species management plan is difficult because the Council does not have a congressional mandate to act. GAO also reported that most of the agencies that have responsibilities under the National Invasive Species Management Plan have been slow to complete activities by the due date established under the plan and the agencies do not always act in a coordinated manner. As my colleagues who are cosponsoring this bill know, invasive species are too great of a problem to be left unmanaged.

The duties of the Council are generally to coordinate Federal activities in an effective, complementary, cost-efficient manner; update the National Invasive Species Management Plan; ensure that Federal agencies implement the management plan; and develop recommendations for international cooperation. Agencies that do not implement the recommendations of the National Invasive Species Management Plan must report to Congress as to why the recommendations were not implemented. The Council is directed to develop guidance for Federal agencies on prevention, control, and eradication of invasive species so that Federal programs and actions do not increase the risk of invasion or spread nonindigenous species. And finally, the bill also establishes an Invasive Species Advisory Committee to the Council.

Ultimately, with a congressional mandate, the Council can enhance its effectiveness and better protect our environment from invasive species. I urge my colleagues to cosponsor this measure so that the Federal Government can improve its response to invasive species threat.

Mr. VOINOVICH. Mr. President, I rise today in support of the National Aquatic Invasive Species Act and the National Invasive Species Council Act. As a Senator representing a Great Lake State, I am proud to be an original cosponsor of both of these bills that are critical to the future of the Great Lakes ecosystem.

In my 36 years of public service, one of my greatest sources of comfort and accomplishment has been my work to help clean up and protect the environment, particularly Lake Erie.

Lake Erie's ecology has come a long way since I was elected to the state legislature in 1966. During that time, Lake Erie formed the northern border of my district and it was known worldwide as a dying lake, suffering from eutrophication. Lake Erie's decline was covered extensively by the media and became an international symbol of pollution and environmental degradation. I remember the British Broadcasting Company even sending a film crew to make a documentary about it. One reason for all the attention is that Lake Erie is a source of drinking water for 11 million people.

Seeing firsthand the effects of pollution on Lake Erie and the surrounding region, I knew we had to do more to protect the environment for our children and grandchildren. As a State legislator, I made a commitment to stop the deterioration of the lake and to wage the ''Second Battle of Lake Erie'' to reclaim and restore Ohio's Great Lake. I have continued this fight throughout my career as County Commissioner, state legislator, Mayor of Cleveland, Governor of Ohio, and United States Senator.

It is comforting to me that 36 years since I started my career in public service, I am still involved, as a member of the United States Senate and our Committee on Environment and Public Works, in the battle to save Lake Erie.

Today in Ohio, we celebrate Lake Erie's improved water quality. It is a habitat to countless species of wildlife, a vital resource to the area's tourism, transportation, and recreation industries, and the main source of drinking water for many Ohioans. Unfortunately, however, there is still a great deal that needs to be done to improve and protect Ohio's greatest natural asset.

Our current enemy is the aquatic invasive species that threaten the health and viability of the Great Lakes fishery and ecosystem. I am worried about these aquatic terrorists in the ballast water that enter the Great Lakes system through boats from all over the world. These species are already wreaking havoc in the lakes and will continue to do so until they are stopped.

Since the 1800s, over 145 invasive species have colonized in the Great Lakes. Since 1990, when legislation to address aquatic nuisance species was first enacted, we have averaged about one new invader each year. Clearly, we have not closed the door to invasive species. I am deeply troubled by the surge in new invasive species in Lake Erie, because once a species establishes itself, there is virtually no way to eliminate it.

As Mayor of Cleveland in the 1980s, I was alarmed about the introduction of zebra mussels into the Great Lakes and conducted the first national meeting to investigate the problem. It is a complicated situation and we are still learning how invasive species like the zebra mussel affect the ecosystem.

In early August, for example, I conducted a field hearing of the Environment and Public Works Committee to examine the increasingly extensive oxygen depletion or anoxia in the central basin of Lake Erie. This phenomenon has been referred to as a ''dead zone.'' Anoxia over the long term could result in massive fish kills, toxic algae blooms, and bad-tasting or bad-smelling water.

Anoxia is usually the result of decaying algae blooms which consume oxygen at the bottom of the lake. In the past, excessive phosphorus loading from point sources such as municipal sewage treatment plants were greatly responsible for algae blooms. Since 1965, the level of phosphorus entering the Lake has been reduced by about 50 percent. These reductions have resulted in smaller quantities of algae and more oxygen into the system.

In recent years, overall phosphorus levels in the Lake have been increasing, but the amount of phosphorus entering it has not. Scientists are unable to account for the increased levels of phosphorus in the Lake. One hypothesis is the influence of two aquatic nuisance species the zebra and quagga mussels. Although their influence is not well understood, they may be altering the way phosphorus cycles through the system.

Another way zebra mussels could be responsible for oxygen depletion in Lake Erie is due to their ability to filter and clear vast quantities of lake water. Clearer water allows light to penetrate deeper into the Lake, encouraging additional organic growth on the bottom. When this organic material decays, it consumes oxygen.

The possible link between Lake Erie's ''dead zone'' problem and aquatic nuisance species like the zebra mussel should underscore the importance of our legislation, the National Aquatic Nuisance Species Act. Over the last 30 years, we have made remarkable progress in improving water quality and restoring the natural resources of our Nation's aquatic areas, and we need to prevent any backsliding on this progress.

While aquatic invasive species are a particular problem because they readily spread through interconnected waterways and are difficult to treat safely, they represent only one piece of the problem. Both terrestrial and aquatic invasive species cause significant economic and ecological damage throughout North America. Recent estimates state that invasive species cost the U.S. at least $138 billion per year and that 42 percent of the species on the Threatened and Endangered Lists are at risk primarily due to invasive species.

In 1999, President Clinton issued an Executive Order creating the National Invasive Species Council to develop a national management plan for invasive species and bring together the federal agencies responsible for managing them. This was a promising action that has never been fully implemented. The National Invasive Species Management Plan was issued in 2001, but agencies with responsibilities under the plan have been slow to complete activities by the established due dates and the agencies do not always act in a coordinated manner.

The General Accounting Office released a report in October 2002 that claimed that implementing the Management Plan was being hampered by the lack of a congressional mandate for the Council. It is disturbing to me that this Council exists but is not making substantial progress. Make no mistake about it; these species are not waiting for the Federal Government to get all of its ducks in a row. They are continuing to take over the waters and lands of the U.S.

The National Invasive Species Council Act will fix this problem by legislatively establishing the Council. Because timing is so important, I urge my colleagues to act quickly on both of these bills to ensure that the National Invasive Species Management Plan is updated and fully implemented.

We must act quickly to strengthen the oversight of efforts preventing invasive species from wreaking havoc on the Great Lakes' aquatic habitat and throughout the U.S.

I look forward to working with my colleagues in the House and Senate to move these bills forward. I understand that both bills will be referred to the Environment and Public Works Committee today, and I look forward to working with Chairman INHOFE to move them expeditiously through committee.

By Mrs. CLINTON (for herself, Mr. WARNER, Ms. MIKULSKI, Ms. SNOWE, Mr. BREAUX, Mr. JEFFORDS, Mrs. MURRAY, Ms. COLLINS, Mr. KENNEDY, and Mr. SMITH):

S. 538. A bill to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. CLINTON. Mr. President, I am proud to introduce the Lifespan Respite Care Act of 2003 today, a bill to establish the availability of respite services for our family caregivers, and to increase coordination of these programs so that caregivers will be better able to access them.

As a nation, we rely on family caregivers. Twenty-six million Americans care for an adult family member who is ill or disabled, Eighteen million children have a condition that place significant demands on their parental caregivers. Four million Americans with mental retardation or a developmental disability rely on family members for care and supervision. If services provided by family caregivers were replaced by paid services, it would cost nearly $200 billion annually.

But these are just numbers. Every member has a human face. Let me tell you about Heather Thoms-Chelsey. I met Heather last year at a press conference announcing the Lifespan Respite Care Act of 2002. At that press conference I also met Heather's then 4-year-old daughter, Victoria, who as Rett syndrome. Victoria is totally dependent on family caregivers for all basic living skills: dressing, feeding, bathing and toileting. She also engages in self-injurious behaviors, hand-biting, head banging, body slamming, hair pulling. She has to be monitored all the time for her protection. Heather says, ''I feel tired and exhausted after only less than 5 years, what will I be like in 15? Or even 20?''

Heather is very resourceful. She has managed to find some respite care—164 hours per year—through her State's department of hygiene and mental health. She used 4 hours of her allotted time to bring a respite care worker with her to the press conference so she could tell us her story. The State allows Heather a maximum payment of $7.50 per hour for respite services. It is difficult to find someone who can care for a child with such complicated needs for that. Most of the time, Heather uses the respite care dollars to hire someone to help her care for Victoria in the home or on an outing. Very rarely does Heather actually get to leave the house and take a real break. Some would say Heather is one of the lucky ones. She actually has some respite care. Many people have none.

Heather's story is repeated all across this country. Some people are caring for children or grandchildren with special needs and elderly parents at the same time. Some have called these people the ''sandwich'' generation, sandwiched between the caregiving demands of children or grandchildren and the caregiving demands of elderly parents.

Just because family caregiving is unpaid does not mean it is costless. Caregiving is certainly personally rewarding but it can also result in substantial emotional and physical strain and financial hardship. Many caregivers are exhausted and become sick themselves. Many give up jobs to care for loved ones, putting their own financial security in jeopardy.

I believe that our country is suffering not just from a budget deficit, but what Mona Harrington has called, ''a care deficit.'' Everywhere we look—nursing, childcare, teaching, long-term care—we see shortages and looming crises that threaten the provision of care on which our children, our parents, and our families all depend. Caregiving is undervalued, underfinanced, and too often uncompensated. Family caregiving seems almost ''invisible'' in our society, perhaps because it is work that women perform in the home.

It is time we recognize the heroic effort of our family caregivers and provide them the kind of support they need before their own health deteriorates. One way to do that is through respite care. Respite care provides a much needed break from the daily demands of caregiving for a few hours or a few days. These welcome breaks help protect the physical and mental health of the family caregiver, making it possible for the individual in need of care to remain in the home.

Unfortunately, respite care is hard to find. Many caregivers do not know how to find information about services available. Even when community respite care services exist, there are often long waiting lists. For example, the United Cerebral Palsy Association of Nassau County on Long Island, provides respite service to 70 people but they have had a 200-person waiting list since 1995. In the same community, the Association for the Help of Retarded Children serves 140 youngsters; 200 children are on their waiting list. Variety Preschoolers serves 150 toddlers with special needs; 120 children are on their waiting list. The list goes on and on.

But, this is not a problem isolated to Long Island, NY. It is happening all across the America. There are more caregivers in need of respite care than there are respite care resources available. Part of the problem is funding and part of the problem is staffing.

Children and adults with special needs require trained caregivers. Parents and spouses and other family caregivers are understandably hesitant to leave their loved ones with untrained staff. But training staff costs money and trained staff are going to be reluctant to work for as little as $7–8 an hour. Until we recognize the value of caregiving and pay for it as a valued service, we are going to continue to face shortages: shortages in respite care but also shortage in caregiving in a larger sense.

We don't have enough teachers. We don't have enough nurses. We don't have enough childcare workers. We don't have enough trained workers to care for our elderly. And we don't have enough trained staff to provide respite care.

It is time that we, as a nation, face this care deficit and do something about it.

Today, I, along with my colleagues, Senators WARNER, MIKULSKI, SNOWE, BREAUX, JEFFORDS, MURRAY, COLLINS, KENNEDY, and SMITH, are introducing the Lifespan Respite Care Act of 2003. This bill would provide over $90 million in grants annually to develop a coordinated system of respite care services for family caregivers of individuals with special needs regardless of age. Funds could also be used to increase respite care services or to train respite care workers or volunteers.

Some of my colleagues have questioned the pricetag of this legislation. I ask them to do the math. With 26 million caregivers of adults and 18 million caregivers of children with special needs, $90 million dollars amounts to $2.05 per caregiver. If anything, we should be investing more in respite care, not less. Estimates place the cost of current family caregiving at $200 billion annually. We simply cannot afford to continue to ignore this issue.

I remain committed to the concerns of family caregivers and to their need for respite care in particular. Together, I believe we can pass respite care legislation.

But, our work cannot stop there. The need of family caregivers for respite care is just one important piece of a larger complex picture. I am asking you to join me in a longer term effort to put the care deficit—in childcare, in teaching, in nursing, in long-term care, as well as in family caregiving—on the national agenda.

By Mr. DOMENICI (for himself, Mr. DORGAN, Mr. KYL, Mrs. FEINSTEIN, Ms. MURKOWSKI, Mr. BURNS, Mrs. MURRAY, Mr. MCCAIN, Mrs. HUTCHISON, Mr. COLEMAN, and Mr. BINGAMAN):

S. 539. A bill to authorize appropriations for border and transportation security personnel and technology, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. DOMENICI. Mr. President, I rise today to introduce a bill of critical importance to our Nation's economic well-being and the security of our borders: the Border Infrastructure and Technology Modernization Act.

No American border has under gone a comprehensive infrastructure overhaul since 1986, when Senator Dennis DeConcini of Arizona and I put forth a $357 million effort to modernize the southwest border. That bill pertained only to the southwest border, and a great deal was change since 1986.

More importantly, much has changed since September 11, 2001. It is now critical that we look at the big picture and give our northern and southwestern borders the resources they need to address security vulnerabilities and facilitate the flow of trade.

Two years ago, the General Services Administration completed a comprehensive assessment of infrastructure needs on the southwestern and northern borders of the United States. This assessment found that overhauling both borders would require $784 million.

Since the publication of that assessment in February 2001, many of the needs identified remain outstanding. Many have grown, and new needs have

arisen as the task of making border trade flow faster has become more complicated in the face of unprecedented security concerns.

In response to our Nation's heightened security concerns, we created the Department of Homeland Security, an agency affecting virtually every Federal entity involved in border operations. Congress must give this new Department adequate resources and tools to achieve the necessary balance between security and trade considerations. The Border Infrastructure and Technology Modernization Act proposes a number of measures meant to increase the speed at which trade crosses the border as well as beefing up security at vulnerable points on our land borders.

In the recently passed omnibus appropriations bill, I secured legislative language asking the General Services Administration, in cooperation with the other border agencies involved, to complete an updated assessment of needs on our borders. The information contained in this assessment will provide a blueprint for comprehensive, targeted improvements to border infrastructure and technology. The bill I am introducing today provides $100 million per year for 5 years to implement these improvements.

Congress has already passed legislation to improve security at airports and seaports, but we have not yet addressed the needs of our busiest ports, located on the United States' northern and southwestern land borders. Traditionally, tighter security requirements have come at the expense of efficient commerce across our borders. With the improvements we are proposing today, we mean to move toward a day when we can say that higher security does not penalize trade.

America's two biggest trading partners are not across an ocean—they lie to the north and south of our country. In the past decade, U.S.-Canada trade has doubled, and in the same time period, trade between the United States and Mexico tripled. At the same time, our infrastructure is weakest on our land borders, and we must act quickly and decisively to prevent terrorists from exploiting this weakness.

To address this threat, the Border Infrastructure and Technology Modernization Act provides for a coordinated Land Border Security Plan, including cooperation between Federal State and local entities involved at our borders, as well as the private sector.

When it comes to security, everybody has a role to play, not just the government. We must enlist the help of the private sector to address security concerns on our borders. Trade and industry have made this country the economic powerhouse it is today, and we must fully involve them in protecting our country through government trade and industry partnership programs.

The U.S. Customs Service has already started this process. I commend them for their quick action after the September 11 terrorist attacks in enlisting the support of private industry by quickly developing the Customs-Trade Partnership Against Terrorism, C–TPAT. We need to expand these programs, especially along the northern and southwestern borders. This bill authorizes an additional $30 million and additional staff to accomplish this task.

Finally, equipment and technology alone will not solve the trade and security problems on our borders. The border agencies of the Department of Homeland Security need sufficient personnel levels, and training to ensure the implementation and use of modern technology. I am pleased that the administration has taken the first step to meet this objective by announcing that they will add 1,700 new inspectors to the Bureau of Customs and Border Security of the Department of Homeland Security.

The Border Infrastructure and Technology Modernization Act increases the number of inspectors and support staff in this bureau by an additional 200 each year for 5 years. This bill also adds 100 more special agents and support staff each year for 5 years to the Bureau of Immigration and Customs Enforcement, the investigative arm of the Department of Homeland Security.

I am pleased to introduced this bill today to devote greater resources to maximizing the economic possibilities of the trade flowing across our borders, while addressing the security vulnerabilities on our land borders. I am convinced that these goals are not mutually exclusive, but instead must be realized in concert.

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

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

S. 539

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 ''Border Infrastructure and Technology Modernization Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) COMMISSIONER.—The term ''Commissioner'' means the Commissioner of the Bureau of Customs and Border Protection of the Department of Homeland Security.

(2) MAQUILADORA.—The term ''maquiladora'' means an entity located in Mexico that assembles and produces goods from imported parts for export to the United States.

(3) NORTHERN BORDER.—The term ''northern border'' means the international border between the United States and Canada.

(4) SOUTHERN BORDER.—The term ''southern border'' means the international border between the United States and Mexico.

(5) UNDER SECRETARY.—The term ''Under Secretary'' means the Under Secretary for Border and Transportation Security of the Department of Homeland Security.

SEC. 3. HIRING AND TRAINING OF BORDER AND TRANSPORTATION SECURITY PERSONNEL.

(a) INSPECTORS AND AGENTS.—

(1) INCREASE IN INSPECTORS AND AGENTS.—During each of fiscal years 2004 through 2008, the Under Secretary shall—

(A) increase the number of full-time agents and associated support staff in the Bureau of Immigration and Customs Enforcement of the Department of Homeland Security by the equivalent of at least 100 more than the number of such employees in the Bureau as of the end of the preceding fiscal year; and

(B) increase the number of full-time inspectors and associated support staff in the Bureau of Customs and Border Protection by the equivalent of at least 200 more than the number of such employees in the Bureau as of the end of the preceding fiscal year.

(2) WAIVER OF FTE LIMITATION.—The Under Secretary is authorized to waive any limitation on the number of full-time equivalent personnel assigned to the Department of Homeland Security to fulfill the requirements of paragraph (1).

(b) TRAINING.—The Under Secretary shall provide appropriate training for agents, inspectors, and associated support staff on an ongoing basis to utilize new technologies and to ensure that the proficiency levels of such personnel are acceptable to protect the borders of the United States.

SEC. 4. PORT OF ENTRY INFRASTRUCTURE ASSESSMENT STUDY.

(a) REQUIREMENT TO UPDATE.—Not later than January 31 of each year, the Administrator of General Services shall update the Port of Entry Infrastructure Assessment Study prepared by the United States Customs Service, the Immigration and Naturalization Service, and the General Services Administration in accordance with the matter relating to the ports of entry infrastructure assessment that is set out in the joint explanatory statement in the conference report accompanying H.R. 2490 of the 106th Congress, 1st session (House of Representatives Rep. No. 106–319, on page 67) and submit such updated study to Congress.

(b) CONSULTATION.—In preparing the updated studies required in subsection (a), the Administrator of General Services shall consult with the Director of the Office of Management and Budget, the Under Secretary, and the Commissioner.

(c) CONTENT.—Each updated study required in subsection (a) shall—

(1) identify port of entry infrastructure and technology improvement projects that would enhance border security and facilitate the flow of legitimate commerce if implemented;

(2) include the projects identified in the National Land Border Security Plan required by section 5; and

(3) prioritize the projects described in paragraphs (1) and (2) based on the ability of a project to—

(A) fulfill immediate security requirements; and

(B) facilitate trade across the borders of the United States.

(d) PROJECT IMPLEMENTATION.—The Commissioner shall implement the infrastructure and technology improvement projects described in subsection (c) in the order of priority assigned to each project under paragraph (3) of such subsection.

(e) DIVERGENCE FROM PRIORITIES.—The Commissioner may diverge from the priority order if the Commissioner determines that significantly changed circumstances, such as immediate security needs or changes in infrastructure in Mexico or Canada, compellingly alter the need for a project in the United States.

SEC. 5. NATIONAL LAND BORDER SECURITY PLAN.

(a) REQUIREMENT FOR PLAN.—Not later than January 31 of each year, the Under Secretary shall prepare a National Land Border

Security Plan and submit such plan to Congress.

(b) CONSULTATION.—In preparing the plan required in subsection (a), the Under Secretary shall consult with the Under Secretary for Information Analysis and Infrastructure Protection and the Federal, State, and local law enforcement agencies and private entities that are involved in international trade across the northern border or the southern border.

(c) VULNERABILITY ASSESSMENT.—

(1) IN GENERAL.—The plan required in subsection (a) shall include a vulnerability assessment of each port of entry located on the northern border or the southern border.

(2) PORT SECURITY COORDINATORS.—The Under Secretary may establish 1 or more port security coordinators at each port of entry located on the northern border or the southern border—

(A) to assist in conducting a vulnerability assessment at such port; and

(B) to provide other assistance with the preparation of the plan required in subsection (a).

SEC. 6. EXPANSION OF COMMERCE SECURITY PROGRAMS.

(a) CUSTOMS-TRADE PARTNERSHIP AGAINST TERRORISM.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commissioner, in consultation with the Under Secretary, shall develop a plan to expand the size and scope (including personnel needs) of the Customs-Trade Partnership Against Terrorism programs along the northern border and southern border, including—

(A) the Business Anti-Smuggling Coalition;

(B) the Carrier Initiative Program;

(C) the Americas Counter Smuggling Initiative;

(D) the Container Security Initiative;

(E) the Free and Secure Trade Initiative; and

(F) other Industry Partnership Programs administered by the Commissioner.

(2) SOUTHERN BORDER DEMONSTRATION PROGRAM.—Not later than 180 days after the date of enactment of this Act, the Commissioner shall establish a demonstration program along the southern border for the purpose of implementing at least one Customs-Trade Partnership Against Terrorism program along that border. The Customs-Trade Partnership Against Terrorism program selected for the demonstration program shall have been successfully implemented along the northern border as of the date of enactment of this Act.

(b) MAQUILADORA DEMONSTRATION PROGRAM.—Not later than 180 days after the date of enactment of this Act, the Commissioner shall establish a demonstration program to develop a cooperative trade security system to improve supply chain security.

SEC. 7. PORT OF ENTRY TECHNOLOGY DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—The Under Secretary shall carry out a technology demonstration program to test and evaluate new port of entry technologies, refine port of entry technologies and operational concepts, and train personnel under realistic conditions.

(b) TECHNOLOGY AND FACILITIES.—

(1) TECHNOLOGY TESTED.—Under the demonstration program, the Under Secretary shall test technologies that enhance port of entry operations, including those related to inspections, communications, port tracking, identification of persons and cargo, sensory devices, personal detection, decision support, and the detection and identification of weapons of mass destruction.

(2) FACILITIES DEVELOPED.—At a demonstration site selected pursuant to subsection (c)(2), the Under Secretary shall develop facilities to provide appropriate training to law enforcement personnel who have responsibility for border security, including cross-training among agencies, advanced law enforcement training, and equipment orientation.

(c) DEMONSTRATION SITES.—

(1) NUMBER.—The Under Secretary shall carry out the demonstration program at not less than 3 sites and not more than 5 sites.

(2) SELECTION CRITERIA.—To ensure that at least 1 of the facilities selected as a port of entry demonstration site for the demonstration program has the most up-to-date design, contains sufficient space to conduct the demonstration program, has a traffic volume low enough to easily incorporate new technologies without interrupting normal processing activity, and can efficiently carry out demonstration and port of entry operations, at least 1 port of entry selected as a demonstration site shall—

(A) have been established not more than 15 years before the date of enactment of this Act;

(B) consist of not less than 65 acres, with the possibility of expansion onto not less than 25 adjacent acres; and

(C) have serviced an average of not more than 50,000 vehicles per month in the 12 full months preceding the date of enactment of this Act.

(d) RELATIONSHIP WITH OTHER AGENCIES.—The Under Secretary shall permit personnel from an appropriate Federal or State agency to utilize a demonstration site described in subsection (c) to test technologies that enhance port of entry operations, including those related to inspections, communications, port tracking, identification of persons and cargo, sensory devices, personal detection, decision support, and the detection and identification of weapons of mass destruction.

(e) REPORT.—

(1) REQUIREMENT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Under Secretary shall submit to Congress a report on the activities carried out at each demonstration site under the technology demonstration program established under this section.

(2) CONTENT.—The report shall include an assessment by the Under Secretary of the feasibility of incorporating any demonstrated technology for use throughout the Bureau of Customs and Border Protection.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to any funds otherwise available, there are authorized to be appropriated—

(1) to carry out the provisions of section 3, such sums as may be necessary for the fiscal years 2004 through 2008;

(2) to carry out the provisions of section 4—

(A) to carry out subsection (a) of such section, such sums as may be necessary for the fiscal years 2004 through 2008; and

(B) to carry out subsection (d) of such section—

(i) $100,000,000 for each of the fiscal years 2004 through 2008; and

(ii) such sums as may be necessary in any succeeding fiscal year;

(3) to carry out the provisions of section 6—

(A) to carry out subsection (a) of such section—

(i) $30,000,000 for fiscal year 2004, of which $5,000,000 shall be made available to fund the demonstration project established in paragraph (2) of such subsection; and

(ii) such sums as may be necessary for the fiscal years 2005 through 2008; and

(B) to carry out subsection (b) of such section—

(i) $5,000,000 for fiscal year 2004; and

(ii) such sums as may be necessary for the fiscal years 2005 through 2008; and

(4) to carry out the provisions of section 7, provided that not more than $10,000,000 may be expended for technology demonstration program activities at any 1 port of entry demonstration site in any fiscal year—

(A) $50,000,000 for fiscal year 2004; and

(B) such sums as may be necessary for each of the fiscal years 2005 through 2008.

(b) INTERNATIONAL AGREEMENTS.—Funds authorized in this Act may be used for the implementation of projects described in the Declaration on Embracing Technology and Cooperation to Promote the Secure and Efficient Flow of People and Commerce across our Shared Border between the United States and Mexico, agreed to March 22, 2002, Monterrey, Mexico (commonly known as the Border Partnership Action Plan) or the Smart Border Declaration between the United States and Canada, agreed to December 12, 2001, Ottawa, Canada that are consistent with the provisions of this Act.

Mr. MCCAIN. Mr. President, I am pleased to join Senators DOMENICI, DORGAN, KYL, FEINSTEIN, MURKOWSKI, BURNS, and MURRAY to introduce the Border Infrastructure and Technology Modernization Act. For most of us, this is not a new issue. I have worked closely with many of my colleagues to address concerns regarding the protection of our Nation's borders, particularly the problems associated with illegal immigration.

The bill we are introducing today addresses border infrastructure, to ensure that our Nation's borders, both southern and northern, are as secure and up to date as possible. This bill will authorize. the Bureau of Immigration and Customs Enforcement to address staffing shortages and hire additional agents, inspectors, and support staff. It will also authorize several studies and demonstration programs to improve infrastructure, security, facilitate trade, and expand the use of technology along the borders.

Cross-border commerce suffers greatly due to backups at our ports of entry. Two and three hour delays hinder the transport of goods from Mexico into the United States. Improving infrastructure at our ports of entry will increase our capability to screen trucks and individuals coming into the country in a more efficient manner, reducing the backups along the border and improving the free flow of commerce.

As undocumented aliens take increasingly desperate measures to cross our border with Mexico, the burden borne by States along the southwestern border continues to grow. The Federal Government's attempt to stem illegal immigration in Texas and California has made it increasingly difficult to cross the border in these States and has created a funnel effect, giving Arizona the dubious distinction of being the location of choice for illegal border crossings.

Reports suggest that at least one in three of the illegal border crossers arrested traversing the U.S.-Mexico border are stopped in Arizona. Last year approximately 320 people died in the

desert trying to cross the border. Additionally, the number of attacks on National Park Service officers has increased in recent years. Property crimes are rampant along the border, leaving Arizona with the highest per capita auto theft rate in the Nation. Times have become so desperate that vigilante groups have begun to form with the goal of doing the job the Federal Government is failing to do.

We must do all we can to improve the ports of entry along our borders with both our northern and our southern neighbors. Technology is the key to that goal, and this bill takes a big step toward ensuring that technological needs are assessed and that technology is improved.

There are between 7–9 million people in this country illegally. Many of these people entered our country legally but have overstayed their visas. By upgrading the technology for our ports of entry and further developing the entry-exit system we will have a way to better monitor these individuals. During this year's appropriations bill, I sponsored an amendment along with Senators KYL and FEINSTEIN to restore $165 million to entry-exit system and help the INS establish four pilot projects on the borders to effectively track and monitor immigration. This bill and the amendment we passed recently are both important ways to increase the resources available to the border.

Beyond the improvement of infrastructure, technology and security along the border, we must also address illegal immigration through a guest worker program. As long as there are jobs to be had on this side of the border, people will continue to attempt to cross illegally, and our national security will remain at risk.

I urge my colleagues to move expeditiously on this important piece of legislation, in order to ensure that in a time of new global threats, our Nation's borders are as safe as possible and American citizens are protected.

By Mr. LIEBERMAN (for himself, Mr. CHAFEE, Mr. BIDEN, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. CORZINE, Mr. DAYTON, Mr. DODD, Mr. DURBIN, Mr. EDWARDS, Mr. FEINGOLD, Mr. GRAHAM of Florida, Mr. HARKIN, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. LAUTENBERG, Mr. LEAHY, Mrs. MURRAY, Mr. REED, Mr. SARBANES, Mr. SCHUMER, Ms. STABENOW, and Mr. WYDEN):

S. 543. A bill to designate a portion of the Arctic National Wildlife Refuge as wilderness; to the Committee on Environmental and Public Works.

Mr. LIEBERMAN. Mr. President, I rise today to introduce legislation to designate the coastal plain of the Arctic Refuge as wilderness.

America's dependence on foreign oil is an urgent and stubborn problem. But the answer isn't in the ground. It's in our heads. We have to apply the genius of America to engineer a solution to energy independence, not hope that we will magically find one in the deposits under Alaska.

The facts on this are clear. Alaska has at a most 6 month supply of oil—not a drop of which will be available for a decade. The United States Energy Information Administration—part of the Bush administration—itself concluded that full development of the Refuge would reduce our projected dependence on foreign oil from 62 to 60 percent at the very most, and not until 2020.

For that, is it worth forever losing a national treasure, one of our last great wild places? I say no. Instead, I say yes to a smart, forward-looking strategy to wean our economy off its addiction to foreign oil without sacrificing our natural treasures.

Despite my colleagues arguments to the contrary, I believe it is finally established that there is no way—no way—to drill in the Arctic without disrupting and essentially destroying that precious place. For too long, drilling advocates have attempted to raise questions about the impacts of drilling. It is time for the facts to carry the day.

In fact, just today, the National Academies of Science released a report detailing the cumulative impacts of oil development on Alaska's North Slope. The NAS not only found that Arctic oil development has adversely impacted populations of caribou, birds and bowhead whales—more importantly, they said that future drilling would pose grave threats to the Arctic's environmental health. As the report stated in a section entitled ''The Essential Trade-Off,'' the question for Congress is whether the available oil is worth the ''inevitable accumulated undesirable effects.'' With so little impact on our oil dependence predicted, the answer is clearly no.

In every poll, we see that the majority of Americans oppose ruining the Arctic for oil. And, as we established last year, the majority of the U.S. Senate agrees with them. Once and for all, let's respect that desire, and let's protect this precious place. Let's pass this bill.

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

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

S. 543

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

SECTION 1. DESIGNATION OF PORTION OF ARCTIC NATIONAL WILDLIFE REFUGE AS WILDERNESS.

Section 4 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd) is amended by adding at the end the following:

''(p) DESIGNATION OF CERTAIN LAND AS WILDERNESS.—Notwithstanding any other provision of this Act, a portion of the Arctic National Wildlife Refuge in Alaska comprising approximately 1,559,538 acres, as generally depicted on a map entitled 'Arctic National Wildlife Refuge—1002 Area. Alternative E—Wilderness Designation, October 28, 1991' and available for inspection in the offices of the Secretary, is designated as a component of the National Wilderness Preservation System under the Wilderness Act (16 U.S.C. 1131 et seq.).''.

By Mr. DODD (for himself, Mr. WARNER, Mr. HOLLINGS, Mr. REED, Mr. DASCHLE, Mr. LIEBERMAN, Mrs. CLINTON, Mr. SARBANES, and Ms. LANDRIEU):

S. 544. A bill to establish a SAFER Firefighter Grant Program; to the Committee on Commerce, Science, and Transportation.

Mr. DODD. Mr. President, I rise today with my colleagues Senator WARNER, Senator HOLLINGS, Senator REED, Senator DASCHLE, Senator LIEBERMAN, Senator CLINTON, Senator SARBANES, and Senator LANDRIEU to introduce the Staffing for Adequate Fire and Emergency Response, SAFER, Act. This legislation will help to remedy a critical shortage in the fire service and help ensure that America's firefighters have the staffing they need to safely do their jobs.

Every day approximately one million firefighters put their lives on the line to protect the people of our great Nation. I firmly believe that in recognition of that fact, our Nation has an obligation to ensure that the brave men and women of the fire service have the tools, the training, and the staffing they need to do their jobs safely.

In recent years, the Federal Government has recognized that it can and should be a better partner with local firefighters. In 2000, Senator DEWINE, Senator LEVIN, Senator WARNER, and I worked successfully to help create the FIRE Act. This law stood as the first Federal grant program explicitly designed to help fire departments throughout America obtain better equipment, improved training, and needed personnel. Since September 11, 2001, Congress and the administration have provided billions of dollars to help local firefighters purchase equipment and training to respond to acts of terrorism, accidental fires, chemical spills, and natural disasters. Over the last 2 years, the Federal FIRE Act grant initiative has provided nearly half a billion dollars in direct assistance to local fire departments across the country and the FIRE Act will provide another $750 million this year. We are beginning to significantly improve the quality of the equipment available to firefighters in every State and in communities large and small. Unfortunately, the FIRE Act has not improved staffing conditions for America's fire service. Severe staffing shortages still plague departments across the country.

Currently two-thirds of all fire departments operate with inadequate staffing. And the consequences are often tragic. According to testimony by Harold Schaitberger, General President of the International Association of Firefighters, presented before the

Senate Science, Technology and Space Subcommittee on October 11, 2001, understaffing has caused or contributed to firefighter deaths in Memphis, Tennessee; Worcester, Massachusetts; Keokuk, Iowa; Pittsburgh, Pennsylvania; Chesapeake, Virginia; Stockton, California; Lexington, Kentucky; Buffalo, New York; Philadelphia, Pennsylvania; and Washington, D.C. In each case, firefighters went into dangerous situations without the support they needed and they paid the ultimate price.

The unfortunate reality is that our local communities have not been able to maintain the level of staffing necessary to ensure the safety of our firefighters or the public. Since 1970, the number of firefighters as a percentage of the U.S. workforce has steadily declined and the budget crises that our state and local governments are enduring has made matters worse. Across the country today, firefighter staffing is being cut and fire stations are even being closed because of state and local budget shortfalls. All of this at a time when the threats of terrorism are placing unprecedented demands on our fire service.

According to a ''Needs Assessment Study'' recently released by the U.S. Fire Administration, USFA, and the National Fire Protection Association, NFPA, understaffing contributes to enormous problems. For example, USFA and NFPA have found that only 11% of our Nation's fire departments have the personnel and equipment they need to respond to a building collapse involving 50 or more occupants. The USFA and NFPA also found that there are routine problems that threaten the health and safety of our first responders. In small and medium-sized cities, firefighters are too often compelled to respond to emergencies without sufficient manpower to protect those on the ground. More often than not, firefighters in too many of our communities respond to fires with fewer than the four firefighters per truck that is considered to be the minimum to ensure firefighter safety.

The USFA/NFPA study also suggests that shortages of personnel prevent many firefighters from taking time off to receive training and too few departments can afford to hire dedicated training staff. As a result, nearly three-quarters of all fire departments cannot comply with EPA and OSHA regulations that require formal hazardous materials response training for front-line firefighters.

The SAFER Act is a national commitment to hire the firefighters necessary to protect the American people from the consequences of terrorist attacks and from more ordinary, but often equally devastating, events. This legislation will put 75,000 new firefighters on America's streets over the next 7 years and will help provide Americans with the level of protection they need and deserve.

As I have said before, just as we have called up the National Guard to meet the increased need for more manpower in the military, we need to make a national commitment to hire firefighters to protect the American people here at home. In these difficult times, it is both necessary and proper for us to send for reinforcements for our domestic defenders. The SAFER Act will make that commitment.

In closing let me say that this legislation honors America's firefighters. It acknowledges the men and women who charge up the stairs while everybody else is running down them. But it does more than that. This legislation is an investment in America's security, an investment to ensure the safety of our firefighter as well as American families and their homes and businesses.

Both the International Association of Firefighters and the International Association of Fire Chiefs have expressed their strong support for this legislation. I urge my colleagues to join those of us who have introduced this measure today.

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. 544

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 ''Staffing for Adequate Fire and Emergency Response Firefighters Act of 2003''.

SEC. 2. OFFICE OF GRANT MANAGEMENT.

The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) is amended by redesignating the second section 33 and section 34 as sections 35 and 36, respectively, and by inserting after the first section 33 the following new section:

''SEC. 34. OFFICE OF GRANT MANAGEMENT.

''(a) ESTABLISHMENT.—A new office within the United States Fire Administration shall be established to administer the SAFER Firefighter grant program under this section.

''(b) AUTHORITY TO MAKE GRANTS.—(1) The Administrator may make grants directly to career, voluntary, and combination fire departments of a State, in consultation with the chief executive of the State, for the purpose of substantially increasing the number of firefighters so that communities can meet industry minimum standards to provide adequate protection from acts of terrorism and hazards.

''(2)(A) Grants made under paragraph (1) shall be for 4 years and be used for programs to hire new, additional career firefighters.

''(B) Grantees are required to commit to retaining for at least 1 year beyond the termination of their grants those career firefighters hired under paragraph (1).

''(3) In awarding grants under this section, the Administrator may give preferential consideration, where feasible, to applications for hiring and rehiring additional career firefighters that involve a non-Federal contribution exceeding the minimums under paragraph (5).

''(4) The Administrator may provide technical assistance to States, units of local government, Indian tribal governments, and to other public entities, in furtherance of the purposes of this section.

''(5) The portion of the costs of a program, project, or activity provided by a grant under paragraph (1) may not exceed—

''(A) 90 percent in the first year of the grant;

''(B) 80 percent in the second year of the grant;

''(C) 50 percent in the third year of the grant; and

''(D) 30 percent in the fourth year of the grant,

unless the Administrator waives, wholly or in part, the requirement under this paragraph of a non-Federal contribution to the costs of a program, project, or activity.

''(6) The authority under paragraph (1) of this section to make grants for the hiring of additional career firefighters shall lapse at the conclusion of 10 years from the date of enactment of this section. Prior to the expiration of this grant authority, the Administrator shall submit a report to Congress concerning the experience with and effects of such grants. The report may include any recommendations the Administrator may have for amendments to this section and related provisions of law.

''(c) APPLICATIONS.—(1) No grant may be made under this section unless an application has been submitted to, and approved by, the Administrator.

''(2) An application for a grant under this section shall be submitted in such form, and contain such information, as the Administrator may prescribe by regulation or guidelines.

''(3) In accordance with the regulations or guidelines established by the Administrator, each application for a grant under this section shall—

''(A) include a long-term strategy and detailed implementation plan that reflects consultation with community groups and appropriate private and public agencies and reflects consideration of the statewide strategy;

''(B) explain the applicant's inability to address the need without Federal assistance;

''(C) outline the initial and ongoing level of community support for implementing the proposal including financial and in-kind contributions or other tangible commitments;

''(D) specify plans for obtaining necessary support and continuing the proposed program, project, or activity following the conclusion of Federal support; and

''(E) provide assurances that the applicant will, to the extent practicable, seek, recruit, and hire members of racial and ethnic minority groups and women in order to increase their ranks within firefighting.

''(4) Notwithstanding any other provision of this section, in relation to applications under this section of units of local government or fire districts having jurisdiction over areas with populations of less than 50,000, the Administrator may waive 1 or more of the requirements of paragraph (3) and may otherwise make special provisions to facilitate the expedited submission, processing, and approval of such applications.

''(d) LIMITATION ON USE OF FUNDS.—(1) Funds made available under this section to States or units of local government for salaries and benefits to hire new, additional career firefighters shall not be used to supplant State or local funds, or, in the case of Indian tribal governments, funds supplied by the Bureau of Indian Affairs, but shall be used to increase the amount of funds that would, in the absence of Federal funds received under this section, be made available from State or local sources, or in the case of Indian tribal governments, from funds supplied by the Bureau of Indian Affairs.

''(2) Funds appropriated by the Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian

Affairs performing firefighting functions on any Indian lands may be used to provide the non-Federal share of the cost of programs or projects funded under this section.

''(3)(A) Total funding provided under this section over 4 years for hiring a career firefighter may not exceed $100,000, unless the Administrator grants a waiver from this limitation.

''(B) The $100,000 cap shall be adjusted annually for inflation beginning in fiscal year 2005.

''(e) PERFORMANCE EVALUATION.—(1) Each program, project, or activity funded under this section shall contain a monitoring component, developed pursuant to guidelines established by the Administrator. The monitoring required by this subsection shall include systematic identification and collection of data about activities, accomplishments, and programs throughout the life of the program, project, or activity and presentation of such data in a usable form.

''(2) Selected grant recipients shall be evaluated on the local level or as part of a national evaluation, pursuant to guidelines established by the Administrator. Such evaluations may include assessments of individual program implementations. In selected jurisdictions that are able to support outcome evaluations, the effectiveness of funded programs, projects, and activities may be required.

''(3) The Administrator may require a grant recipient to submit to the Administrator the results of the monitoring and evaluations required under paragraphs (1) and (2) and such other data and information as the Administrator considers reasonably necessary.

''(f) REVOCATION OR SUSPENSION OF FUNDING.—If the Administrator determines, as a result of the activities under subsection (e), or otherwise, that a grant recipient under this section is not in substantial compliance with the terms and requirements of an approved grant application submitted under subsection (c), the Administrator may revoke or suspend funding of that grant, in whole or in part.

''(g) ACCESS TO DOCUMENTS.—(1) The Administrator shall have access for the purpose of audit and examination to any pertinent books, documents, papers, or records of a grant recipient under this section and to the pertinent books, documents, papers, or records of State and local governments, persons, businesses, and other entities that are involved in programs, projects, or activities for which assistance is provided under this section.

''(2) Paragraph (1) shall apply with respect to audits and examinations conducted by the Comptroller General of the United States or by an authorized representative of the Comptroller General.

''(h) DEFINITIONS.—In this section, the term—

''(1) 'firefighter' has the meaning given the term 'employee in fire protection activities' under section 3(a) of the Fair Labor Standards Act (29 U.S.C. 203(y)); and

''(2) 'Indian tribe' means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

''(i) AUTHORIZATION OF APPROPRIATIONS.—

''There are authorized to be appropriated for the purposes of carrying out this section—

''(1) $1,000,000,000 for fiscal year 2004;

''(2) $1,030,000,000 for fiscal year 2005;

''(3) $1,061,000,000 for fiscal year 2006;

''(4) $1,093,000,000 for fiscal year 2007;

''(5) $1,126,000,000 for fiscal year 2008;

''(6) $1,159,000,000 for fiscal year 2009; and

''(7) $1,194,000,000 for fiscal year 2010.''.

Mr. WARNER. Mr. President, I am pleased to be joining my colleague Senator DODD in the introduction of the Staffing for Adequate Fire and Emergency Response Act. The SAFER Act establishes a new grant program that will provide direct funding to fire and rescue departments though the new Department of Homeland Security. This funding will help to cover some of the costs associated with hiring and training new firefighters.

Our Nation's fire departments must be able to hire the necessary personnel in order to meet the ever increasing demands on local first responders. Many Americans are not aware of the staffing shortages we may face in our fire and rescue departments. The role of firefighter in our communities is far greater than most realize. They are first to respond to hazardous materials calls, chemicals emergencies, biohazard incidents, and water rescues. These are dangers which our fire rescue personnel deal with on a daily basis.

The National Fire Protection Association, a nonprofit organization which develops and promotes scientifically based consensus codes and guidelines, issued minimum staffing standards of at least four firefighters per apparatus. Furthermore, local departments are expected to comply with Federal Occupational Safety and Health Administration, OSHA, standards, which require a minimum of two qualified firefighters inside and two qualified firefighters outside of a structure fire or similar incident. Except in cases of a known need for rescue, a fire company with less than four personnel cannot enter that structure to fight a fire or respond to an incident until additional firefighters arrive on the scene, ready to go.

I am honored to be an original cosponsor of this important legislation. I encourage my colleagues to support this measure not only because of the firefighters role in our homeland security endeavors, but also in recognition of the critical day-to-day services they provide in our Nation's communities.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 74—TO AMEND RULE XLII OF THE STANDING RULES ON THE SENATE TO PROHIBIT EMPLOYMENT DISCRIMINATION IN THE SENATE BASED ON SEXUAL ORIENTATION

Mrs. FEINSTEIN (for herself, Mr. SMITH, Mr. DASCHLE, Ms. LANDRIEU, Mr. BREAUX, Mr. AKAKA, Mr. BIDEN, Mrs. MURRAY, Mr. KERRY, Mr. BAYH, Mr. DURBIN, Ms. STABENOW, Mr. LEVIN, Mr. WYDEN, Mr. KENNEDY, Mr. JEFFORDS, Mr. FEINGOLD, Mr. LAUTENBERG, Ms. COLLINS, Mr. CHAFEE, Mr. HARKIN, Mr. BINGAMAN, Mr. EDWARDS, Mr. SARBANES, Mr. CORZINE, Mr. LEAHY, Mr. LIEBERMAN, Mr. REED, Mr. DAYTON, Mr. NELSON of Florida, Mr. SCHUMER, and Mrs. CLINTON) submitted the following resolution; which was referred to the Committee on Rules and Administration:

Resolved,

SECTION 1. AMENDMENT TO THE STANDING RULES OF THE SENATE.

Paragraph 1 of rule XLII of the Standing Rules of the Senate is amended by striking ''or state of physical handicap'' and inserting ''state of physical handicap, or sexual orientation''.

Mrs. FEINSTEIN. Mr. President, I rise today to submit a resolution to prohibit employment discrimination in the Senate based on sexual orientation.

I would like to thank the Senator from Oregon, Mr. SMITH, as well as my other colleagues who join me in introducing this resolution.

The resolution would amend the Standing Rules of the Senate by adding ''sexual orientation'' to ''race, color, religion, sex, national origin, age, or state of physical handicap'' in the anti-discrimination provision of rule 42, which governs the Senate's employment practices.

By amending the current rule, it would forbid any Senate Member, officer, or employee from terminating, refusing to hire, or otherwise discriminating against an individual with respect to promotion, compensation, or any other privilege of employment, on the basis of that individual's sexual orientation.

Senate employees currently have no recourse available to them should they become a victim of this type of employment discrimination.

If the rules are amended, any Senate employee that encountered discrimination based on their sexual orientation would have the option of reporting it to the Senate Ethics Committee. The Ethics Committee could then investigate the claim and recommend discipline for any Senate Member, officer, or employee found to have violated the rule.

Unfortunately, the Senate is already well behind other establishments of the U.S. Government in this area of anti-discrimination.

By 1996, at least 13 Cabinet level agencies, including the Departments of Justice, Agriculture, Transportation, Health and Human Services, Interior, Housing and Urban Development, Labor, and Energy, in addition to the General Accounting Office, General Services Administration, Internal Revenue Service, the Federal Reserve System, Office of Personnel Management, and the White House had already issued policy statements forbidding sexual orientation discrimination.

In 1998, Executive Order 13087 was issued to prohibit sexual orientation discrimination in the Federal executive branch, including civilian employees of the military departments and sundry other governmental entities.

That Executive order now covers approximately 2 million Federal civilian

workers. Yet more than 4 years later, there are still employees of the Senate that are unprotected.

In taking this step toward addressing discrimination, the Senate would join not only the executive branch, but also 308 Fortune 500 companies, 23 State governments and 262 local governments that have already prohibited workplace discrimination based on sexual orientation.

Currently, 65 Senators have already adopted written policies for their congressional offices indicating that sexual orientation is not a factor in their employment decisions.

Now, I urge my colleagues to join me by making this policy universal for the Senate, rather than relying on a patchwork of protection that only covers some of the Senate's employees.

Mr. SMITH. Mr. President, I rise today to join my colleague, Senator FEINSTEIN in introducing a resolution to prohibit employment discrimination in the Senate based on sexual orientation.

Senate rules currently prohibit employment discrimination based on race, color, religion, sex, national origin, age, or state of physical handicap. I believe that it is time for us to add sexual orientation to that list.

As a cosponsor of the Employment Nondiscrimination Act, I have stood behind the principle that employment discrimination against any person is hurtful to society as a whole, and if I am going to hold the private sector accountable for its actions, I should certainly promote the same principles in the U.S. Senate.

It is important to note that the Senate is lagging behind the rest of the Federal Government in prohibiting employment discrimination based on sexual orientation. Since 1996, 13 Cabinet level agencies and the White House have had anti-discrimination policies, and in 1998, President Clinton issued an executive order prohibiting sexual orientation discrimination in the Federal Executive Branch, including civilians in the military. That executive order now covers 2 million Federal employees, but people who work in the Senate do not enjoy those same protections.

Many of my colleagues already have written policies indicating that sexual orientation is not a factor in their employment decisions, and it is past time that we make this non-discrimination policy a part of the Standing Rules of the Senate. I want to thank my friend and colleague, Senator FEINSTEIN, for her leadership in this issue, and urge my colleagues to support this important resolution.

SENATE RESOLUTION 75—COMMEMORATING AND ACKNOWLEDGING THE DEDICATION AND SACRIFICE MADE BY THE MEN AND WOMEN WHO HAVE LOST THEIR LIVES WHILE SERVING AS LAW ENFORCEMENT OFFICERS

Mr. CAMPBELL (for himself, Mr. LEAHY, Mr. HATCH, Mr. ALLARD, Mr. BIDEN, Mr. MILLER, Mr. GREGG, Mr. DORGAN, Mr. LOTT, Mr. DASCHLE, Mr. COCHRAN, Mr. NICKLES, Mr. DAYTON, Mr. KERRY, Mr. INHOFE, Mr. JEFFORDS, Mr. FITZGERALD, Ms. LANDRIEU, and Mr. DURBIN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 75

Whereas the well-being of all citizens of the United States is preserved and enhanced as a direct result of the vigilance and dedication of law enforcement personnel;

Whereas more than 700,000 men and women, at great risk to their personal safety, presently serve their fellow citizens as guardians of peace;

Whereas peace officers are on the front line in preserving the right of the children of the United States to receive an education in a crime-free environment, a right that is all too often threatened by the insidious fear caused by violence in schools;

Whereas more than 145 peace officers across the Nation were killed in the line of duty during 2002, well below the decade-long average of 165 deaths annually, and a major drop from 2001 when 230 officers were killed, including 72 officers in the September 11th terrorist attacks;

Whereas a number of factors contributed to this reduction in deaths, including better equipment and the increased use of bullet-resistant vests, improved training, longer prison terms for violent offenders, and advanced emergency medical care;

Whereas every year, 1 out of every 9 peace officers is assaulted, 1 out of every 25 peace officers is injured, and 1 out of every 4,400 peace officers is killed in the line of duty somewhere in America every other day; and

Whereas on May 15, 2003, more than 15,000 peace officers are expected to gather in Washington, D.C. to join with the families of their recently fallen comrades to honor those comrades and all others who went before them: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes May 15, 2003, as Peace Officers Memorial Day, in honor of Federal, State, and local officers killed or disabled in the line of duty; and

(2) calls upon the people of the United States to observe this day with appropriate ceremonies and respect.

Mr. CAMPBELL. Mr. President, today I am joined by the chairman and ranking member of the Senate Judiciary Committee, Senators HATCH and LEAHY, along with 16 other Senators, in introducing this resolution to keep alive in the memory of all Americans the sacrifice and commitment of those law enforcement officers who lost their lives serving their communities. Specifically, this resolution would designate May 15, 2003, as National Peace Officers Memorial Day.

As a former deputy sheriff, I know first-hand the risks which law enforcement officers face every day on the frontlines protecting our communities. Currently, more than 850,000 men and women who serve this Nation as our guardians of law and order do so at a great risk. Every year, about 1 in 15 officers is assaulted, 1 in 46 officers is injured, and 1 in 5,255 officers is killed in the line of duty somewhere in America every other day. There are few communities in this country that have not been impacted by the words: ''officer down.''

On September 11, 2001, 72 peace officers died at the World Trade Center in New York City as a result of a cowardly act of terrorism. This single act of terrorism resulted in the highest number of peace officers ever killed in a single incident in the history of this country. Before this event, the greatest loss of law enforcement in a single incident occurred in 1917, when nine Milwaukee police officers were killed in a bomb blast at their police station.

In 2002, more than 145 Federal, State, and local law enforcement officers gave their lives in the line of duty, well below the decade-long average of 165 deaths annually, and a major drop from 2001 when a total of 230 officers were killed. A number of factors contributed to this reduction including better equipment and the increased use of bullet-resistant vests, improved training, longer prison terms for violent offenders, and advanced emergency medical care. And, in total, more than 15,000 men and women have made the supreme sacrifice.

The chairman of the National Law Enforcement Officers Memorial Fund, Craig W. Floyd, reminds us that ''a police officer is killed in the line of duty somewhere in America nearly every other day. More than 800,000 officers put their lives at risk each and every day for our safety and protection. National Police Week and Peace Officers Memorial Day provide our Nation with an important opportunity to recognize and honor that extraordinary service and sacrifice.''

On May 15, 2003, more than 15,000 peace officers are expected to gather in our Nation's Capital to join with the families of their fallen comrades who by their faithful and loyal devotion to their responsibilities have rendered a dedicated service to their communities. In doing so, these heroes have established for themselves an enviable and enduring reputation for preserving the rights and security of all citizens. This resolution is a fitting tribute for this special and solemn occasion.

I urge my colleagues to join us in supporting passage of this important resolution.

SENATE RESOLUTION 76—EXPRESSING THE SENSE OF THE SENATE THAT THE POLICY OF PREEMPTION, COMBINED WITH A POLICY OF FIRST USE OF NUCLEAR WEAPONS, CREATES AN INCENTIVE FOR THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION, ESPECIALLY NUCLEAR WEAPONS, AND IS CONSISTENT WITH THE LONG-TERM SECURITY OF THE UNITED STATES

Mr. DURBIN submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 76

Whereas press reports show that the December 31, 2001 Nuclear Posture Review states that the United States might use nuclear weapons to dissuade adversaries from

undertaking military programs or operations that could threaten United States interests;

Whereas the Nuclear Posture Review, according to such reports, goes on to state that nuclear weapons could be employed against targets capable of withstanding non-nuclear attack;

Whereas the Nuclear Posture Review is further reported to state that, in setting requirements for nuclear strike capabilities, North Korea, Iraq, Iran, Syria, and Libya are among the countries that could be involved in immediate, potential, or unexpected contingencies;

Whereas the September 17, 2002 National Security Strategy of the United States of America states that ''[a]s a matter of common sense and self-defense, America will act against such emerging threats before they are fully formed,'' and that ''[t]o forestall or prevent such hostile acts by our adversaries, the United States will, if necessary, act preemptively'';

Whereas the December 2002 National Strategy to Combat Weapons of Mass Destruction states that ''[t]he United States will continue to make clear that it reserves the right to respond with overwhelming force—including through resort to all of our options—to the use of [weapons of mass destruction] against the United States, our forces abroad, and friends and allies'';

Whereas United States nuclear policy, outlined in 1978 and restated in 1995 and 2002, includes, in the context of gaining other nations' support for the Treaty on the Non-Proliferation of Nuclear Weapons, a ''negative security assurance'' that the United States would not use its nuclear force against a country that does not possess nuclear weapons unless that country was allied with a nuclear weapons possessor;

Whereas the Under Secretary of State for Arms Control and International Security, John Bolton, recently announced the Administration's abandonment of the so-called ''negative security assurance'' pledge to refrain from using nuclear weapons against non-nuclear nations;

Whereas reports about the Stockpile Stewardship Conference Planning Meeting of the Department of Defense, held on January 10, 2003, indicate that the United States is engaged in the expansion of research and development of new types of nuclear weapons;

Whereas this expansion of nuclear weapons research covers new forms of nuclear weaponry that threaten the limitations on nuclear weapons testing that are established by the unratified, but previously respected, Comprehensive Nuclear Test-Ban Treaty;

Whereas these policies and actions threaten to make nuclear weapons appear to be useful, legitimate, first-strike offensive weapons, rather than a force for deterrence, and therefore undermine an essential tenet of nonproliferation; and

Whereas the cumulative effect of the policies announced by the President is to redefine the concept of preemption, which had been understood to mean the right of every state to anticipatory self-defense in the face of imminent attack, and to broaden the concept to justify a preventive war initiated by the United States, even without evidence of an imminent attack, in which the United States might use nuclear weapons against non-nuclear states: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President's policy of preemption, combined with a policy of first use of nuclear weapons, creates an incentive for proliferation of weapons of mass destruction, especially nuclear weapons, and is inconsistent with the long-term security of the United States.

SENATE RESOLUTION 77—EXPRESSING THE SENSE OF THE SENATE THAT ONE OF THE MOST GRAVE THREATS FACING THE UNITED STATES IS THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION, TO UNDERSCORE THE NEED FOR A COMPREHENSIVE STRATEGY FOR DEALING WITH THIS THREAT, AND TO SET FORTH BASIC PRINCIPLES THAT SHOULD UNDERPIN THIS STRATEGY

Mr. DASCHLE (for himself, Mr. LIEBERMAN, Mr. BIDEN, Mrs. FEINSTEIN, Mr. DODD, Mr. DURBIN, Ms. MIKULSKI, Mr. EDWARDS, Mr. REID, Mr. AKAKA, Mr. DORGAN, Mr. KERRY, Mr. LEAHY, Mr. CARPER, Mr. FEINGOLD, Mr. LAUTENBERG, Mr. REED, Mr. ROCKEFELLER, Ms. LANDRIEU, Mr. KENNEDY, and Mrs. MURRAY, Mr. DAYTON, Mr. NELSON of Nebraska, Mrs. CLINTON, Mr. CORZINE, Mrs. BOXER, Mr. HARKIN, Mr. SCHUMER, Mr. WYDEN, Mr. KOHL, Mr. JOHNSON, Mr. JEFFORDS, and Ms. CANTWELL) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 77

Whereas on September 17, 2002, President Bush stated that ''[t]he gravest danger our Nation faces lies at the crossroads of radicalism and technology. Our enemies have openly declared that they are seeking weapons of mass destruction, and evidence indicates that they are doing so with determination'';

Whereas on February 11, 2003, before the Select Committee on Intelligence of the Senate, George Tenet, the Director of Central Intelligence, testified that ''[w]e've entered a new world of proliferation . . . Additional countries may decide to seek nuclear weapons as it becomes clear their neighbors and regional rivals are already doing so. The domino theory of the 21st century may well be nuclear'';

Whereas Robert S. Mueller, III, the Director of the Federal Bureau of Investigation, stated on February 11, 2003, that ''[m]y greatest concern is that our enemies are trying to acquire dangerous new capabilities with which to harm Americans. Terrorists worldwide have ready access to information on chemical, biological, radiological, and nuclear weapons via the internet'';

Whereas the Treaty on Reduction and Limitation of Strategic Offensive Arms, with Annexes, Protocols, and Memorandum of Understanding, signed at Moscow on July 31, 1991 (START Treaty) addresses a narrow aspect of the threat posed by weapons of mass destruction—deployed strategic nuclear weapons—and fails to address other aspects of the nuclear threat as well as the threat posed by biological or chemical weapons or materials;

Whereas in a recent bipartisan report, former Senators Warren Rudman and Gary Hart concluded that ''America remains dangerously unprepared to prevent and respond to a catastrophic terrorist attack on U.S. soil'';

Whereas the United States Government last month raised the terrorist threat level and, according to the Director of Central Intelligence, did so in part ''because of threat reporting from multiple sources with strong al Qaeda ties . . .and to plots that could include the use of radiological dispersion devices as well as poisons and chemicals'';

Whereas shortly before the inauguration of President George W. Bush, a bipartisan task force chaired by former Majority Leader of the Senate Howard Baker and former White House Counsel Lloyd Cutler reported that ''the most urgent unmet national security threat to the United States today is the danger that weapons of mass destruction or weapons-usable material in Russia could be stolen and sold to terrorists or hostile nation states and used against American troops abroad or citizens at home'';

Whereas other states of concern continue their drive to acquire a weapons of mass destruction (WMD) capability as evidenced by the observation of the Director of Central Intelligence, in testimony before the Select Committee on Intelligence of the Senate, that the intelligence community has ''renewed concern over Libya's interest in WMD'';

Whereas the International Atomic Energy Agency (IAEA) has been told by Iran that it will not accept the strengthened safeguard protocol of the Agency and is committed to acquiring the ability to independently produce enriched uranium;

Whereas the Bush Administration has failed to begin direct talks with North Korea in spite of the assessment of the United States Government that North Korea may produce sufficient additional nuclear material for six to eight nuclear weapons within six months and the decision of North Korea to expel IAEA inspectors from the Yongbyon complex, to restart its nuclear reactor, to begin moving formerly secure spent nuclear fuel rods, to leave the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow, July 1, 1968 (Nuclear Nonproliferation Treaty or NPT), and to test a new cruise missile;

Whereas the December 2002 National Strategy to Combat Weapons Of Mass Destruction states that ''[w]eapons of mass destruction represent a threat not just to the United States, but also to our friends and allies and the broader international community. For this reason, it is vital that we work closely with like-minded countries on all elements of our comprehensive proliferation strategy.'';

Whereas newspaper accounts of the December 2001 Nuclear Posture Review state that the review concludes the United States might use nuclear weapons to dissuade adversaries from undertaking military programs or operations that could threaten United States interests, that nuclear weapons could be employed against targets able to withstand non-nuclear attack, and that in setting requirements for nuclear strike capabilities, North Korea, Iraq, Iran, Syria, and Libya are among the countries that could be involved in immediate, potential, or unexpected contingencies;

Whereas the September 17, 2002, National Security Strategy of the United States states that ''[a]s a matter of common sense and self-defense, America will act against such emerging threats before they are fully formed'' and ''[t]o forestall or prevent such hostile acts by our adversaries, the United States will, if necessary, act preemptively'';

Whereas General John Shalikashvili, former chairman of the Joint Chiefs of Staff, has stated that ''[a]ny activities that erode the firebreak between nuclear and conventional weapons or that encourage the use of nuclear weapons for purposes that are not strategic and deterrent in nature would undermine the advantage that we derive from overwhelming conventional superiority'';

Whereas the Under Secretary of State for Arms Control and International Security implied the abandonment by the Bush Administration of the so-called ''negative security

assurance'' pledge to refrain from using nuclear weapons against any non-nuclear nation unless that state was allied with a possessor of nuclear weapons, a policy that had been in place for 25 years and endorsed by successive Republican and Democratic Administrations;

Whereas documents recently made public from the Stockpile Stewardship Conference Planning Meeting of the Department of Defense held on January 10, 2003, indicate that the United States is moving toward expansion of research and development of new types of nuclear weapons and has sought repeal of the ban on research and development of new low-yield nuclear weapons;

Whereas the United States remains dangerously vulnerable to future terrorist attacks, and Bush the Administration has failed to spend homeland security funds provided by Congress and has repeatedly opposed efforts to increase funding for such homeland security activities as State and local first responders, border security, and food and water safety;

Whereas the Bush Administration has repeatedly failed to meet the funding benchmarks recommended by former Majority Leader of the Senate Howard Baker and former White House Counsel Lloyd Cutler for the nonproliferation programs of the Department of Energy;

Whereas notwithstanding the transformation of the strategic environment after the tragic events of September 11, 2001, a policy that moves toward the goal of the Nuclear Nonproliferation Treaty, and away from the increased reliance on and the importance of nuclear weapons, will serve to further the United States goal of preventing the proliferation of nuclear weapons; and

Whereas in a discussion of the grave threat posed the United States by weapons of mass destruction, President Bush has stated that ''[h]istory will judge harshly those who saw this coming danger but failed to act'': Now, therefore, be it

Resolved, That it is the sense of the Senate that the grave threat posed by the proliferation of weapons of mass destruction demands that the United States develop a comprehensive and robust nonproliferation strategy, including—

(1) the establishment of a broad international coalition against proliferation;

(2) the prevention of the theft or diversion of chemical weapons from existing stockpiles—

(A) by greatly accelerating efforts to destroy such weapons under the terms of the Chemical Weapons Convention in the United States, Russia, and other nations; and

(B) by strengthening and enforcing existing treaties and agreements on the elimination or limitation of nuclear, chemical, and biological weapons;

(3) the termination of the proliferation of weapons of mass destruction, and the systems to deliver such weapons, by the reinforcement of the international system of export controls and by the immediate commencement of negotiations on a protocol to interdict shipments of such weapons and delivery systems;

(4) an engagement in direct and immediate talks with North Korea, coordinated with United States regional allies, to secure the peaceful end to the nuclear programs and long-range missile programs of North Korea;

(5) the elimination of excess nuclear weapons in Russia, and the security of nuclear materials in Russia and the states of the former Soviet Union, by the end of the decade in order to prevent the theft or sale of such weapons or materials to terrorist groups or hostile states, including for that purpose—

(A) the provision of levels of funding for the nonproliferation programs of the Department of Energy as called for in the report of former Majority Leader of the Senate Howard Baker and former White House Counsel Lloyd Cutler; and

(B) the provision of increased funding for the Cooperative Threat Reduction (CTR) program of the Department of Defense;

(6) the expansion of the Cooperative Threat Reduction program to include additional states willing to engage in bilateral efforts to reduce their nuclear stockpiles;

(7) the provision of adequate funds for homeland security, including the provision of funds to State, local, and tribal governments to hire, equip, and train the first responders required by such governments; and

(8) the enhancement of the capability of the United States and other nations to detect nuclear weapons activity by the pursuit of transparency measures.

SENATE CONCURRENT RESOLUTION 13—CONDEMNING THE SELECTION OF LIBYA TO CHAIR THE UNITED NATIONS COMMISSION ON HUMAN RIGHTS, AND FOR OTHER PURPOSES

Mr. LAUTENBERG (for himself, Mr. SMITH, Mr. KENNEDY, Mrs. FEINSTEIN, and Mr. CORZINE) submitted the following concurrent resolution; which was ordered held at the desk:

S. CON. RES. 13

Whereas on January 20, 2003, Libya, a gross violator of human rights and State sponsor of terrorism, was elected to chair the United Nations Commission on Human Rights (the ''Commission''), a body charged with the responsibility of promoting universal respect for human rights and fundamental freedoms for all;

Whereas according to the rotation system that governs the selection of the Executive Board of the Commission, 2003 was designated as the year for the Africa Group to chair the Commission, and the Africa Group selected Libya as its candidate;

Whereas South Africa's Democratic Alliance spokeswoman, Dene Smuts, was quoted by the British Broadcasting Corporation as saying that the Government of South Africa's decision to support the election of Libya was an insult to human rights and that African countries ''should have supported a candidate of whom all Africans could be proud'';

Whereas Amnesty International has repeatedly documented that the human rights situation in Libya continues to seriously deteriorate, with systematic occurrences of gross human rights violations, including the extrajudicial execution of government opponents and the routine torture, and occasional resulting death, of political detainees during interrogation;

Whereas Human Rights Watch recently declared that ''[o]ver the past three decades, Libya's human rights record has been appalling'' and that ''Libya has been a closed country for United Nations and nongovernmental human rights investigators'';

Whereas Human Rights Watch further asserted that ''Libya's election poses a real test for the Commission,'' observing that ''[r]epressive governments must not be allowed to hijack the United Nations human rights system'';

Whereas the Lawyers Committee for Human Rights urged that ''the Government of Libya should not be entrusted by the United Nations to lead its international effort to promote human rights around the world'';

Whereas Freedom House declared that ''[a] country [such as Libya] with such a gross record of human rights abuses should not direct the proceedings of the United Nation's main human rights monitoring body'' because it would ''undermine the United Nation's moral authority and send a strong and clear message to fellow rights violators that they are in the clear'';

Whereas on November 13, 2001, a German court convicted a Libyan national for the 1986 bombing of the La Belle disco club in Berlin which killed two United States servicemen, and the court further declared that there was clear evidence of responsibility of the Government of Libya for the bombing;

Whereas Libya was responsible for the December 21, 1988, explosion of Pan American World Airways Flight 103 (''Pan Am Flight 103'') en route from London to New York City that crashed in Lockerbie, Scotland, killing 259 passengers and crew and 11 other people on the ground;

Whereas a French court convicted 6 Libyan government officials in absentia for the bombing of UTA Flight 772 over Niger in 1989;

Whereas, in response to Libya's complicity in international terrorism, United Nations Security Council Resolution 748 of March 31, 1992, imposed an arms and air embargo on Libya and established a United Nations Security Council sanctions committee to address measures against Libya;

Whereas United Nations Security Council Resolution 883 of November 11, 1993, tightened sanctions on Libya, including the freezing of Libyan funds and financial resources in other countries, and banned the provision to Libya of equipment for oil refining and transportation;

Whereas United Nations Security Council Resolution 1192 of August 27, 1998, reaffirmed that the measures set forth in previous resolutions remain in effect and binding on all Member States, and further expressed the intention of the United Nations to consider additional measures if the individuals charged in connection with the bombings of Pan Am Flight 103 and UTA Flight 772 had not promptly arrived or appeared for trial on those charges in accordance with paragraph (8) of that Resolution;

Whereas in January 2001, a three-judge Scottish court sitting in the Netherlands found Libyan Abdel Basset al-Megrahi guilty of the bombing of Pan Am Flight 103, sentenced him to life imprisonment, and said the court accepted evidence that he was a member of Libya's Jamahariya Security Organization, and in March 2002, a five-judge Scottish appeals court sitting in the Netherlands upheld the conviction;

Whereas United Nations Security Council Resolutions 731, 748, 883, and 1192 demanded that the Government of Libya provide appropriate compensation to the families of the victims, accept responsibility for the actions of Libyan officials in the bombing of Pan Am Flight 103, provide a full accounting of its involvement in that terrorist act, and cease all support for terrorism;

Whereas Libya remains on the Department of State's list of state-sponsors of terrorism;

Whereas the United States found the selection of Libya to chair the Commission to be an affront to international human rights efforts and, in particular, to victims of Libya's repression and Libyan-sponsored terrorism, and therefore broke with precedent and called for a recorded vote among Commission members on Libya's chairmanship;

Whereas Canada and one other country joined the United States in voting against Libya, with 17 countries abstaining from the recorded vote among Commission members on Libya's chairmanship of the Commission;

Whereas the common position of the members of the European Union was to abstain

from the recorded vote on the selection of Libya as chair of the Commission;

Whereas 33 countries ignored Libya's record on human rights and status as a country subject to United Nations sanctions for the terrorist bombing of Pan Am Flight 103 and voted for Libya to lead the Commission;

Whereas the majority of the countries that voted for Libya are recipients of United States foreign aid;

Whereas the selection of Libya to chair the Commission is only the most recent example of a malaise plaguing the Commission that has called into question the Commission's credibility as the membership ranks of the Commission have swelled in recent years with countries that have a history of egregious human rights violations;

Whereas the challenge by the United States to the selection of Libya is part of a broader effort to reform the Commission, reclaim it from the oppressors, and ensure that it fulfills its mandate;

Whereas on January 20, 2003, Ambassador Kevin Moley, United States Permanent Representative to the United Nations and Other International Organizations in Geneva, emphasized that the United States ''seek[s] to actively engage and strengthen the moral authority of the Commission on Human Rights, so that it once again proves itself a forceful advocate for those in need of having their human rights protected'' and that ''[w]e are convinced that the best way for the Commission to ensure the ideals of the Universal Declaration of Human Rights over the long-term is to have a membership comprised of countries with strong human rights records at home'';

Whereas a majority of the 53 member states of the Commission are participants in the Community of Democracies and signed the Community of Democracies Statement on Terrorism (the ''Statement on Terrorism'') on November 12, 2002, at the Second Ministerial Conference of the Community of Democracies held in Seoul, South Korea (the ''Seoul Ministerial''), calling upon democratic nations to work together to uphold the principles of democracy, freedom, good governance, and accountability in international organizations;

Whereas the Seoul Ministerial participants declared in the Statement on Terrorism that they ''strongly denounced terrorism as a grave threat to democratic societies and the values they embrace[,]...reaffirmed that terrorism constitutes a threat to international peace and security as well as to humanity in general and indeed to the very foundation on which democracies are built[,]'' and stated that ''[t]he most recent terrorist attacks confirm that international cooperation against terrorism will remain a long-term effort and requires a sustained universal commitment'';

Whereas the United Nations sanctions against Libya, though suspended, remain in effect; and

Whereas Libya's continued status as an international outlaw nation and its continued unwillingness to accept responsibility for its terrorist actions provide ample justification for barring Libya from consideration as a candidate for membership in the United Nations Security Council or any other United Nations entity or affiliated agency: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) strongly condemns the selection of Libya to chair the United Nations Commission on Human Rights (the ''Commission'');

(2) commends the President for the principled position of the United States in objecting to and calling for a vote on Libya's chairmanship of the Commission;

(3) commends countries that joined the United States in objecting to Libya's selection as chair of the Commission;

(4) expresses its dismay at the European Union countries' common position of abstention on the critical vote over Libya's chairmanship;

(5) expresses its shock and dismay over the support provided to Libya in its efforts to lead the Commission;

(6) highlights its grave concern over the continuing efforts of countries violating human rights and terrorist countries to use international fora—

(A) to legitimize their regimes; and

(B) to continue to act with impunity;

(7) calls on the President to raise United States objections to such efforts during bilateral and multilateral discussions and to direct pertinent members of the President's Cabinet to do the same;

(8) calls on countries at various stages of democratization to—

(A) demonstrate their commitment to human rights, democracy, peace and security; and

(B) support efforts to reform the Commission;

(9) calls on the President to instruct the Secretary of State to consult with the appropriate congressional committees, within 60 calendar days after the adoption of this resolution, regarding the priorities and strategy of the United States for the 59th session of the Commission on Human Rights and its strategy and proposals for reform of the Commission;

(10) calls on the President to issue an objection to the continued suspension of United Nations sanctions against Libya until the Government of Libya—

(A) publicly accepts responsibility for the bombing of Pan American World Airways Flight 103;

(B) provides appropriate compensation to the victims of the bombing; and

(C) fully complies with all of the other requirements of the United Nations sanctions imposed as a result of Libya's orchestration of the terrorist attack on Pan American World Airways Flight 103; and

(11) calls on the Secretary of State to engage Member States of the United Nations to support efforts to ensure that states that are gross violators of human rights, sponsors of terrorist activities, or subjects of United Nations sanctions are not elected to—

(A) leadership positions in the United Nations General Assembly; or

(B) membership or leadership positions on the United Nations Commission on Human Rights, the United Nations Security Council, or any other United Nations entity or affiliate.

Mr. LAUTENBERG. Mr. President, I rise today to introduce a resolution condemning the recent selection of Libya to chair the 59th session of the United Nations Commission on Human Rights. If it was not so tragic, this selection would be a joke. That session begins in just a few days, on March 17.

Joining me as cosponsors are Senators SMITH, KENNEDY, FEINSTEIN, and CORZINE.

The reason I say it would almost be a joke is that it is unconscionable that a human rights abuser such as Libya, and a country that has been the subject of United Nations sanctions because of its links to terrorist activities, would be selected to lead an international human rights organization. Talk about the fox in the chicken coop, this is an exact replication of what that old saw is. Libya has not even complied with the Commission's own recommendations on how to improve its own dismal human rights record.

We are talking about a country that was responsible for downing a passenger airliner and the bombing of a discotheque in Europe.

Libya's selection to the chairmanship undermines the credibility of this Commission and threatens the international community's responsibility to protect human rights. How can the Commission retain any credibility with Libya at the helm?

I want to review Libya's human rights record over the past three decades, which Human Rights Watch characterizes as ''appalling.'' This record includes the abduction, forced disappearance, and assassination of political opponents. In Libya today, hundreds of people remain arbitrarily detained, and some have been so for over a decade. Human rights monitors have registered concern about the use of physical and psychological torture in detainment, leading to the deaths of some detainees.

Additionally, the Libyan Government restricts freedom of speech, press, assembly, association, and religion.

Does a government with such a record merit the chair of a Commission that was established in 1946, in the wake of the atrocities of World War II, specifically to protect the Universal Declaration of Human Rights? Libya should not chair this Commission. If anything, it should be under investigation by it.

In 2000, after years of investigations and appeals, two Libyan intelligence officers were found guilty by Scottish judges in the attack on Pan Am flight 103, which killed 270 people, including 38 from New Jersey and citizens from over 20 other countries.

Just as the international community was finally sentencing the Libyans responsible for this 1988 tragedy, and beginning to bring them to justice, General Qadhafi was planning Libya's ascent to lead the Commission on Human Rights. He gained the African nomination for chair against the wishes of many fellow African leaders, some of whom are making genuine strides toward improving their countries' human rights records.

At the time, a spokeswoman from South Africa's opposition group, the Democratic Alliance, said:

> African countries should have supported a candidate of whom all Africans could be proud.

For the first time in the history of the Commission on Human Rights, the United States—appalled by the African Union's nomination of Libya—called for a vote. On January 20 of this year, only Canada and one other country joined the United States in voting against Libya's chairmanship. Many of the 33 countries that voted in favor of Libya are recipients of United States direct foreign assistance. Imagine, we are giving them aid, and these countries are supporting the chairmanship

of a country that is an abuser of human rights of the first order. Many of our European allies abstained from the vote.

The resolution I am introducing with my colleagues, Senators SMITH, KENNEDY, FEINSTEIN, and CORZINE, condemns Libya's selection as chair. It asserts that the manipulation of the Commission by a gross human rights violator undermines the credibility of the body while legitimizing regimes that continue their oppressive activities.

This resolution calls on countries throughout the world to renew their commitment to human rights. The resolution also calls on the President and the Secretary of State to object strongly to the United Nations' current suspension of its sanctions against Libya. These sanctions should remain in place until Libya complies with the requirements of multiple U.N. resolutions, one of which calls on Libyan leader Muammar Qadhafi to acknowledge responsibility for the 1988 Pan Am terrorism attack—something he has refused to do so far, despite the incontrovertible evidence.

Finally, in this resolution, I call on the Secretary of State to work with other members of the United Nations to reform that Commission and to ensure that governments that violate human rights, sponsor terrorist activities, and are subject to U.N. sanctions cannot be elected to leadership positions in the Commission and other U.N. bodies in the future.

Mr. KENNEDY. Mr. President, it is a privilege to join with my colleague from New Jersey, Senator Lautenberg in expressing our deepest concern that Libya will chair the next session of the United Nations Human Rights Commission.

We know that Libya has supported, trained, and harbored some of the most notorious terrorists in the world. Libya is on the Department of State's list of nations that sponsor terrorism. To allow Libya to chair the UN Human Rights Commission is a serious and shameful mistake.

At this difficult time, the United Nations needs the highest possible credibility as it struggles to deal effectively with so many vital issues affecting nations throughout the world.

In fact, Libya continues to be in violation of multiple United Nations resolutions. It still has not complied with Security Council Resolution 748 to ''accept complete responsibility for the actions of Libyan officials.''

Libya still has not complied with the resolution to ''commit itself definitively to cease all forms of terrorist action and all assistance to terrorist groups and promptly, by concrete actions, demonstrate its renunciation of terrorism.'' We have received nothing concrete renouncing terrorism.

The international community is still waiting for Libya to accept responsibility for the 1988 bombing of Pan Am Flight 103, a bombing that murdered 270 innocent persons, including 89 Americans and 13 from Massachusetts. Until September 11th, the Pan Am bombing had killed more Americans than any other terrorist atrocity in our history.

Clearly, Libya should not have been appointed to chair an international human rights commission. Yet, in a secret ballot, 33 countries voted in favor of Libya, 17 abstained, and only the United States and Canada voted against Libya.

Fourteen years later, the families and the world community are still trying to find justice. We are still trying to hold Libya accountable for this atrocity, and we are still asking Libya to renounce terrorism and pay appropriate compensation to the victims' families.

Colonel Qadhafi still has not acknowledged that he ordered the attack. The victims still have not been compensated. The Libyans are still demanding that international economic sanctions be lifted, and that the Libyan government receive a clean bill of health on terrorism before it provides compensation to the families.

This choice of Libya should be a wakeup call for this administration. It shows the need for our own genuine participation in the UN—not the arrogant attitude the administration so often uses in its relations with other nations. We cannot expect to have good ties, even with our allies, if we do not treat them with respect.

I urge the Senate to support this proposal that requests President Bush and Secretary of State Powell to object strongly to the UN's current suspension of sanctions against Libya and to work with other members of the UN to reform the Human Rights Commission. Terrorism deserves no support from any nation.

SENATE CONCURRENT RESOLUTION 14—EXPRESSING THE SENSE OF CONGRESS REGARDING THE EDUCATION CURRICULUM IN THE KINDGOM OF SAUDI ARABIA

Mr. SMITH (for himself, Mr. SCHUMER, Mr. CORZINE, Mr. ENSIGN, Mr. FEINGOLD, Mrs. MURRAY, Mr. SANTORUM, Mr. VOINOVICH, and Mr. WYDEN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 14

Whereas the terrorist attacks on the United States on September 11, 2001, were carried out by 19 hijackers, including 15 Saudi Arabian nationals;

Whereas the Government of Saudi Arabia controls and regulates all forms of education in public and private schools at all levels;

Whereas Islamic religious education is compulsory in public and private schools at all levels in Saudi Arabia;

Whereas the religious curriculum is written, monitored, and taught by followers of the Wahhabi interpretation of Islam, the only religious doctrine that the Government of Saudi Arabia allows to be taught;

Whereas rote memorization of religious texts continues to be a central feature of much of the educational system of Saudi Arabia, leaving thousands of students unprepared to function in the global economy of the 21st century;

Whereas the Government of Saudi Arabia has tolerated elements within its education system that promote and encourage extremism;

Whereas some of the textbooks used in schools in Saudi Arabia foster a combination of intolerance, ignorance, and anti-Semitic, anti-American, and anti-Western views;

Whereas these intolerant views make students in whom they are instilled prime recruiting targets of extremist groups;

Whereas extremism endangers the stability of the Kingdom of Saudi Arabia and the Middle East region and threatens global security;

Whereas the events of September 11, 2001, have created an urgent need to promote moderate voices in the Islamic world as an effective way to combat extremism; and

Whereas the Government of Saudi Arabia is currently conducting a review of its education curriculum: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) supports the review by the Government of Saudi Arabia of its education curriculum;

(2) calls on the Government of Saudi Arabia to ensure that such review is thorough, objective, and public;

(3) requests the United States Representative to the United Nations Educational, Scientific and Cultural Organization (UNESCO) to—

(A) address the issue of the educational curriculum reform at the 2003 session of the UNESCO General Conference; and

(B) encourage UNESCO to examine the educational system in Saudi Arabia and monitor the progress of the efforts to reform the curriculum; and

(4) urges the Government of Saudi Arabia to reform its education curriculum in a manner that promotes tolerance, develops civil society, and encourages functionality in the global economy.

Mr. SMITH. Mr. President, I rise today to introduce an important resolution on behalf of myself and Mr. SCHUMER that brings to light pervasive messages of intolerance in Saudi Arabia's education curriculum and the need for reform of that curriculum. We are joined in this effort by Mr. CORZINE, Mr. ENSIGN, Mr. FEINGOLD, Mrs. MURRAY, Mr. SANTORUM, Mr. VOINOVICH, and Mr. WYDEN.

There have been recent studies that reveal that school textbooks in Saudi Arabia often foster anti-Semitic, anti-American, and anti-Western views. We might all recall that 15 of the 19 hijackers responsible for the September 11 terrorist attacks were Saudi Arabian nationals. It is absolutely critical that we and others in the United States work to ensure that radical doctrines and messages of hate are not present in any child's education, and that the values taught in Saudi Arabia's schools in particular do not turn innocent children into prime candidates to commit terrorist acts as adults.

There is no question of who is responsible for any messages of hate that might appear in Saudi textbooks. The Saudi Arabian Government controls and regulates all forms of education in

public as well as in private schools. The religious curriculum is written, monitored, and taught by followers of the Wahhabi interpretation of Islam—the only religious doctrine the Government of Saudi Arabia allows to be taught.

Our important resolution calls for Saudi Arabia to thoroughly review its education curriculum and to reform it in a manner that promotes tolerance, develops civil society, and encourages functionality in the global economy. It is in the interest of security and peace that we end any educational malpractice in Saudi Arabia that might lead to more tragedy and terror.

Finally, the resolution also calls upon the United States Representative to UNESCO to urge that the U.N. body take up the textbook issue and monitor reform of the education curriculum in Saudi Arabia.

Mr. President, I also urge my respected colleagues to join us in supporting this important legislation.

SENATE CONCURRENT RESOLUTION 15—COMMEMORATING THE 140TH ANNIVERSARY OF THE ISSUANCE OF THE EMANCIPATION PROCLAMATION

Mr. ALLEN submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 15

Whereas Abraham Lincoln, the sixteenth President of the United States, issued a proclamation on September 22, 1862, declaring that on the first day of January, 1863, ''all persons held as slaves within any State or designated part of a State the people whereof shall then be in rebellion against the United States shall be then, thenceforward, and forever free'';

Whereas the proclamation declared ''all persons held slaves within the insurgent States''—with the exception of Tennessee, southern Louisiana, and parts of Virginia, then within Union lines—''are free'';

Whereas, for two and half years, Texas slaves were held in bondage after the Emancipation Proclamation became official and only after Major General Gordon Granger and his soldiers arrived in Galveston, Texas, on June 19, 1865, were African-American slaves in that State set free;

Whereas slavery was a horrendous practice and trade in human trafficking that continued until the passage of the Thirteenth Amendment to the United States Constitution ending slavery on December 18, 1865;

Whereas the Emancipation Proclamation is historically significant and history is regarded as a means of understanding the past and solving the challenges of the future;

Whereas one hundred and forty years after President Lincoln's Emancipation Proclamation, African Americans have integrated into various levels of society; and

Whereas commemorating the 140th anniversary of the Emancipation Proclamation highlights and reflects the suffering and progress of the faith and strength of character shown by slaves and their descendants as an example for all people of the United States, regardless of background, religion, or race: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes the historical significance of the 140th anniversary of the Emancipation Proclamation as an important period in the Nation's history; and

(2) encourages its celebration in accordance with the spirit, strength, and legacy of freedom, justice, and equality for all people of America and to provide an opportunity for all people of the United States to learn more about the past and to better understand the experiences that have shaped the Nation.

SENATE CONCURRENT RESOLUTION 16—HONORING THE LIFE AND WORK OF MR. FRED McFEELY ROGERS

Mr. SANTORUM submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 16

Whereas Fred Rogers was born in Latrobe, Pennsylvania, in 1928;

Whereas Fred Rogers earned a degree in music composition, studied child development at the University of Pittsburgh, attended Pittsburgh Theological Seminary, and was ordained a Presbyterian minister;

Whereas Fred Rogers created ''Mr. Rogers' Neighborhood'' in 1966, and hosted the program through the Public Broadcasting Service (PBS) from 1968 through 2000;

Whereas ''Mr. Rogers' Neighborhood'' is the longest-running program on PBS;

Whereas ''Mr. Rogers' Neighborhood'' was created and filmed in Fred Rogers' hometown of Pittsburgh, Pennsylvania;

Whereas Fred Rogers' caring, genuine spirit reflects the values shared by the people of southwestern Pennsylvania and by so many neighborhoods throughout the country;

Whereas ''Mr. Rogers' Neighborhood'' continues to be a nurturing, educational program for children emphasizing the value of every individual and helping children understand how they fit into their families, communities, and country;

Whereas Fred Rogers was appointed Chairman of the Forum on Mass Media and Child Development of the White House Conference on Youth in 1968;

Whereas ''Mr. Rogers' Neighborhood'' won 4 Emmy Awards, ''Lifetime Achievement'' Awards, and 2 George Foster Peabody Awards;

Whereas Fred Rogers won every major award in television for which he was eligible;

Whereas Fred Rogers was inducted into the Television Hall of Fame in 1999;

Whereas President George W. Bush awarded Mr. Rogers the Presidential Medal of Honor in 2002;

Whereas Fred Rogers was also a prolific songwriter and author; and

Whereas Fred Rogers was presented with over 40 honorary degrees from colleges and universities: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress recognizes and honors Mr. Fred McFeely Rogers for—

(1) dedicating his career to the educational and imaginative children's program ''Mr. Rogers' Neighborhood'';

(2) the accomplishments of this influential program and the emphasis it places on the value of each individual within his or her community; and

(3) the compassionate, moral example he set for millions of American children for over 30 years.

SEC. 2. TRANSMISSION OF ENROLLED RESOLUTION.

The Secretary of the Senate shall transmit an enrolled copy of this concurrent resolution to Mrs. Joanne Rogers.

SENATE CONCURRENT RESOLUTION 17—ESTABLISHING A SPECIAL TASK FORCE TO RECOMMEND AN APPROPRIATE RECOGNITION FOR THE SLAVE LABORERS WHO WORKED ON THE CONSTRUCTION OF THE UNITED STATES CAPITOL

Mr. SANTORUM submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 17

Whereas the United States Capitol stands as a symbol of democracy, equality, and freedom to the entire world;

Whereas the year 2003 marks the 203d anniversary of the opening of this historic structure for the first session of Congress to be held in the new Capital City;

Whereas slavery was not prohibited throughout the United States until the ratification of the 13th amendment to the Constitution in 1865;

Whereas prior to that date, African American slave labor was both legal and common in the District of Columbia and the adjoining States of Maryland and Virginia;

Whereas public records attest to the fact that African American slave labor was used in the construction of the United States Capitol;

Whereas public records further attest to the fact that the five-dollar-per-month payment for that African American slave labor was made directly to slave owners and not to the laborer; and

Whereas African Americans made significant contributions and fought bravely for freedom during the American Revolutionary War: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) the Majority Leader of the Senate and the Speaker of the House of Representatives shall establish a special task force to include the Historian of the Senate, the Historian of the House of Representatives, the Architect of the Capitol, and the Librarian of Congress, to study the history and contributions of these slave laborers in the construction of the United States Capitol; and

(2) such special task force shall produce a summary document of the contributions of slave laborers and available research for the public, and shall recommend to the Majority Leader of the Senate and the Speaker of the House of Representatives an appropriate recognition for these slave laborers which could be displayed in a prominent location in, or near, the United States Capitol.

AMENDMENTS SUBMITTED & PROPOSED

SA 250. Mr. DURBIN proposed an amendment to the resolution of ratification for Treaty Doc. 107–8, The Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, Signed at Moscow on May 24, 2002.

TEXT OF AMENDMENTS

SA 250. Mr. DURBIN proposed an amendment to the resolution of ratification for Treaty Doc. 107–8, The Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, Signed at Moscow on May 24, 2002; as follows:

At the end of section 2, add the following new condition:

(3) COMPLIANCE REPORT.—Not later than 60 days after the exchange of instruments of ratification of the Treaty, and annually thereafter on April 15, the President shall submit to the Committee on Foreign Relations and the Committee on Armed Services of the Senate a report on the compliance of the President with the requirements of condition (a)(8) of the resolution of ratification of the Treaty on Reduction and Limitation of Strategic Offensive Arms, with Annexes, Protocols, and Memorandum of Understanding, signed at Moscow on July 31, 1991 (START Treaty), which states that ''[in] as much as the prospect of a loss of control of nuclear weapons or fissile material in the former Soviet Union could pose a serious threat to the United States and to international peace and security, in connection with any further agreement reducing strategic offensive arms, the President shall seek an appropriate arrangement, including the use of reciprocal inspections, data exchanges, and other cooperative measures, to monitor (A) the numbers of nuclear stockpile weapons on the territory of the parties to [the START Treaty]; and (B) the location and inventory of facilities on the territory of the parties to [the START Treaty] capable of producing or processing significant quantities of fissile materials''.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Tuesday, March 18, 10:00 a.m. in Room SD–366 of the Dirksen Senate Office Building.

The purpose of this oversight hearing is to receive testimony regarding water supply issues in the arid west. (Contact: Shelly Randel at 202–224–7933 or Jared Stubbs at 202–224–7556).

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150.

SUBCOMMITTEE ON WATER AND POWER

Ms. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, March 6, 2:30 p.m. in Room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on S. 212, a bill authorizing the Secretary of the Interior to cooperate with the High Plains States in conducting a hydrogeologic characterization, mapping, modeling and monitoring program for the High Plains Aquifer and for other purposes; and S. 220 and H.R. 397, bills to reinstate and extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois. (Contact: Shelly Randel regarding S. 212 at 202–224–7933, Kellie Donnelly regarding S. 220 and H.R. 397 at 202–224–49360 or Jared Stubbs at 202–224–7556).

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written for the hearing record should send two copies of their testimony to the Subcommittee on Water and Power, Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, March 5, 2003, at 10:00 a.m., to hear testimony on the Administration's Trade Agenda.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 5, 2003, at 10:30 a.m., to hold a Top Secret Briefing on the Turkish Aid Negotiations and Developments in Northern Iraq.

Briefers: The Honorable Beth Jones, Assistant Secretary for European Affairs, Department of State; The Honorable Earl Anthony Wayne, Assistant Secretary for Economic & Business Affairs, Department of State; The Honorable Ryan C. Crocker, Deputy Assistant Secretary for Near Eastern Affairs, Department of State; Mr. Ian Brzezinksi, Deputy Assistant Secretary for European and NATO Affairs, Department of Defense; and Major General Dunne, Vice Director, J–5, The Joint Staff, Washington, DC.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 5, 2003, at 3 p.m., to hold a hearing on Tax Convention with the United Kingdom (T.Doc. 107–19) and Protocols Amending Tax Conventions with Australia (T.Doc. 107–20) and Mexico (T.Doc. 108–3).

Witnesses

Panel 1: Ms. Barbara M. Angus, International Tax Counsel, Department of the Treasury, Washington, DC Mr. David Noren, Legislation Counsel, Joint Committee on Taxation, Washington, DC.

Panel 2: The Honorable William Reinsch, President, National Foreign Trade Council, Inc., Washington, DC.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, March 5, 2003, at 10 a.m., for a business meeting to consider S. 380 and also pending nominations before the Committee.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, March 5, 2003, at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct a BUSINESS MEETING on pending Committee business, to be followed immediately by a HEARING on the President's FY 2004 Budget for Indian Programs

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

COMMITTEE ON THE JUDICIARY

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''The Asbestos Litigation Crisis Continues—It is Time for Congress to Act'' on Wednesday, March 5, 2003, at 2 p.m. in Hart Senate Office Building Room 216.

Panel I: The Honorable MAX BAUCUS, U.S. Senator [D–MT], Washington, DC; The Honorable GEORGE V. VOINOVICH, U.S. Senator [R–OH], Washington, DC.

Panel II: Melvin McCandless, Williamston, NC; Brian Harvey, Vashon, WA; David Austern, Esq., President, Claims Resolution Management, General Counsel for the Manville Personal Injury Settlement Trust, Fairfax, VA; Dennis Archer, Esq., President-Elect, American Bar Association, Washington, DC; Jonathan Hiatt, Esq., General Counsel, American Federation of Labor and Congress of Industrial Organizations (AFL–CIO), Washington, DC; Steven Kazan, Esq., Partner, Kazan, McClain, Edises, Abrams, Fernandez, Lyons & Farrise, Oakland, CA.

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

SUBCOMMITTEE ON COMMUNICATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the subcommittee on Communications be authorized to meet on Wednesday, March 5, 2003, at 9:30 a.m. on E911.

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

PRIVILEGES OF THE FLOOR

Mr. JEFFORDS. Mr. President, I ask unanimous consent that Paul Veidenheimer, a fellow on my staff, be granted the privileges of the floor for the duration of the day.

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

Mr. LUGAR. I ask unanimous consent that Jason Hamm, a presidential

management intern for the Committee on Foreign Affairs Committee, be given floor privileges during the debate on the Moscow Treaty.

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

CORRECTED VERSION OF S. RES. 71 AS PASSED ON MARCH 4, 2003

Whereas a 3-judge panel of the Ninth Circuit Court of Appeals has ruled in Newdow v. United States Congress that the words ''under God'' in the Pledge of Allegiance violate the Establishment Clause when recited voluntarily by students in public schools;

Whereas the Ninth Circuit has voted not to have the full court, en banc, reconsider the decision of the panel in Newdow;

Whereas this country was founded on religious freedom by the Founding Fathers, many of whom were deeply religious;

Whereas the First Amendment to the Constitution embodies principles intended to guarantee freedom of religion both through the free exercise thereof and by prohibiting the Government establishing a religion;

Whereas the Pledge of Allegiance was written by Francis Bellamy, a Baptist minister, and first published in the September 8, 1892, issue of the Youth's Companion;

Whereas Congress, in 1954, added the words ''under God'' to the Pledge of Allegiance;

Whereas the Pledge of Allegiance has for almost 50 years included references to the United States flag, the country, to our country having been established as a union ''under God'' and to this country being dedicated to securing ''liberty and justice for all'';

Whereas Congress in 1954 believed it was acting constitutionally when it revised the Pledge of Allegiance;

Whereas the 107th Congress overwhelmingly passed a resolution disapproving of the panel decision of the Ninth Circuit in Newdow, and overwhelmingly passed legislation recodifying Federal law that establishes the Pledge of Allegiance in order to demonstrate Congress's opinion that voluntarily reciting the Pledge in public schools is constitutional;

Whereas the Senate believes that the Pledge of Allegiance, as revised in 1954 and as recodified in 2002, is a fully constitutional expression of patriotism;

Whereas the National Motto, patriotic songs, United States legal tender, and engravings on Federal buildings also refer to ''God''; and

Whereas in accordance with decisions of the United States Supreme Court, public school students are already protected from being compelled to recite the Pledge of Allegiance: Now, therefore, be it

Resolved, That the Senate—

(1) strongly disapproves of a decision by a panel of the Ninth Circuit in Newdow, and the decision of the full court not to reconsider this case en banc; and

(2) authorizes and instructs the Senate Legal Counsel either to seek to intervene in the case to defend the constitutionality of the words ''under God'' in the Pledge, or to file an amicus curiae brief in support of the continuing constitutionality of the words ''under God'' in the Pledge.

HONORING MR. FRED MCFEELY ROGERS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 16 submitted earlier today by Senators SANTORUM and SPECTER.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 16) honoring the life and work of Mr. Fred McFeely Rogers.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. SPECTER. Mr. President, I have sought recognition to pay tribute to Mr. Fred Rogers, the beloved host of the Public Broadcasting Service, PBS children's television program, Mister Rogers' Neighborhood.

For more than 30 years, America has been fortunate to have one of the most caring and dedicated neighbors in Mr. Rogers. His soft-spoken and patient manner put viewers at ease and allowed Mr. Rogers to courageously address adult topics such as death, divorce, and anger. The neighborhood of make believe residents helped to illustrate differences in people and teach children the importance of cooperation. From King Friday and Queen Sara Saturday to Henrietta Pussycat and Daniel Stripped Tiger, diversity, tolerance, and problem solving were not only taught, but celebrated.

Mr. Rogers is a role model for people and parents everywhere. His ability to communicate with children offered them a place, every morning, where they felt accepted and understood. Mr. Rogers, dressed in his signature cardigan sweater and tying his tennis shoes, often sang the song ''You Are Special'' in which he said, ''You are my friend. You are special to me. You are the only one like you. Like you, my friend, I like you.'' I cannot think of a more important lesson to teach children than the lesson of self-esteem. Mr. Rogers taught self-esteem, but he was never limited in his lessons. Just as importantly, he helped his viewers explore subjects they were curious about and develop their own sense of self and creativity through imagination, all the while helping to teach self-discipline.

Mr. Rogers was much more than simply a great neighbor. Born in Latrobe, PA, on March 20, 1928, Fred Rogers began his television career in New York City in 1951. With a music composition degree from Rollins College, Mr. Rogers served as an apprentice at NBC managing the musical selections for some of the network's earliest shows. In 1953, after marrying college sweetheart Sara Joanne Byrd, Mr. Rogers returned to Pennsylvania to develop programming at WQED in Pittsburgh. It was at WQED that Mr. Rogers' Neighborhood really flourished. After working as a puppeteer, Mr. Rogers had the opportunity to develop his own 15 minute segment that eventually became the Mr. Rogers Neighborhood that America knows and loves today. Over thirty years and almost 900 episodes later, the messages that Mr. Rogers delivered are as vital now as they were in 1960.

Mr. Rogers' accomplishments reach far beyond the boundaries of the neighborhood. Ordained by the Pittsburgh Presbytery in 1962, Mr. Rogers was active in child and family advocacy on all levels. In 1972, Mr. Rogers formed Family Communications, Inc. to produce educational entertainment for children and families and resources for teachers. Mr. Rogers most recently partnered with the Western Pennsylvania Caring Foundation to establish the Caring Place for grieving children in an effort to make sure that children who experienced a loss did not feel so alone.

During his career of service to children, families, and communities, Mr. Rogers was the recipient of two George Foster Peabody Awards, four Emmys, and two ''Lifetime Achievement Awards'' from the National Academy of Television Arts and Sciences and the TV Critics Association. In July 2002, Mr. Rogers was awarded the Presidential Medal of Freedom—the Nation's highest civilian honor—for his dedication to the well-being of children and for a career that demonstrates the importance of kindness, compassion, and learning. All of these awards added to the 30 honorary degrees that Mr. Rogers received throughout the years.

Mr. Rogers was no stranger to Capitol Hill. After testifying before the Senate in 1969, Mr. Rogers made an almost annual visit to Capitol Hill to express how deeply he believed in the importance of education. I was honored to have Mr. Rogers as a guest in my office during his many visits to the Senate. While walking around the U.S. Capitol with him, my Senate colleagues and their staff flocked to Mr. Rogers as if he were royalty, which he most certainly was. Always kind enough to stop and say hello or pose for a picture, Mr. Rogers truly epitomized the quintessential teacher, father, friend, guide, and neighbor.

Mr. Rogers' ability to talk about the things that really matter in childhood have made him an inspiration to two generations of children already, and to countless generations to come. Our nation's children are better today for having had the counsel and wisdom of Pittsburgh's own Mr. Rogers. All of us were truly fortunate to have had the best neighbor in Mr. Rogers.

Mr. BENNETT. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the matter be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 16) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 16

Whereas Fred Rogers was born in Latrobe, Pennsylvania, in 1928;

Whereas Fred Rogers earned a degree in music composition, studied child development at the University of Pittsburgh, attended Pittsburgh Theological Seminary, and was ordained a Presbyterian minister;

Whereas Fred Rogers created ''Mr. Rogers' Neighborhood'' in 1966, and hosted the program through the Public Broadcasting Service (PBS) from 1968 through 2000;

Whereas ''Mr. Rogers' Neighborhood'' is the longest-running program on PBS;

Whereas ''Mr. Rogers' Neighborhood'' was created and filmed in Fred Rogers' hometown of Pittsburgh, Pennsylvania;

Whereas Fred Rogers' caring, genuine spirit reflects the values shared by the people of southwestern Pennsylvania and by so many neighborhoods throughout the country;

Whereas ''Mr. Rogers' Neighborhood'' continues to be a nurturing, educational program for children emphasizing the value of every individual and helping children understand how they fit into their families, communities, and country;

Whereas Fred Rogers was appointed Chairman of the Forum on Mass Media and Child Development of the White House Conference on Youth in 1968;

Whereas ''Mr. Rogers' Neighborhood'' won 4 Emmy Awards, ''Lifetime Achievement'' Awards, and 2 George Foster Peabody Awards;

Whereas Fred Rogers won every major award in television for which he was eligible;

Whereas Fred Rogers was inducted into the Television Hall of Fame in 1999;

Whereas President George W. Bush awarded Mr. Rogers the Presidential Medal of Honor in 2002;

Whereas Fred Rogers was also a prolific songwriter and author; and

Whereas Fred Rogers was presented with over 40 honorary degrees from colleges and universities: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress recognizes and honors Mr. Fred McFeely Rogers for—

(1) dedicating his career to the educational and imaginative children's program ''Mr. Rogers' Neighborhood'';

(2) the accomplishments of this influential program and the emphasis it places on the value of each individual within his or her community; and

(3) the compassionate, moral example he set for millions of American children for over 30 years.

SEC. 2. TRANSMISSION OF ENROLLED RESOLUTION.

The Secretary of the Senate shall transmit an enrolled copy of this concurrent resolution to Mrs. Joanne Rogers.

MEASURE INDEFINITELY POSTPONED—S. CON. RES. 12

Mr. BENNETT. Mr. President, I ask unanimous consent that S. Con. Res. 12 be indefinitely postponed.

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

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a–1928d, as amended, appoints the Senator from Oregon (Mr. SMITH) as Chairman of the Senate Delegation to the NATO Parliamentary Assembly during the 108th Congress.

The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276h–276k, as amended, appoints the Senator from Alabama (Mr. SESSIONS) as Chairman of the Senate Delegation to the Mexico-U.S. Interparliamentary Group conference during the 108th Congress.

The Chair, on behalf of the President pro tempore, and upon the recommendation of the Majority Leader, pursuant to 22 U.S.C. 2761, as amended, appoints the Senator from Mississippi (Mr. COCHRAN) as Chairman of the Senate Delegation to the British-American Interparliamentary Group conference during the 108th Congress.

ORDERS FOR THURSDAY, MARCH 6, 2003

Mr. BENNETT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Thursday, March 6. I further ask unanimous consent that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate begin a period for morning business until the hour of 10 a.m., with the time equally divided between Senators HAGEL and DORGAN. I further ask unanimous consent that at 10 a.m., the Senate return to executive session and resume consideration of the nomination of Miguel Estrada to be a Circuit Court Judge for the DC Circuit, and that the time until the hour of 10:30 a.m. be equally divided between the chairman and the ranking member of the Judiciary Committee or their designees; provided further, that at 10:30 a.m., the Senate proceed to the vote on the motion to invoke cloture on the Estrada nomination.

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

PROGRAM

Mr. BENNETT. Mr. President, for the information of all Senators, tomorrow morning the Senate will be in a period for morning business until 10 a.m. Following morning business, the Senate will return to the Estrada nomination. At 10:30 a.m., the Senate will vote on the motion to invoke cloture on this important nomination. If cloture is not invoked on the nomination, the Senate will then resume consideration of the Moscow Treaty. Additional amendments are expected to the resolution of ratification and, therefore, Senators should anticipate votes throughout the day. The Senate will complete action on the Moscow Treaty this week.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. BENNETT. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:14 p.m., adjourned until Thursday, March 6, 2003, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 5, 2003:

DEPARTMENT OF STATE

ROLAND W. BULLEN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CO-OPERATIVE REPUBLIC OF GUYANA.

WAYNE E. NEILL, OF NEVADA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BENIN.

STEPHEN D. MULL, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF LITHUANIA.

DEPARTMENT OF JUSTICE

DIANE M. STUART, OF UTAH, TO BE DIRECTOR OF THE VIOLENCE AGAINST WOMEN OFFICE, DEPARTMENT OF JUSTICE. (NEW POSITION)

THE JUDICIARY

MICHAEL CHERTOFF, OF NEW JERSEY, TO BE UNITED STATES CIRCUIT JUDGE FOR THE THIRD CIRCUIT, VICE MORTON I. GREENBERG, RETIRED.

RICHARD C. WESLEY, OF NEW YORK, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT, VICE PIERRE N. LEVAL, RETIRED.

STEPHEN C. ROBINSON, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK, VICE JOHN S. MARTIN, JR., RETIRED.

P. KEVIN CASTEL, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK, VICE LAWRENCE M. MCKENNA, RETIRED.

SAMUEL DER-YEGHIAYAN, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS, VICE MARVIN E. ASPEN, RETIRED.