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Senate

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

PRAYER

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

Let us pray.

Eternal Lord God, the source of our highest joy, remind us that only in Your will can we find true peace and happiness. Change our hearts so that our actions will glorify Your name. Lord, bring us from behind our barricades of selfishness and teach us that it is more blessed to give than to receive. As Senators labor today, fill them with Your spirit so that they will seek to know and do the right thing. Save them from disunity and from decisions made solely in the name of politics. Give wisdom to their advisers, and throughout each day may each of us find moments to seek You in prayer. We pray this in Your strong name. Amen.

PLEDGE OF ALLEGIANCE

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

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

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning, the Senate will conduct a period for morning business to allow Senators to speak. Following morning business, at approximately 10:30 a.m., the Senate will resume consideration of the Interior appropriations bill. Under the order from last night, there will be 10 additional minutes for debate in relation to Senator DASCHLE's amendment on Indian health care. Therefore, the first vote of today's session will occur at approximately 10:45 a.m. Following that vote, we hope to be in a position to schedule additional votes on some of the other pending amendments.

We will recess from 12:30 p.m. to 2:15 p.m. for the weekly party luncheons to meet, and it is our hope to have additional votes prior to that recess.

We do expect to finish the appropriations bill today or this evening, if necessary. Once completed, we will continue with other appropriations bills, possibly the DC appropriations legislation.

I also remind Members once again that we will be scheduling votes on available judicial nominations and others throughout the week.

Over the course of the last 24 hours, people have been recovering in the region from the natural disaster we had last week. Our thoughts and prayers go out to them, of course. There are many people, including many people in this body, who do not have electricity or are having water problems. We had rain last night, so we have continued problems. We will continue to work together to get people back to normal lives, but our thoughts and prayers are with them.

Lastly, as I mentioned yesterday, this week is a very busy week in addressing the request for $87 billion to further the war against terrorism, and our goal is to have a good debate, good exchange of information, asking the tough questions. That started yesterday afternoon with some fantastic hearings chaired by the President pro tempore, who is in the Chair now, that went into last evening. Hearings will be held by a number of other committees over the course of this week, both in the Senate and the House of Representatives.

Next week, I hope to be able to address the request on the floor of the Senate. I would like to aim for having that request completed by the end of next week and before we go out for the following week.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The assistant minority leader.

Mr. REID. Mr. President, there are a number of amendments pending—the Bingaman amendment and another Daschle amendment. Unless something can be worked out with the managers, I am sure we can dispose of those by votes prior to the recess. Also, I say to the leader, that with respect to the contracting-out amendment, which will take a little more debate, we will be ready to vote around 3 o'clock on that amendment. At least the way amendments are now stacked, that is the most contentious amendment that has been filed.

I also say in the presence of the majority leader, and for Senators on our side and on the other side, the two managers are waiting for amendments. If there are amendments to be offered, they should do that as quickly as possible. Progress has been made more rapidly than I thought on this bill. With a little bit of good fortune, we can complete this bill fairly early this evening.

Mr. FRIST. Mr. President, I will close. I know people will be coming over to speak in morning business. We have an hour.

PRESIDENT BUSH'S VISIT TO THE UNITED NATIONS

Mr. FRIST. Mr. President, today President Bush will be addressing the United Nations, and he is asking those who champion freedom to pull together and support the reconstruction of Iraq. He will make a powerful case because freedom is a powerful force. Freedom is a beacon to people all over this land—

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

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indeed, all over the world. It leads countries to greatness and men and women to their highest aspirations. We look forward to hearing his comments later this morning.

It is clear this body will stand by the Iraqis, will help them build a free, prosperous, and democratic Iraq. Their future, indeed, our security and the security of civilized people everywhere depends on it.

Mr. REID. Mr. President, I also certainly wish the President the best of luck at the United Nations today. I think it is extremely important we have more support from the international community. I am very happy to see the President going there seeking that help.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business not to exceed 60 minutes, with Senators permitted to speak therein, with the first 30 minutes under the control of the Democratic leader or his designee, and the remaining 30 minutes under the control of the Senator from Texas, Mrs. HUTCHISON, or her designee.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BENNETT. I ask unanimous consent that I be allowed to proceed for 15 minutes on the Republican time.

Mr. WARNER. Mr. President, I have no objection, but I will indicate that I desire to follow the distinguished Senator from Utah. I will seek recognition at that time for another 4 to 6 minutes.

The PRESIDENT pro tempore. Does the Senator seek unanimous consent at this time?

Mr. WARNER. Yes.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Virginia will be recognized following the Senator from Utah.

The Senator from Utah is recognized.

A CHARGE AGAINST THE PRESIDENT

Mr. BENNETT. Mr. President, over the weekend the country heard one of the more senior Members of this body, the senior Senator from Massachusetts, make a charge against the President of the United States, particularly with respect to the war in Iraq.

The senior Senator from Massachusetts said the war in Iraq was ''hatched in Texas'' in a conversation between the President of the United States and the Republican leadership and that the purpose of attacking Iraq was to help the Republicans politically in the congressional elections of 2002. The Senator from Massachusetts summarized the President's position with respect to the war in a single word. He called it a ''fraud.''

To quote a comment from the Washington Post in another situation dealing with Iraq, this is a serious charge and it deserves a serious response. It is my attempt today to give a serious response to this charge.

If the charge made by the senior Senator from Massachusetts is accurate, then the President is deserving of a serious rebuke. If in fact the charge is not accurate, the senior Senator from Massachusetts is deserving of a serious rebuke.

I intend to examine whether or not the charge could be substantiated and give it the attention that I think it does in fact deserve.

I will turn not to sources that are friendly to the President of the United States; I will go in my analysis to those who have been critical of President Bush with respect to Iraq and to his Presidency generally.

Let me start by quoting a Presidential statement with respect to Iraq:

> Saddam Hussein's priorities are painfully clear, not caring for his citizens but building weapons of mass destruction and using them—using them not once, but repeatedly in the terrible war Iraq fought with Iran, and not only against combatants but against civilians, and not only against a foreign adversary but against his own people, and he has targeted Scud missiles against fellow Arabs in Iran, Saudi Arabia, and Bahrain.
>
> Nobody wants to use force, but if Saddam Hussein refuses to keep his commitments to the international community, we must be prepared to deal directly with the threat these weapons pose to the Iraqi people, to Iraq's neighbors, and to the rest of the world. Either Saddam acts, or we will have to.

As I say, that was a Presidential quote, but it was not from George W. Bush, and it was not after a meeting in Texas between George W. Bush and Republican leaders. That was a statement made by President William Jefferson Clinton on February 20, 1998—long before the congressional elections of 2002 and 2 years before George W. Bush became President of the United States.

The suggestion that President Bush created the fraud or the specter that Saddam Hussein had weapons of mass destruction does not stand up against that statement by President Clinton.

I make reference to the Washington Post. This is a newspaper that is not known for its support of either Republicans or President Bush. But they were a supporter of attacking Iraq and, as I have said, there were those who charged the Washington Post editors with a ''jingoistic rush to war,'' and the paper said, as I have noted:

> That is a serious charge and it deserves a serious response.

Then the paper goes on to make these comments:

> In fact, there is nothing sudden or precipitous about our view that Saddam Hussein poses a grave danger.

Quoting further:

> In 1997 and 1998, we strongly backed President Clinton when he vowed that Iraq must finally honor its commitments to the United Nations to give up its nuclear, biological, and chemical weapons, and we strongly criticized him when he retreated from those vows.

Again, that was a comment made after the supposed meeting in Texas and made after the congressional elections of 2002. If, indeed, President Bush made the decision to go into Iraq for purely political reasons, why would the Washington Post, which is not one of President Bush's supporters, be commenting after those congressional elections in a way that makes it clear they came to the same conclusion that President Bush did?

Would the Senator from Massachusetts suggest that the Washington Post was part of the conspiracy that went on in Texas prior to the congressional elections, and that the Washington Post was complicit in the fraud visited on the American people by the decision to go ahead in Iraq?

The Post editorial goes on, and this was February 27, 2003:

> When we cite Mr. Clinton's perceptive but ultimately empty comments, it is in part to chide him and other Democrats who take a different view now that a Republican is in charge. But it has a more serious purpose, too. Mr. Clinton could not muster the will, or the domestic or international support, to force Saddam Hussein to live up to the promises he had made in 1991, though even then the danger was well understood.

We need not stay within our shores to find those who believe the President made the right decision in Iraq. Let us go overseas. I had occasion to visit with a group of European Parliamentarians. One of them, who came from Great Britain, made this comment to me. He said they have never had a politician in Great Britain who is as poll-driven as Tony Blair, and they never had one who pays so much attention to focus groups. The man said Tony Blair almost allows focus groups to determine what kind of tie he will wear in the morning. Yet when we come to this Iraq business, said this particular Parliamentarian, Tony Blair is going against all of the polls and all of the focus groups. He is acting in a manner that is completely uncharacteristic for him as a politician. He is actually willing to risk his position as Prime Minister in order to make sure we go after Saddam Hussein. He said they cannot understand it, except on one possible basis, and that is that Tony Blair must be completely convinced that the information is correct, that the intelligence is right, and that Saddam Hussein does indeed pose a threat. He said that there is otherwise no explanation for the way he is behaving, that it is contrary to his entire political experience.

Would the senior Senator from Massachusetts suggest that Tony Blair was

part of a conspiracy in Texas prior to the 2002 elections, and that Tony Blair was convinced by the President of the United States he should help him win a Republican victory in the congressional elections by supporting the action in Iraq?

It is interesting when we are talking about Tony Blair we can once again turn to the words of William Jefferson Clinton. On March 18, 2003, once again, after the congressional elections had taken place, President Clinton had this to say in the Guardian Newspaper, published in Great Britain. He talked about those in America who were calling for action. Then he says:

On the other side, France, Germany and Russia are adamantly opposed to the use of force or imposing any ultimatum on Saddam as long as the inspectors are working. They believe that, at least as long as the inspectors are there, Iraq will not use or give away its chemical and biological stock and therefore no matter how unhelpful Saddam is, he does not pose a threat sufficient to justify invasion.

Here is President Clinton using a phrase that is now current in the Democratic Presidential race: ''He does not pose a threat sufficient to justify invasion.''

Then President Clinton goes on and responds to that statement by saying this:

The problem with their position is that only the threat of force from the US and the UK got inspectors back into Iraq in the first place. Without a credible threat of force, Saddam will not disarm.

Then President Clinton goes on to conclude:

If we leave Iraq with chemical and biological weapons, after 12 years of defiance, there is a considerable risk that one day these weapons will fall into the wrong hands and put many more lives at risk than will be lost in overthrowing Saddam.

. . . Prime Minister Blair will have to do what he believes to be right. I trust him to do that and hope the labor MP's and the British people will, too.

This is President Clinton supporting Prime Minister Blair in his support of President Bush after the congressional elections of 2002 have taken place.

Are we suggesting again that President Clinton and Prime Minister Blair and the Washington Post were all part of the conspiracy to perpetuate a fraud on the American people? I don't think so.

Now, I come to my final comment that I wish to make, again, from a source not friendly to the President. Once again, it is the Washington Post. I began with them and I shall conclude with them. This is an editorial published on August 10, 2003, almost a year after the congressional elections are over. They are referring to a speech made by the former Vice President, Al Gore:

The notion—that we were all somehow bamboozled into war—is part of Mr. Gore's larger conviction that Mr. Bush has put one over on the nation, and not just with regard to Iraq.

That is essentially what the senior Senator from Massachusetts said, and which the former Vice President said, and the Washington Post repeats that. This is the comment they make, referring to that proposal President Bush ''put one over on the nation.''

The Washington Post says of that idea that it is:

. . . one that many Americans might find a tad insulting: The administration has developed a highly effective propaganda machine to embed in the public mind mythologies . . .

Again, that is Vice President Gore's comment, and that was the gist of what the senior Senator from Massachusetts said.

Back to the Washington Post:

Thus, Mr. Gore maintains, we were all under the ''false impression'' that Saddam Hussein was ''on the verge of building nuclear bombs,'' that he was ''about to give the terrorists poison gas and deadly germs,'' that he was partly responsible for the 9/11 attacks. And because of these ''false impressions,'' the nation didn't conduct a proper debate about the war. But there was extensive debate going back many years; last fall and winter the nation debated little else. Mr. Bush took his case to the United Nations. Congress argued about and approved a resolution authorizing war. And the approval did not come, as Mr. Gore and other Democrats now maintain, because people were deceived into believing that Saddam Hussein was an ''imminent'' threat who had attacked the World Trade Center or was about to do so.

They conclude:

It would certainly be fair now to argue that the logic was wrong. There was a cogent case to be made against the war, and even those who supported it might now say that the absence of any uncovered weapons of mass destruction, or the continuing violence against Americans, gives them, in hindsight, a different view. There's plenty to criticize in the administration's postwar effort, too. What isn't persuasive, or even very smart politically, is to pretend to have been fooled by what Mr. Gore breathlessly calls the Bush ''systematic effort to manipulate facts . . .''

From these sources outside of the Republican base and outside of the administration, it is clear the senior Senator from Massachusetts has made a charge he cannot substantiate.

The PRESIDING OFFICER. Under the previous order, the Senator from Virginia is recognized.

Mr. WARNER. Mr. President, first, I compliment my distinguished colleague from Utah. The Bennett family has given two generations of service to the Senate, and the Senator can speak with a background and understanding of this institution and a conscience for this institution to follow. I commend my distinguished colleague.

I join this morning in speaking out about this situation, and indeed, if I may say, the responsibility of this Chamber, each individually and collectively, as we deal with these issues. I have been privileged to be a member of this Chamber for a quarter of a century. I, too, was gravely concerned to hear remarks from several of our colleagues regarding criticism of this operation in Iraq. Criticism is welcome. Our President welcomes it. It is freedom of speech. But there seems to be a responsibility, if you criticize, answer the question, Are we as a nation—is the world better off today, having deposed Saddam Hussein and his regime of terrorism, or should we have left it as it was?

That question has to be answered by those who wish to employ this strident rhetoric, but they fail to do so.

Throughout the military history of this country, from World War I, World War II, Korea, Vietnam, Afghanistan, Iraq, our military planners have done their best—a clear victory in World War I, a clear victory in World War II, an indecisive conclusion in Korea—still there is no armistice as such—and an indecisive and somewhat tragic conclusion in Vietnam. So as we look at the records in Afghanistan, militarily, it clearly was a success. Could the planning have been more comprehensive? Possibly so. And there will come a time—and I wish to stress that—there will come a time when this Chamber and the House of Representatives and the Congress as a whole can determine the accountability for these operations.

At this time, our focus should be behind the Commander in Chief, our President, who at this very moment is addressing the United Nations on the policies and the goals of our Nation working with a coalition of forces in Iraq.

Mr. BENNETT. Will the Senator yield for a question?

Mr. WARNER. I yield.

Mr. BENNETT. Mr. President, the Senator is the military historian and has served as Secretary of the Navy. Could the Senator confirm my recollection that General Eisenhower once said, before the attack: The plan is everything? After the attack starts, the plan goes out the window.

Is that a correct quote? And does that apply in this situation?

Mr. WARNER. Mr. President, I think that carefully paraphrases what that brilliant strategist and President said. There is no doubt about it. And there will be a time to determine what went right, what did not go according to plan, and such deficiencies, and the accountability. But right now our obligation is owing to the men and the women who are fighting there and their families at home. Stop to think of the reaction of a young wife, surrounded by small children, not knowing from day to day whether her husband will survive another day's engagement in Afghanistan or Iraq, and they hear this whole thing has been a fraud perpetrated upon this family and was made up in Texas. I find that very painful.

I have had the privilege of almost a lifetime of association with the men and women of the Armed Forces of the United States—over half a century. Modest was my contribution on active duty, but through this half century I have learned much from these men and women with whom I have been privileged to work and support now as a Member of the Senate.

We always have to focus on that family and their reaction to every word we say on this floor, every word that is said in the Congress. How does it affect that young wife or spouse of a female serving in uniform, as many are in these troubled areas of the world? How is that family affected, and not only the children but the parents?

By and large, people who go into uniform do so solely for patriotism. It is an all-volunteer force. There is no draft. No one is compelled to do this. They volunteer. They volunteer as a consequence of the inspiration of their older brothers and sisters, their fathers, their uncles, their grandfathers who have served in previous military conflicts.

They look upon the Congress as that bastion that safeguards—safeguards—those who are put in harm's way. I ask, do these comments constitute embracing, as we should, those families, those children? Is that safeguarding those put in harm's way? I say no.

I simply say the goal of this operation in Iraq and the goal of the operation in Afghanistan is to bring to those troubled regions of the world, at long last, a measure of freedom for the peoples of those nations, a measure of their ability to govern themselves.

I am proud the United States, behind our President, has taken that leadership to bring about that measure of freedom and democracy in those foreign lands. Yes, each of us is paying by the loss of life, the loss of limb, but history will record, in this hour of world history, America stands strong. It is committed to its goals. I am confident this body will support our President on measures that he needs to fulfill these objectives.

The decision to confront Saddam Hussein was not without careful deliberation, extensive diplomacy, and substantial effort to find a peaceful solution. It had been the conclusion of three consecutive American administrations, countless other nations, and the United Nations that Saddam Hussein's Iraqi regime had weapons of mass destruction, had used them on his own people and neighboring countries, and was a clear and present danger to regional and world peace. It had been the conclusion of the Clinton administration that Saddam Hussein had stockpiles of weapons of mass destruction, was actively seeking more, and would ultimately use them again. The United Nations Security Council had passed 17 resolutions, stretching back to 1991—12 years—requiring full cooperation in disarming itself of weapons of mass destruction. Saddam Hussein's response was defiance and deception.

In October 2002, after an unprecedented amount of debate, the Senate voted 77–23 to authorize the President to use force in Iraq. The House of Representatives also voted overwhelmingly in favor of authorizing the use of force. By that act, it became our war and the American people's war, not the President's war. At this critical juncture, it is our responsibility to provide the resources necessary to finish the job.

American armed forces, joined by a robust coalition, achieved extraordinary, rapid military success in Iraq, with minimum casualties and damage. This is a clear tribute to the professionalism and dedication of our young men and women in uniform and those who support them. We have succeeded in ridding the world of a brutal tyrant and have revealed the extent of his barbarism. We should be congratulating our President and our armed forces on a job well done, not criticizing and undermining their heroic efforts.

Extensive planning was done for combat operations, as well as post conflict stability operations. We all know that no plan survives its initial confrontation with reality on the battlefield. Plans must be flexible and adapt to conditions as they are encountered. No one could have anticipated the complete disintegration of Iraqi security and governance institutions. No one knew how badly the Iraqi infrastructure had deteriorated under Saddam Hussein's 30-plus years of mismanagement.

American forces and coalition partners have done a remarkable job of restoring basic services, rebuilding schools and hospitals, preventing ethnic violence and creating an environment where reconstruction can succeed. This is being done in a difficult environment of harsh conditions and significant risk, as those who have been removed from power seek to delay inevitable defeat and as terrorists lash out at the loss of another haven.

What is the best way to reduce U.S. casualties and create the conditions for withdrawing U.S. troops? The key is to improve the security situation by restoring essential services, recruiting and training dependable, indigenous Iraqi security forces, and repairing the infrastructure so that real economic growth and opportunity can flourish. The emergency supplemental request of $87 billion submitted by President Bush specifically addresses this need.

It is imperative that we give our President and our troops the resources they need to complete their missions in Iraq and Afghanistan. The faster the money gets to these countries, the faster conditions will improve, and the faster our troops will come home. We must, and we will, stay the course and achieve our goals. This is also a clear message of support and resolve to our troops, their families, and the neighborhoods and communities that support them.

Lasting peace and security in Iraq will be achieved when we establish the environment for a democratic, economically viable Iraq. The supplemental request now before the Congress will ensure such an environment and is the best path to the earliest possible return of our troops. Half a century ago, the Marshall plan brought peace and prosperity to a war-ravaged continent. That modest investment has been repaid a hundredfold or more. The funding we are being asked to provide for this important region is an equally important investment that will, likewise, be repaid many times over in the decades to come. I urge my colleagues to support and rapidly approve the President's request and send a message of overwhelming bipartisan support to our troops, and to all American citizens, of the need to stay the course and secure this important victory in the war on terrorism.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from Texas.

Mrs. HUTCHISON. Mr. President, it was my understanding that the Democratic side had from 9:30 to 10, and the Republican side from 10 to 10:30. Could you clarify where we stand at this point?

The PRESIDING OFFICER. There were 60 minutes divided starting at 9:38 a.m. Currently on the majority side there are 6½ minutes; on the minority side there are 7 minutes 40 seconds.

Mrs. HUTCHISON. Mr. President, I would like to ask, then, that the minority take its time, after which I would like to reserve the remainder of our time for Senator SANTORUM.

Mr. REID. Mr. President, we are not going to take our time now.

The PRESIDING OFFICER. Who yields time?

Mrs. HUTCHISON. Mr. President, let me clarify that. What is the status, then, of the minority's time allocation?

The PRESIDING OFFICER. They have 7 minutes 41 seconds. The majority has 6 minutes 25 seconds.

Mrs. HUTCHISON. Mr. President, it was my understanding that——

The PRESIDING OFFICER. There is no agreement. The time is just equally divided.

Mrs. HUTCHISON. May I ask the distinguished minority leader what his intentions are, then, with regard to the minority time, because we had thought we had a division that is the tradition here where the minority takes the last 30 minutes on one day and then the majority the next.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the Senator from Texas is correct. What happened this morning is the majority went ahead of their normal time. I say to my friend, the Senator from Texas, we are going to ask for more time, anyway. Quite frankly, we didn't know when morning business was scheduled that the purpose was to attack another Senator. Based upon that, we are going to ask, when all time expires, for more time. So we should all have time to state our respective positions.

We have a number of Senators who are on their way to the Chamber now. Senator DODD is here now to say a word regarding the statements that have been made by the majority. So we are going to ask for more time.

Mrs. HUTCHISON. Mr. President, in that case, I will withhold for our majority leader to make a decision about what the time allocation would be, and I yield up to 5 minutes to Senator SANTORUM.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Thank you, Mr. President. And I thank the Senator from Texas.

Having reflected on this debate on Iraq and postwar Iraq, a lot of what I am hearing—the rhetoric I am hearing about this administration not having a plan, this administration not preparing for all the contingencies, this administration not having an exit strategy or an end strategy—reminds me of a couple of things. No. 1, it reminds me about the same people making the same criticism about the same administration about a month into the war that the generals didn't consider all the different problems they were going to confront, they didn't have a plan, didn't have an exit strategy, et cetera—and then 2 weeks later the war was over.

I am not suggesting that 2 weeks from now everything in Iraq is going to be settled, but this idea that every contingency had to be considered is ridiculous. No one is smart enough anywhere to consider every contingency. What you are smart enough to do is put a basic game plan in place, and then, as things develop, have that game plan flexible enough to adjust and meet those contingencies. It is exactly what Tommy Franks did when he put the game plan together for the war in Iraq. As things changed and developed, as new things came up, they adjusted. It is exactly what is going on with Jerry Bremer over in Iraq today.

I also harken back to postwar Germany after World War II. A lot of analogies are being made by both sides about the importance of this reconstruction of Iraq as was the reconstruction of the Axis powers after World War II. I remind my colleagues that this plan Truman gets a lot of credit for, Marshall gets a lot of credit for, was not in place until 2 years—2 years—after Germany fell. It was not passed in the Congress until 3 years after Germany fell.

I remind my colleagues of some of the comments some Members of this body made and some Members of the House made back then. A House Member, a Mr. Vursell, from Illinois, said—this is in the CONGRESSIONAL RECORD—

> There is little question in my mind but that the launching of the Marshall plan asking 16 nations to gather in conference and determine how much aid they needed from the United States was a colossal blunder in the very beginning.

Does this sound familiar—''a colossal blunder''?

He said:

> It will be less disastrous to this country if the Members of this Congress will now take over and have the courage to try to salvage what we can in the interest of our Government and the [American] people.

Now you are hearing the same thing today.

History proved that great leadership and great vision have their place in the world. Sometimes Members of Congress, with very narrow vision and very parochial interests, don't necessarily do what is in the best interest of the Nation or the best interest of the world.

What the President is doing is providing true leadership at a time when leadership is at a premium. He provided in the Iraq war a great plan. He stuck to it in spite of criticism and followed that plan to its successful conclusion.

There were speeches in the Senate, both sides of the aisle, about how difficult not the war was going to be but how difficult postwar Iraq was going to be, that it would be the difficult and long challenge. Yet here we are a few months afterwards and we are already carping, saying it is not finished, it has not been accomplished. Yet by every measure, we are doing much better in postwar Iraq than they did with the most successful reconstruction plan in the history of the world, the Marshall plan. We are moving forward with economic reforms, currency reforms, banking reforms, money to be put in to restore their infrastructure at a much faster and more effective rate than what occurred after World War II. This is a plan that needs time to work.

I understand the pressures of the 24-hour news cycle. Thankfully, in 1947 they didn't have that. But we have it today. And so the need is always immediate. There can be no room for delay or failure. We are in a push-button world, and we have to solve the problems today.

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

Mrs. HUTCHISON. Mr. President, what is the status of the time?

The PRESIDING OFFICER. One minute 14 seconds left.

Mrs. HUTCHISON. For the majority side. And how much on the minority side?

The PRESIDING OFFICER. Seven minutes 41 seconds.

Mrs. HUTCHISON. Mr. President, I am going to use the 1 minute 14 seconds to say that there is one thing I must object to that was said recently by Senator KENNEDY, when he said that the war is ''a fraud that was made up in Texas to give the President a political boost.'' I have great respect for Senator KENNEDY and every Senator who represents his or her State in this body. But that is a slur on my home State of Texas, to say this plot was made up in Texas.

I remind the people of America that Texas is a patriotic State, that Texas has 1 in 10 Active-Duty military. On the very day that statement was made, a plot in Texas to help a political campaign of a President, in fact, on that very day, three Texas soldiers were ambushed in Iraq and lost their lives serving our country. Those are great Texans. The 4th Infantry Division from Fort Hood, TX, is there now, as we speak.

As I traveled through Afghanistan and Iraq, I met Texans who were serving their country. I don't think there should ever be a slur on another State when we are talking about foreign policy or the policies of a President.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ATTACK ON SENATOR KENNEDY

Mr. DASCHLE. Mr. President, I know we are still negotiating with regard to the schedule for the course of the next hour or so. We will ask for some additional time to respond to this attack on Senator KENNEDY. I believe this is getting to be a real practice here. I was the brunt of similar criticism last spring. It seems as if anyone who comes to the floor to express concern or to express his or her views on Iraq is now the subject of attack.

Regardless of one's views, to impugn someone's patriotism, to question the motives, to challenge the integrity is wrong. We ought to have an opportunity to have an open, candid expression of views without challenging——

Mr. BENNETT. Will the Senator yield for a question?

Mr. DASCHLE. I am going to finish my statement and I will be happy to yield to the Senator from Utah.

We ought to have an opportunity to have this open discussion and expression of views without challenging the motives, the patriotism, or the very right of any Senator to express him or herself. Senator KENNEDY did that. Many of us have done that now over the course of the debate. We may ultimately come to different conclusions about what the facts are or about the specific policies involving Iraq or our involvement in the questions we are facing right now with regard to the $87 billion. But I must say, let's keep this an open and fair discussion of the facts, without always impugning someone's integrity or personal motivation.

I am happy to yield to the Senator from Utah. I am told we only have a couple minutes left. Until we reach agreement, I will yield at this time to the Senator from Connecticut.

Mr. BENNETT. Mr. President, I asked unanimous consent that the exchange between the Democratic leader and myself not be charged to their time, if he would be willing to yield for a question.

The PRESIDING OFFICER. Is there objection? Does the Senator yield for a question?

Mr. DASCHLE. I am happy to yield to the Senator from Utah for a question.

Mr. DODD. Under the circumstances the Senator from Utah has described, this will not detract from the time?

The PRESIDING OFFICER. That is correct.

Without objection, it is so ordered.

Mr. BENNETT. My question is very simple: I ask the Democratic leader if at any time in my presentation did he find where I attacked the motives, the patriotism, or the rights of the Senator from Massachusetts? My intent was—and it is my belief that I stood up to my intent—to challenge the accuracy of the statement of the Senator from Massachusetts, never having made any reference to his motives, his patriotism, or his rights. If the Democratic leader has instances where I did that, I would appreciate it if he would point that out to me so I can make the appropriate response.

Mr. DASCHLE. Mr. President, I was not on the floor when the distinguished Senator from Utah spoke. I am relating not necessarily to his comments specifically but to this general approach Members on the other side seem to use any time one of those in the Democratic caucus speaks out, expresses him or herself, raises concerns or in some way criticizes this administration with regard to its policy in Iraq. There is an orchestrated effort to attack those who criticize.

I am not saying that the Senator from Utah may have done so specifically on the floor this morning. I will look forward to reading his comments. But that is the approach. I think it is unfair. I think it is unfortunate. It demeans the debate that we ought to be having in the Senate about these important issues.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, how much time remains?

The PRESIDING OFFICER. Four minutes fifteen seconds.

Mr. DODD. I yield myself 2 minutes.

I wish to quickly respond to my colleagues and friends on the other side. I supported the President's request for authority in Iraq. I believed at the time that was the right vote to cast.

But it is important to focus on the war issue and what is going on in Iraq in the construction period, the economic and political efforts there. There is growing concern, both here and abroad, that this is not going well. We can spend all day debating about what our colleagues said or didn't say, what their motives or intentions were, but that diverts attention from what the debate ought to be; that is, we have a request before us for $87 billion. We will have to vote on that in the coming days. The American people want to know where we stand on that. How is the money going to be spent? Where is it going?

Why are we losing a soldier a day it seems, or 10 are being wounded every day? Why isn't the rest of the world joining us? What efforts are being made? The President may be giving a speech right now at the United Nations. Spending our time in this great deliberative body arguing over what one of our colleagues said over the weekend in an interview detracts from what ought to be the real debate, and that is whether we are on the right track or the wrong track when it comes to rebuilding Iraq, getting the government turned over to the Iraqi people, getting international support for the efforts and how the taxpayer money is going to be used.

Spending our time talking about what Senator KENNEDY said—I think his spirit reflects where many Americans are. You may not agree with every word. That is not the point. We rarely agree around here on speeches we give, but we ought to be debating how we get it right in Iraq instead of spending time this morning arguing about whether or not we agree or disagree with what our colleague said in an interview in his home State. The American public wants to know what is happening in Iraq, not what is happening in Massachusetts—not what one said but what is the policy of this Government and what is the Senate saying about it. That ought to be the debate.

Mr. President, I don't know if any of my colleagues want to be yielded some time.

Mr. REID. Mr. President, morning business has expired. I would ask unanimous consent—and I do this with the greatest respect—that we, the minority, be given the next 20 minutes and that the minority have 10 minutes to respond.

The reason I suggest that is that there has been a half hour here directed toward one Senator. We think that we would, with the 7 minutes we have been given and the 20 minutes that I am asking, be nearly balanced—not totally balanced. In fact, it would still be out of balance, with 40 minutes for one side and about 30 to respond to that—in fact, 27. So I would ask unanimous consent that we be given the next 20 minutes; following that, the majority be recognized for 10 minutes, still as if in morning business, and that the work of the Interior appropriations subcommittee, the vote, plus the 10-minute speeches prior to the vote, be set aside for 30 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. BURNS. Mr. President, reserving the right to object, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator cannot suggest the absence of a quorum until he gets time.

Mr. REID. I withdraw my unanimous consent request and note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I renew my unanimous consent request.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? Without objection, it is so ordered.

Mr. LEAHY addressed the Chair.

Mrs. HUTCHISON. As to the unanimous consent request, for clarification, after the 30 minutes that we have just allocated by unanimous consent, there will be 10 minutes equally divided on the Daschle amendment, after which there will be a rollcall vote. So Members would know that at about 11:20 to 11:25 we will have a vote.

Mr. REID. That is true.

The PRESIDING OFFICER. Who yields time?

The Senator from Vermont.

Mr. LEAHY. Mr. President, I am not quite sure. What is the parliamentary situation?

Mr. DASCHLE. Mr. President, as I understand it, if I could answer the Senator from Vermont, we have 20 minutes now. The Republicans have 10 minutes. We will allocate that time as if in morning business. I would be happy to yield 5 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. LEAHY. Mr. President, I have listened to my friends on the other side of the aisle who have come to the Senate floor this morning to criticize the senior Senator from Massachusetts, Mr. KENNEDY.

Last week, Senator KENNEDY, speaking for millions of concerned Americans, challenged the President and his advisers for misleading the country about the war in Iraq.

Every Senator is free to disagree with the views of another Senator. That is the nature of debate. But too often, officials in this administration, and some of my Republican friends, have questioned the patriotism, and the right to disagree, of those who criticize policies they believe are fundamentally flawed.

Senator KENNEDY has asked hard and important questions about a policy that—contrary to what the American people were told to expect—has already resulted in the loss of life or limb of hundreds of American soldiers and is costing billions of dollars with no end in sight.

The reality is that since the fall of Baghdad, practically everything the White House and the Pentagon predicted about Iraq has turned out to be wrong. Yet you would hardly know it from listening to officials in Washington who consistently give evasive and overly optimistic assessments.

The administration's own shifting statements show that the threat posed by Iraq was not what we were led to believe.

Just a few months ago, Vice President CHENEY insisted that Saddam Hussein had reconstituted nuclear weapons. No weapons of mass destruction have yet been found.

Last week, Secretary Powell said the use of chemical weapons against the Kurds was the justification for a preemptive war 15 years later. As much as I admire and respect the Secretary, that is grasping at straws.

For months, the White House and the Pentagon tried mightily to draw a connection between Saddam Hussein and the attack against the World Trade Towers. Last week, the President belatedly conceded that there was no link.

Vice President CHENEY said our troops would be treated as liberators. I am sure that most Iraqis are grateful that Saddam Hussein is gone. I am too. But it is clear the Iraqi people increasingly don't want us there.

We should all be concerned that when our soldiers—who have performed so bravely—are ambushed and killed, there seems to be increasing jubilation in the streets, and not just by the remnants of Saddam's regime.

Then, there is the issue of cost. Five months ago we passed a wartime supplemental with $2.5 billion for reconstruction in Iraq. At the time, we were told that was all that U.S. taxpayers would be asked for this year. That, we have learned, was a gross miscalculation.

Former-OMB Director Mitch Daniels said the total cost would be between $50 and $60 billion. Deputy Defense Secretary Wolfowitz said:

We're dealing with a country that can really finance its own reconstruction, and relatively soon. The oil revenues of that country could bring between $50 and $100 billion over the course of the next two or three years.

We now know those predictions were wildly off the mark.

We are also paying other countries to support us. The State Department's own documents show that since April, the United States has provided almost $4 billion to coalition partners, other nations who supported our efforts in Iraq, and allies in the region. This does not include billions of dollars in loans.

Now the President wants another $87 billion for Iraq. Within a year, we will have spent far more than $100 billion, and it is clear that the administration will be back for many more tens of billions of dollars before next year is out.

We don't have this money in the bank. It is red ink. We are headed for a $1 trillion deficit, which will fall squarely on the backs of our children and grandchildren. That could very well be our most lasting legacy.

We are spending all this money in Iraq, but there is no supplemental to help the hundreds of thousands of Americans who have lost their jobs here at home. There is no money to fix our dilapidated public schools. There is no money for health care for the millions of Americans who lack health insurance. None for low income housing for Americans living in poverty.

I hope my Republican friends who have rushed here to defend the President's preemptive war and his policy of nation building, are also concerned about how much it may cost, how long it may take, and how many American troops may be needed in the years to come. They should be asking these questions too.

We cannot continue to drift along, spending more than $1 billion a week, with no plan other than business as usual, no realistic time table, every week another four or five Americans killed or wounded, and the growing resentment of the Iraqi people.

It is long past time to abandon the same old ''go it alone'' strategy. We need to get the international community involved. We need to work towards bringing our soldiers home sooner rather than later.

The PRESIDING OFFICER. Who yields time?

Mr. DASCHLE. Mr. President, I thank very much the Senator from Vermont for his comments. I think I will simply add that the vast majority of the American people agree with him. I appreciate very much his contribution to this discussion.

Teddy Roosevelt once said:

> To announce that there must be no criticism of the President or that we are to stand by the President right or wrong is not only unpatriotic and servile but it is also morally treasonable to the American public.

There has to be open dialog, candid discussion about the extraordinary ramifications of many of the issues that are confronting us relating to Iraq, or we will be morally treasonable.

The President has requested an additional $87 billion in money for Iraq over the next several months. Requesting the money is no substitute for a plan, and the President has no plan. In fact, we don't know where the money has gone so far. There is little accounting of the billion dollars a week that we are currently sending to Iraq—$1 billion a week, with very little if any transparency with regard to that commitment.

Now the President is saying he wants $87 billion more. General Anthony Zinni recently spoke to a group of Marine officers, and here is what he said:

> [Our troops] should never be put on a battlefield without a strategic plan, not only for the fighting—our generals will take care of that—but for the aftermath and winning that war. Where are we, the American people, if we accept this, if we accept this level of sacrifice without that level of planning? Almost everyone in this room, of my contemporaries—our feelings and our sensitivities were forged on the battlefields of Vietnam; where we heard the garbage and the lies, and we saw the sacrifice. We swore never again would we do that. We swore never again would we allow it to happen. And I ask you, is it happening again? And you're going to have to answer that question, just like the American people are. And remember, every one of those young men and women that don't come back is not a personal tragedy, it's a national tragedy.

You cannot say it any more powerfully than that. That was not some politician. That wasn't one of our elected Senators. That was General Anthony Zinni, who knows a great deal about sacrifice and about what it is to go into circumstances like this without a plan.

So I think it is incumbent upon us to ask the questions: Where is the plan? What will it cost? Why can't we get better international support? How long will our troops be there? When will they come back? What level of cooperation are we getting from the Iraqis themselves?

If you read the papers in the last couple of days, we are not even getting full support from the Iraqi Council.

I think it is critical, especially in these days before the supplemental is brought before the Senate floor, that the level of debate, the questions that we have a right to ask, are asked and answers are given. Where is the sacrifice, you might ask, when the average tax cut for those at the top 1 percent is $238,000 this year? Where is the sacrifice for those who benefit the most?

We are asking a lot of sacrifice from our soldiers. We are asking a lot of sacrifice for those veterans who come back. Then we tell them we are not going to give them the full measure of support in the budget for the health care needs they have once they are here? You see the bumper stickers: ''Support Our Troops.'' What happened to our veterans? Why don't we see the same bumper stickers with some advocacy, some recognition of the need to support our veterans, too? But it is not in the administration's budget. We are told we can't afford it. We are told they have to just suck it up and sacrifice. The sacrifice is not being borne equally, and that is what many of us have been asking a long time—why not? Why not?

So I look forward to the coming days where we can have an all-out debate. Many of us will be presenting alternatives, amendments to this request by the President. We will have more debate about that matter. I know there are other Senators who wish to be recognized and to speak in the time that we have remaining.

I yield such time as he may wish to the distinguished Democratic whip.

Mr. REID. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator has 9 minutes 20 seconds.

Mr. REID. I ask Senator DODD be given the last 2 minutes.

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

Mr. REID. Mr. President, in baseball you have seen the teams pile onto each other. That only happens on one occasion, generally, in baseball, which I understand quite well. One of the pitcher's weapons is to throw a ball inside, and that happens all the time to keep the batter loose. But you never throw at someone's head. That, in effect, is what happened here, and that is why we have had the Senators rallying here because, in effect, someone threw a ball at the head of one of our Senators, and that is not right.

I appreciate very much Senator DODD, whom we all know is a close personal friend of Senator KENNEDY—I

would expect nothing less—defending his close personal friend. But he also defends the institution itself. He is in the process not only of defending his close personal friend but the institution.

As we have said, people who deliver a message that this administration doesn't like are attacked. There is no better example of that than Senator DASCHLE, who has been attacked personally with TV ads being run against him in his own State by people who are just voicing the administration's line. There have been many other ways he has been attacked.

When it comes to rebuilding Iraq's infrastructure—the electric grid, the water supply, the highways—I think there are a number of questions that need to be answered for the American people. People may not have liked how Senator KENNEDY phrased his objection to what has gone on and what is going on, but he said it. He raised issues. Let's not attack him; let's talk about the issues.

I have some questions. What are the assumptions underlying the President's request for $87 billion, and how many months for reconstruction will it cover? Why haven't we done more for Afghanistan? That is a question I have. What is the best case scenario for international contributions? What will the administration request next year? What is going on with Iraqi oil revenue, which we were led to believe would pay to rebuild the country? What happened to their seized assets?

Another question is, Why is the contracting process less transparent than U.S. law requires, and which companies are profiting from these contracts? What is the status of the Iraqi Army and the police?

The American people deserve answers to these questions. That is why Members of Congress, including decorated Members such as Congressman MURTHA and Senator HAGEL, have been raising these and other questions. No one should question their patriotism. They are doing their duty just as Congressman MURTHA and Senator HAGEL did when they wore the uniform of the American military.

No one should dream of questioning the patriotism of Senator KENNEDY, who has served the body for four decades. He doesn't have all the answers of what is going on in Iraq, but he has a right to ask questions. The responses to his questions, unfortunately, have all been too familiar. Whenever someone has the temerity to criticize the actions of this administration, the response is a personal attack.

A former Member of this body, Senator Max Cleland, was the first to recognize the need for the Department of Homeland Security. But he didn't agree with every detail of the administration's plan for that Department. So this man was attacked and his patriotism was questioned during the 2000 Presidential race. Even Senator MCCAIN, who served 7 years in a prisoner of war camp in Vietnam, was attacked because he did not agree with the President on every issue.

The list goes on. It should trouble any of us when Americans feel free to raise questions about the policies of their Government and then are criticized. What troubles me is when those questions go unanswered and personal attacks take place.

I have asked questions about today's plan in Iraq because my ultimate concern is the protection and safety of our troops. I will do anything I can to support our troops in every way possible. They will get every dollar they need for security and ongoing military operations. But I don't want to give Iraq a blank check, while our children get a bounced check for education, while our efforts to rebuild our own roads and power grids go begging.

The President has the responsibility as commander in chief to bring the international community together and rally our allies behind a comprehensive plan that will complete our mission in Iraq. We cannot continue to fight a war without a plan for victory.

Mr. President, we have a lot of questions. It has nothing to do with one's patriotism. We have a right to ask these questions. I say to the administration, please don't attack the person who asked the question. Answer the question.

I yield whatever time I have remaining to the Senator from Connecticut.

Mr. DODD. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Connecticut has 4 minutes 45 seconds.

Mr. DODD. Mr. President, I thank my colleagues, the Democratic leader and the Democratic whip, Senator REID, for their comments, and Senator LEAHY for his comments as well.

As I said a few minutes ago, I voted to give the President the authority to use force. Others didn't. I respected that decision but reached a different conclusion. I am just concerned when I hear the debate shift, as it has this morning, from what we need to be doing in Iraq to get this right, to those who take a different position or question the motivations that led us to this particular point. By the way, going back looking historically, the comments Senator KENNEDY made—whether you agree or disagree with them, and I don't think they ought to be the subject of the debate; the debate ought to be about Iraq—go back to January 19, 2002, and Karl Rove, Chief of Staff of the White House addressing the Republican National Committee. I quote him while speaking to that group. According to the Washington Post story, his top political advisor said this:

> . . . Republicans will make the President's handling of the war on terrorism the centerpiece of their strategy to win back the Senate and keep control of the House in this year's midterm elections.
>
> We can go to the country on this issue because they trust the Republican Party to do a better job of protecting and strengthening America's military might and thereby protecting America.

He goes on to say:

> The second place we should go to the country is on protecting the homeland. We can go to the country confidently on this issue because Americans trust the Republican party to do a better job of keeping our communities and families safe.

That is the top political advisor to the President in January of 2002 suggesting that in fact we can make this a partisan issue. You may not like the statements of Senator KENNEDY, but there is a genesis here that could draw a conclusion that there have been political motivations.

My view is simply, look, to spend this morning debating what one of our colleagues said on an interview someplace detracts from what ought to be the subject of debate: how do we get it right in Iraq? That ought to be the common challenge. We have a major request of $87 billion in front of us and there are legitimate questions being raised about how to do this, how to get this right. We ought to be spending our energy and time and that of our staffs on organizing and debating and discussing how we can get this right as a coequal branch of Government, constitutionally charged with the conduct of foreign policy. This body deserves—in fact, its history and the country demand that we do a much better job of focusing on the foreign policy matter before the Nation and the world, getting about the reconstruction, and getting the political and economic questions right in Iraq, and taking our time to debate what one Senator says seems to be, quite transparently, an effort to divert the attention of the country and the media to one of our colleagues rather than the far larger issue, and that is whether we are going to go further into debt without paying for these additional moneys that are deserved for our military, certainly, and questionably on the reconstruction effort.

My hope is we can move away from the debate of what one colleague says and start talking about what needs to be done to get this situation in Iraq on the right track.

Certainly, if you go back and look at the history, as I said earlier, the suspicions that the administration was motivated in part by politics are rooted in the fact that the top political advisers of this administration have made the case to their own party faithful that in fact part of their motivations are to look at gaining political favor. It was a great disappointment then because there was a sense of unity in the country about fighting terrorism together, getting homeland security right together, and certainly getting Iraq right together is what we ought to talk about. There are legitimate issues. Why are we not getting the international support? Where will the money come from? Are we going to get ourselves further into debt? How are our needs at home going to be addressed? How are we going to get the Iraqis back in control of their country?

These are the questions we ought to be working on—not whether some colleague made a statement you disagree with and that we organize ourselves in a structured response to that, rather than take the time we ought to in order to get a situation that the American public wanted to know more about, which is a deep problem that is getting worse. The longer we fail to address it and try to divert attention to other matters, it does a great disservice to our men and women in uniform and to the American taxpayers.

Mr. President, I hope any further debate about what one colleague says would be confined to how we can get the Iraq situation on the right track and how we are going to spend the bulk or a good part of the $87 billion on the reconstruction phase of Iraq.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

STANDING UP FOR THE PRESIDENT

Mrs. HUTCHISON. Mr. President, I yield myself up to 4 minutes. I think a lot has been said here about the words of Senator KENNEDY. I don't think anyone on the floor has cast aspersions on the Senator. He certainly has a right to say anything he wants to say. But I also think many of us who believe the President is trying very hard to do the right thing for our country have the right to take up for our President, stand up for our President, and talk about the issues.

I think Senator KENNEDY would be the first to say he should stand by his words, he must take responsibility for his words. It is my opinion that when you use words such as ''fraud'' and ''bribery'' in talking about the policies of the United States, it is fair game for us to respond to that and say I think it is absolutely wrong to say we are bribing political leaders all over the world by giving them American dollars.

We are giving foreign countries American dollars for a variety of reasons. Is it a bribe that we would make a loan to the country of Turkey after Turkey has just led the command and control of the security forces in Afghanistan, doing a great service for all of the people of the world to try to help keep the peace and security in Afghanistan, which was very costly to a relatively small country? That we would be making loans to Turkey, is that a bribe? I don't think so. Is it a bribe to give money to Russia for part of its economic improvement? I don't think so. I think Russia has shown it can be quite independent. So has Turkey. No one is accusing them of doing everything the United States has asked them to do. But foreign aid is part of American policy and, in most instances, foreign aid goes for buying American products. It gives them the money to buy American products to help our economy.

So I think when people use words, they should be able to take responsibility for those words, and I don't think it casts aspersions on anyone's patriotism.

But if anyone questions my right to stand up for my President who is speaking before the United Nations as we are talking on the floor today, then I think they are wrong. Of course, we are going to stand up for him. Why would that be a surprise? We are in a terrible war on terrorism. We are doing everything we can to support the President as he prosecutes that war. It is not for helping other countries exclusively. It is for helping America. It is for American security that we are in Iraq and Afghanistan—to keep terrorists on their soil so they do not come to American soil again.

The President has not forgotten 9/11. Sometimes I think when I hear people talking that they have forgotten America was attacked.

People are talking about an $87 billion package. It is a big package. Many of us are trying to ask for contributions from other countries to help defray the cost of rebuilding Iraq and Afghanistan. But let me remind you about the cost of 9/11. The cost of 9/11 is estimated at $300 billion, and that was one incident. What will be the cost if we allow terrorists to come in here because we haven't contained them in Iraq and Afghanistan? What will be the cost to the American people?

We have a right to stand up for our President, and that is exactly what we are doing. We are trying to talk about the policies that are important to our country.

I yield up to 4 minutes to the Senator from Pennsylvania, after which I will yield the remainder of our time to the Senator from New Hampshire.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Pennsylvania.

Mr. SANTORUM. Thank you, Mr. President. I thank the Senator from Texas.

The Senator from Texas noted the irony of our standing on the floor of the Senate at the very moment the President is speaking to the United Nations. He is speaking before the United Nations to rally the world for our efforts in Iraq. As we stand on the floor of the Senate, some Members are calling into question the President's actions and calling into question the President's motives. It is one thing to call into question his action. It is one thing to call into question his plan. But to call into question his motives is one of the things that I think disturbs many people on this side of the aisle, and, frankly, many members of the American public.

The Senator from Nevada said that some Members here have been using the baseball analogy of throwing a high hard one at Senator KENNEDY's head to back him off the plate. Having reviewed what was said here this morning, I think the best thing we can throw is a change-up on the outside corner. Hopefully, we have gotten a strike since we have been accurate in what we are saying. But it was not put to anybody's head and it was not thrown hard. These were principled statements about the accuracy of the statement of the Senator from Massachusetts. We did not comment on his motives. We did not comment on his patriotism. We commented on the accuracy of his statement, which is a legitimate discussion here in the Senate. I hope we keep to that.

We have had a debate on the floor of the Senate. Senator DASCHLE again questions the planning and actually questioned whether there was a plan. He used terms which were used back in 1948. A Senator Revercomb said, ''I charge tonight that there are no restraints placed upon those who administer this act''—similar to what Senator DASCHLE and Senator BYRD said. In fact, the statement has been made describing it as a ''blank check.'' Senator BYRD from West Virginia has used that term repeatedly on the Senate floor—only this comment is not about, obviously, the Bush plan in Iraq; it was about the Marshall plan of the Truman administration.

It is remarkable as I have gone through the CONGRESSIONAL RECORD of the House and the Senate about the debate and the way it happened 3 years after V–E Day. Not 3 months was the plan put into place, not 3 weeks was this plan put into place—it took 3 years for the Truman administration to put a recovery plan into place in Europe and for Congress to act on it.

Back then Members of Congress talked about how this was a blank check which was going to be a failure and it was unwise policy. Of course, it is now seen as one of the greatest foreign policy accomplishments of this country's history. Why? Because we had a President at the time—and who at the time was not popular among the American people for what he was doing—who was seen as someone who was not providing a great plan or strong leadership but he stuck to his guns. He went to the American people at election time, and the American people sustained him in office because he provided leadership at a time when leadership was needed; when Members of Congress were looking at their own parochial interests instead of the interests of the country and of the world such as, again, is the case here today.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Thank you, Mr. President.

I certainly join my colleagues in underscoring the fact that, of course, this shouldn't be a discussion about motives or patriotism. This is not a discussion about a former Senator, Mr. Cleland, or any other individual. All of us have the right to disagree on issues of substance.

Senator DODD was absolutely right. The issues of substance that we should be discussing are how to succeed in

Iraq and how to do the right thing for homeland security. But at the same time, all of us are responsible for the words we use and the terms we use and what it conveys not just to the American people but to our allies abroad.

In this regard, I was most concerned about the use of the word ''bribery'' in reference to foreign assistance. I think that was a mistake. I think that was not just a poor choice of words but a counterproductive choice of words, because to suggest that the funds we provide for reconstruction is bribery suggests that all of the foreign assistance we engage in around the world is misspent, or, again in the worst case here, bribery.

I believe our foreign assistance should be scrutinized, should be debated, and that we should strike the right balance, but in all cases the foreign assistance that we provide around the world should be used to further our national security interests. That is an important issue of substance. The funds we are providing to Iraq should strengthen security in the United States and should strengthen the stability and security of the people in Iraq and in the region of the Middle East.

In all cases, we should scrutinize that foreign assistance budget. But to refer to it as ''bribery'' I think is a mistake. It sent the wrong message to our allies and to those who are benefiting from our economic support, foreign military financing program, and even our humanitarian aid around the world. It is for our national security interests and the purposes for which we do that, and our debate should reflect that point.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 2691, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2691) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

Pending:

Reid amendment No. 1731, to prohibit the use of funds for initiating any new competitive sourcing studies.

Reid amendment No. 1732, to authorize the Secretary of the Interior to acquire certain lands located in Nye County, Nevada.

Reid amendment No. 1733, to provide for the conveyance of land to the city of Las Vegas, Nevada, for the construction of affordable housing for seniors.

Daschle further modified amendment No. 1734, to provide additional funds for clinical services of the Indian Health Service, with an offset.

Daschle further modified amendment No. 1739, to strike funding for implementation of the Department of the Interior's reorganization plan for the Bureau of Indian Affairs and the Office of Special Trustee and to transfer the savings to the Indian Health Service.

Bingaman amendment No. 1740, to ban commercial advertising on The National Mall.

AMENDMENT NO. 1734

The PRESIDING OFFICER. Under the previous order, there will be 10 minutes equally divided prior to the vote in relation to the amendment No. 1734.

The Senator from South Dakota.

Mr. DASCHLE. Mr. President, I will take 5 minutes to talk briefly about this amendment.

I have had an opportunity to come to the floor on a couple of occasions. Basically this comes down to whether or not we mean it when we say we will provide meaningful health care to our Native American population. That is what we are talking about today. Unfortunately, as most people know, we are far from that promise. It would take about $5 billion for us to fulfill the promise and to live up to the expectations on the reservations that we see with health care delivery in the rest of the country—$5 billion for the IHS clinical services account.

This year's budget is $1.9 billion—less than half of what it would take to meet that obligation. As a result, today there is severe rationing of health care on every reservation—rationing so severe that they call it the ''life or limb'' test. Unless your life or limb is in jeopardy, you often do not get care on a reservation today.

This chart shows as clearly as anything can just what the commitment made to the Native American people is today when it comes to health care.

We spend about $5,915 per capita on Medicare. We spend about $5,200 per capita within the VA. We spend about $5,000 per capita in our population generally for health care. We spend about $3,800 per capita for every Federal prisoner—$3,800 a year goes to our Federal prisons on a per capita basis for health care alone. We spend $1,900 for Indian children and their families, in spite of commitments we have made for four generations.

What this amendment does is very simple. Last spring, when we had this debate and when we offered the amendment to the budget resolution to make whole the Indian health care budget, it was defeated. We proposed that we try to level the playing field. That was defeated.

What the Senate agreed to, reluctantly on my part, but agreed to nonetheless, was $292 million, one-tenth of the amount required to make the IHS clinical services budget whole, to provide some parity between Indian health and prison health. That was incorporated in the Senate version of the budget.

Now we are simply saying: Let's live up to what the Senate said we would do on Indian health this year during the budget debate. Let's provide that $292 million, one-tenth of the amount required, if we are going to do this right.

For the life of me, I cannot understand how someone could vote against this, knowing, as we do, we are giving one-half the amount of money to Indian children as we are to Federal prisoners. We are giving a fraction to the Native-American population that we give to Medicare beneficiaries.

This amendment simply acknowledges our need to rectify that extraordinary disparity, to deal with it in a way that only we can, to say it is not enough just to talk about it, not enough just to lament it, we have to do something about it. Granted, $292 million is a far cry from what is required, but at least it is what the Senate said we would do last spring. It is now time to put our money where our mouth was last spring. This amendment is intended to do that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, this amendment provides an additional $292 million for the Indian Health Service. There is no offset.

I don't doubt the numbers the Senator from South Dakota presented. They are factual. I do not doubt his passion for this subject. But let's take a look at what is really happening.

Since we have focused on that, over the last 5 years we have added $725 million funding to the IHS account. In addition, thanks to the work of my colleague from New Mexico, Senator DOMENICI, and the Balanced Budget Act of 1997, we have provided $30 million per year for diabetes efforts. We know that is one of the primary focuses in Indian health for the following 5 years. That amount was increased to a total of $100 million beginning in fiscal year 2001. Reauthorization of this program has ensured that $150 million for the next 5 years will be available beginning in fiscal year 2004. In short, over the last 5 years, well over $1 billion in new money has been provided in order to improve the health care within our Native-American community.

Within the extremely limited resources this subcommittee has been given over the past several years, we have been responsive to the needs of Native Americans and we will continue to make every effort to provide the additional dollars within the overall allocation we were given.

We know well, and my colleagues on the other side of the aisle know well, what happened last year. Under their leadership, the IHS account was reduced by $75 million in the final hours before markup in order to reduce the subcommittee's allocation. Clinical services alone were reduced by $50 million.

Saying that, despite the decrease, we still have a problem even with the additional moneys we put in this year. We understand the problems in the Indian Health Service. We are $88 million over last year's level, and the adoption of this amendment would exceed the subcommittee's allocation and is subject to a point of order.

Mr. DASCHLE. If the Senator yields the floor, I will be recognized for what remaining time I have.

This amendment is not offset. Yes, we are told we cannot afford $292 million. We need $2.9 billion. We are told

we cannot afford that. I hope someone will come to the floor next week or the week after on the other side and say we cannot afford $87 billion for Iraq, then, either. If we cannot afford $292 million for our Native-American population, who are experiencing life or limb tests, then I sure hope we will not hear the argument on the other side that somehow we can afford providing health care dollars to the Iraqi children. I bet that is exactly what we are going to hear—$87 billion worth of requests. It is a double standard.

I yield the floor.

Mr. BURNS. The pending amendment No. 1734, offered by the Senator from South Dakota, increases discretionary spending in excess of the 302(b) allocation to the Subcommittee on Interior of the Appropriations Committee. Therefore, I raise a point of order against the amendment pursuant to section 302 of the Budget Act.

Mr. DASCHLE. I move to waive the relevant portions of the balanced budget amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Maryland (Ms. MIKULSKI) and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''yea.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 49, nays 45, as follows:

[Rollcall Vote No. 356 Leg.]

YEAS—49

Akaka	Dayton	Lincoln
Baucus	Dodd	McCain
Bayh	Dorgan	Murkowski
Biden	Durbin	Murray
Bingaman	Feingold	Nelson (FL)
Boxer	Feinstein	Nelson (NE)
Breaux	Harkin	Pryor
Byrd	Hollings	Reed
Campbell	Inouye	Reid
Cantwell	Jeffords	Rockefeller
Carper	Johnson	Sarbanes
Clinton	Kennedy	Schumer
Coleman	Kohl	Stabenow
Collins	Landrieu	Stevens
Conrad	Lautenberg	Wyden
Corzine	Leahy	
Daschle	Levin	

NAYS—45

Alexander	Cochran	Frist
Allard	Cornyn	Graham (SC)
Allen	Craig	Grassley
Bennett	Crapo	Gregg
Bond	DeWine	Hagel
Brownback	Dole	Hatch
Bunning	Domenici	Hutchison
Burns	Ensign	Inhofe
Chafee	Enzi	Kyl
Chambliss	Fitzgerald	Lott
Lugar	Sessions	Sununu
McConnell	Shelby	Talent
Nickles	Smith	Thomas
Roberts	Snowe	Voinovich
Santorum	Specter	Warner

NOT VOTING—6

Edwards	Kerry	Mikulski
Graham (FL)	Lieberman	Miller

The PRESIDING OFFICER. On this vote, the yeas are 49 and the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

ORDER OF PROCEDURE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session and immediately vote on the confirmation of Executive Calendar No. 357, the nomination of Kim R. Gibson to be U.S. District Judge for the Western District of Pennsylvania, with no intervening action or debate; further, that there be 2 minutes equally divided in the usual form prior to the vote; further, that following the vote, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, the Senate then return to legislative session, and Senator KENNEDY be recognized for up to 10 minutes in morning business, to be followed by Senator FEINGOLD for up to 8 minutes, to be followed by the majority leader, or his designee, for up to 10 minutes, and the Senate then stand in recess under the previous order.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object, the two managers of the bill are contemplating, at 2:15, when we come back, the Senator from California taking up her amendment. She has requested 20 minutes. Then it is my understanding the managers of the bill, in conjunction with the leaders, are going to try to set a series of votes after the debate on the Boxer amendment is completed.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MCCONNELL. I thank the Chair.

EXECUTIVE SESSION

NOMINATION OF KIM R. GIBSON, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA

The PRESIDING OFFICER. The Senate will proceed to executive session, and the clerk will report the nomination.

The legislative clerk read the nomination of Kim R. Gibson, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, I yield my time to the Senator from Pennsylvania, Mr. SPECTER.

The PRESIDING OFFICER. The Senator from Pennsylvania, Mr. SPECTER, is recognized.

Mr. SPECTER. Mr. President, I am sure my colleagues want to hear about the outstanding qualifications of this judicial nominee so they will be prepared to vote yea or nay.

The Senate is about to vote on the nomination of Common Pleas Judge Kim Gibson for the U.S. District Court for the Western District of Pennsylvania. Judge Gibson now serves on the State court, where he has been a distinguished jurist since 1998. He has gone through the bipartisan, nonpartisan nominating panel that Senator SANTORUM and I have set up. He is a graduate of the U.S. Military Academy in 1974. He has a law degree from Dickinson Law School, magna cum laude, 1975. He served with the defenders office helping the indigent. He has had a distinguished practice and now is on the Common Pleas bench in Somerset County, PA. He is well grounded academically, well grounded professionally, and I recommend to my colleagues that he will make an outstanding Federal judge.

I now yield to Senator SANTORUM.

Mr. SANTORUM. Mr. President, I associate myself with the remarks of the senior Senator from Pennsylvania. I thank my colleagues for allowing the vote to go forward on this very distinguished individual.

Mr. LEAHY. Mr. President, today we vote to confirm another district court nominee, to the Western District of Pennsylvania. This nominee, Mr. Kim Gibson, is currently a judge on the Court of Common Pleas in Somerset County, in Western Pennsylvania. Judge Gibson is a graduate of West Point Military Academy and graduated second in his class from Dickinson School of Law in Carlisle, PA. Over the course of his career he has served in the Army's Judge Advocate General Corps and the public defender service. Not surprisingly, the ABA gave this nominee its highest rating—unanimous ''well qualified.''

With today's confirmation, the Senate has now confirmed 154 judicial nominees for this President. As I noted this week, the current pace of confirmation stands in stark contrast to what occurred with judicial nominees during the Clinton administration. It was not until well into the fourth year of President Clinton's second term when Republicans controlled the Senate, before this many judicial nominees were confirmed. It took President Reagan, during his first term, almost to the end of his fourth year to get this many judicial nominees confirmed, and that was with a Senate that was controlled by the same party. It also took President George H.W. Bush well into his fourth year to get this many of his judicial nominees confirmed.

In contrast, today, with the shifts in Senate control, it has effectively taken

a little more than 2 years of rapid Senate action to confirm 154 judicial nominees for this President, including 100 during Democratic control. This year alone the Senate has confirmed 54 judicial nominees, including 11 circuit court nominees in 2003. That is more confirmations in just nine months than Republicans allowed for President Clinton in 1996, 1995, 1999, or 2000. Overall, we have confirmed 28 circuit court nominees of President Bush since July of 2001, which is more than were confirmed at this time in the third year of President Reagan's first term President George H.W. Bush's term, or either of President Clinton's terms.

The Senate has held hearings for 13 Pennsylvania nominees of President Bush's to the Federal courts in Pennsylvania. While I was chairman, the Senate held hearings for and confirmed 10 nominees to the district courts in Pennsylvania, plus Judge D. Brooks Smith to the Third Circuit Court of Appeals.

A look at the Federal judiciary in Pennsylvania indicates that President Bush's nominees have been treated far better than President Clinton's. Today, there is no State in the union that has had more Federal judicial nominees confirmed by this Senate than Pennsylvania.

This is in sharp contrast to the way vacancies in Pennsylvania were left unfilled during Republican control of the Senate when President Clinton was in the White House, particularly regarding nominees in the western half of the State.

Just a few months ago, on May 16, 2003, Jon Delano wrote in the Pittsburgh Business Times, an article titled ''Despite Bush Protests, Court Vacancies are Down,'' about how this President's nominees in the western part of Pennsylvania have been treated more fairly than President Clinton's nominees. He wrote:

> Take the Western District of Pennsylvania, for example. During the years of the Santorum filibuster, that court of 10 judges had as many as five vacancies. Today, the Senate has confirmed four Bush appointees—Judges Joy Contie, David Cercone, Terry McVerry, and Art Schwab—and the fifth nomination, attorney Tom Hardiman, has just been sent to the Senate.
>
> With the elevation and confirmation of Judge Brooks Smith to the U.S. Court of Appeals, the president still needs to name one more judge to the local court, but once completed, Mr. Bush, with less than three years in office, will have named—and the Senate will have confirmed—six of the 10 judges on the local federal court. That hardly sounds like obstructionism.

Despite the best efforts and diligence of the senior Senator from Pennsylvania, Senator SPECTER, to secure the confirmation of all of the judicial nominees from every part of his home State, there were nine nominees by President Clinton to Pennsylvania vacancies who never got a vote: Patrick Toole, John Bingler, Robert Freedberg, Lynett Norton, Legrome Davis, David Fineman, Harry Litman, Stephen Lieberman, and Robert Cindrich to the Third Circuit. Despite how well-qualified these nominees were, many of their nominations sat pending before the Senate for more than a year without being considered.

The record of this nominee stands in contrast to the record of many of this President's judicial nominees, particularly for circuit positions. Judge Gibson received a unanimous ''well qualified'' rating from the American Bar Association and has enjoyed a tremendous career as both a litigator and a judge. Far too many of this President's judicial nominees have limited legal experience and no judicial experience but significant partisan experience. In fact, 23 of this President's judicial nominees have earned partial or majority ''not qualified'' ratings from the ABA. Another nominees to the same court, Tom Hardiman, has significantly less litigation experience, no judicial experience and was give a partial ''not qualified'' rating by the ABA. It is also interesting to note that their local bar association, the Allegheny County Bar Association, gave the two nominees very different peer-review ratings. Judge Gibson received a rating of ''highly recommended'' for the district court position. Mr. Hardiman, however, received a rating of ''not recommended'' by the same local bar association.

Certainly, the citizens of Western Pennsylvania deserve a well qualified judiciary to hear their important legal claims in Federal court. I am pleased to lend my support to Judge Gibson's nomination. He will be the 13th judicial nominee of this President confirmed to the State of Pennsylvania and the fifth judge confirmed to the Western District of Pennsylvania. I congratulate Judge Gibson and his family.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Kim R. Gibson, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Maryland (Ms. MIKULSKI), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''yea.''

The PRESIDING OFFICER (Mr. SESSIONS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 357 Ex.]

YEAS—94

Akaka	DeWine	Lott
Alexander	Dodd	Lugar
Allard	Dole	McCain
Allen	Domenici	McConnell
Baucus	Dorgan	Murkowski
Bayh	Durbin	Murray
Bennett	Ensign	Nelson (FL)
Biden	Enzi	Nelson (NE)
Bingaman	Feingold	Nickles
Bond	Feinstein	Pryor
Boxer	Fitzgerald	Reed
Breaux	Frist	Reid
Brownback	Graham (SC)	Roberts
Bunning	Grassley	Rockefeller
Burns	Gregg	Santorum
Byrd	Hagel	Sarbanes
Campbell	Harkin	Schumer
Cantwell	Hatch	Sessions
Carper	Hollings	Shelby
Chafee	Hutchison	Smith
Chambliss	Inhofe	Snowe
Clinton	Inouye	Specter
Cochran	Jeffords	Stabenow
Coleman	Johnson	Stevens
Collins	Kennedy	Sununu
Conrad	Kohl	Talent
Cornyn	Kyl	Thomas
Corzine	Landrieu	Voinovich
Craig	Lautenberg	Warner
Crapo	Leahy	Wyden
Daschle	Levin	
Dayton	Lincoln	

NOT VOTING—6

Edwards	Kerry	Mikulski
Graham (FL)	Lieberman	Miller

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is laid on the table and the President shall be immediately notified of the Senate's action.

LEGISLATIVE SESSION

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

UNANIMOUS-CONSENT REQUEST

Mr. REID. Mr. President, Senator KENNEDY is to be recognized for 10 minutes. His remarks will take longer than that. I ask unanimous consent that he be recognized for an additional five minutes and the majority have five minutes in addition to whatever time the majority leader has under his control.

The PRESIDING OFFICER. In my capacity as a Senator, I will object at this time.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 8½ minutes of my 10 minutes.

FAILED POLICY IN IRAQ

Mr. KENNEDY. Mr. President, I heard many of my colleagues today discussing my remarks on this administration's go-it-alone policy in Iraq. This administration and my colleagues across the aisle are trying to deflect attention away from the administration's failed policy in Iraq. For the sake of our troops, it is time for this administration to speak honestly about its failures in Iraq. Many Americans share my views, and I regret that the President considers them uncivil and not in the national interest. The

real action that was not in the American interest was the decision to go to war unilaterally without the support of our allies and without a plan to win the peace.

There is no question that the White House sees political advantage in the war. You can see it in Karl Rove's speeches to Republican strategists. Just this morning, the New York Times reports that ''the White House goal is to show substantial improvement in Iraq before next fall's reelection campaign.'' You can see it in the way they attack the patriotism of those who question them.

There are valid questions and deep concerns about the administration's rush to war in Iraq—in its rationale, whether there is a plan for winning the peace, how the money is being spent, and when our troops can come home with honor. Our troops, their families, and the American people deserve answers—not more politics as usual.

The administration has no plan for Iraq, and it shows. American service men and women are paying with their lives. The President's trip to the United Nations this week is now the most important journey of his administration but it didn't have to be this way.

The situation in Iraq is out of control, and American troops are paying the price every day with their lives. We have now lost more troops since the President declared an end to major combat than during the war itself. The administration says it has an international coalition, but it is paper-thin. America has 85 percent of all the coalition troops on the ground, and we are taking 85 percent of the casualties. This administration is muddling through day-by-day, while the lives of our soldiers are at risk and their families worry here at home. The administration has been unwilling so far to make the compromises needed at the United Nations to obtain the support our troops need to ease their burden and bring stability and peace to Iraq. The American people want to know from President Bush, when can their sons and daughters, their husbands and wives, their fathers and mothers, return from Iraq with dignity, having fulfilled their mission?

The White House may be saying things are going well and we should stay the course. But the American people know that major changes in policy are essential. We need a plan from the administration—a real plan—before we write an $87 billion blank check to pay for this administration's hollow policy in Iraq. Terrorist are sabotaging the reconstruction efforts, lashing out in every way they can. U.S. casualties continue to rise. The headquarters of the United Nations was devastated by a truck bomb that specifically targeted and killed the U.N.'s highly respected chief representative in Baghdad. Nothing is sacred. A key Shiite cleric was assassinated in the bombing of a mosque. Even the Jordanian Embassy in Baghdad was bombed, in an ominous message to other Middle East nations that cooperate with the U.S. Terrorists are said to be streaming into Iraq to take advantage of the new breeding ground that our failed policy has given them.

President Bush has asked Congress to provide $87 billion more in the coming year to set it right in Iraq, but it is essentially a blank check. He says he will internationalize the conflict, but he doesn't want to share power on the ground. The administration had a brilliant plan to fight the war, but no plan to win the peace. It had a brilliant plan to overthrow a government, but no plan to deliver on the promise of democracy. The American people are confused about why we fought this war, and what our strategy is for winning the peace.

Last fall, the President said that Iraq was developing nuclear weapons. The, he said Iraq has an active weapons of mass destruction program. This spring, the administration claimed that Iraq was linked to al-Qaida. None of these are true. No one doubts that Saddam Hussein was an evil dictator, but what was the imminent threat to our national security? The administration's rationale was built on a quicksand of false assumptions. In terms of how we will win the peace, the administration also seems confused. The Secretary of State has argued that additional time is needed to establish a new government in Iraq. A few weeks ago, he said, ''it will be some time before any new government could take over the responsibilities inherent in being in charge of security.'' But Secretary Rumsfeld, in an effort to assure that we are not getting bogged down, says that things are ''moving at a very rapid pace in Iraq.''

Which is it?

These and other facts lead the American people to question whether the administration has an effective plan to share the security burden with the international community, reduce the burden on our troops, and deliver on the promise of democracy. The American people deserve answers.

How will the administration obtain a broader international mandate—through the United Nations—to bring in other countries' troops and provide a greater role for the United Nations in the political development and reconstruction of Iraq? How many additional troops are needed to prevent the sabotage undermining the reconstruction? What nations will supply troops? What is the estimate of the duration of the U.S. military occupation and the likely levels of U.S. and foreign troops required for security? What is the estimate of the total cost of security and reconstruction, including the likely amount of international contributions?

What is the schedule for restoring electricity, water, and other basic services to the Iraqi people? What is the long-term schedule for the withdrawal of foreign and American armed forces?

The administration must answer these questions and provide a credible long-term plan for Iraq. We can't afford to continue our failed strategy of making it up day-by-day as we go along, when our soldiers are paying for it with their lives. We all hope the window to peace will stay open. If it closes, history will have no mercy—it will say this is how we went to war against Iraq, for the wrong reason, and lost the war on terrorism. That is the precipice we not stand on. The administration needs to show the American people and the world a plausible plan to correct this colossal failure in our policy.

In addressing the United Nations, the President should have taken responsibility for his administration's mistakes in going to war without the broad support of the international community. We need to involve the United Nations in a meaningful way in the transition in Iraq. Our policy cannot be all take and no give. The President should work with the United Nations as long as it takes to get an agreement to help our troops and bring stability to Iraq. Our troops are doing their jobs in Baghdad; now President Bush must do his in New York.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Wisconsin.

HELPING DOMESTIC MANUFACTURERS

Mr. FEINGOLD. Mr. President, I rise today to offer some comments on one of the most serious problems we face in this Nation—the severe erosion of our manufacturing base.

This crisis has been well documented, and the statistics are dismaying. According to the Economic Policy Institute, between January 1998 and August 2003, manufacturing employment dropped by three million, and manufacturing's share of total gross domestic product fell from 16.3 percent in 1998 to 13.9 percent in 2002. In my own State of Wisconsin, 77,000 manufacturing jobs have been lost just in the last 2½ years.

Of course, as shocking as those numbers are, they do not begin to convey the depth of the personal tragedies behind them. Millions of families have had their breadwinner thrown out of work, and entire communities have been ravaged. When the factory shuts down, everybody in town feels the impact. Across my home State of Wisconsin communities are trying to cope with this crisis on a daily basis. There are, no doubt, a number of reasons for this sudden loss of manufacturing jobs, but at the absolute center has been our appalling trade policy. The trade agreements into which we have entered have failed to protect our businesses and workers against unfair competition from overseas competitors. This failed trade policy was the result of an unholy alliance of leaders of both the Democratic and Republican parties over the past decade and more. I opposed those trade agreements, and

until this country's trade policy is changed we will see more and more jobs shipped overseas.

We have seen this most clearly in the manufacturing jobs lost to China, but the problem is broader than just China. People have turned a blind eye to the impact of these trade agreements for too long. It is time for reality to set in here in Congress: These trade agreements have failed the American people. They have taken Americans' livelihoods and shipped them overseas. People in my State are left wondering who these trade agreements were for, if they weren't for America's workers? These men and women are the heart and soul of the economy in Wisconsin, and these agreements have taken their jobs out from under them.

The tool and die industry is one of the hardest-hit parts of the manufacturing sector in my State. In the town of Kewaskum, it was reported that the county board has taken the extraordinary step of making a loan to a local tool and die company to help it stay afloat in the face of competition with China. That is not typical for a county board, but it just goes to show how hard communities across Wisconsin, and across the country, are fighting to keep manufacturing businesses alive. These businesses are the lifeblood of our communities, and we turn our back on them every time we say yes to another one of these kinds of trade agreements.

Mr. President, no single policy can adequately address this problem. If we are to stop this hemorrhaging of manufacturing jobs it will take a concerted effort on several fronts, and over the next few weeks I will come to the floor to discuss some of the steps I think we ought to take.

Today I want to very briefly discuss one, and that is tax policy. A number of my colleagues have advocated changing our Tax Code to help beleaguered domestic manufacturers. In the other body, Representatives CRANE and RANGEL have proposed legislation to help domestic manufacturers by providing them with a tax incentive to keep production here at home, and to encourage those runaway plants that left our shore to return. In our body, Senator HOLLINGS has introduced the Senate companion to that proposal, S. 970, the Jobs Protection Act, and I am proud to be a cosponsor of that measure.

Under this bill, the new tax incentive for domestic manufacturers is offset by repealing the extraterritorial income provisions of the Tax Code. This offset means that the bill is paid for, and won't increase our already exploding budget deficit. I think that feature is essential to any measure we propose to spur economic growth for, as we know, budget deficits undermine long-term economic growth.

The repeal of the extraterritorial income provision deserves at least a brief comment. The foreign sales corporation tax benefit, and it successor, the extraterritorial income, ETI, tax subsidy, were challenged by the European Union before the World Trade Organization as illegal export subsidies, and the WTO ruled in favor of the EU.

I opposed the ETI provisions when they were before the Senate in the fall of 2000 in part because, as I noted at the time, I fully expected the WTO to rule against them, which would subject American firms and workers to a possible multibillion dollar tax on American products purchased in the EU.

I regret to say that we now face that very problem. If we fail to repeal the ETI provisions enacted in November of 2000, American firms and workers will bear the brunt of billions of dollars in trade sanctions.

This situation is a testament to the failed trade policy that has, in great part, led to the crisis we are seeking in American manufacturing. Our tax policy is being held hostage to the rulings of an international bureaucracy, making decisions largely in secret.

As I noted 3 years ago, while the ETI tax subsidy may be bad tax policy, it is our tax policy—a policy arrived at through the elected Representatives of the people of this Nation. The ability of some international bureaucracy to impose punitive taxes or tariffs on American goods should offend all of us. Unfortunately, that is what we face because of the action Congress took in 1994 to ratify the GATT. And unless we eliminate the ETI export tax subsidy, American firms and American workers are at risk.

Faced with that situation, the best possible choice is to take this opportunity to repeal the ETI tax subsidy and use the additional revenue raised by that repeal to help our domestic manufacturers, many of whom are directly impacted by the WTO's ruling against the ETI tax subsidy.

As I noted earlier, I have cosponsored legislation offered by Senator HOLLINGS, and I was pleased to do so, but that bill certainly is not the only possible model, and I am willing to consider supporting other approaches so long as they are focused on domestic operations and are also fiscally responsible. I understand the chairman and ranking member of the Finance Committee are developing a measure that may fit the bill. I commend them for doing so, and look forward to reviewing their proposal. Our manufacturers are facing a crisis that is in great part the result of the policies promoted by our Government over the past several years. It is essential that we reform those policies to stop more jobs from being shipped overseas. But we must also take other steps to help American workers, and this sensible change to our Tax Code should be one of them.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. In my capacity as a Senator from the State of Alabama, I ask unanimous consent that the order for the quorum call be rescinded.

Without objection, it is so ordered.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:48 p.m., recessed until 2:16 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2004—Continued

Mrs. BOXER. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside.

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

AMENDMENT NO. 1753

Mrs. BOXER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 1753.

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

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

The amendment is as follows:

(Purpose: To strike section 333 relating to a special judicial appeals process for cases involving timber harvesting in the Tongass National Forest)

Strike section 333.

Mrs. BOXER. Mr. President, the amendment I offer today is to strike section 333 from the Interior appropriations bill. Essentially, section 333 is an anti-environmental rider which would impose a 30-day statute of limitations for the public to seek judicial review of certain Forest Service timber sales in the Tongass National Forest in Alaska. In other words, it is putting on very tough time constraints for the public to follow if they have a problem with timber sales in the Tongass.

I want to show you a little bit of what the Tongass Forest looks like. I was very fortunate to spend a week in Alaska looking at this magnificent park. I think I may well have been right in this area depicted in the photo. You can see how magnificent these pictures are and why this rider could be so

damaging. If there was, say, some movement by the Forest Service to cut down trees and put roads in here, we want the public to have a chance to make their case to a court as to why this is not the right thing to do. So that is one photo. I will show you some other photos.

This photo represents the area we are talking about. As I said, I had the joy of being in Alaska to actually see this with my own eyes. It is so magnificent there. When I was there, of course, daylight lasted until about midnight. You can see this beautiful land.

I will show you one more beautiful photograph. Again, what we are talking about is an anti-environmental rider which would take away the public's right to go to court if they believed some of these lands were going to be destroyed. The other thing the amendment does is it interferes with the ability of the Federal district court to manage its docket because that section also puts a deadline on the court. So it not only puts a deadline on the people in terms of their inability to study timber sales, it says to a judge who may have a very busy docket that he or she has to act on this case in 180 days.

The Tongass National Forest is the last remaining old-growth temperate rain forest in the world, spanning nearly 70 acres. You have seen it here with some of these beautiful photographs. It is the crown jewel of America's natural forests, and conservation is very much in the interest of all Americans because it is our land and we are the stewards of that land.

When I was up there, I saw glaciers, mountains, growths of hemlock and cedar that grow to be over 200 feet tall. The trees can live as long as a thousand years. I am not a person large in stature anyway, but when you see some of this beauty and realize how comparatively weak we are to the forces of nature, it seems to me when we have a magnificent national forest such as this, at the minimum you don't change the rules just for this one forest. It does not seem right.

The species that thrive in this forest include the brown bear—I saw some of those—bald eagles—and I saw some of them. I did not see gray wolves and wolverines, but I am told they are there. And there are lots of salmon.

We have this temperate rain forest. It is really a jewel. We want to make sure that, at the minimum, there is a check and balance in the courts if somebody feels or a group feels or a resident feels they are not being protected enough.

We are not telling the court they cannot make a decision that favors cutting down trees or building roads. We are just saying don't contract the time. It does not seem right.

I am going to read parts of letters I have seen. This is one from a couple who is very upset about this anti-environmental rider. They are owners of the Clover Bay Lodge, a fishing lodge on Prince of Wales Island in the Tongass. They write:

> We recently received a bad decision from the U.S. Forest Service that will probably mean the end of our very successful fishing lodge business. The Forest Service had no interest in listening to us or others affected by their decisions or even using the correct data regarding our business.

Then they talk about other elected officials who tried to intercede. They said:

> We wrote letters, we had meetings for over 6 years with the Forest Service and came to the same conclusion time and time again: The U.S. Forest Service had the money and the power and the control to force any decision, good or bad, down the taxpayers' throats. So sometimes the courts are the only place left and the people should not be constrained. Please stop this damaging rider, and do not accept any limitations on the American people's right to defend against the actions of the Federal Government.

This is really important because so many of my colleagues on the other side of the aisle talk about how big Government is bad and we shouldn't intrude in private property. Here we have a couple who owns a fishing lodge who wants to make a living doing that and says they have no other recourse but to go to court. They cannot make headway. With this rider, they will be constrained to get their whole act together in 30 days, and the court will have to act in 180 days. It seems to me not right.

I am going to read another paragraph from a letter written by a group of scientists who talk about the Tongass in this fashion:

> Alaska's national forests occur within the Pacific Coast's temperate rainforest ecosystem. Throughout the world, old-growth temperate rainforests are rapidly disappearing. Today, the Tongass National Forest represents the largest remaining tracts of old-growth temperate rainforest in the world.

We are talking about an incredible resource for our Nation.

They continue:

> Established in 1907 by President Theodore Roosevelt, the Tongass is the country's largest national forest. . . . Unlike most national forests, both the Tongass and Chugach still encompass many undisturbed watersheds with a full complement of all native species, including productive populations of bald eagles, wolves, brown bears, and five species of anadromous salmon. And we still have much to learn about the unique biodiversity and archeological resources of this forest.

The reason I took a moment to read this is because this is quite a group of people who signed on to this description of this land we are trying to protect: Craig Benkman, Ph.D., from New Mexico State University; Andrew Hansen, Ph.D, from the Department of Biology, Montana State University; Robert Jarvis, Ph.D., Oregon State University; David Klein, Ph.D., Institute of Arctic Biology in Alaska; Russell Lande, Ph.D., from the University of California, San Diego; William Lidicker, Ph.D., University of California, Berkeley; Dale Mccullough, Ph.D., University of California, Berkeley; Sterling Miller, Ph.D., Missoula, MT; Paul Paquet, Ph.D., University of Calgary in Calgary, Alberta; Roger Powell, Ph.D., from Raleigh, NC; John Ratti, Ph.D., University of Idaho; John Schoen, Ph.D., senior scientist at the National Audubon Society, Department of Biology and Wildlife, University of Alaska Fairbanks; Mark Shaffer, Ph.D., Defenders of Wildlife; Christopher Smith, Ph.D., Kansas State University; Richard Taber, Ph.D., University of Montana; and Mary Willson, affiliate professor, School of Fisheries and Ocean Science, University of Alaska Fairbanks.

The point I am making is, if this is, indeed, a national gift to us, why we would want to make special rules for 39 timber sales there really escapes me. It just does not seem right, and it does not seem fair, and it seems to go against bipartisan support for this magnificent place.

I have read parts of a letter from a fishing lodge owner and I have read parts of a letter from scientists who do not want to see this damaging rider. I have received another letter from a lodge operator in the same area, Larry McQuarrie, who owns Sportsman's Cove Lodge. I ask unanimous consent to print this letter in the RECORD.

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

SPORTSMAN'S COVE LODGE,
Ketchikan, AK, September 17, 2003.

Hon. Senator BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: I am writing to describe what's at stake if Senator Stevens rider limiting the public's ability to fully defend their interests in timber sale decisions (Sec. 333 of S. 1391) are passed. If this rider passes, my business would be deprived of my rights to defend my commercial interests against actions of the Federal Government. Any limitation of my right to sue is unreasonable because it would curtail my ability to uphold major business interests and protect my business's economic well-being.

I am the owner of Sportsman's Cove Lodge, which is located in Saltery Cove—an area slated for logging. My business relies on the undeveloped nature of the surrounding area. I assure you that our clientele would be singularly unhappy at the sights and sounds of timber harvest dashing their expectations of wild and pristine Alaska. In most cases they would not return until the activity was over—if at all. While the lodge is filled to capacity every season, it is not because there are clients lined up, beating down our doors. It is because we have learned, like other businesses have, that marketing is the key to success.

As fishing lodges go, ours is a marketing challenge. We do not have the spectacular King Salmon fishing of the west coast resorts, nor do we have the nearby population centers and draw of the Kenai Peninsula and South Central Alaska. What we do have going for us is excellent service in a beautiful Inside Passage setting. Timber harvest activities, scarred landscapes, log dumps in our cove and in scenic McKenzie inlet, road blasting, helicopters buzzing overhead, and log trucks rumbling across our now pristine backlands would necessitate an increased marketing burden that indeed could very

well place our operation in jeopardy. If we lose the one thing that we can always market—the solitude and pristine nature of the surrounding—then we face business failure.

We have tried to work with the Forest Service to find logging plans that would allow the sale to proceed while not causing problems with our business. Yet the Forest Service has turned a deaf ear to my business concerns and those of other Saltery Cove residents.

In FY 2000, Sportsman's Cove Lodge grossed just under $1.9 million. Payroll for the year was $498,000, Capital investment in the lodge and its associated equipment (including a new $250,000 heated winter boat storage and boat hauling facility in Ketchikan) totals approximately $3.7 million. This family business has contributed approximately $1.0 million to the Ketchikan community annually for the past ten years. That contribution is expected to increase for many, many years to come. These are not estimates or projections. These are real numbers of an existing, ongoing, vibrant business that will be in operation far past the 3–4 year life of this project. Make no mistake, this business, the 30 seasonal and 8 full time employees, and the financial contributions it makes to the local economy will be seriously at risk if this sale proceeds as planned.

Forest Service timber sales plans show that logging the Saltery Cove area would generate only a total of 42 seasonable timber-related jobs divided up over a period of 5 years. This represents direct earnings of $1.99 million, again, not annually, but for the total of the 5-year project lifetime. Almost apologetically, the Forest Service says that this is justified to ''help maintain the capital investment [in existing mills and lodging operations] already in place in several communities.'' By contrast, the payroll for the lodge during the same 5-year period, assuming nothing happens to impact it, will be approximately $2.5 million, and it will not stop at the end of those 5 years.

Let me state that I am not opposed to the responsible harvest of timber in the Tongass, or anywhere else for that matter. I was born and raised in a community that was heavily dependent upon timber. I understand and appreciate all of the reasons for responsibly harvesting our great renewable forest resources.

In searching my own soul over these issues I have repeatedly asked myself the question, ''Are the lodge and logging mutually exclusive?'' Sadly, I have come to the conclusion that when the two are in close proximity, they are. I wish that it were not so, but that is the reality. Each one is the antithesis of the other, and no amount of mitigation will resolve the differences other than to physically distance the two. The lodge, is already established in Saltery Cove and cannot be relocated. Logging however is not established, does not make economic sense here, and can go somewhere else.

If this rider passes, then there is no due process for the lodge or for my neighbors, and my business and community will suffer major and unnecessary economic harm. Ordinary Alaskan businessmen should be allowed to sue to protect our business and economic interests. Please take actions to remove Sec. 333 from the Interior Appropriations bill.

Respectfully submitted,

LARRY G. MCQUARRIE,

Owner, Sportsman's Cove Lodge.

Mrs. BOXER. Mr. President, Mr. McQuarrie, who owns the Sportsman's Cove Lodge, says:

This family business has contributed approximately $1.0 million to the Ketchikan community annually for the past ten years . . .

If the rider passes, then there is no due process for the lodge or for my neighbors, and my business and community will suffer major and unnecessary economic harm.

Let's look at Chomley Sound again. That is where this lodge is located. We can see it is magnificent, but it is unprotected, and it is on Prince of Wales Island in the southern Tongass. We can see how unbelievable this forest is. This small businessman is saying he is going to suffer irreparable harm if he cannot protect this area. What sometimes gets lost is there are so many who seem to say the only way we are going to make money, to lift the economy, is to go after resources—cut down trees and drill for oil. Of course, we need to do that in areas where it makes sense, but I am here to say that when you go in to an area that is as magnificent as this forest, the whole economic potential revolves around tourism. I saw that when I was in Alaska. It was a pretty wonderful trip.

The bottom line is, if there were a lot of trees being cut down and noise being made, we would lose the wildlife and we would lose the tourism. That is why I oppose this rider that I think is completely unnecessary.

I do not have much else to say except I think it is a bad rider and interferes with the judiciary, which I don't think is our job to do. It says to the court: You must hear this in so many days. A lot of us know the courts are backed up. There are a lot of people waiting for justice, whether it is one business suing another or somebody has a problem. Now we are saying go to the head of the class. You get to go to the head of the line if you want to cut down trees or build a road in one of these areas or there is a question about any of these timber sales.

We encourage courts to move quickly, but it seems to me we don't want to force them to have to act on one particular case in a certain number of days. It doesn't seem fair to me, and I don't think this section solves any problem.

The last lawsuit challenging a Tongass timber sale was 4 years ago. It is not like this is a pressing problem. There are no pressing problems challenging or enjoining the timber sales in Tongass, and timber companies on the Tongass have a huge backlog of timber under contract to be cut. As a matter of fact, they have about 300 million board feet left to be cut. They only logged 34 million board feet last year. So it is hard to understand why we have to make this rule for a problem that doesn't seem to exist. Yet it would take away a fundamental right of judicial review for timber sales in Alaska.

Maybe there is some good reason this should be done. I have been trying to figure it out myself. Maybe they actually want to reopen these sales. I don't know what it is. But I can say I have looked up and down to figure out what is going on. We have people here who are very nervous. They don't want to see a series of attacks continue on the Tongass National Forest. We had an attack last year. I spoke out in opposition to it. And we have it again this year.

Once again, I hope we strike this rider from the bill and assure the public is given an opportunity to seek judicial review, and that the judicial system is not unjustly hindered. The beauty of our country is the checks and balances that we have. All of us learn that when we go to school, in the sixth grade, eighth grade, high school, college—the checks and balances between the executive branch, the legislative branch, and the courts. When Congress starts standing up and saying: Judge, you have to hear a particular case in 180 days and, people, you better get your act together, get your case together in 30 days, in my view, this is really interfering in the rights of the people we represent and interfering in the duties of the courts.

Once again, feast your eyes on this magnificent area. It was my joy to be there for 7 days. I will never forget that trip. The last thing I want to see happen is to weaken the protections we have afforded this temperate rain forest that is so magnificent.

It honestly takes your breath way.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, while we are waiting for some other presenters, speakers on the amendments that are pending, I ask unanimous consent to speak in morning business for 5 minutes, and ask it appear in the morning business section of today's RECORD.

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

(The remarks of Mr. DORGAN are printed in today's RECORD under ''Morning Business.'')

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I wish to address the pending Boxer amendment. Is that still the pending business?

The PRESIDING OFFICER. It is the pending question.

Mr. STEVENS. Mr. President, this provision which Senator BOXER seeks to strike—which I call the expedited judicial review provision—has been misconstrued by the Senator from California. Let me give you first a little history of the Tongass Forest.

In 1917 this forest was established, 17 million acres. It is the largest national forest in the United States. It encompasses over 80 percent of all of southeastern Alaska, which is roughly the size of New England.

In 1947, the Tongass Act set aside an allowable sale quantity level of 1.38 billion board feet per year. Let me repeat that—1.38 billion board feet per year.

In 1959, as part of the Statehood Act, there was an allowable sale quantity level established at 1.3 billion board feet per year.

Congress continued to review the Tongass. In 1971, the Alaska Native Land Claims Settlement Act set what we called the ASQ—the allowable sale quantity—level at 950 million board feet.

In 1980, that was reduced to 250 million board feet. Under the law, we call it ANICA—the Alaska National Interest Conservation Act—from 1980 to 1987, the average volume of timber sold and harvested per year in the Tongass was 280 million board feet per year.

In 1990, the Tongass Timber Reform Act set the ASQ at 440 million board feet. That act also directed the Forest Service to provide a supply of timber to meet the market demand.

But in 1997, Congress further reduced the level to 260 million board feet. That was through the Tongass land management plan. We call it the TLMP process.

So today only 676,000 acres of the 17 million acres in the Tongass National Forest is currently available for timber or timber harvesting for the timber industry. That is from the largest national forest in the United States.

Due to litigation, only 34 million board feet in total was cut in 2002.

This forest once supported 4,000 timber jobs. Now the lumber jobs have been reduced by 50 percent. Some of them work for independent operators or outside of the national forest on Native land. But 99 percent of the jobs associated with the processing of timber, particularly the pulp industry, have been eliminated.

In 2001, the timber industry had about 2,000 workers—again, a lot of them not on Federal land—with an annual payroll of $108 million.

The Senator from California represents a State that also has national forests. In California, there is a healthy and robust timber industry. Over 259 million board feet of timber was harvested in 2002 on 10 million acres of California land. In 2001, the timber industry supported 110,000 jobs with $3.4 billion in annual payroll.

Despite the rhetoric of the Senator from California, my amendment does not cripple the public's due process at all. It seeks to deal with the lawsuits pertaining to timber sales in the Alaska region and the way they have been handled by those who oppose cutting timber in Alaska but support cutting timber in a national forest half the size of one of Alaska's forests, the Tongass Forest. Lawsuits pertaining to timber sales are filed in a way that delays the process through the administrative courts, then through the Federal courts. By the time they are through, they are not harvesting.

My amendment provides that suits be filed in Alaska District Court within 30 days after the administrative appeals have been exhausted, or 30 days after enactment of this act. It directs the District Court of Alaska to render a decision within 180 days of the date the lawsuit was filed. We are dealing with judicial process, not environmental process, not the rights of individuals, but abuse, primarily from lawyers from California who file these lawsuits in Alaska. If the court has not rendered its decision, the provision in this bill authorizes the Secretary of Agriculture to petition the court to proceed with the action.

The timber sales at issue are subject to an intense public review process. For each timber sale, a notice of intent to prepare an environmental impact statement is published. The environmental impact statement is prepared, which generally takes 2 to 3 years. Each one of them costs $1 to $3 million. The draft EIS is issued, at which time there is a public comment period. The final EIS is then issued which addresses the public comments and makes any necessary changes.

Again, the public is invited to comment on the final EIS. Once that extensive review process is completed, a record of decision is released which stipulates the conditions under which the timber sale may proceed. My amendment does not cover that part of this process at all. There is no limitation put upon the administrative side at all.

If the public has additional concerns, they have an opportunity to appeal the record of decision administratively to the Forest Service. Invariably that happens. An appeal is made to the Forest Service. After that appeal, there is what we call the record of decision. Of the last 36 records of decision, 32 were administratively appealed.

Despite the extensive environmental review, public participation, and administrative use, lawsuits are still filed. Of the 32 claims administratively appealed, 9 have been litigated. It takes an average of 2 years from the time the complaint is filed in district court until a final judgment is reached, and then it is usually by the Ninth Circuit Court of Appeals in California.

These lawsuits add enormously to the expense of the taxpayers. They have a devastating effect on the men and women involved in the timber industry in my State. This process can take between 4 and 7 years before a single tree is harvested under a contract that authorizes harvesting of the timber. My provision does not limit access to the judicial system, nor does it impair the rights of those seeking judicial review of records of decisions. It does not affect the environmental process. It does not affect the public's right to comment. There is no time line for filing appeals to the district court's decision. That would be the Ninth Circuit.

This provision merely ensures there will be timely consideration of this equal process that is fair to environmental groups, the Forest Service, and men and women of my State who rely upon the timber industry for their livelihood. We merely set a time line for the judicial review of records of decision that have been made after the administrative process has been completed. That normally takes 1 to 2 years. Each of these is then appealed to the courts, the district courts, but there is no requirement now that those appeals be filed on a timely basis. This requires that within 30 days after the decision, there has to be a decision whether they will appeal. If they appeal, the district court must render the decision within 180 days. After that, they have the right to consider the process and appeal to the Ninth Circuit Court of Appeals if they wish. As a practical matter, we have eliminated the basic area where delay has taken place.

Again, let me point out, what we are seeking to do is to require that this judicial review process be expedited. That is a fair way to handle this process which has been so abused by these lawyers. I am a California lawyer, incidentally. California lawyers in my day did not act the way these guys are acting; I can state that right now. This says if you take an appeal from the Forest Service—mind you, they are after public hearings on the EIS, they are after public hearings and comments, and after administrative appeals to the Forest Service; and then the time for the basic delay. After they fail to file appeals, delay, delay, and delay, and they get to the court and the court delays. This is relieving the delay in the courts and relieving the delay in filing the appeal from the administrative court.

I urge that the motion to strike of the Senator from California be eliminated. Today these lawyers have 6 years within which to file that complaint after it has gone through the process of two public hearings, administrative appeal. For the record of decision, they can wait up to 6 years to file for review of the record of decision. This is, as far as I am concerned, a defect in the administrative process for judicial review. That is all we are dealing with.

We do not affect environmental rights. We do not affect the right to appeal. All we say is, you have to do it within a timely period. The district court must act within a timely period so we can tell whether the contracts that have been issued and approved by the Forest Service can be carried out by those who seek to make a living off harvesting the small amount of timber still available from forests in my State.

I point out the inconsistency of the Senator from California in complaining about relieving this process, the delay in this judicial process, when in the State of California they harvest an enormous amount of timber from an area that is less than half the size of our national forests. Surely the people of the State of California would understand that if a decision is made, the

small amount of Alaska's timber area, 676,000 acres in the Tongass Forest, is available for harvesting, there has to be certainty in the review process so the economics of the timber industry will be sound.

I urge defeat of the motion to strike of the Senator from California and I move to table that amendment.

Mrs. MURRAY. Mr. President, I intend to speak on the Reid amendment and I would ask what the pending business is.

Mr. BURNS. The order of business now is the Boxer amendment. We have set aside some time for the Senator to speak on the outsourcing amendment.

The PRESIDING OFFICER. Is the Senator from Alaska making a motion?

Mr. STEVENS. I did inquire whether the Senator from Washington was seeking to speak on the Boxer amendment. I made a motion to table the Boxer amendment and ask unanimous consent that the time for the vote on my motion be determined by the leadership.

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

Mr. STEVENS. I yield the floor.

Mr. BURNS. If the Senator from Washington wants to speak on the Reid amendment, I ask unanimous consent that the present amendment be set aside and the Senator from Washington retain the floor.

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

The Senator from Washington.

AMENDMENT NO. 1731

Mrs. MURRAY. Mr. President, I rise today to speak in support of the amendment offered by Senator REID that temporarily bars the Department of the Interior from spending any more money on competitive sourcing studies.

The House has already inserted this language into its Interior spending bill, and I hope the Senate will do the same.

This amendment is critical so we can assure the people who visit our already overstressed national parks that they will not be subjected to even fewer services. ''Competitive sourcing'' is a new term that has been created to describe the opening up of public sector jobs to private sector competition. Now, we have all been told that competitive sourcing is not the same as outsourcing, but I think it is pretty safe to say it is not a whole lot different.

As all of us know, one of the primary goals of this current administration is to privatize large numbers of Federal workers. This administration, under its initial outsourcing policy, mandated that each Federal agency review for privatization no less than 15 percent of its commercial activities by the end of fiscal year 2003. Unfortunately, this onerous and apparently arbitrary privatization quota did not take into account the different agencies' unique conditions.

After a lot of pressure from Federal workers, environmentalists, and labor groups, the White House finally abandoned its original blanket competitive sourcing scheme. But now the initial plan has been replaced by a new plan that actually pushes for more outsourcing, not less.

Although there is no concrete timeline, this new incentive-based plan encourages Federal agencies to outsource 50 percent or more of their commercial activities. So while we in Congress are trying to slow down this outsourcing drive, the administration is now working to speed it up.

So what does that mean for an agency such as the National Park Service? I am very concerned that the President's outsourcing policy may well cause critically needed maintenance funds in our parks to be spent, instead, on further studies for competitive sourcing.

In my home State of Washington, we are very concerned about the reports that Mount Rainier National Park, for instance, could possibly have to divert up to 40 percent of its repair budget due to this outsourcing and antiterrorism requirements. So when they were faced with this possibility, the National Park Service director at Mount Rainier promised that at Mount Rainier no more outsourcing studies would be conducted using 2003 and 2004 dollars. This comes as a great relief to the users of Mount Rainier National Park and the surrounding communities, but now everyone is asking, What about Olympic National Park? What about Cascade National Park? Those are national treasures that are in my home State. And what about all the other national parks across the country that remain vulnerable to this proposal?

Outsourcing is by no means a new policy for the Department of Interior, especially in the National Park Service. The Park Service, in fact, currently outsources nearly $2 billion in services, including over $800 million in concessions and over $1 billion for contractors.

Those contractors currently provide functions such as janitorial services, tree work, garbage pickup, construction, and management consulting—things like that. So when the Department of Interior is now told to outsource up to 50 percent of its commercial responsibilities, we are very concerned that some of the National Park Service's key functions are going to be threatened.

The Park Service, as we all know, was initially created to preserve the natural and cultural resources of the Park System and to provide recreational opportunities for generations of Americans. The last thing we should be doing is lessening the agency's ability to do just that.

The amendment now before the Senate, that was offered by the Senator from Nevada, Mr. REID, will not completely stop all outsourcing efforts. It will simply slow them down. I believe that is the right thing to do.

So far, in the case of the Department of Interior, OMB's outsourcing initiative has been on the fast track. The Reid amendment will simply prevent funds from this year from being used to initiate any new studies for competitive sourcing. It will, however, still allow the studies initiated with money from the last 2 years to be completed. I think that is the right course to take.

Slowing down this outsourcing initiative will allow us in Congress to have the time to analyze the costs and implications of this administration's proposal—I believe something we should have done in the first place.

The National Park Service is truly a mission-driven organization. Its core responsibilities include promoting the highest level of environmental stewardship, and, in turn, providing the best possible service to each and every park visitor.

So far, as we all know, the Park Service has done a tremendous job of doing just that. Consistently, 97 percent of our national park visitors have indicated they are ''satisfied'' or ''very satisfied'' with their national park experience. A lot of this public regard is attributed to the high quality and high morale of our Park Service employees.

Historically, National Park Service workers have maintained an extremely high level of camaraderie and positive spirit. Often these wonderful employees of ours are called upon to perform multiple duties that fall outside any one particular job title. It is not uncommon, in our national parks, for a maintenance worker to give interpretive talks on the weekends, or a park geologist to perform first aid, when it is necessary, or for a visitor assistant to help in fighting forest fires.

This kind of overlap of job duties is possible because of the way in which Park Service employees are currently cross-trained and because of the workers' extraordinary commitment to their jobs. In my opinion, having these kinds of outcomes with 9-to-5 contract workers would be very unlikely.

All of the implications of the President's policy of outsourcing in the National Park Service are not yet known or understood by those who use the parks or by Members of Congress who are passing this legislation. I think Congress has yet to carefully consider the consequences of this policy, especially when it comes to the services we expect for our families when they visit our national parks.

I am on the floor of the Senate today to thank Senator REID for putting this amendment forward, and I urge the Members of the Senate to follow the House and slow down the President's outsourcing policy to protect the core mission of the National Park Service by voting for the Reid amendment, and then thoroughly taking the time to analyze and understand how this will impact our incredible heritage at our national parks before we move forward.

Mr. President, I yield the floor.

Mr. REID. Mr. President, last week I proposed an amendment to this bill

that would prevent the administration from privatizing parts of the Park Service, Forest Service, BLM, and related agencies.

I would like to submit for the RECORD some statements supporting my amendment. These are from the National Parks Conservation Association, the Wilderness Society, the National Trust for Historic Preservation, and the American Federation of Government Employees.

These organizations support my amendment because they share my belief that our National Parks and National Forests are public treasures that should be managed for posterity, not for profit.

Their letters cite many reasons why privatizing the operation of our National Parks and Forests would reduce the quality of maintenance and service.

As the letter from the Wilderness Society points out, the director of the National Parks Service wrote an internal memo warning that the administration's privatization policy could reduce visitor services, and cause layoffs of Parks Service workers.

These organizations realize that if we lose dedicated foresters, fire fighters, archaeologists and scientists, we will lose valuable knowledge about our precious public lands.

Protecting our National Parks and Forests is not just a job for these dedicated workers; it is a way of life. No job description can do justice to their dedication.

Just last month at Shenandoah National Park, a search team of four Park Service employees found a 10-year-old boy who was lost.

Today, the Park Service is reviewing their jobs, trying to determine whether they ought to be turned over to private contractors. Trying telling that little boy's parents that it isn't important to have workers who are familiar with our parks and forests.

These are some of the reasons that these organizations are opposed to privatization. There is another reason, which ought to concern every Member of this Senate. That is the unauthorized expenditure of public funds. It is our job as legislators to direct public funds to agencies and projects that will serve a public need. Congress has never authorized funds for outsourcing studies.

The Forest Service spent $10 million just last year on its outsourcing studies, 10 million that Congress had designated for preserving and protecting our national treasures. The Park Service has estimated that it could spend $3 million just to hire consultants. President Bush made a campaign promise to eliminate the $4.9 billion maintenance backlog that existed in the Park Service when he took office. That backlog is now estimated at $6.1 billion. Meanwhile, the Park Service has diverted funds from maintenance projects to conduct studies about outsourcing.

In the Pacific West region, several projects are being put off to pay for security measures and outsourcing, including: removing asbestos from old buildings in Yellowstone National Park, seismic safety rehabilitation for 18 buildings in Golden Gate National Recreation Area, and upgrading the sewage lagoon at Crater Lake National Park. These projects would protect our parks and visitors. That's why Congress set aside money for them.

Just because a private contractor knows how to run a business doesn't mean he knows how to take care of our public parks. A few years ago, one park needed five new courtesy docks on a lake. The lowest bidding contractor designed metal docks for an area where temperatures in the summer reach 115 to 120 degrees. Metal docks would have burned visitors, so the design had to be thrown out. That wasted $21,000, and only two docks could be built with the remaining funds.

In another incident, public workers used to handle their own garbage collection, at a cost of about $150,000 a year. Then they contracted it out. Six years later, the cost is about $500,000 a year. It is no wonder that environmentalists, park visitors, and public employees are so concerned about the effect this policy is having on our public resources. The Bureau of Land Management just wasted $60,000 to study 26 positions in two States. The BLM employees won their competitions.

In all, BLM will spend almost $2 million this year to show the administration that its employees are the most capable and efficient to do their jobs. The public servants at BLM don't need an expensive consultant to prove their commitment to preserving our public resources; they prove it every day. Congress doesn't need that, either. That is why we never voted for it

Ten million dollars in the Forest Service, $3 million in the Park Service, $12 million in BLM, and next year it will be more—unless we stop it.

Article I of the Constitution requires Congress, not the President, to authorize and appropriate funds. The administration is bypassing Congress to implement its own agenda and is using unauthorized funds to do it. We work hard to make sure we fund projects that are in the best interest of the taxpayers. The administration wants to take away that role. Mr. President, I hope my colleagues will join me in doing our duty as United States Senators.

I ask unanimous consent that the letters to which I referred be printed in the RECORD.

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

NATIONAL PARKS CONSERVATION ASSOCIATION,
Washington, DC, September 17, 2003.

DEAR SENATOR: On behalf of the more than 300,000 members of the National Parks Conservation Association (NPCA), we urge you to support the Reid amendment to the FY 2004 Interior Appropriations Act, which forestalls the Administration's effort that could privatize more than half of the National Park Service workforce.

The House passed a bipartisan provision sponsored by Interior appropriations chairman Charles Taylor (R–NC) that slows the initiative that is already harming one of the most beloved institutions of American government—the National Park Service. The Park Service, comprised of some of the most dedicated and underpaid public servants in our nation, is the guardian of our most precious natural and cultural treasures. Our collective American heritage should not be placed at risk by a politically driven, inside-the-beltway top-down strategy that places the guardianship of our parks in the hands of the lowest bidder without regard for the impact on the values embodied by our national parks.

Outsourcing is an appropriate tool when appropriately used. But that's not what the administration is doing. Although Clay Johnson III, OMB's deputy director for management, argued recently that the administration is interested in allowing contracting on work that is ''really, really commercial,'' such as food service, check processing, and other similar functions, the thousands of Park Service positions the administration has defined as commercial include archaeologists, biologists, museum curators, masons, and other workers who serve park visitors, educate school groups, and protect the parks for future generations.

A few points to consider: The Park Service is spending millions of dollars to fund, competitive sourcing efforts without authorization from the appropriations committee, and at the expense of the enormous pressing fiscal needs of the parks; No study has been undertaken about the extensive outsourcing that has already occurred in the National Park Service, to determine the cumulative impact of the administration's proposals. Privatization could adversely impact the diversity of the Park Service as well as the quality of local jobs available in many areas; Protection of our national parks is a way of life for the National Park Service, not just a job. The esprit-de-corps of the Park Service is something businesses try to emulate, not something that should be easily discarded or put at risk; The Reid amendment does not prevent the Department of the Interior from contracting out services or existing outsourcing studies. Interior agencies retain the ability to hire contractors to supplement the existing federal employee workforce.

A vote for the Reid amendment is a vote to protect our national parks, and we will consider using this significant vote in our biennial ''Friend of the National Parks'' scorecard for the 108th Congress.

Sincerely,

THOMAS C. KIERNAN,
President.

THE WILDERNESS SOCIETY—SUPPORT THE REID AMENDMENT TO PROTECT JOBS IN THE NATIONAL PARK SERVICE

Senator Harry Reid (D–NV) has filed an amendment to the FY04 Interior Appropriations bill that provides protection for National Park Service employees' jobs. The language in the Park Service section of the bill reads . . .

''None of the funds in this act can be used to initiate any new competitive sourcing studies.''

This is the exact language that the House Subcommittee on Interior Appropriations added as a bipartisan provision earlier this summer. The provision protects the National Park Service (NPS) from losing some of its most skilled employees. The Office of Management and Budget has imposed an onerous quota on all agencies to review for privatization 15% of their ''commercial'' activities by the end of this year. This assault on dedicated park employees applies regardless of its impact on the agency.

The Park Service has the potential to lose irreplaceable institutional knowledge of dedicated park scientists, archeologists, architects, curators, engineers, fire fighters, and laborers . . . jobs considered to be ''commercial'' in nature.

The Reid amendment limits the use of funds for competitive sourcing studies to those already initiated in fiscal years 2002 and 2003. At this point the Park Service has already expended $2 to $3 million on privatization studies at the expense of funding daily operations within the parks!

An internal memo penned by NPS Director Mainella as reported in an April 19 Los Angeles Times article says this policy could reduce visitor services and cause unexpected layoffs, as well as undermine the agency's efforts to create a more ethnically diverse work force.

For further information contact: Sue Gunn, Director, National Park Program, (202) 429–2676.

NATIONAL TRUST FOR HISTORIC PRESERVATION,
Washington, DC, September 17, 2003.

Hon. BILL FRIST,
Majority Leader, U.S. Senate, the Capitol, Washington, DC.

DEAR SENATOR FRIST: Congress chartered the National Trust for Historic Preservation more than 50 years ago to protect America's irreplaceable historic and cultural treasures including those that are part of the country's great inventory of federal lands. As a private nonprofit organization with more than a quarter million members, the National Trust is the leader of a vigorous preservation movement that is having the best of our past for the future. Because of our concern for the welfare of the nation's historic and cultural resources, we urge you to support Senator Reid's amendment to the Interior appropriations bill that would place a temporary hold on the large-scale privatization effort already underway at the Department of Interior and related agencies—especially within the National Park Service and the Forest Service. This privatization effort would outsource many of the professional and expert responsibilities now performed by federal employees.

The National Trust supports a similar bipartisan provision that is now part of the House version of the bill. It would withhold FY'04 funds from the rampant privatization program so that Congress can make a comprehensive assessment of outsourcing's effects on the important work performed by scientists, archeologists, architects, curators, engineers, fire fighters, and laborers. Before advancing headlong into this initiative, Congress would have an ''in-depth report'' on the results of pending privatization efforts including information related to ''specific schedules, plans, and cost estimates for implementing [the privatization initiative].'' The Department's FY'02 and FY'03 privatization work in progress would be unaffected by the provision.

The Interior Department and related agencies have been under intense pressure to privatize key programs because of an Office of Management and Budget (OMB) government-wide quota that requires all agencies to review 15 percent of their ''commercial'' activities for privatization by the close of this fiscal year. OMB is applying this quota regardless of the effect on the government's responsibility to all Americans who depend on efficient and reliable service. Last year Congress was so concerned about OMB proceeding too hastily that it included a reporting requirement in the FY'03 Omnibus Appropriations Bill. So far, however, OMB has not provided any research or analysis to justify the quota as it quickly progresses on outsourcing positions and imposes sanctions on agencies that fail to fulfill the quota. Those penalties are severe, ranging from arbitrary reductions in staff to punitive budget cuts.

The National Trust, like many Republican and Democratic lawmakers on Capitol Hill, is concerned by the scale, lack of methodology, and expense associated with this initiative, which comes at a time when federal budgets are declining and resources are thin. Congress and the public need more time to assess the process adequately, and fully understand the costs and implications of the decisions being made before outsourcing diverts governmental staff from high-priority assignments, consumes funding that is directed towards mission-essential requirements, and undermines efforts to ensure that the federal workforce reflects the American people in its diversity.

Services provided by the federal government should always include a mix of public and private sector resources where appropriate. Contractors can play a valuable role in an agency's mission to service the American public. OMB's privatization quota, however, is forcing the Interior Department and other agencies to privatize services without heed to the full effects on safeguarding the nation's historic and cultural treasures. The National Trust asks you to support Senator Reid's amendment to the Interior appropriations bill and take a more measured approach to outsourcing those federal responsibilities best performed by governmental staff.

Sincerely,

RICHARD MOE.

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL–CIO,
Washington, DC, September 17, 2003.

DEAR SENATOR: On behalf of the American federation of Government Employees, which represents more than 600,000 federal employees who serve the American people across the nation and around the world, I urge you to supoprt the Reid Amendment to the Interior Appropriations Bill that would temporarily suspend new privatization studies in the Department of Interior and related agencies. These privatization studies have been ordered by the Office of Management and Budget (OMB), regardless of need or impact on those agencies' services, in order to fulfill a wholly political privatization quota.

The Reid Amendment is identical to language that was earlier included in the House Interior Appropriations Bill by Chairman Charles Taylor (R–NC). The Taylor provision was inspired by the diversion of staff and resources to conduct costly privatization reviews instead of fulfilling agencies' missions, even if that meant not eliminating long-standing maintenance backlogs in the National Park Service or protecting Forest Service lands from the scourge of fire.

We appreciate the leadership of Senate Interior Appropriations Committee Chairman Conrad Burns (R–Mt) in defunding all new and ongoing privatization studies in the Forest Service without Congressional approval. However, the same problems caused by OMB's wholesale privatization effort in the Forest Service are adversely affecting all agencies funded under the Interior Appropriations Bill. Moreover, the Reid Amendment strikes a fair balance in that it allows ongoing privatization reviews to continue but suspends new ones until the Congress has a better understanding of OMB's extremely controversial wholesale privatization initiative.

That the recently revised OMB Circular A–76, which governs the rules for privatization, has been tilted dangerously in favor of contractors, is no longer subject to dispute. In fact, the House of Representatives, in bipartisan fashion, recently passed an amendment to the Transportation and Treasury Appropriations Bill that would completely defund the new A–76 and force OMB to craft a more fair and balanced process, one that exalts the interests of taxpayers and every American who depends on the federal government for important services, not contractors.

Among the many flaws, the new privatization process denies federal employees opportunities to submit their best bids in most competitions, fails to require contractors to at least promise appreciable savings before taking work from federal employees, and doesn't ensure that a subjective and unprecedented privatization process is first tested and evaluated in the limited context of information technology before it is used across-the-board on all services, as was required by Senate Armed Services Committee Chairman John Warner in this year's defense authorization bill, instead of using it across-the-board on all services, as would be allowed by the new A–76.

Despite OMB's professed determination to ensure competition, the new circular requires federal employees to be subject to public-private competitions to perform new work, to be recompeted in the event of failure to perform, and be automatically recompeted every five years except in isolated circumstances. In those same circumstances, no such competition or recompetition requirements apply to contractors. And although OMB is determined to review for outsourcing at least 416,000 federal employee jobs, no contractor jobs are scheduled to be reviewed for insourcing.

At the same time, the new circular appears to give the interests of taxpayers short shrift. The rewritten A–76 makes no changes of any significance with respect to the administration of contracts. Moreover, despite the imposition of the privatization quota, OMB provides already overwhelmed agencies with no new resources to conduct fair competitions and satisfactorily administer resulting contracts. In addition, the new A–76 does little to encourage the use of alternatives to A–76 that can generate superior savings—but without the significant costs and wrenching controversies associated with privatization reviews. And despite the documented disproportionately adverse impact on women and minorities who are part of the civil service, a particular problem in the National Parks Service, according to the Director, the new circular does nothing to ensure that the OMB privatizaiton initiative does not force federal agencies to turn the clock back on diversity and inclusiveness in the civil service.

Finally, we note that the new A–76 does not discourage contracting out from being undertaken in order to undercut the pay and benefits of those who work for the federal government. The Senate recently passed, without opposition, an amendment to the defense appropriations bill that would exclude health care costs from the cost comparison process if a contractor provides inferior health care benefits. The new A–76 fails to take that approach.

Again, AFGE, standing proudly with many different environmental groups, urges Senators to support the Reid Amendment to the Interior Appropriations Bill and prevent privatization from polluting the agencies that the American people have entrusted to safeguard our nation's most valuable natural treasurers. Please contact John Threlkeld in AFGE's Legislative Department at (202) 639–6413 if you have any questions about our position on this important matter.

Sincerely yours,

BETH MOTEN,

Director, Legislation & Political Action Department.

Mr. REID. Mr. President, before the Senator from Washington leaves the floor, I would like to say it was only recently that I had the opportunity to see some of the natural beauty of the State of Washington. I, of course, had been to Seattle a number of times—the airport, went into town, and left. But I had the opportunity, within the past couple of months, to see various parts of Washington.

I will never forget the drive from Pasco, WA, to Seattle over the great Cascades. Those mountains and trees, the forests are so much different than the forests of Nevada. We are very proud of the great treasures we have around Lake Tahoe and other forests we have in Nevada. But the Cascades are in a different class, with totally different kinds of trees, different forests.

That is what the Forest Service is all about, having these people, who sign on to the Forest Service for life, to be the guardians and protectors of these great national treasures such as those around Lake Tahoe and those beautiful Cascades that I drove through.

To think we are considering putting these great national treasures out for profit rather than posterity frightens me. I appreciate very much the Senator from Washington standing up for the great Cascades. I am sure there are other beautiful parks in the State of Washington that you have described here that are as beautiful as I can imagine. But I want the Senator from Washington to know—and everyone within the sound of my voice—I was so impressed driving through those Cascades.

I repeat, I hope—and I know there is going to be efforts made to second degree this amendment because the majority is afraid of an up-or-down vote because we will win an up-or-down vote because people of both parties do not want to put these national treasures up for bid. What they are going to do is offer some kind of an amendment saying: Well, we have studied them. Let's get a report. And we will go ahead and continue doing the studies around Lake Mead, around the areas the Senator from Washington pointed out.

The reason this is such a calculated effort to hurt our parks is that they are taking money, as I outlined earlier, that has been set aside by congressional votes to take away the asbestos we have in some of our park facilities, to do work on sewers, and a lot of other things. They are taking money from that and studying whether it is a good idea to privatize. That is wrong. If they were going to do it the right way, they would come before Congress and say: We want to study what is going on in our national parks. Appropriate money for us.

They are doing indirectly what they know they can't do directly.

I hope everyone understands that this second-degree amendment, which will be offered shortly, is only an effort to help those who want to defeat this amendment to, in effect, get well by saying: Well, we voted for a study and the President has to report on these studies.

I want everyone to know a vote for this second-degree amendment—it may be a side-by-side amendment—is a vote to allow the outsourcing, the privatizing of the workforce of our national parks.

Mrs. MURRAY. Will the Senator from Nevada yield for a question?

Mr. REID. I am happy to yield for a question.

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mrs. MURRAY. Mr. President, if I heard the Senator from Nevada correctly, am I to understand there is going to be a second-degree amendment to his amendment that I just spoke about that will essentially allow the outsourcing to continue while we move forward in the appropriations process this year? If that is the case, I ask the Senator from Nevada, if you are a park employee in one of our beautiful parks—and you referenced the Cascades; we have Olympia National Park, Mt. Rainier. I invite all of our colleagues to come and see—if you were an employee and you knew Congress was going to continue to move forward with this proposal or some type of variation, would you not be worried that you would not continue to do the same good job that our employees do right now because really your future is up in the air and you would be looking for something else?

Mr. REID. Mr. President, I respond to my friend from Washington that this second-degree amendment, which I haven't seen but I have been told what is in it, would basically allow the outsourcing studies to go on. And they have no money to do that so they are robbing other programs to do it. So the answer to the Senator's question is, yes, they would continue doing the outsourcing studies, as they call them, in an effort to privatize the workforce in the national parks.

There is a handout that has been distributed. When you can't defeat a measure on its face, what you resort to is name-calling. Here is what they have written:

> Now is not the time to promote inefficiency. The Reid amendment would support the Federal employees union agenda to grow the size of the Federal workforce and avoid competition of any kind.

That is so mean spirited and so wrong. When you can't defeat an issue on its face, what you do is resort to name-calling. What they have done here is say, this is all a big ploy of the unions. I offered into the RECORD earlier today groups that support this amendment that is sponsored by the Senator from Washington and the Senator from Nevada. There wasn't a single union I put forward as favoring this. I am sure they do, but I haven't talked to them. But we have resorted to name-calling, saying this is bad because the unions like it. I am sure the unions do like it if, in fact, there are unions there. I don't really know. But this has nothing to do with unions.

It has everything to do with protecting a dedicated workforce and to not put these employees out to minimum wage. That is in effect what it is. I know what we will do as we do in all of these privatizing methods: We will come in with a low-ball figure. We can do it so much cheaper. And then as soon as the contract is entered, it balloons. I gave an example this morning. One of the parks was picking up garbage. It cost $150,000. They put it out for private bid. And now within 3 years time it is a half a million dollars for the same work Government employees were doing.

I appreciate very much the support of my friend from Washington. Again, I recognize her ability to support working men and women and not corporate America. I do know the Senator from Washington has done a great job of protecting the corporations in her State. But here is an issue that deals directly with working men and women. And, of course, the Senator from Washington has sided with the working men and women of our country.

AMENDMENT NO. 1754 TO AMENDMENT NO. 1731

(Purpose: To substitute a requirement for an annual report on competitive sourcing activities on lists required under the Federal Activities Inventory Reform Act of 1998 that are performed for the Department of the Interior by Federal Government sources)

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I call for the regular order with respect to amendment 1731. I have an amendment to send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Amendment 1731 is now pending.

The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. VOINOVICH], for himself and Mr. THOMAS, proposes an amendment numbered 1754 to amendment No. 1731:

Strike lines 3 through 6, and insert the following:

SEC. ____. Not later than December 31 of each year, the Secretary of the Interior shall submit to Congress a report on the competitive sourcing activities on the list required under the Federal Activities Inventory Reform Act of 1998 (Public Law 105-270; 31 U.S.C. 501 note) that were performed for the Department of the Interior during the previous fiscal year by Federal Government sources. The report shall include—

(1) the total number of competitions completed;

(2) the total number of competitions announced, together with a list of the activities covered by such competitions;

(3) the total number of full-time equivalent Federal employees studied under completed competitions;

(4) the total number of full-time equivalent Federal employees being studied under competitions announced, but not completed;

(5) the incremental cost directly attributable to conducting the competitions identified under paragraphs (1) and (2), including

costs attributable to paying outside consultants and contractors;

(6) an estimate of the total anticipated savings, or a quantifiable description of improvements in service or performance, derived from completed competitions;

(7) actual savings, or a quantifiable description of improvements in service or performance, derived from the implementation of competitions completed after May 29, 2003;

(8) the total projected number of full time equivalent Federal employees covered by competitions scheduled to be announced in the fiscal year covered by the next report required under this section; and

(9) a general description of how the competitive sourcing decisionmaking processes of the Department of the Interior are aligned with the strategic workforce plan of that department.

Mr. VOINOVICH. Mr. President, I rise to offer a second-degree amendment to the Reid amendment to the Interior appropriations bill. Before I speak to the specifics of the underlying Reid amendment, I will first describe my examination of the administration's competitive sourcing initiative which I have spent a great deal of time on.

Competitive sourcing is one of the five management initiatives included in the President's management agenda. As I said, I paid close attention to this initiative because it is closely related to the Federal Government's strategic human capital management. It is fair to say I have spent more time on this issue than anyone in the Senate during the last 5 years.

It is important to note that competitive sourcing is not privatization, nor is it outsourcing. It is public-private competition, a methodical process for evaluating the most efficient and cost-effective manner of providing a service that is commercial in nature and not inherently governmental.

I would like to make clear to my colleagues that the total Government workforce is about 1.609 million. And inherently governmental is about 751,000; commercial, about 858,000; and of the 858,000 that are commercial, only about 416,000 are available for competition. That is 26 percent of the Federal workforce. The Department of Interior positions being evaluated, which we are talking about today, under U.S. Fish and Wildlife Service, clerical support and appraisers; National Park Service, maintenance of vehicle, lawn, bathroom, and air conditioner, archeological support; Bureau of Reclamation, Job Corps Centers; Bureau of Land Management, maintenance of lawn, vehicle, bathroom, and air conditioner, geographic information services, and photography.

These are positions that are being evaluated. It doesn't necessarily mean they are going to be put out for competitive outsourcing. Contrary to what has been said on the floor of the Senate, I want to quote from the Government Executive, which talks about:

April 25, 2003.

Feds Win Job Competition at Park Service Agriculture Department.

Federal employees have won several small public-private job competitions in land management agencies, including a competition at the National Park Service Office that had run into opposition on Capitol Hill.

A team of 45 archaeologists at the Southeastern Archeological Center in Tallahassee, Florida, defeated private contractors earlier this month, according to Park Service officials. The in-house team re-organized itself into the ''most efficient organization,'' eliminating 17 seasonal jobs and trimming $850,000 in annual personnel costs, according to Donna Calvels, coordinator of the Park Service's competitive sourcing program.

''Not one permanent employee lost their job.''

Hear me?

''Not one permanent employee lost their job, and the competition will save $4.2 million over the next five years,'' Calvels said Thursday.

Federal workers have prevailed in other small competitions decided recently. In the Forest Service, civil servants won competitions at six Job Corps centers across the country, according to Thomas Mills, the agency's deputy director for business operations. The Forest Service operates 18 Job Corps centers as part of a job training program for young adults, which dates back to the New Deal programs of the 1930s. Employees at every center—940 workers in all—are now competing for their jobs.

So far, roughly 300 civil servants at Job Corps centers in Anaconda and Darby, Montana; Franklin, North Carolina; Estacada, Oregon, and Pine Knot and Mariba, Kentucky, have won their competitions. At each center, the Forest Service is using the ''streamlined'' competition method, which compares the cost of the in-house team with the going rate in the private sector. The agency received a waiver from the Office of Management and Budget that allows it to give incumbent workers a 10 percent cost advantage in the competitions, according to Mills. The cost advantage is prohibited under the revised OMB Circular A–76, issued in late May.

Federal workers have also fared well in several streamlined competitions held by the Agriculture Department's Natural Resources Conservation Service.

So the point is what we are talking about here is evaluating positions in various Federal agencies to determine whether those positions can be competitively bid and, in most of the cases, the in-house people win those competitions. In most cases, it is found after it is done that those people have been given an opportunity to get together and figure out how they can do a better job in order to save their job and compete with the private sector. That is what this is about. This is not like, well, if we don't pass this amendment, everything is going to be farmed out in the Interior Department.

Historically, Government employees at the Department of Defense, the agency with by far the most experience in conducting competitions, have won more than two-thirds of public-private competitions since 1997 and in the process have saved taxpayers billions of dollars. Furthermore, from 1997 to 2001, Federal employees won 98 percent of the streamlined competitions conducted at the Defense Department.

This demonstrates that Federal employees can compete and win. During the competition process, Federal employees form a most efficient organization—an MEO—to develop the most competitive bid possible. Through this process, employees make substantive changes to their organization in a collaborative process involving both managers and line employees.

What I like is that is quality management—going to the employees and asking them how they can do their job better than they are now doing it. The result is, regardless of who wins the competition, performance is improved and savings are realized. Isn't that what we want, better performance and savings? Ultimately, MEOs allow agencies to work harder and smarter and do more with less. The teamwork and collaboration that characterize most efficient organizations should be present at all Federal agencies, not just those that are undergoing competition.

The original goal of competitive sourcing was to compete a percentage of the Federal commercial functions with the private sector to cut costs and improve performance. This policy has merit. As a former mayor and Governor, I know from experience there are times when it is appropriate to compete government functions to obtain the best value for the taxpayers. At the same time, I know what motivated and well-trained public employees can accomplish.

The original sourcing goals of this administration—and I had real problems with it—were to compete 5 percent of commercial functions in the first year, an additional 10 percent in the second year, and eventually 50 percent of eligible commercial activities. I have been very concerned with these goals since they were announced. My chief concern was that the governmentwide goals for competitive sourcing had not been based on comprehensive analysis of the Federal workforce on an agency-by-agency basis. The amendment I offer today requires that be done and reported on.

In that regard, these goals reminded me of the workforce downsizing of the Clinton administration. The U.S. General Accounting Office has documented that little or no strategic workforce planning was conducted in Federal agencies before downsizing took place. It was a mindless downsizing, without looking at the jobs agencies had to perform. What this administration is trying to do right now is reshape their workforce to be able to do the job they have been asked to do.

Therefore, I have endeavored to learn more about the initiative. I attended a Governmental Affairs Committee oversight hearing on sourcing in March 2002 and criticized—that was Chairman Durbin—the manner in which the administration was pursuing this program. Over the last 2 years, I have pressed this point in meetings with various officials from the OMB and the White House, urging them to modify the goals of the program. To its credit, the Bush administration has agreed. Clay Johnson was in my office last week. He gets it.

At a Governmental Affairs subcommittee hearing I held on July 24, 2003, Angela Styles, who was, until recently, the administrator of Federal procurement policy, announced the administration would drop its governmentwide goals for competitive sourcing.

I was pleased to learn that each Federal agency will decide the way in which competitive sourcing will proceed. Furthermore, the administration will release a report later this month that will outline the manner in which they have conducted this initiative over the last 3 years.

The administration has demonstrated flexibility and a willingness to make significant modifications to this program. This is a significant step in the right direction and demonstrates that congressional oversight can yield positive results.

However, Congress is considering several amendments that undermine the administration's progress on competitive sourcing. The amendment offered by Senator REID would prohibit competitive sourcing studies and activities at the Department of the Interior. This is, in my opinion, misguided, for several reasons.

First and foremost, since the Eisenhower administration decreed that the public sector should not compete with the private sector, the decision of whether or not to initiate competitions and the rules governing these competitions has been the purview of the executive branch of Government. We are stepping on the prerogatives of the executive branch of Government. There is another way we can do that, and that is what our amendment does—in a way that I think is appropriate. This authority has been exercised in the past by both Democratic and Republican administrations.

Legislatively exempting the Department of the Interior from competitive sourcing circumvents longstanding executive branch prerogative. It is not surprising the administration would strenuously resist efforts to diminish this authority, which is why OMB has said it will recommend a veto of any bill that abolishes or weakens existing management prerogatives.

Second, this amendment is one of a variety of different restrictions on competitive sourcing that have been placed on 5 appropriations bills that, if enacted, would constitute an incoherent set of restrictions. I agree Congress needs additional information on the implementation of this initiative. However, any reporting requirements, which I support and will discuss in the context of my second-degree amendment with Senator THOMAS, should be uniform across the executive branch, not willy-nilly from one department to another department.

Third, I consider this issue the jurisdiction of the Governmental Affairs Committee. That committee has held hearings on this initiative under both Republican and Democratic leadership.

Any Senator seeking to make changes to this initiative should introduce a bill, have it referred to the Governmental Affairs Committee, and advance it through the normal committee process. It should not be addressed through a series of disjointed amendments to appropriations bills.

Fourth, as I noted a moment ago, the administration announced a major change to its sourcing initiative at my subcommittee July 24 hearing. It dropped its governmentwide goals and plans and will now do this on an agency-by-agency basis. It is reasonable for us to monitor how this change is implemented. Therefore, I strongly urge my colleagues to support the amendment being offered by Senator THOMAS and me.

Our amendment would require the Interior Department to provide Congress with detailed information on how it is implementing public-private competitions. This includes a description of how the Department's competitive sourcing decisionmaking process is aligned with the Department's strategic workforce plan. It also requires the Department to report the projected number of full-time equivalent employees covered by competitions scheduled to be announced in the next fiscal year.

If this amendment is adopted, it will not affect the Interior Department's consideration this year, but if they want to do them next year, in this report they are going to be required to say which ones next year they are going to be putting out for competition and why they are putting them out for competition. This is not some arbitrary type of activity as some people would like to characterize it.

Imposing rigorous reporting requirements is the right approach. It has been the prerogative of every administration since the 1950s to decide when to conduct public-private competitions and the manner in which these competitions would be conducted. Congress, in its oversight role, has a right and responsibility to know what the executive branch is doing. The amendment would require the Bush administration to provide exactly that information.

Mr. President, I ask unanimous consent that this report from Government Executive magazine be printed in the RECORD.

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

[From the Government Executive Magazine, Aug. 25, 2003]

FEDS WIN JOB COMPETITIONS AT PARK SERVICE, AGRICULTURE DEPARTMENT

(By Jason Peckenpaugh)

Federal employees have won several small public-private job competitions in land management agencies, including a competition at a National Park Service office that had run into opposition on Capitol Hill.

A team of 45 archaeologists at the Southeastern Archaeological Center in Tallahassee, Fla., defeated private contractors earlier this month, according to Park Service officials. The in-house team reorganized itself into a ''most efficient organization,'' eliminating 17 seasonal jobs and trimming $850,000 in annual personnel costs, according to Donna Kalvels, coordinator of the Park Service's competitive sourcing program.

''Not one permanent employee lost their job, and the competition will save $4.2 million over the next five years,'' Kalvels said Thursday.

Last month, the House voted overwhelmingly to cut off funds for job competitions at the Southeastern Center and at the Midwest Archaeological Center in Lincoln, Neb., where the competition still is ongoing. The funding freeze would not take effect until fiscal 2004, meaning it would not apply to competitions finished during this fiscal year.

But John Ehrenhard, director of the Southeastern Center, said the legislation is still needed to protect other Park Service archaeologists from the Bush administration's competitive sourcing push. ''Even though we won our competition, I'd like to see some [legislation] saying that no more money could be put toward . . . competitive sourcing,'' he said. ''It's just another layer of protection.''

Ehrenhard added that four employees left the center during the competition because they didn't want to risk losing their jobs. ''Most were in their late 20s and early 30s, and they were looking forward to having a career in the National Park Service, and they felt they were denied that,'' he said.

Federal workers have prevailed in other small competitions decided recently. In the Forest Service, civil servants won competitions at six job corps centers across the country, according to Thomas Mills, the agency's deputy director for business operations. The Forest Service operates 18 job corps centers as part of a job-training program for young adults, which dates back to the New Deal programs of the 1930s. Employees at every center—940 workers in all—are now competing for their jobs.

So far, roughly 300 civil servants at job corps centers in Anaconda and Darby, Mont.; Franklin, N.C., Estacada, Ore.; and Pine Knot and Mariba, Ky., have won their competitions. At each center, the Forest Service is using the ''streamlined'' competition method, which compares the cost of the in-house team with the going rate in the private sector. The agency received a waiver from the Office of Management and Budget that allows it to give incumbent workers a 10 percent cost advantage in the competitions, according to Mills. The cost advantage is prohibited under the revised OMB Circular A–76, issued in late May.

Federal workers have also fared well in several streamlined competitions held by the Agriculture Department's Natural Resource Conservation Service (NRCS). In Columbus, Ohio, NRCS workers won three competitions involving mail, clerical and soil-mapping work because procurement officials did not receive valid private sector offers, according to Michelle Lohstroh, state administrative officer with NRCS. Seven and one-half full-time equivalent positions (FTEs) were involved in these competitions.

In Annapolis, Md., four NRCS employees triumphed in a competition, according to Debra Hepburn, a contracting specialist with the agency. ''We have a pretty small office out here in Annapolis,'' she said.

Competitions involving a single NRCS employee in Auburn, Ala., and Lake City, Fla., respectively, also went to federal employees. In Lake City, officials put a vacant position up for competition, to minimize the possible impact on workers, according to Lynn Merrill, an NRCS contract specialist.

Meanwhile, in Michigan, four soil-mapping specialists edged out companies in a competition for their jobs, and in Oklahoma, 17

soil conservation technicians successfully defended their jobs, according to Luann Lillie, an NRCS contracting officer in Stillwater, Okla. And in California, in-house workers triumphed in competitions involving 12 and one-half FTEs, according to Ray Miller, a contract specialist in Davis, Calif.

The NRCS is competing roughly 800 soil conservation technician positions on a state-by-state basis, according to Patty Brown, competitive sourcing coordinator with the agency. These technicians help farmers and ranchers apply conservation techniques to their land, she said in an interview last month.

Mr. VOINOVICH. Mr. President, this report contradicts some of the arguments that have been made for the Reid amendment this afternoon.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I have a unanimous consent request to propound. I ask unanimous consent that prior to a series of stacked votes, which will begin at 4:45 p.m., there be 10 minutes of debate equally divided in relation to the Bingaman amendment No. 1740; further, that there be a total of 50 minutes equally divided in the usual form in relation to the Voinovich and Reid amendments on competitive sourcing.

I further ask unanimous consent that at the hour of 4:45 p.m., the Senate proceed to a vote in relation to the Bingaman amendment No. 1740, to be followed by a vote in relation to the Boxer amendment No. 1753, to be followed by a vote in relation to the Voinovich amendment which is to be modified to be a first-degree amendment, to be followed by a vote in relation to the Reid amendment No. 1731; provided, further, that no second-degree amendments be in order to the amendments prior to the vote, with 2 minutes equally divided prior to each vote.

Mr. REID. Mr. President, it is my understanding that the time consumed by the distinguished Senator from Ohio, Mr. VOINOVICH, will be counted toward the 25 minutes; is that right?

Mr. BURNS. Is that agreeable?

The PRESIDING OFFICER. The unanimous consent request is related to the next hour.

Mr. REID. The unanimous consent request has 50 minutes divided—actually 60 minutes. That time is equally divided. It is my understanding that the 50 minutes between Senator VOINOVICH and myself is to be equally divided. I simply ask that the time he already consumed should be counted against the 25 minutes. That is my statement in the form of a question.

The PRESIDING OFFICER. The Chair does not interpret the unanimous consent request that way. Would the Senator like to amend the unanimous consent request?

Mr. REID. I ask for that modification.

The PRESIDING OFFICER. Is there objection?

Mr. ENZI. Reserving the right to object, we have some statements on our side we would like to give. That is why we wanted 25 minutes. If we take Senator VOINOVICH's time out of it—I am not sure how long he spoke—it will not give time for Senator THOMAS and me.

Mr. REID. I object.

The PRESIDING OFFICER (Mr. CHAFEE). Objection is heard.

The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, in my day-to-day life, I have worn many hats. In my life, I have been a small business owner, a mayor, a parent, and a consumer, just to name a few of the roles I have played over the years. I mention them because with each of them, whenever there was a job that had to be done, I always knew the best way to ensure I got the best deal on a project or product was to put it up for bid and place the job in competition. It is a simple philosophy, and it just makes sense to apply the same logic even to Government.

President Bush has said Government should be market based; we should not be afraid of competition, innovation, and choice. Why is the administration so enthusiastic about competitive sourcing? Because it saves money while holding quality standards high. In other words, we get the same quality at less cost. Who wouldn't like a deal like that?

We do not need to look far to find the results of competitive sourcing. The Department of Defense, NASA, and the Coast Guard have a fair amount of experience in the field. In fact, the Department of Defense reports that it will have saved $6 billion from 2000 to 2003 through A–76 reviews.

Another telling example cited by this study was OMB's decision to take a job usually given to the Government Printing Office and put it up for bid. The job was the printing of the 2004 Federal budget. When forced to compete, the Government Printing Office turned in a bid for the project that was 24 percent lower than the previous year.

I do not think there can be any doubt that competitive sourcing saves money. But it does more than that by allowing Government to more actively engage in contracts with the private sector. Government can increase its access to the skills, technologies, and innovations of the small business communities throughout the country.

This spring, I had an opportunity to visit the Mint in Philadelphia, and the employees there told me what a good job they were doing. I observed them doing a good job. They let me know they were doing that so their jobs would not be outsourced. It was a good attitude. They were doing quality work. They were improving. I saw an article in last week's USA Today that talked about the improvement at the Mint since the new director, a business person, was put in charge.

We have before us an amendment to slow the process and prohibit the continuation of funding for competitive sourcing in the Department of the Interior. Adopting this amendment would turn back the clock and head us in the wrong direction. At a time when budget deficits must be controlled, we should be taking full advantage of tried and true methods to cut spending and control costs, not trying to remove the option.

One concern that has been raised about competitive sourcing is that it might have a seriously negative impact on the Federal workforce. This is not true. Competitive sourcing is about increasing efficiency, not eliminating workers.

As Senator VOINOVICH said, it is about asking the employees how it can be done best. The person actually doing the job usually knows how and best. As a case in point, the Department of the Interior has reported that of more than 2,500 full-time employees whose jobs have been analyzed under A–76, none have been involuntarily dismissed from their jobs. Those who claim we are out to toss out the Federal workforce are missing the point about this program.

Simply stated, competitive sourcing is better for taxpayers and the Federal Government. It makes Federal dollars go further, and it forces Federal agencies to perform more like businesses where the highest level of efficiency is the only acceptable level, and it is working.

If we allow passage of the Reid amendment, we are in fact taking away the one tool a Federal agency has to ensure it is getting maximum efficiency and quality. As a member of the Small Business and Entrepreneurship Committee, I have a responsibility to oppose legislation that may harm our small business community. I cannot support the Reid amendment because it would have a negative impact on the small businesses of our Nation by refusing to allow them to compete. I have been holding some procurement conferences in Wyoming for small business so they could learn how to compete, how to combine if the job is too big for one small business. It has been working. It hasn't kicked Federal employees out of their jobs, but it has produced some lower prices and some employment for small businesspeople.

Studies have shown that when the private sector does win public/private competitions through Circular A–76, a small business, a woman-owned business, or a minority-owned business wins that competition 60 percent of the time. By cutting funding for competitive sourcing in the Department of the Interior, we would be blocking off one of the few entryways that small businesses have available to gain access to jobs in the Federal Government.

With more than 50 percent of the Federal workforce eligible for retirement within the next 5 years—let me repeat that—with more than 50 percent of the Federal workforce eligible for retirement within the next 5 years, it is essential to ensure we have the right people in the right positions.

Competitive sourcing creates an atmosphere in which the Government is not forced to deflect its valuable Federal employees to tasks that are not inherently governmental. It allows Federal agencies to more effectively manage their personnel.

That kind of management was clearly in evidence when a number of national parks on the eastern seaboard used temporary employees during the summer as lifeguards. Through competitive sourcing, the National Park Service contracted this work to private lifeguard companies. These companies then hired the Park Service's temporary employees, giving them full-time year-round jobs. The local communities benefited through the enhanced opportunities for local businesses and the former Park Service employees benefited by getting better pay and more work.

Circular A–76 is important because it represents a win-win situation for small businesses; also for the Government; also for the taxpayer; and for all those who need and perform the work.

We are all familiar with the old adage, if it isn't broke, don't fix it. Circular A–76 is working well and will only get better as we fine-tune the process. It is a process that isn't broke and it deserves to keep doing what it does best, saving the Government money.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I will wait for the floor manager here.

Mr. BURNS. Mr. President, thanking my good friend from Wyoming for allowing me to interrupt here, I renew the unanimous consent request with regard to the votes.

I ask unanimous consent that prior to a series of stacked votes, which will begin at 4:45, there will be 10 minutes of debate equally divided in relation to the Bingaman amendment No. 1740; further, that there be a total of 50 minutes equally divided in the usual form in relation to the Voinovich and Reid amendments on competitive sourcing.

I further ask that at the hour of 4:45, the Senate proceed to a vote in relation to the Bingaman amendment No. 1740, to be followed by a vote in relation to the Boxer amendment No. 1753, to be followed by a vote in relation to the Voinovich amendment, which is to be modified to be a first-degree amendment, to be followed by a vote in relation to the Reid amendment No. 1731; provided further that no second-degree amendments be in order to the amendments prior to the vote, with 2 minutes equally divided prior to each vote.

Mr. REID. Mr. President, we will try this again. Is the time for Senator ENZI going to be counted toward the 25 minutes that the majority has?

Mr. BURNS. I would advise that that is acceptable, that the Enzi statement would be part of that 25 minutes.

Mr. REID. Will the Chair inform me how long the Senator from Wyoming spoke?

The PRESIDING OFFICER (Mr. CHAFEE). Seven minutes.

Is there objection? Without objection, it is so ordered.

Mr. BURNS. I yield the floor to the Senator from Wyoming.

Mr. THOMAS. I am sorry, Mr. President, how much time is there?

The PRESIDING OFFICER. Eighteen minutes.

AMENDMENT NO. 1731

Mr. THOMAS. Thank you very much, I say to the Senator from Montana.

It is interesting to be talking about this issue. The fact is, I suspect all of us are looking for the most efficient way to operate the Government. I guess that is what we spend a lot of time doing. We spend a lot of time looking for ways to make it less costly to get the job done. We spend a lot of time providing opportunities for small businesses. These are the very things that are involved here. Yet we seem to be trying to keep that from happening. It is a bit of a surprise.

Competitive sourcing seeks to streamline Federal agencies. This has been going on, by the way, for a long time. In 1996 we passed the FAIR Act and began to do something with it. There were different kinds of reactions to it. There were some efforts made in the Clinton administration that did not go very far to utilize this.

Then 2 years ago we started to revamp the thing a little bit and make it work. That is what this administration has done—to make the Government more accountable to the taxpayers, to reduce the Government's direct competition in the private sector. These are the purposes of this competitive sourcing.

The President's competitive sourcing initiative is designed to improve performance and efficiency. That is really the bottom line. When the Government competes with the private sector, we erode the local tax base, we drive up prices, decrease performance of Federal agencies because there is no competition, and we know that is a key to our whole effort within the sector.

Regarding cost savings, both the General Accounting Office and the Center for Naval Analysis, two independent groups, have found through extensive research that competitive sourcing reduces costs by 30 percent—regardless of who wins. Keep in mind, this is competitive sourcing. When this particular job or this particular task is set up for competitive sourcing, the Federal employees have a chance to compete for it as well as the outside. In most cases, over half the cases in the past, Federal employees have won.

Nevertheless, because of that, because of looking for ways to do it more efficiently, there has been a 30-percent reduction in costs. So the Government can save billions of dollars by allowing the private/public competition to occur. Stopping this competition only wastes taxpayer dollars, increases the inefficiency of a Government monopoly, and prevents us from improving upon services the taxpayers receive.

One of the troublesome things has been that the image of that kind of action has not often been clear. I have here an article by Fran Mainella, who is the Director of the National Park Service.

> Over the past several months, a number of media reports have mischaracterized the scope, purpose and effects of the National Park Service competitive sourcing efforts.

She goes on:

> Our competitive sourcing initiative challenges us to put our finger on our own pulse. It provides a framework by which we examine whether we have the right skills, the right techniques, organizational structures to provide Americans the best possible service—service that is effective and efficient.

So we have had a great deal of success in doing that. Actually, the competitive sourcing idea is not a new one. It has been talked about for a good long time. In fact, I point out here—this is a statement made in 1996 by the unions publicly supporting competition. It says:

> Over the years, the OMB Circular A–76 competitive process has benefited taxpayers with billions of dollars in savings. I am proud of the fact that these competitions have shown Federal workers to be just as competitive as their private-sector counterparts in terms of their cost, efficiency and overall quality of performance.
>
> Mr. Chairman, you have often heard me say that Federal employees are not afraid of competition. If we cannot provide the services better, faster and cheaper than our private-sector competition, then we do not deserve to perform the work in the first place. We ask you and the members of this committee not to deny us the opportunity and dignity of competing.

This is the national president of the American Federation of Government Employees. This is, of course, some time back.

So what we are dealing with here, of course, is an amendment that prevents the improvement of the Department of the Interior's commercial activity competitive sourcing. This is something we have dealt with for a good amount of time.

We talked about the Printing Office and the money that has been saved there. We talk a lot about parks. Of course, I come from a State with parks, such as the Grand Tetons.

There is an idea that we are going to replace the park rangers. That isn't true at all. This has nothing to do with park rangers and people who have those kinds of professional jobs. We are talking about people who do maintenance work and people who do other kinds of activities. That is the case.

We agree parks are special. It is one of the things we hear about a great deal. We hear about it incorrectly from time to time. That, I guess, is what is happening here.

Secretary Norton noted that 2,500 positions have been reviewed under competitive sourcing since 2001. Not one full-time Federal employee has been involuntarily separated. These are things that change. We have a great deal of retirement coming up, and there will be some opportunity to do

some things here that will give us a chance to make our Federal Government more effective and more efficient.

Over the past several years it has been our Government policy not to compete with the private sector. However, the Federal Government currently has about 416,000 positions that are characterized as commercial in nature. Seeing that Congress has done a poor job with sourcing policy, President Bush initiated competitive sourcing to improve the way it functions. We are now in the process of seeing that improvement take place.

My colleagues on the other side of the aisle are always concerned about economic developments. They should support this opportunity to improve competitive sourcing. Keep in mind that Government competition in the private sector erodes the local tax base and creates a Government monopoly.

Here we are. I think we have an opportunity to continue to strengthen that. The amendment before us is certainly not one that helps that. It precludes going forward with this very useful thing. The amendment we will be voting on is a first second-degree amendment.

This reporting requirement addresses a number of the concerns many Senators had about competitive sourcing. This second-degree amendment does the following:

It requires the Secretary of the Interior to report annually on its competitive sourcing efforts, including listing the total number of competitions completed; list the total number of competitions announced; the activity covering the total number of full-time equivalent Federal employees studied under the completed competitions; total number of full-time equivalent Federal employees being studied but not completed; the incremental costs directly attributable to conducting the competition, including costs attributable to paying outside consultants; estimate of the total and completed savings; description of the improvements in services and performance derived from the competition actually reported; and total number of full-time equivalent employees covered by competition rescheduling for next fiscal year.

That is the kind of reporting we will have.

We have a number of letters. I ask unanimous consent to have them printed in the RECORD.

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

AMERICANS FOR TAX REFORM,
Washington, DC.

LEGISLATIVE ALERT—SUPPORT COMPETITION AMONG THE FEDERAL GOVERNMENT AND PRIVATE BUSINESSES

The Senate will likely debate and vote on an amendment offered by Senator Harry Reid (D–NV) to H.R. 2961, the Department of the Interior (DoI) and Related Agencies Appropriations Act for fiscal year 2004, which is currently being debated by the Senate. The amendment prohibits the initiation or continuation of any competitive sourcing studies until the House and Senate Committees on Appropriations have been given a detailed competitive sourcing proposal and have approved in writing such proposal.

Because the amendment significantly limits the DoI's management flexibility and prevents the agency's ability to identify and access the best and most efficient sources for the performance of its commercial activities, Americans for Tax Reform (ATR) strongly opposes Senator Reid's amendment.

In his two years in office, President Bush has worked to make government more efficient by streamlining federal regulations and holding government bureaucracies accountable to the American taxpayer who funds their departments. The president constructed a strong Management Agenda, focusing on public-private competition to create a performance-based management initiative designed to improve performance and efficiency.

Public-private competition, or competitive sourcing, is the process for determining if the government's commercial jobs, like computer services, food services, or maintenance, should be performed by federal agencies or by private sector companies. However, President Bush's plan to subject federal workers to competition has come under constant attack from labor unions and liberal lawmakers on Capital Hill.

While Senator Reid claims that the bill will eliminate thousands of federal jobs, it is simply not true. For example, of the 1,600 full-time employees the Department has already analyzed for competitive sourcing, not one federal employee has been involuntarily dismissed from his job. In addition, DoI employees have won roughly 50% of the sourcing competitions and not a single DoI employee has been involuntarily separated as a result of competition.

Competition among public and private entities drives down costs and ratchets up performance. According to the General Accounting Office and the Center of the Naval Analysis, two independent and objective groups that have conducted the most thorough research on competitive sourcing, the cost of a function goes down 30 percent regardless of whether the in-house government employees or a private contractor win the competition. These efficiencies translate into savings of billions of dollars that can be used for much needed tax relief for all Americans.

More competition leads to huge savings. Absent competition, inefficient government monopolies will continue to waste tax dollars while failing to provide even a reasonable level of service. Therefore, the taxpayer is the ultimate loser when competitive sourcing is stymied.

NATIONAL TAXPAYERS UNION,
Alexandria, VA, July 28, 2003.

AN OPEN LETTER TO CONGRESS: COMPETITIVE CONTRACTING SAVES TAXPAYERS DOLLARS

DEAR MEMBER OF CONGRESS: The undersigned organizations strongly support implementation of President Bush's competitive contracting program and oppose Congressional schemes to make implementation of this vital initiative more difficult or impossible. According to official government estimates, there are 850,000 jobs in the federal government that qualify as ''commercial positions.'' These jobs include everything from writing software to mowing lawns and are done every day by private firms. President Bush's Management Agenda set the goal of having half of the commercial activities performed by federal agencies face competition over the next four years.

The potential benefits of increased outsourcing are clear. For example, in 2002, the Office of Management and Budget decided to use competition in response to poor performance by the Government Printing Office (GPO) and opened the job of printing the fiscal 2004 federal budget to competitive bidding. GPO turned in a bid that was almost 24 percent lower than its price from the previous year in order to keep its job. That was $100,000 a year that GPO could have saved taxpayers any time it chose, but didn't until it faced competition.

Contrary to popular belief, competitive bidding does not achieve cost savings by simply reducing the ranks of federal employees. Research by the General Accounting Office and other agencies has shown that federal workers win competitive sourcing bids against private firms about half the time, and when they do lose, the majority go to work for the contractor or shift to other jobs in the federal government. Typically, less than 7 percent of them are laid off.

In spite of the obvious benefits of competition in other areas of the economy, several efforts are underway in Congress that would kill competition at the federal level. Legislative proposals have been introduced to prohibit competitive outsourcing in the Departments of Agriculture and Interior, and attempts to prevent reform of air traffic control are proliferating.

Competition and choice are important marketplace forces. Harnessing them to provide commercial activities within the federal government will save taxpayer money and allow federal agencies to do their jobs more effectively and offer better service. Congress should be embracing competitive contracting rather than undermining it.

Sincerely,

PAUL J. GESSING,
Director of Government Affairs, National Taxpayers Union.
DR. ADRIAN T. MOORE,
Vice President, Research, Reason Foundation.
RANDALL W. HATCHER,
President, MAU, Inc.
GROVER NORQUIST,
President, Americans for Tax Reform.

AMERICAN COUNCIL OF ENGINEERING COMPANIES,
September 22, 2003.

TO MEMBERS OF THE UNITED STATES SENATE: On behalf of the 6,000 member companies of the American Council of Engineering Companies, I urge you to vote against an amendment offered by Senator Harry Reid (D–NV) to the Fiscal Year 2004 Interior Appropriations bill. The amendment would block funding for all future public-private competitions, thereby sacrificing government efficiency, innovation and cost savings.

The competitive sourcing program is a centerpiece of the President's Management Agenda. The Bush Administration's plan to open non-inherently governmental functions to competition from the private market will ensure that taxpayers receive the best services for their tax dollars. If passed, the Reid Amendment would prevent Interior from realizing cost savings that result from public-private competitions. A report from the General Accounting Office states that public-private competitions typically result in savings of over 30%.

Private engineering companies provide a range of highly technical services to the Federal government, including the Forest Service and the U.S. Geological Survey. Over the past several years, our member firms have grown increasingly frustrated over the practice of some Interior agencies that actively market their services to state and local governments in direct competition with the private sector. This practice hits our smaller firms particularly hard. The Bush plan would help to correct this problem and as such, any

attempt to derail this process is strongly opposed by the engineering industry.

ACEC respectfully urges you to place the interests of the taxpayers first, and support effectiveness and efficiency in government. Again, we urge you to vote against the Reid Amendment to the F.Y. 2004 Interior Appropriations bill as well as any other amendment that may be attached during the remainder of the 108th Congress.

Sincerely,

CAMILLE FLEENOR,
Director, Federal Procurement Policy.

CITIZENS AGAINST GOVERNMENT WASTE,
Washington, DC, September 22, 2003.

DEAR SENATOR: On behalf of the more than one million members and supporters of the Council of Citizens Against Government Waste (CCAGW), we urge you to vote against an amendment being offered by Sen. Harry Reid (D–Nev.) to H.R. 2691, the Interior Appropriations Bill for FY 2004, which would defund competitive sourcing studies provided for under OMB Circular A–76.

OMB Circular A–76 is the federal process of obtaining commercial services at the best price through open and fair competition. This practice is also known as competitive sourcing, and is the cornerstone of President Bush's Management Agenda reforms. Competition between the private sector and government employees performing commercial work ensures accountability, efficiency, and budget savings.

An inventory of government services conducted during the Clinton administration identified more than 850,000 of the 1.8 million jobs in the federal government as commercial in nature. Opening up these services to competition promotes the principles of government reform and service to the taxpayers. Numerous studies demonstrate that public-private competition improves service delivery and decreases costs to taxpayers by anywhere from 10–40 percent on average.

Opponents of A–76 contend that staging job competitions is cost prohibitive. This argument is a political smoke screen meant to derail the administration's management reforms. The President's commonsense proposals would follow private sector management practices, such as linking budgets with performance targets, improving general agency performance through development and implementation of strategic plans, and improving service while providing the best value to the taxpayer.

We urge you to vote ''No'' on Sen. Reid's amendment to H.R. 2691 and allow the continuation of public-private competition. CCAGW will consider rating this amendment, and any votes related to competitive sourcing, in our annual 2003 Congressional Ratings.

Sincerely,

THOMAS A. SCHATZ,
President.

CONGRESSIONAL & PUBLIC AFFAIRS,
U.S. CHAMBER OF COMMERCE,
Washington, DC, September 22, 2003.

TO MEMBERS OF THE UNITED STATES SENATE: On behalf of the U.S. Chamber of Commerce, the world's largest business federation, representing more than three million businesses and organizations every size, sector and region, I urge you to vote against an amendment offered by Senator Harry Reid (D–NV) to the Fiscal Year 2004 Interior Appropriations bill. This amendment would prohibit the Department of Interior (DOI) from conducting competitive sourcing studies, thereby sacrificing government efficiency, innovation and significant cost savings.

Prohibiting competition within DOI strikes at the heart of the President's Management Agenda, particularly the Competitive Sourcing Initiative, which aims to increase government efficiency, improve government performance and save taxpayer dollars through competition. On average, a 30% cost savings is realized when a competition between the public and private sector is held on commercial government functions, regardless of who wins. In this era of sharply constrained resources it seems particularly irresponsible to arbitrarily limit an agency's ability to identify and access the best and most efficient sources for the performance of its commercial activities. Senior Administration officials have recommended that the President veto the FY04 Interior Appropriations bill if such language is included.

Contrary to common rhetoric, competitive sourcing does not achieve cost savings by simply reducing the ranks of federal employees. In fact, of the 2,500 positions that have been reviewed under competitive sourcing since 2001 in DOI, not one full-time federal employee has been involuntarily separated. Federal workers win competitive sourcing bids against private firms over half the time, and when they do lose, the majority go to work for the competitive or shift to other jobs in the federal government.

We respectfully urge you to place the interests of the taxpayers first, and support effectiveness and efficiency in government by voting against any anti-outsourcing provisions in the Fiscal Year 2004 Interior Appropriations bill. The Chamber may consider votes on or in relation to this matter in our annual ''How They Voted'' scorecard.

Sincerely,

R. BRUCE JOSTEN.

NATIONAL FEDERATION
OF INDEPENDENT BUSINESS,
September 22, 2003.

STAND UP FOR MAIN STREET AND SMALL BUSINESS

DEAR SENATOR: On behalf of the 600,000 members of the National Federation of Independent Business (NFIB), I urge you to oppose the Reid competitive sourcing amendment to the Fiscal Year 2004 Interior Appropriations Bill. The amendment would prohibit the Department from conducting any competitive sourcing studies and deny small businesses the opportunity to compete for Interior's commercial activities.

Competitive sourcing is not only an opportunity for federal agencies to improve the efficiency of their operations, but it also saves taxpayer dollars. Independent studies by the General Accounting Administration, among others, contend that competition will save taxpayers an average of 30 percent. Congress should not limit the management flexibility of the Department to study ways to optimize their delivery of services to the taxpayer. We believe, for example, that allowing small businesses to bid on services they already successfully provide in the commercial marketplace will lead to improving government efficiency and decreasing costs.

We strongly urge a ''no'' vote on any amendment that would prevent the Interior Department from moving forward on this important initiative.

This vote will be recorded as a NFIB ''Key Vote'' for the 108th Congress.

Sincerely,

DAN DANNER,
Sr. Vice President, Public Policy.

Mr. THOMAS. Here is one in behalf of the U.S. Chamber of Commerce favoring the competitive sourcing and opposing the amendment.

Here is the NFIB, the National Federation of Independent Businesses, which opposes the amendment.

Citizens Against Government Waste is also in support of this.

American Council of Engineering Companies, the National Taxpayers Union, and Americans for Tax Reform—all of these are in strong support of continuing to give the private sector an opportunity in these areas.

I also finally would like to tell you there is a statement of administration policy here in which the administration indicates they will veto a bill that includes this kind of program. They say the administration understands the amendment will be offered on the Senate floor which would effectively shut down the administration's competitive sourcing initiative to fundamentally improve the performance of government in many commercial activities. The administration seeks to improve performance of Government services based on the comprehensive principle of competition, a proven way of protecting taxpayer dollars while providing better services and performance. Now is the wrong time to short circuit the implementation of this principle, especially since numerous agencies are starting to make real progress in providing public/private competition. If the final version of the bill contains such a provision, the President's senior advisers would recommend he veto the bill.

I urge we get support for this amendment so we can continue the competitive notion.

I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, everyone should understand a vote for the Enzi-Craig-Voinovich amendment is a vote to allow further outsourcing studies to go on. That is wrong.

What is this amendment about? It is about the Park Service spending millions of dollars in outsourcing studies which would siphon off funds critical to the needs within the parks.

The amendment that has been offered by a significant number of Senators—and I ask unanimous consent to add Senator KERRY and Senator CLINTON as cosponsors—allows current studies to move forward on the implications to be evaluated. Current studies can go forward. A short pause is not too much to ask, for the protection of our national heritage is at stake.

The House included the same reasonable language in its bill. According to the House report, the Appropriations Committee was ''concerned about the massive scale of seemingly arbitrary targets and considerable costs of initiatives which are on such vast tracts that Congress and the public are neither able to participate nor understand the costs and implications of the decisions being made.''

That is the end of the quote. That is from the Republican House of Representatives report language in their appropriations bill.

The administration's own Park Service director has indicated the current

plan will reduce services to the public, will negatively impact the diversity of the Park Service, and will not save resources. That is from the administration's own Park Service director.

I would like to read from a letter sent to me by a Park Service employee. Remember, this applies to more than just the Park Service. The Forest Service, the BLM, and other Interior agencies are affected. This man even signed his name, and, of course, it jeopardizes his job. But he is a substantial man, I am sure. His name is Chuck Luttrell. It is a long letter. I will not read all of it.

Among other things, he said:

. . . will the public be tolerant of the selling of the care and operation of our national treasures to a profit corporation? Will our parks get the same care, will our culture and natural heritage be safe in the hands of companies that could turn out to be Enrons, Worldcoms?

He further states:

The United States of America owes and has pledged a commitment to our military veterans. We have preferential hiring regulations for veterans. A private contractor has no such obligation. The Federal Government has the strongest commitment to diversity and equality there is.

He says if it is put out to the private sector, veterans will have no further preference, and diversity will go out the window.

In recent years the Congress wrestled with the issues of health care and insurance. Federal employees have excellent health insurance options. Again contractors have far different priorities and as we all know millions of people working in private industry have no insurance.

Years ago Congress passed the Davis Bacon Act to ensure that some workers earned a fair, liveable, negotiated wage. We employees of Lake Mead's Maintenance Division are an example of Congress' will. But any contractor that would replace us has no such obligation.

The Park Service, in my 22 years of service, has never been sufficiently funded. As an agency, we have always been on starvation rations, and I can assure you that at my level, Lake Mead N.R.A., there is absolutely no fat in the system. For years our managers have been required to do more with less.

The National Park System he talks about has 10 million visitors a year. Lake Mead is the second busiest park in the whole United States.

He goes on to say:

When it comes to saving the taxpayer's dollars nothing is more efficient than having the work done for free. Nationwide the National Park Service receives hundreds of thousands of hours of donated labor. At Lake Mead N.R.A. alone last year the public volunteered over 92,000 hours of which nearly 21,000 hours were in performing maintenance work. People will volunteer to work for the National Park Service because they recognize it is a noble and worthy gift to the country. People do not, as we all know, volunteer to work for private contractors.

He goes on to say:

Beyond being a workforce for our respective Parks, we employees of the National Park Service are a national work force. Lake Mead N.R.A. has sent people out over the years to help with everything from oil spill cleanups to hurricane relief. Every year Lake Mead employees are fighting this Nation's wildland fires. This year, as always, we are on the line protecting places like Denver, Colorado, and Show Low, Arizona. But who will serve and man the fire camps when we are gone?

It sounds cliche, but for the large majority of the National Park Service's employees their work is more than just a job. It is commonplace for people in my outfit to do much more than just what is written in their position descriptions. I am a carpenter. I also teach all of our Rangers how to conduct water search and rescues. I'm not special. The maintenance employees of Lake Mead N.R.A. serve on the SCUBA team, on District fire engine companies, and with search and rescue teams. We serve on Park committees and often volunteer for special details. We are trained in first-aid and are first responders. We direct traffic at accident sites, we help land medical evacuation helicopters, and we help handle victims and patients. We are also the eyes and ears for our Rangers. We often are the ones who discover trouble and report it. I don't think that it is too far of a stretch to say that in some small way we are even part of homeland security . . . let me say that we are essentially ambassadors for the National Park Service. We are uniformed employees constantly in the public eye. We are often the first and sometimes the only ''official'' contact visitors have with the Service. We answer questions, give directions, and not all that uncommonly change a tire or two. We do all these things and more, yet they are not in our job descriptions and a contractor replacing us would not be obligated to perform any of them.

I ask unanimous consent the full text of this letter be printed in the RECORD.

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

AUGUST 5, 2002.

Hon. HARRY REID,
U.S. Senate,
Washington, DC.

DEAR SENATOR REID: My name is Chuck Luttrell and I am an employee of Lake Mead National Recreation Area. I am writing to you on behalf of my fellow employees of the Maintenance Division. The reason I am writing is because we believe a process is taking place that is detrimental to the National Park Service in general and Lake Mead in particular. It is my hope that I can adequately articulate our concerns and enlist your support and the power of your office to stop a bureaucratic train before it becomes a train wreck.

As you know the Federal Activities Inventory Reform (FAIR) Act, along with the President's Management Agenda has required Federal agencies to start implementing the requirements of the Office of Management and Budget's Circular A–76. The Department of the Interior and the National Park Service have begun this ''Competitive Sourcing'' process. The Lake Mead N.R.A. Maintenance Division is part of the first round of studies and will begin its evaluation in June of 2003.

The stated purpose and goals of Competitive Sourcing are efficiency and cost savings. The dedicated people I work with welcome ways to improve and do our jobs better. However, we are very concerned that the Competitive Sourcing or A–76 process is flawed when applied to the National Park Service. We suspect that no only will it fail in its basic objectives, but worse it will betray public trust and threaten the very resources the Service was created to protect. Our ranks provide services that will be ignored by the Competitive Sourcing process and therefore lost to the visitor. Private contractors simply can never completely replace our own work force. Much of what we do and represent isn't even on the bid sheet.

It is my understanding that in dozens and dozens of A–76 conversions from the public to the private sector, no real and tangible cost savings can be shown. Rather, substantial cost such as employee severance packages, contract change orders, contract disputes, litigation, etc. more than eliminate any anticipated savings. But more importantly, will the public be tolerant of the selling of the care and operation of our National treasures to a for profit corporation? Will our Parks get the same care, will our cultural and natural heritage be safe in the hands of companies that could turn out to be ENRON's or WORLDCOM's?

I realize that what I have written so far could be dismissed as the ravings of a man fighting to save his job. Indeed it would be easy for irrational fear to drive my pen. But Sir, that is not it at all. If only you could speak to the real managers and leaders of the Park Service. The career professionals who actually run this outfit and who are the ones responsible for getting the job done day to day, I have confidence that you would hear that our concerns are valid.

The United States of America owes and has pledged a commitment to our military veterans. We have preferential hiring regulations for veterans. A private contractor has no such obligation. The Federal Government has the strongest commitment to diversity and equality there is. While all contractors are required by law to provide equal opportunity, as we see in courts all across this land not all live up fully to those requirements. We've all heard it, ''Social Security is not a retirement plan.'' Yet while the Federal work force is provided a fair retirement package, contractors have very different priorities and their employees may or may not have some type of retirement future. In recent years Congress has wrestled with the issues of health care and insurance. Federal employees have excellent health insurance options. Again contractors have far different priorities, and as we all know millions of people working in private industry have no insurance. Federal employees that have been ''competitively sourced'' out of their jobs may add to those uninsured rolls. Years ago Congress passed the Davis Bacon Act to ensure that some workers earned a fair, liveable, negotiated wage. We employees of Lake Mead's Maintenance Division are an example of Congress's will. But any contractor that would replace us has no such obligation.

However, rather than focus on issues we believe are important but can be viewed as self serving, let me now turn to why we are the best option for the public and this country. The Park Service, in my 22 years of service, has never been sufficiently funded. As an agency we have always been on starvation rations and I can assure you that at my level, Lake Mead N.R.A., there is absolutely no fat in the system. For years our managers have been required to do more with less. Being efficient is how we get the job done. Long ago we made decisions to contract out certain maintenance functions, namely garbage collection, lawn services, and certain custodial work, because those things could be done cost effectively by contractors. Unfortunately the Competitive Sourcing study we now face gives us no credit for this forward thinking.

When it comes to saving the taxpayer's dollars nothing is more efficient than having the work done for free. Nationwide the National Park Service receives hundreds of thousands of hours of donated labor. At Lake Mead N.R.A. alone last year the public volunteered over 92,000 hours of which nearly

21,000 hours were in performing maintenance work. People will volunteer to work for the National Park Service because they recognize that it is a noble and worthy gift to this country. People do not, as we all know, volunteer to work for private contractors. Despite this reality, the A–76 process prohibits us from counting volunteers as part of our efficiency/cost savings model.

When it comes to getting the job done the National Park Service's proud tradition of employees being ''generalists'' make us extremely efficient. Here at Lake Mead N.R.A. even though our maintenance employees are classified as electricians, mechanics, operators, or whatever, the bottom line is we get the work done by using all of our people in the most efficient combinations. For example on a day when there are no pressing plumbing issues we might use our plumbers to help our carpenters pour concrete, rather than hire day labor. Our Maintenance Division has the flexibility and capacity to respond to any situation. Whether it be to repair storm damage or to prepare for an unscheduled event like the recent visit of the Secretary of the Interior to our area, our work force is agile and immediately responsive. With contractors however, if it isn't in the contract it doesn't happen without delays, change orders, and renegotiated fees.

Beyond being a work force for our respective Parks, we employees of the National Park Service are a national work force. Lake Meed N.R.A. has sent people out over the years to help with everything from oil spill clean ups to hurricane relief. Every year Lake Meed employees are out there fighting this Nation's wildland fires. This year, as always, we are on the line protecting places like Denver, Colorado and Show Low, Arizona. But who will serve and man the fire camps when we are gone?

It sounds cliche, but for the large majority of the National Park Service's employees their work is more than just a job. It is common place for people in my outfit to do much more than just what is written in their position descriptions. I am a carpenter. I also teach all of our Rangers how to conduct water search and rescues. I'm not special. The maintenance employees of Lake Meed N.R.A. serve on the SCUBA team, on District fire engine companies, and with search and rescue teams. We serve on Park committees and often volunteer for special details. Because our maintenance staff is slightly larger than the Ranger force, and we are in the field all day, everyday, we effectively bolster their ranks. We are often the first on the scene or the first person contacted when incidents occur. We are trained in first-aid and are first responders. We direct traffic at accident sites, we help land medical evacuation helicopters, and we help handle victims and patients. We are also the years and ears for our Rangers. We often are the first ones to discover trouble and report it. I don't think that it is too far of a stretch to say that in some small way we are even part of our homeland security. After all it could well turn out the some maintenances worker at the Statue of Liberty or Mount Rushmore and could see something that would make a difference. But without speculating what could be, let me say that we are essentially ambassadors for the National Park Service. We are uniformed employees that are constantly in the public eye. We are often the first and sometimes only ''official'' contact visitors have with the Service. We answer questions, give directions, are not all that uncommonly change a tire or two. We do all of these things and more, yet they are not in our job descriptions and a contractor replacing us would not be obligated to perform any of them.

Up until now I have been talking about things that in some way could be counted or measured. There is however one more point I wish to make. Something that is there but can't be bought or sold at any price. Every organization has a culture, an ethic, and a personality. Employees of the National Park Service are no different. We believe what we do is special and important beyond merely just doing a good job. We see ourselves as partners in the stewardship of this Country's heritage. Virtually all embrace our over riding mission from the 1916 act creating the National Park Service: ''which purpose is to conserve the scenery and natural and historic objects and wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.'' Our motivation is much different than those who would replace us. The goal of commercial industry is efficiency in pursuit of profit. That objective could not be more different than our goal of preserving and protecting our National treasures. I would strongly argue that no matter how conscientious a contractor is, he could never match the service and dedication we give to this Nation and our Parks. The public instinctively recognizes that motivation counts. As we saw with the issue of airport security, the public wanted a Federal work force because they knew quality and profit margins are opposing forces in the private sector.

As a Statesman I know any action you take is taken in light of the greater good of the Nation and Nevada. In this letter I have tried to persuade you that Competitive Sourcing, while it sounds good on paper, is not good for the National Park Service or Lake Mead National Recreation Area. I have tried to describe why we believe we are the best value for the public, but most importantly I hope I have been able to convey to you that we are a fundamental part of the National Park Service's mission. It is our sweat and toil that keeps this Park open. We are central in the 1916 act creating us. We help preserve and protect this special place with our tools and our skills.

It is my understanding that the A–76 and Competitive Sourcing processes have provisions to exclude certain work because it is either inherently governmental or represents a core function of the agency. It is also my understanding the decision as to whether an activity should be retained in-house rests with the director of that agency. We hope that you agree with us that the work we do is so closely related to the public interest that it would be a mistake to put it on the auction block. If you are sympathetic with our cause I would like to most respectfully ask that we be removed from further consideration in the Competitive Sourcing process. I know not where your authority rests in matters concerning the Executive Branch's internal business, but I do know right is might.

Finally, Sir, my apology for the length of this letter. I know your time is extremely valuable and we the proud and dedicated people of the Maintenance Division are most grateful for your time and consideration in this matter.

Sincerely,

CHUCK LUTTRELL,
Carpenter, Lake Mead N.R.A.

Also signed by 40 members of the Maintenance Staff of Lake Mead National Recreation Area.

Mr. REID. But it is just not employees trying to protect their jobs. They are people of good will who enjoy our parks. This is not a statement from an employee of the Park Service or BLM or the Forest Service. This is a letter from a person who cares about what is going on.

This letter is intended to voice my outrage at President Bush's plans for privatizing our Nation's National Park System.

The President's planned study and outsourcing of our Nation's most valuable and symbolic resource should create indignation in the heart of any American. Our parks have been on the short end of the funding stick for years, but this recent maneuver goes too far. As you know, private contracted companies are only interested in generating the maximum profit, no matter what corners and services get cut in the process.

Will you allow our National Parks to become another victim of the ''Wal-Mart Syndrome''? Are we going to allow a system that services our nation's last natural treasures with a network of uninsured low wage caretakers from the lowest contract bidder?

The other factor that you should consider is the loss of thousands of annual volunteer hours that our parks receive from the American public. Hundreds of men and women give on themselves each year to support our parks. However, no one will wish to denote their personal time to maintain the thousands of miles of roads and trails in our parks to the benefit of some private company.

The President has gotten his war and desired tax cuts, but I urge you as my representative to put your foot down and stop this plan from proceeding.

Mr. President, from another citizen:

As a resident of Nevada I find the proposed outsourcing of National Park Service personnel to be outrageous and almost offensive.

Employees of the Park Service are driven by a respect for the parks and love of what they do. Nevadans visiting our national parks want members of the Park Service, not profit-minded corporations, enriching their experiences. I oppose privatizing the Park Service because it would hurt Nevadans, endanger our national parks, and waste taxpayer money.

Too many private firms have gone this route, costing jobs in local communities, opening doors for big business, while causing the local economies to falter.

We live, work, and play in this State. Many of the Park personnel are our neighbors and friends. They care deeply about what they do.

I do not think a commercial corporation can do this—I have visions of an HMO system for our National Lands and shudder. Who gets the profit from this private enterprise? We've seen enough of the favoritism the current administration employs, and frankly, this seems another opportunity for more of the same.

I would certainly no longer volunteer for the Forest Stewardship activities in the Lake Tahoe basin. I doubt that many would. Volunteering time for a profitmaking concern is not logical—why help a corporation that doesn't care diddly about the land, the lakes, or the environment increase their profits and not be paid for the ''contribution?''

I'm one small voice but I am convinced that privatization of our national park system would be another step to demolishing what little resources we have now and what we can hope to gain in the future to hold and treasure for future generations.

I ask unanimous consent this letter be printed in the RECORD.

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

As a resident of Nevada I find the proposed outsourcing of National Park Service personnel and resources to be outrageous and almost offensive.

Senator Reid is so ''right on'' with the statement, ''Employees of the Park Service are driven by a respect for the parks and a love of what they do. Nevadans visiting our National Parks want members of the Park Service, not profit-minded corporations, enriching their experiences.'' I oppose privatizing the Park Service because it would hurt Nevadans, endanger our National Parks and waste taxpayer money.

Too many private firms have gone this route, costing jobs in local communities opening doors for big business while causing the local economies to falter (GE in San Jose, CA, outsourced their printing to a national company to save money. It ultimately led to layoffs in the local community and an increase in their operating expenses). We're having enough trouble with the local and Nevada budget without adding additional unemployment which will ultimately mean increased tax burdens via supplemental income, job retraining, and money for employees in Nevada going outside the State to bigger business. This is not simply an issue to be addressed for our own State, but for the Nation as a whole.

We live, work and play in this State. Many of the Park personnel are our neighbors and friends. They care deeply about what they do. (Their pay is relatively low for the expertise they must have—they do it because they know the value of protecting our parks, wildlife habitats, and the environment.)

I do NOT think a commercial corporation can do this.—I have visions of an HMO system for our National Lands and shudder. Who gets the profit from this private enterprise? We've seen enough of the favoritism the current administration employs, and frankly, this seems another opportunity for more of the same. This aspect of what the administration is proposing bears watching closely.

What about the numbers of people and hours required to maintain our Parks as best we can? With dollar to cost averaging, they cannot factor in the vast number of hours spent by volunteers to assist the Park Service. I would certainly no longer volunteer for the Forest Stewardship activities in the Lake Tahoe Basin. I doubt that many would. Volunteering time for a profit making concern is not logical—why help a corporation that doesn't care diddly about the land, the lakes or the environment increase their profits and not be paid for your ''contribution?''

I'm one small voice but I am convinced that privatization of our National Park system would be another step to demolishing what little resources we have now and what we can hope to gain in the future to hold and treasure for future generations.

What can we do to help see this does not happen and ensure that our Parks Service maintains its integrity?

Thank you.

LIN YEAZELL.

Mr. REID. We read editorial comments from all over America opposing what is happening here. I have one editorial from the Las Vegas Sun newspaper, written by Michael O'Callaghan: ''These Are Your Parks.''

Among other things, he says:

Americans who love and use our nation's parks have been wondering when former secretaries of the Interior were going to speak. Two of them just did that Tuesday when Bruce Babbitt and Stewart Udall challenged the attempt to privatize the positions servicing the parks and the public visitors . . . They both see the turning over of 70 percent of the jobs to the private sector as both ''radical'' and ''reckless.''

Among other things, O'Callaghan states:

Privatization of services forces within our park system would be but the first deadly step to turning them away from public recreation into a big business. Next they could have neon signs at park gates leading to Yellowstone Enron, RCA Zion, U.S. Cellular, Crater Lake, or Death Valley Coors. How about Basin Bank One? They already have signs in big city ballparks and this could be their next big step.

I ask unanimous consent the full context of the O'Callaghan editorial be printed in the RECORD.

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

[From the Las Vegas Sun, Aug. 1, 2003]

WHERE I STAND—MIKE O'CALLAGHAN: THESE ARE YOUR PARKS

Americans who love and use our nation's parks have been wondering when former secretaries of the Interior were going to speak. Two of them did just that Tuesday when Bruce Babbitt and Stewart Udall challenged the attempt to privatize the positions servicing the parks and their public visitors. Both challenged the present secretary's attempt to have almost all of the loyal public servants replaced by private sector employees. They both see the turning over of 70 percent of these jobs to the private sector as both ''radical'' and ''reckless.''

This situation has outdoor enthusiasts recalling when Interior Secretary Gale Norton's mentor, then-Interior boss James Watt, had his own agenda that threatened public lands and parks. That's when a former assistant secretary from the Ford and Nixon years, Nathaniel Reed, recommended that President Ronald Reagan fire Watt.

It was in May 1981, during a speech, when Reed reminded his fellow Republicans of their party's role in protecting public lands. He started by telling them it was President Abraham Lincoln who first withdrew Yosemite Valley for protection, U.S. Grant's signing of a bill to create Yellowstone, and Theodore Roosevelt's creation of the Forest Service and the first national wildlife refuge. Yes, and it was Dwight D. Eisenhower who created the Arctic Game Refuge that Norton now wants to drill for oil.

The Reed went to work on Watt saying, ''But two of Watt's actions have convinced me that he is already a disaster as secretary. One of these is his butchery of the Land and Water Conservation Fund. The other is the talk that he delivered to the Conference of National Park Concessioners on March 9 of this year—surely one of the most fawning, disgusting performances ever given by a Secretary of the Interior. He was so eager to please that he all but gave away the park system.''

Privatization of the service forces within our park system would be but the first deadly step to turning them away from public recreation into a big business. Next they could have neon signs at park gates leading to Yellowstone Enron, RCA Zion, U.S. Cellular Crater Lake or Death Valley Coors. How about Basin Bank One? They already have signs in big city ballparks and this could be their next big step.

If Nevada Sen. Harry Reid has his way this won't happen. Reid's Park Professionals Protection Act, if passed, will take care of this challenge. It is designed to ''prohibit the study or implementation of any plan to privatize, divest, or transfer any part of the mission, function, or responsibility of the National Park Service.''

In support of his bill, Reid gave some insight to the work of park professionals when writing: ''Many of these Park Service jobs have direct contact with visitors to our parks. They not only collect fees and maintain parks but also give directions, fight wildfires when necessary, and provide emergency medical assistance to injured park visitors. They are not required to do these things; they are driven by a love for the parks and commitment to public service that contractors lack.

''Privatizing the Park Service would jeopardize our national parks. Members of the Park Service have a career-long interest in maintaining the parks and perform their jobs because they are dedicated to serving the public. They often go beyond the call of duty to fix a problem in the middle of the night or change a tire for an unlucky park visitor. Can we be sure that a contractor would do the same? No.''

Friends of our national parks have suddenly awakened and the gloves are off. Let's hope it's not too late. How about Basin Bank One?

Mr. REID. How much of my 25 minutes remains?

The PRESIDING OFFICER. Thirteen and a half minutes.

Mr. REID. I repeat, anyone who supports the amendment of my friends, the distinguished Senator from Ohio and the two Senators from Wyoming, is voting to allow privatization of our national treasures to continue. Muddle it up—and that is what this amendment does—muddle it all you want, that is what it is. Some people think you can privatize everything. You cannot do that. You cannot do that. There are certain things that should be off limits. Our national treasures should be one of them.

I repeat for the third time, anyone who votes for the amendment of my friends from Ohio and Wyoming is voting to privatize. Say it however you want, but Udall and Babbitt, former Secretaries of the Interior, recognize what is taking place. We have been told by my friends that there is no such privatization plan underway. If that is true, I point out there should be no objection to my amendment.

Why study a plan, a privatization plan that will never be put into effect? My amendment puts a hold on the administration's privatization plans for this coming fiscal year.

I am getting more concerned each day. This Constitution I carry around with me sets forth the separation of powers doctrine, executive branch of government, legislative branch of government, judicial branch of government, separate but equal. One is not superior to the other. I see more and more coming from this administration that the Congress is not relevant.

If the President of the United States and his people want to study the privatization of our national treasures, let them come to Congress and get the money to do it. What are they doing? They are scavenging the money from present programs. I listed today a number not being done because they were using this money for studies.

We have already learned from the Park Service director who works under George Bush that the current plan will reduce service to the public, negatively impact the diversity of the Park Service workforce, and will not save resources. This is something that should

be under the prerogative of the legislative branch.

Let us provide money if it is such a good idea. Do not just steal it from other programs within the agencies. That is what they are doing. Therefore, we cannot do things to remove asbestos, to repair sewer systems, to take care of water systems, and to provide renovation in the parks.

President Bush said when he took office that he wanted to reduce the backlog of renovation, repair, and maintenance that needed to be done in our parks. Well, that was doublespeak, I guess. That is ''1984'' revisited—Orwell's book—because, in fact, it has gone up. The backlog has gone up from 4.9 billion to 6.1 billion. Let's do it the right way. Let's protect our constitutional prerogatives.

In 2002 and 2003 the agencies under the jurisdiction of this bill reprogrammed funds to study privatization. I repeat what the House committee report on the Interior bill noted: The massive privatization initiative appears to be ''on such a fast track that the Congress and the public are neither able to participate nor understand the costs and implications of the decisions being made'' by the administration. The committee's required programming guidelines are not being followed by the administration.

That is report language from the Republican-controlled House of Representatives. Shouldn't we go along with them? The answer is yes. This was in the Republican committee report. That is why, in part, the House Interior Appropriations Subcommittee prohibited the expenditure of funds for more studies in 2004. That is precisely what my amendment does. We agree with the House.

Others have argued privatization will save money. The General Accounting Office estimated this may or may not be true. Studies of outsourcing at the Department of Defense, by contrast, where outsourcing is common, have been unable to demonstrate a single penny of cost saving. What we do know is that private companies will take care of our parks under their agenda.

We should be very proud that since World War II veterans get a preference. If you served in the military, you apply for a job, you take a test, and we give you a few extra bonus points because you served our country. The private sector will not have to do that. They do not have to follow the same rules and regulations we have dealing with hiring the handicapped. They have all kinds of ways to cut corners in the private sector. It is not going to save money.

What I believe, and lots of other people believe, is private companies will not take care of our parks and forests and other public lands with the same motivation the people who are now working there do. This has nothing to do with labor unions. I know there is a letter circulating saying this is an effort by the minority to protect labor unions. As I said earlier today, I read into the RECORD different entities which support this amendment: the Wilderness Society, the National Trust for Historic Preservation, the National Parks Conservation Association, the American Federation of Government Employees. There is one union and three public service groups. This has nothing to do with unions. It has everything to do with protecting our national treasures.

I talked about one contractor who wasted $21,000 on a workable design to build courtesy docks on a lake in a park. Of course, the Park Service employees would have known that in a second. I talked about garbage collection. When the garbage was collected by Federal employees, it cost $150,000. Now it is done in the private sector, and it costs over $500,000.

I talked about public employees at Shenandoah National Park who rescued a lost boy. An official at Glacier National Park, who contracted out their janitorial services, said: ''We didn't really save anything from a dollars and cents perspective. The costs came in the above and beyond things the Park Service janitors regularly did that were outside their regular job descriptions.''

Privatization does not always work. It has not worked in Nevada at our two military bases. Privatization can affect the experience visitors have at our parks, as the Director of the Park Service has said. And I quoted that on two separate occasions just in the last few minutes.

I urge my colleagues to support this amendment. Although my friend from Ohio and the two Senators from Wyoming have said privatization saves money for maintenance projects at our parks, in every instance that has proven to be false. These agencies have reprogrammed millions of dollars in 2002 and 2003 from maintenance projects to perform these unauthorized maintenance studies. These funds were diverted from maintenance projects in our parks.

I personally think privatization is a bad idea, but my amendment does not stop current studies. It prevents new ones from starting until Congress has more information about the administration's initiative and the effects it is having on our national parks and forests. They have already wasted all that money studying what goes on. Why don't they issue a report on that and stop, have a slowdown, a pause, a timeout on going forward with more study? That is what I have asked for in my amendment.

Mr. DORGAN. Mr. President, will the Senator from Nevada yield?

Mr. REID. Mr. President, I am happy to yield to my friend, the manager of this bill.

Mr. DORGAN. I support the amendment offered by the Senator from Nevada. I must point out I think there are wonderful public servants in this country serving, day and night, the public interest, the public need. I think this simple, easy notion that you can just contract everything out and things will be better is really pretty much wrong-headed.

Oh, there may be some circumstances where it is appropriate, but I will tell you, you take a look at firefighters, the police officers, go back to 9/11 and talk to the folks who responded to the calls on 9/11 when that terrible tragedy occurred in New York City, the devastating attack on this country—and, yes, those were public employees who were rushing up those stairs—firefighters, law enforcement men and women, rushing up those stairs—losing their lives, as the building was collapsing, trying to save lives. These were public employees. There are so many serving in so many different ways—the archaeologists and biologists working in the Park Service and in so many different areas.

In this piece of legislation, one of the agencies had spent money they should not have spent studying contracting out when, in fact, they did not have the money for the kind of basic repairs and maintenance necessary to be done in the parks. So instead of doing what they should have done to keep the parks in the kind of shape they should be, they were using money to study: How can we contract these jobs out?

Well, there are plenty of examples—my colleague from Nevada has used some of them—where you completely lose control with respect to contracting out. I just think it is important sometimes to stop and take a look at the workforce that belongs to the public sector, and to say that, in many instances—most instances—they do a wonderful job to serve this country very well, and there is no substitute—no, not contracting out, and no other substitute I know of—that could replace that group of dedicated public workers who serve this country day after day after day. That is why I am happy to support this amendment.

Mr. REID. Mr. President, I want the RECORD to reflect—I have been somewhat impersonal, and I do not want to do that—the Park Service Director now is a woman by the name of Fran Mainella. I want the RECORD to reflect she is the one who has indicated the current plan would reduce services to the public, negatively impact the diversity of the Park Service workforce, and will not save resources.

I reserve the remainder of my time.

Mr. CANTWELL. Mr. President, I rise today to voice my support for the amendment offered by my colleague, Senator REID. This amendment is important and it's fitting that we discuss this measure this week, just days after the 10th anniversary of National Public Lands Day.

On Saturday, thousands of Americans around the country contributed their time and labor to help improve our shared national lands. In my home State of Washington, volunteers restored trails, planted trees, and improved oyster habitat, to name a few

projects. I commend everyone who was involved in this effort for their commitment to protecting and preserving our public lands.

Today's debate is about the many thousands of federal employees who dedicate themselves to this important cause every day. In our national parks, national forests, national wildlife refuges, and other public lands, these men and women work every day of the year to protect and preserve these national treasures.

An article by Seattle Post-Intelligencer columnist, Joel Connelly, quoted Stewart Udall, the Interior Department boss under Presidents Kennedy and Johnson as saying ''These are the best people in the government . . . It's extraordinary they would pick on this Teddy Roosevelt agency.''

Unfortunately, the Bush administration has proposed a rule change that would radically alter the management of our public lands. The President has proposed ''outsourcing'' important stewardship roles to for-profit contractors. Under his proposal, private contractors could fill more than 800,000 jobs, including posts in the National Park Service like at Olympic National Park, U.S. Fish and Wildlife Service, and U.S. Geological Survey, among other agencies. In my home State of Washington, this proposal could affect 10,000 government-wide jobs, including 348 national park biologists, educators, and maintenance staff.

I believe this is the wrong approach. When it comes to our public lands, our first concern should be protecting our national treasures by ensuring the highest level of natural resource stewardship.

There are many legitimate questions as to whether this outsourcing scheme would even save any money. In June, the General Accounting Office concluded a comprehensive 2-year study on outsourcing and found that ''competitions took longer than projects, costs and resources required for competitions were underestimated, [and] determining and maintaining reliable estimates of savings was difficult.''

Even though the long term ''savings'' are suspect, we know for sure that outsourcing is hurting our national parks. Park Service Director Mainella estimated that the first round of competitive sourcing would cost $3 million, much of which will have to come out of maintenance. Even though Mount Rainier was taken off the list of parks subject to outsourcing this year, Park Superintendent Dave Uberuaga had to set aside $335,000 of badly needed money for park maintenance to pay for a privatization study. The cost of simply studying these Park Service positions is estimated to begin at $3,000 and go up from there.

The Federal workers entrusted with the preservation of our public lands can't simply be replaced by private workers. They are dedicated professionals who know the parks and public lands better than anyone, and they are not beholden to private interests who seek to exploit our public lands.

Don't just take my word for it. Listen to what 145 former National Park Service employees—including four former directors—said in a recent letter to President Bush decrying his proposal:

While publicizing glossy reports to convince the public that your Administration cares about this country's national treasures, you are strangling the very core of park stewardship, sidestepping the important issues that are facing the parks and ignoring the operational budgets of the parks. We are seeing evidence at every turn that when private for-profit interests vie with resources of the park, the private interests, and not principle, governs.

Even the current Director of the National Park Service, Fran Mainella, disagrees with the administration's approach. Earlier this year, in an intradepartmental memo, she expressed her concerns about the President's initiative. She noted that because the administration did not seek funding to cover the costs of the thousands of competitive sourcing studies it has mandated, those costs must be absorbed by reductions in park operations and other worthy activities, which will result in reduced visitor services and the deferment of essential park maintenance.

Losing current National Park Service employees will also cause our national parks to lose a great deal of institutional knowledge to individuals who may not have training in these fields. National Park Service employees, who often live in rural communities surrounding the parks, are dedicated public servants committed to preserving our parks for all Americans' enjoyment and benefit now and in the future. They are also versatile and provide irreplaceable services during emergencies. The same employee that helps maintain park infrastructure, is also one of the first firefighters on the scene, providing invaluable information about the parks' terrain.

Without this amendment, the Park Service could also lose tens of thousands of volunteers. These are dedicated citizens who contribute their time to help out in some of the most beautiful parts of the country. I have heard from a number of my constituents that they volunteer because they feel they are sharing their love of the outdoors with others and maintaining our public lands for future generations. But they warned me they would feel very different about giving their time to help support some for-profit contractor.

Conservation and protection of our public lands is not a partisan issue. The majestic herd of Roosevelt Elk in my home State's Olympic National Park is a fitting reminder that throughout the past century, Republicans and Democrats have been able to come together to preserve our Nation's public lands.

In that spirit, I encourage my colleagues on both sides of the aisle to support this amendment, and vote to prevent the ''outsourcing'' of the stewardship of our natural treasures.

I ask unanimous consent to print the above-referenced article in the RECORD.

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

[From the Seattle Post-Intelligencer, July 30, 2003]

IN THE NORTHWEST: 'OUTSOURCING' A SWEEPING ATTACK ON NATIONAL PARKS

(By Joel Connelly)

National parks are ''the best idea America ever had,'' wrote author Wallace Stegner, an idea that has spread around the globe since Yellowstone became the world's first national park 130 years ago.

Lately, the Bush administration has come up with what it believes is a better idea: ''outsourcing'' key work performed by the National Park Service to private contractors.

It appears to be an initial step toward privatizing management at the crown jewels of America's natural beauty and historic sites where our country's freedom was won and the Union sustained.

A hundred park employees recently signed a protest letter to the president. Mount Rainier National Park has been a center of resistance, so much so that Park Service Director Fran Mainella just visited.

Yesterday, two Arizona outdoorsmen and long-serving Interior secretaries, who supervised the park system, broke their silence in a telephone interview with a half-dozen reporters around the country.

''What we are talking about is an attempt to dismantle the National Park Service as we know it today. It turns its back on 100 years, and a national park system that is the envy of the world,'' said Bruce Babbitt, Interior secretary from 1993 to 2001.

Added Stewart Udall, Interior's boss under Presidents Kennedy and Johnson, ''These are the best people in the government . . . It's extraordinary they would pick on this Teddy Roosevelt agency.''

In an April 4 memo, Mainella disclosed that 900 park jobs across the nation are marked for ''direct conversion'' to private contractors and that an additional 1,323 jobs are to be bid out in the next few months. The first phase of ''outsourcing'' will privatize about 13 percent of the Park Service's permanent work force.

The administration is not talking just about big road repairs, or lodging and food services, jobs already performed by private contractors.

Quite the contrary. The initial privatization list includes hundreds of park archaeologists, biologists and historians—the very people whose professional judgment is needed to safeguard park resources.

As a Mount Rainier climbing ranger, and later superintendent of Virginia's much-visited Shenandoah National Park, Bill Wade learned care in where to put his feet and his choice of words.

At a recent U.S. Senate hearing, however, the now-retired second-generation Park Service employee cut loose with a scathing critique.

''Never before have we seen so many simultaneous assaults on the purposes for which the national park system exists,'' said Wade. ''Such assaults are undermining the role of the National Park Service professionals who steward our great natural and cultural legacy. Such assaults are contributing to the failure of the Park Service to carry out its

intended mission on behalf of America's public.''

Why is the administration doing this?

After all, candidate George W. Bush spoke at Haskel Slough near Monroe in 2000, pledging a major drive to complete urgently needed maintenance at the national parks. First lady Laura Bush has spent this week hiking with old school friends in Olympic National Park.

Due to ''outsourcing'' studies, moreover, the Park Service has warned supervisors in the West that their maintenance-repair budget would be scaled back by more than 25 percent—largely to pay for consultants. Mount Rainier, with a $100 million backlog, has been forced to put off urgently needed projects.

An administration management agenda for fiscal year 2002 gives the rationale: ''Competition promotes innovation, efficiency and greater effectiveness. For many activities, citizens do not care whether the private or public sector provides the service or administers the program.''

One wonders whether the right-wing ideologue who wrote this has ever visited a national park. He or she would discover:

The National Park Service is an agency of legendary esprit de corps, in which people move around the country, frequently work extra hours and endure low pay for love of the job.

Park jobs are not compartmentalized and suitable for ''outsourcing.'' Rangers do a range of jobs for rescue to firefighting to interpretation. At Shenandoah, for instance, park maintenance staff—trained as emergency medical technicians—are frequently first to the scene of traffic accidents on the Blue Ridge Parkway.

The public trusts rangers, flocks to interpretive programs and expects park resources to be maintained. National parks are not amusement parks.

Efficiency is not the end-all of park management. Sure, it would have been more efficient to cut a wide swath of trees to widen state Route 410 in Mount Rainier National Park. It would also have created an eyesore in the midst of a scenic treasure.

The protest against ''outsourcing'' has made an impact.

While slashing worthy programs such as AmeriCorps and the Land and Water Conservation Fund, the House of Representatives has voted to block new privatizing studies.

The administration has responded with a hard line: ''If the final version of the (appropriations) bill were to contain such a provision, the president's senior advisers would recommend that he veto the bill,'' the Office of Management and Budget said in a statement.

Curiously, however, Mainella showered Mount Rainier with reassurances on the eve of her visit, saying that no jobs at the park would be reviewed for private-sector replacement for two years.

Can we trust these people? About as far as I can hand-roll a snowplow.

Looking at similar moves with the U.S. Forest Service and Bureau of Land Management, what's likely unfolding is a sweeping, below-the-radar-screen attack on public lands and public land managers.

As Babbitt put it yesterday, ''The only thing that will stop this radical, reckless effort to take things apart is public opinion.''

The PRESIDING OFFICER. Who yields time?

The Senator from Wyoming.

Mr. THOMAS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Seven and a half minutes.

Mr. THOMAS. Mr. President, I will take just a portion of that. I think we have covered this issue fairly well. I would like to comment on a couple things that were said on the other side of the aisle. The Senator said we are going to contract everything out. That is part of the problem here, making statements like that which are absolutely untrue. It makes it kind of tough to understand what is going on. No one is talking about contracting everything out. No one is even talking about privatizing. We are talking about competitive competition. So I think we ought to be just a little more careful about that.

This idea that this is being done entirely by the executive branch, remember, we passed a law in 1998 called the FAIR Act. You know what that was. It authorized what we are doing here now. Circular A–76 has been on the books from Congress since 1976. Congress passed that. Surprising as it may seem, a lot of people in Congress think the private sector is a good thing, that it does a pretty good job. That is kind of what this country is about, the private sector. This idea that somehow you hire people and take away all their benefits—the Service Acquisition Act, passed by Congress, ensures that health benefits and pay are not reduced in Government contracts to the private sector. Those are things that are done there.

We are not talking about contracting everything. Here are the positions being evaluated to give you some idea. From U.S. Fish and Wildlife Service, clerical support and appraisers; National Park Service, maintenance vehicles, lawns, bathrooms, air-conditioners—is that going to change the emotions in the park? I don't think so—Bureau of Reclamation, Job Corps centers; Bureau of Land Management, maintenance vehicles, bathrooms, air-conditioners, geographic information services. These are the kinds of jobs that are done all the time in the private sector, the professionals, many of them in the private sector.

It is too bad we continue to say some of these things that just aren't the case. I hope we continue to provide, as the Congress has said, an opportunity to have competition for some of the activities within Government, and those that can be done better in the private sector can be done. Those savings then will go to offset some of the backlog of the Park Service that has existed without any competition. This is kind of where we are.

I certainly encourage my fellow Senators to support our second-degree amendment when it comes to the floor.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I urge my colleagues to vote for the second-degree amendment.

I certainly understand some of Senator REID's concerns about the competitive sourcing initiative.

For one, most of the agencies funded in this bill failed to budget adequately for the costs of the competitive sourcing studies. As a result, funds that would have been available for other purposes—such as maintenance projects or grazing management—were diverted. Ultimately, I regard this as a failure of the Office of Management and Budget as much as anything.

Yes, competitive sourcing in some cases may result in actual savings. But those savings are likely to be over the long term, and the fact that there may be savings doesn't relieve agencies of the need to budget for the implementation costs up front.

It is for that very reason that we included language in this bill that made further competitive sourcing work by the Forest Service contingent on approval of a detailed reprogramming request. The Forest Service is slated to spend more than any other agency in this bill on this initiative.

But the question before us now is whether to shut down any and all competitive sourcing studies by agencies in this bill. This strikes me as overkill. Has the administration flawlessly implemented its initiative? Certainly not. We have already discussed its failure to adequately budget for the initiative.

I would also note that the administration initially proposed quotas of positions that each agency was to competitively source. I think this was inappropriate. Competitive sourcing makes more sense in some agencies than it does in others. And some agencies have already used forms of competitive sourcing to great advantage. There should be some recognition what these agencies have done previously.

Finally, I know there is much concern among my colleagues on this side of the aisle about the potential impact of competitive sourcing on rural areas. I absolutely understand and share this concern. In such areas the potential loss of a handful of well-paying Government jobs is not a trivial thing. This is particularly true if there is no guarantee that any jobs that are outsourced will remain in the community. I don't think the administration has fully appreciated this fact. But the root of the question raised by this amendment is whether competitive sourcing is, in all cases, a bad thing. The answer is clearly no.

Competitive sourcing experts can cite numerous examples—and they have been cited in the Chamber—of success in the Department of Defense. But even within the Department of the Interior, careful use of outsourcing has resulted in both dollar savings and improved performance. The construction program of the National Park Service is one such example. I have one of those in Great Falls, MT.

Proponents of this amendment can certainly cite examples of poor performance or malfeasance by contractors. Without question, there are cases of this. But we know well enough that there are at least as many instances of

poor performance by Federal employees. This argument simply doesn't fly. Finally, I note that the pending amendment is identical to language included in the House bill. The Statement of Administration Policy states that the President's senior advisers will recommend a veto of the Interior bill if such language is included. While I am not generally one to back down in the face of such a threat, I do think we should consider whether we want to take that trip. Wouldn't it be better to see if we can't go to conference and produce language that further improves the quality of the competitive sourcing initiative, rather than simply throwing what amounts to a legislative tantrum?

I vow to my colleagues that I will work hard with the administration to see that their concerns are addressed. But do we put an absolute stop to a management practice that has been available to agencies in this bill for many years? Or do we instead try to improve the product, and increase congressional oversight of competitive sourcing efforts? I simply find it hard to accept that in all cases competitive sourcing is a bad thing. And I am guessing Federal employees will win more of the competitions than people think if they're well structured. I urge my colleagues to vote against the Reid amendment, and to work with me as we go to conference to produce a better solution.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I have the greatest respect for my friend, Senator THOMAS, from Wyoming. He has always been so cordial and polite to me, as I am sure he is to everyone. He is a real advocate. My point is, he is absolutely wrong on this issue. His argument makes our point. He says: We are not privatizing. But that is what they are doing. They are studying all these different programs, and the purpose is to privatize.

The FAIR legislation: Of course, I understand what that bill was, but it also took into consideration that the money was to be appropriated to do the studies, not to be scavenged from other operations.

I read only one editorial from the Las Vegas Sun newspaper, but there are others. Here is one from the Los Angeles Times: ''Keep Pros Who Love Parks.''

The first paragraph reads:

In a memo to her bosses at the Department of the Interior, National Park Service Director Fran Mainella said the administrative costs of a plan to contract out some Park Service jobs to private companies could seriously cut the already rock-bottom level of visitor services and seasonal operations. Unfortunately, that would only be one piece of the damage.

They go on to say that this is a wrongheaded idea and bad for our national treasures:

The nation's most important natural and historic sites deserve to be protected by workers with expertise, experience and dedication to the parks. They are there now, and in the proud green uniform of the National Park Service.

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

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

[From the Los Angeles Times, Apr. 26, 2003]

KEEP PROS WHO LOVE PARKS

Jobs targeted for possible outsourcing—as many as 4 percent of the Park Service total—include firefighters, with 40 positions at risk in California alone. Others such as fee collectors and maintenance workers don't sound so bad as candidates for contracting out, through visitors do turn to the collectors for advice as they enter the park.

However, the list also covers Park Service scientists and specialists such as archaeologists, museum curators, historians and cartographers. Where will they find competent private experts who will work for the salaries of the current Park Service employees, or less?

These scientists are passionate about protecting park resources from the effects of development, whereas the Bush administration often has sided with economic interests.

High-level Interior Department officials—up to and including Secretary Gale A. Norton—repeatedly have trashed the scientific work underlying such sound decisions as the 2000 Park Service ban on snowmobiles in Yellowstone National Park. The ban is being reversed in response to objections from tourist businesses in the region.

Similarly, Yosemite-area businesses are campaigning for more parking and reconstruction of campgrounds along the Merced River in Yosemite Valley that were flooded out in 1997. They want to sell the additional campers beer, groceries and gasoline. Naturalists correctly argue that the campsites should not be there—that the riverbank should be restored to its natural beauty. The region's congressman, siding with business, is pushing for their return.

The nation's most important natural and historic sites deserve to be protected by workers with expertise, experience and dedication to the parks. They are there now, in the proud green uniform of the National Park Service. There they should stay.

Mr. REID. A small newspaper, smaller than the Las Vegas Sun, one from Missoula—of course, Missoula, MT—also talks about how wrong it is. They are so specific, and they know because they live in Glacier National Park. They say outsourcing simply is not good.

There are editorials from all over the country that talk about how bad an idea this is. Remember, anyone voting for the amendment offered by my friend from Ohio, Senator VOINOVICH, is voting to outsource, to privatize our national treasures. You can say: I really didn't mean to do that; all I did was want studies to be completed.

That isn't what we have here. We have agreed that they can complete the studies they have already engaged in, even though they stole the money from other things that needed to be done within the entities. But to vote for the Voinovich amendment is to vote for privatization. To vote for the Reid amendment is to vote for a time-out, a pause.

AMENDMENT NO. 1740

The PRESIDING OFFICER. There are now 10 minutes equally divided on the Bingaman amendment.

Mr. BINGAMAN. Mr. President, I yield myself the first 3 minutes of my 5 minutes.

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

Mr. BINGAMAN. Mr. President, amendment No. 1740 is straightforward. It would prohibit the Secretary of the Interior, working through the Park Service, from issuing any permit allowing a special event on The National Mall unless the permit expressly prohibited the use of structures or signs bearing commercial advertising.

The amendment does provide that there can be sponsor recognition of special events, but it makes clear we intend to have the Park Service interpret that in a way that is consistent with the special nature of The National Mall.

We would also require that the lettering or design that identifies the sponsor not be more than a third the size of the lettering identifying what the special event is.

I have shown this photograph before. I will show it again so people have an idea of what prompted my amendment. This is a special event that the Park Service approved and issued a permit for a couple of weeks ago on The National Mall. This event was a football and music festival entitled ''NFL Kickoff Live From The National Mall Presented by Pepsi Vanilla''.

This photograph is from the Washington Post. This is an enlarged photograph that was in the Washington Post. You can see that there are a whole series of banners up and down The Mall. There is one for Verizon, and this one is for Pepsi Vanilla, and here is a giant football with NFL signs on it.

It seemed clear to me that this was commercial advertising any way you look at it. The Park Service, unfortunately, takes the position that this was entirely appropriate. No commercial advertising here. This is sponsor recognition. We were giving some recognition to those that were underwriting this important event for a public purpose. You may say, what was the public purpose? Well, it was to take pride in America—you can find that phrase way down here—and this is the idea that there is voluntarism, and that was the reason we opened this up with the NFL. It gave them a permit for 17 days, during which time they could block off The Mall, prepare for the festival, have the festival, and break down the equipment after the festival and so on.

I will show the other photograph. This is another photograph that shows the fence that was put around The Mall, with advertisements for AOL, Pepsi Vanilla, Coors, and Verizon. This, of course, was blocking access to The Mall for the public. If you wanted to walk or jog on The Mall, or do anything else, you were prohibited from doing so during this period.

We need to clarify what the law is. My amendment will do that. It says we don't want commercial advertisement on The Mall. I always thought that was the policy, and, up until now, I think it has generally been the policy. But it is clearly not recognized that way by the current Secretary of the Interior and the head of the Park Service. We need to clarify that.

I hope my colleagues will support the amendment. It puts into law a prohibition of commercial advertising on The National Mall for the first time.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Wyoming is recognized.

Mr. THOMAS. Mr. President, I rise to comment on the amendment that is before us. I was concerned when I first talked to the Senator about it. I was concerned that it would be difficult to differentiate between commercial signs, advertising, on the one hand, and sponsors, for instance, the Race for the Cure, on the other. However, we talked together about that. We talked with the Park Service about that, and I believe the wording of the amendment is such that that kind of emotion, that kind of recognition of the sponsors for voluntary events would be allowable.

I am chairman of the National Parks Subcommittee and we deal with The Mall, and we have had several hearings and considerable consideration about what we do on The Mall and how many buildings there are and how it is used. So I think it is important to set standards for the use of something that is very unique and in the national interest.

I think the Senator has a worthwhile amendment, and I support it.

The PRESIDING OFFICER. Who yields time? The Senator from North Dakota.

Mr. DORGAN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Montana has 3 minutes 40 seconds. The Senator from New Mexico has 41 seconds.

Mr. BURNS. Mr. President, I yield part of my time to the Senator from North Dakota.

Mr. DORGAN. Mr. President, I support and cosponsored the amendment offered by the Senator from New Mexico. I think it is not only written appropriately at this point and has proper safeguards, but I think it is also a necessary amendment for the reasons that my colleague from New Mexico has described.

I understand my colleague from Wyoming, who is chairman of the subcommittee on these issues, and his statement as well. If we pass this amendment with this particular wording, I think it accomplishes something important, and I am happy to cosponsor it and support it.

Mr. BURNS. Mr. President, I ask my colleagues to support this amendment. A long time ago, I wanted to go much further than this. But I think the Senator from New Mexico has hit the nail on the head. So I support it, and I yield back the remainder of my time.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BINGAMAN. Mr. President, let me first thank Senator THOMAS and Senator BURNS for their support and, of course, Senator DORGAN, who is a cosponsor.

I ask unanimous consent that Senator AKAKA, who is the ranking member on the National Parks Subcommittee in our Energy and Natural Resources Committee, be added as a cosponsor to the amendment.

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

Mr. BINGAMAN. Mr. President, I appreciate the broad support we are receiving for the amendment, and I hope all Senators will vote in favor.

I yield the floor.

The PRESIDING OFFICER. The question is upon agreeing to the amendment.

The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. REID. I announce that the Senator from Connecticut (Mr. DODD), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''yea.''

The PRESIDING OFFICER (Mrs. DOLE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 92, nays 4, as follows:

[Rollcall Vote No. 358 Leg.]

YEAS—92

Akaka	Dole	Levin
Alexander	Domenici	Lincoln
Baucus	Dorgan	Lott
Bayh	Durbin	Lugar
Bennett	Ensign	McCain
Biden	Enzi	McConnell
Bingaman	Feingold	Mikulski
Boxer	Feinstein	Miller
Breaux	Fitzgerald	Murkowski
Brownback	Frist	Murray
Bunning	Graham (FL)	Nelson (FL)
Burns	Graham (SC)	Nelson (NE)
Byrd	Grassley	Nickles
Cantwell	Gregg	Pryor
Carper	Hagel	Reed
Chafee	Harkin	Reid
Chambliss	Hatch	Roberts
Clinton	Hollings	Rockefeller
Cochran	Hutchison	Santorum
Coleman	Inhofe	Sarbanes
Collins	Inouye	Schumer
Conrad	Jeffords	Sessions
Cornyn	Johnson	Shelby
Corzine	Kennedy	Smith
Craig	Kohl	Snowe
Crapo	Kyl	Specter
Daschle	Landrieu	Stabenow
Dayton	Lautenberg	Stevens
DeWine	Leahy	
Sununu	Thomas	Warner
Talent	Voinovich	Wyden

NAYS—4

Allard	Bond
Allen	Campbell

NOT VOTING—4

Dodd	Kerry
Edwards	Lieberman

The amendment (No. 1740) was agreed to.

AMENDMENT NO. 1753

The PRESIDING OFFICER. There are now 2 minutes evenly divided prior to a vote on a motion to table the Boxer amendment No. 1753.

Mrs. BOXER. Madam President, colleagues, I hope Members will vote against the motion to table my amendment. I am simply trying to strike section 333, which is an anti-environmental rider that singles out 39 timber sales in the Tongass Forest and only allows a 30-day appeals process for citizens, small businesses, and community groups to act. It also says a judge must act in 180 days, pushing this ahead of other pending cases.

Now, why is it important to all of us? If you can change the rules in the largest temperate rain forest in the world, think about what would happen to you in your States. We have not had any hearings on this issue. I don't think this is the right way to legislate.

If it is a question of jobs, there are 300 million board feet of timber in the Tongass that could be cut today. There are no lawsuits pending on those.

This is a process question. I hope colleagues would not take away the rights of their constituents.

Ms. MURKOWSKI. Mr. President, the Senator from California, Ms. BOXER, has offered an amendment seeking to strike expedited judicial review of timber sales from U.S. Forest Service Regional X, covering the Tongass National Forest in Alaska.

While some use flowery terms to characterized the Tongass National Forest as the ''last intact temperate rain forest'' or the ''crown jewel of our national forest system,'' they merely gloss over the realities of our forest. The Sierra Club, the National Wildlife Federation, and others use overstated hyperbole meant to shift the focus of the debate from what we truly ought to be looking; that is, creating more jobs in America.

For months now Senators from the other party have come to floor to decry job losses in the United States—lost jobs that they somehow blame on President Bush.

Yet they need only look at the pursuit of their own policies that have led to our increased reliance on foreign natural resources and lost economic opportunity.

Alaska has the highest unemployment rate in the country, and every time I go back home to see my constituents—which is quite frequently—they ask me how we can create more jobs.

In Alaska we used to have thousands of timber and timber-related jobs. Now

we have less than one thousand. That is criminal in a State that boasts the largest single national forest in the country.

The Tongass Forest is large enough to set aside land for future generations while also providing valuable timber for American manufacturing and U.S. jobs. Allow me to put it in perspective. In 2002 there were 110,000 people employed by the timber industry in California. In Alaska just 650 people were employed in the timber industry in 2002—again, in a State with the largest national forest. These are statistics from the American Forest and Paper Association.

In 2002, California produced 2.63 billion board feet of timber. During the same time in Alaska just 30 million board feet were produced. That figure makes California the fourth largest wood producer in the U.S. That means during FY 2002 Region X (the largest region in the Forest Service system) produced the least amount of timber—(Source: U.S. Forest Service).

While the Senator is offering an amendment that she thinks is the right thing to do to protect the environment, she must realize that this issue has been debated for literally decades, going back to when Alaska was a territory. Just as timber harvests take place in other national forests the Government saw fit to allow some limited, but sustainable, timber harvests to take place in the Tongass. Unfortunately some misguided and illegal policy changes under the Clinton administration set back timber jobs in Alaska during the 1990s. Fortunately the courts and the current administration have seen fit to reverse those rulings to follow the law. Unfortunately there are those who want to continue filing lawsuit after lawsuit, clogging up an already overpacked docket to keep Alaskans out of work.

I would say to those who continue to criticize job losses in the United States that one way to overcome them is to allow people to get back to work.

The problem is we can't get people back to work with the continued threat of frivolous litigation. The Senator's amendment seeks to allow people to further burden our courts under false pretenses of saving Alaska from Alaskans. It is an insult to me and my constituents to hear people attack our State.

We have a right to good jobs—just like those in California. We have a right to send our kids to good schools, just like in California. We have a right to have parks and hospitals and all the other infrastructure that is in the towns and cities in California, but our towns in Alaska needs jobs and industry to make them a reality.

As a State in this Union we entered to become an equal among equals. But that does not mean that we don't know what is in our best interest as a State and as individuals. The amendment my colleague offers seeks to provide more opportunities for litigation after we have already undergone lawsuit after lawsuit and lengthy administrative processes.

The language in the current bill does not cut off access to the courts. It merely requires that any application for judicial review be filed within 30 days after exhaustion of the Forest Service appeals process. Currently I am told the time limit is 6 years. The language applies for Record of Decisions for any timber sales in Region X of the Forest Service that had a Notice of Intent prepared on or before January 1, 2003.

The language does not restrict the right of the public to litigate timber sales; it simply speeds up the process by encouraging the court to render a decision within 180 days of the application.

Since 1990, at least nine timber sales on the Tongass have been litigated. Individual sales have been held up sometimes for years during the litigation process. What the families and the people who depend on the timber industry seek is simply some finality and a reasonable time for decisions.

According the Alaska Forest Association, my State has lost over 1,400 jobs in the recent years and the timber industry has ground down to a virtual standstill. Only 650 people remain employed in an industry that was once year round and spread throughout the region. Whole communities have vanished.

These people are not threatening the last remaining temperate rain forest in the United States, but their ability to provide for their families and for their families to have a future is threatened by lawyers and protracted litigation. The protracted litigation and the time to resolve that litigation could cost them their livelihoods and their family owned businesses. The ripple effect extends way beyond the individuals and the employees—it rips into the fabric of the communities in southeast Alaska. These are the things that the language of the appropriations bill seeks to address.

I support that language in the bill because I have seen firsthand what the endless litigation has done to my communities. I oppose the Boxer amendment because it seeks to empower more frivolous law suits and more delays. I urge my colleagues to oppose this amendment and to support more jobs in Alaska and America.

Mr. STEVENS. Madam President, this amendment has nothing to do with environmental concerns. This is a judicial process amendment. These contracts for timber go through a review process involving an EIS, then public hearings, then an opportunity to appeal to the Forest Service, and then an opportunity to file, administratively, appeals within the Forest Service.

After a final record of decision, they have 6 years to take it to the district court. All we are asking is that be shortened to the normal process of 30 days and the process for appeal from the administrative court be 30 days and the court take no longer than 180 days to review that appeal. It does not limit the time for the appeal to the circuit court but is strictly a judicial process shortening the time.

It now takes 3 to 4 years for every contract before we can possibly try to use those contracts to harvest the trees, within 676,000 acres out of 17 million acres. We need this amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mrs. BOXER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. DORGAN. I ask unanimous consent the vote be a 10-minute vote and all succeeding votes be 10-minute votes.

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

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Connecticut (Mr. DODD), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''nay.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 44, as follows:

[Rollcall Vote No. 359 Leg.]

YEAS—52

Alexander	Domenici	McConnell
Allard	Dorgan	Miller
Allen	Ensign	Murkowski
Bennett	Enzi	Nelson (NE)
Bond	Frist	Nickles
Breaux	Graham (SC)	Roberts
Brownback	Grassley	Santorum
Bunning	Gregg	Sessions
Burns	Hagel	Shelby
Campbell	Hatch	Smith
Chambliss	Hutchison	Stevens
Cochran	Inhofe	Sununu
Coleman	Inouye	Talent
Cornyn	Kyl	Thomas
Craig	Landrieu	Voinovich
Crapo	Lott	Warner
DeWine	Lugar	
Dole	McCain	

NAYS—44

Akaka	Dayton	Lincoln
Baucus	Durbin	Mikulski
Bayh	Feingold	Murray
Biden	Feinstein	Nelson (FL)
Bingaman	Fitzgerald	Pryor
Boxer	Graham (FL)	Reed
Byrd	Harkin	Reid
Cantwell	Hollings	Rockefeller
Carper	Jeffords	Sarbanes
Chafee	Johnson	Schumer
Clinton	Kennedy	Snowe
Collins	Kohl	Specter
Conrad	Lautenberg	Stabenow
Corzine	Leahy	Wyden
Daschle	Levin	

NOT VOTING—4

Dodd	Kerry
Edwards	Lieberman

The motion was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1754, AS MODIFIED

The PRESIDING OFFICER. There are now 2 minutes evenly divided prior to a vote on the Voinovich amendment No. 1754.

The Senator from Montana.

Mr. BURNS. Madam President, I yield to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Madam President, this second-degree amendment on which we will be voting, the reporting requirement, addresses a number of concerns various Senators have had with competitive sourcing.

The second-degree amendment does the following: It requires the Secretary of the Interior to annually report on its competitive sourcing efforts—including a list of the total number of competitions completed, a list of the total number of competitions announced and the activities covered, and a list of the total number of full-time equivalent Federal employees studied under completed competitions.

The second-degree amendment is a responsible measure that will bring additional accountability and transparency to public-private competitions.

Two weeks ago, the House overwhelmingly adopted a similar reporting requirement during consideration of the Treasury/Transportation appropriations bill.

The Thomas-Voinovich amendment will give Congress additional oversight of competitive sourcing, unlike the Reid amendment that stops it altogether. Competitive sourcing allows tax dollars to be used more efficiently, more effectively. It will improve agency efficiency. I urge my colleagues to support the second-degree amendment.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Madam President, anyone who supports this amendment is supporting contracting out. All you have to do is read their amendment and that is what it says. They say the President will issue reports. He has not done that. That is the only thing it does. It allows contracting out to go forward without authorization of Congress and without any appropriation for the studies to be taken. Remember what they are doing now is scavenging the money from other work that needs to be done within the various public land entities. It is unfair. It is wrong. Anyone who supports the Voinovich amendment supports contracting out, without question. I urge a ''nay'' vote.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1754.

Mr. BURNS. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Connecticut (Mr. DODD), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN), are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''no.''

The PRESIDING OFFICER (Mr. SUNUNU). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 43, as follows:

[Rollcall Vote No. 360 Leg.]

YEAS—53

Alexander	DeWine	McConnell
Allard	Dole	Miller
Allen	Domenici	Murkowski
Baucus	Ensign	Nelson (NE)
Bennett	Enzi	Nickles
Bond	Fitzgerald	Roberts
Breaux	Frist	Santorum
Brownback	Graham (SC)	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Smith
Campbell	Hagel	Specter
Chambliss	Hatch	Stevens
Cochran	Hutchison	Sununu
Coleman	Inhofe	Talent
Collins	Kyl	Thomas
Cornyn	Lott	Voinovich
Craig	Lugar	Warner
Crapo	McCain	

NAYS—43

Akaka	Durbin	Lincoln
Bayh	Feingold	Mikulski
Biden	Feinstein	Murray
Bingaman	Graham (FL)	Nelson (FL)
Boxer	Harkin	Pryor
Byrd	Hollings	Reed
Cantwell	Inouye	Reid
Carper	Jeffords	Rockefeller
Chafee	Johnson	Sarbanes
Clinton	Kennedy	Schumer
Conrad	Kohl	Snowe
Corzine	Landrieu	Stabenow
Daschle	Lautenberg	Wyden
Dayton	Leahy	
Dorgan	Levin	

NOT VOTING—4

Dodd	Kerry
Edwards	Lieberman

The amendment (No. 1754), as modified, was agreed to, as follows:

At the appropriate place insert the following:

SEC. ____. Not later than December 31 of each year, the Secretary of the Interior shall submit to Congress a report on the competitive sourcing activities on the list required under the Federal Activities Inventory Reform Act of 1998 (Public Law 105-270; 31 U.S.C. 501 note) that were performed for the Department of the Interior during the previous fiscal year by Federal Government sources. The report shall include—

(1) the total number of competitions completed;

(2) the total number of competitions announced, together with a list of the activities covered by such competitions;

(3) the total number of full-time equivalent Federal employees studied under completed competitions;

(4) the total number of full-time equivalent Federal employees being studied under competitions announced, but not completed;

(5) the incremental cost directly attributable to conducting the competitions identified under paragraphs (1) and (2), including costs attributable to paying outside consultants and contractors;

(6) an estimate of the total anticipated savings, or a quantifiable description of improvements in service or performance, derived from completed competitions;

(7) actual savings, or a quantifiable description of improvements in service or performance, derived from the implementation of competitions completed after May 29, 2003;

(8) the total projected number of full time equivalent Federal employees covered by competitions scheduled to be announced in the fiscal year covered by the next report required under this section; and

(9) a general description of how the competitive sourcing decisionmaking processes of the Department of the Interior are aligned with the strategic workforce plan of that department.

AMENDMENT NO. 1731

The PRESIDING OFFICER. There will now be 2 minutes of debate evenly divided on the Reid amendment.

Mr. REID. Mr. President, everyone should understand that what has just taken place is to allow privatization to continue in our public land agencies. Clearly, that is what happened. I hope the Members of this body will approve the Reid amendment and allow this matter to go to conference. It appears this last vote was a cover-your-rear-end vote. So we probably will lose on this amendment. I think it is a shame.

I read into the RECORD how people who work at the agencies feel, editorial comments from all over the country, and comments from private people who know how important the parks are. Veterans preference would not be there; disabilities act would not apply. There are so many things that are unfair to the dedicated people working for our public land agencies.

I hope there will be a ''yea'' vote for this amendment.

The PRESIDING OFFICER. Who seeks time? The Senator from Ohio.

Mr. VOINOVICH. Mr. President, the amendment that was just adopted makes sense out of competitive sourcing, makes the agencies accountable for competitive sourcing, and makes it part of the shaping of their workforce. It is long overdue.

The Reid amendment completely eliminates competitive sourcing period. It leaves it out. If you look at other Federal agencies that have competitively sourced, for example at the Department of Defense, in about 98 percent of streamlined competitions—and these all have to be commercial functions—98 percent of the time, the Federal workers win the competition. They win because they come together, use quality management, and figure out a way to do the job better than they were doing it before.

Anyone who supported our amendment should vote no on this amendment which just eliminates competitive sourcing altogether and is not good public policy.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to amendment No. 1731.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Connecticut (Mr. DODD), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''yea.''

The PRESIDING OFFICER (Mr. ALEXANDER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 44, nays 51, as follows:

[Rollcall Vote No. 361 Leg.]

YEAS—44

Akaka	Durbin	Mikulski
Bayh	Feingold	Murkowski
Biden	Feinstein	Murray
Bingaman	Harkin	Nelson (FL)
Boxer	Hollings	Pryor
Byrd	Inouye	Reed
Cantwell	Jeffords	Reid
Carper	Johnson	Rockefeller
Chafee	Kennedy	Sarbanes
Clinton	Kohl	Schumer
Conrad	Landrieu	Snowe
Corzine	Lautenberg	Specter
Daschle	Leahy	Stabenow
Dayton	Levin	Wyden
Dorgan	Lincoln	

NAYS—51

Alexander	Crapo	Lugar
Allard	DeWine	McCain
Allen	Dole	McConnell
Baucus	Domenici	Miller
Bennett	Ensign	Nelson (NE)
Bond	Enzi	Nickles
Breaux	Fitzgerald	Roberts
Brownback	Frist	Santorum
Bunning	Graham (SC)	Sessions
Burns	Grassley	Shelby
Campbell	Gregg	Smith
Chambliss	Hagel	Stevens
Cochran	Hatch	Sununu
Coleman	Hutchison	Talent
Collins	Inhofe	Thomas
Cornyn	Kyl	Voinovich
Craig	Lott	Warner

NOT VOTING—5

Dodd	Graham (FL)	Lieberman
Edwards	Kerry	

The amendment (No. 1731) was rejected.

Mr. BURNS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. BURNS. Mr. President, we are working on the managers' package. It will be done momentarily. Then there is a package that has been agreed to on both sides. Both of those packages have been agreed to so far. There is one more vote tonight, and that is the Daschle amendment regarding Indian Health Service. Then we are also, probably—if no one shows up, why, we would go to final passage on a voice vote, and we could be out of here pretty early, in time to make it home for supper.

As soon as the minority leader comes to the floor, why, we would have the closing arguments on his amendment and our colloquy.

I yield the floor to my good friend from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 1750

Mr. LEVIN. Mr. President, I call up amendment No. 1750 and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself and Ms. COLLINS, proposes an amendment numbered 1750.

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

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

The amendment is as follows:

On page 85, line 21, insert after ''until expended'' the following:

: *Provided*, That the Department of Energy shall develop, with an opportunity for public comment, procedures to obtain oil for the Strategic Petroleum Reserve in a manner that maximizes the overall domestic supply of crude oil (including amounts stored in private sector inventories) and minimizes the costs to the Department of Interior and the Department of Energy of acquiring such oil (including foregone revenues to the Treasury when oil for the Reserve is obtained through the Royalty-in-Kind program), consistent with national security. Such procedures shall include procedures and criteria for the review of requests for the deferrals of scheduled deliveries. No later than 120 days following the enactment of this Act of Department shall propose and no later than 180 days following the enactment of this Act the Department shall publish and follow such procedures when acquiring oil for the Reserve.

Mr. LEVIN. This amendment establishes a cost-effective program to fill the Strategic Petroleum Reserve. I understand it has been cleared by both of the managers.

Since late 2001 the Department of Energy—DOE—has been steadily adding oil to the U.S. Strategic Petroleum Reserve, SPR, in order to fill the reserve to its maximum capacity of 700 million barrels. In late 2001, the reserve held about 560 million barrels of oil; today holds nearly 620 million barrels. DOE anticipates that at the current fill rate it will reach its goal of 700 million barrels sometime in 2005.

Since early 2002, DOE has been acquiring oil for the SPR without regard to the price of oil. Prior to that time, DOE sought to acquire more oil when the price of oil was low, and less oil when the price of oil was high. In early 2002, however, DOE abandoned this cost-based approach and instead adopted the current approach, which does not consider cost when buying oil for the SPR. Since over this period the price of oil has been very high—often over $30 per barrel—and the oil markets have been tight, this cost-blind approach has increased the costs of the program to the taxpayer and, of great significance, put further pressure on tight oil markets, thereby helping boost oil and gasoline prices to American consumers and businesses.

The bipartisan amendment Senator COLLINS and I are offering today is simple. It would encourage DOE to consider the price and supply of oil when buying oil for the SPR. It would direct DOE to minimize the program's cost to the taxpayer while maximizing our energy security.

The Permanent Subcommittee on Investigations spend a year and a half looking at oil markets and the SPR. In March of this year my staff on the subcommittee published the repot of the investigation. In summary our investigation found:

In 2002, DOE began to fill the SPR without regard to the price of oil.

Filling the SPR in tight market increased U.S. oil prices and hurt U.S. consumers.

Filling the SPR regardless of oil prices increased taxpayer costs.

Despite its high cost, filling the SPR [in 2002] did not increase overall U.S. oil supplies.

The March report also warned that the deliveries that were then scheduled for later in 2003 would drive oil prices higher because prices were high and inventories were low. Unfortunately, this prediction turned out to be accurate.

Our Report recommended:

DOE should defer all SPR deliveries . . . until near-term crude oil prices fall and U.S. commercial inventories increase.

DOE should conduct a cost-benefit analysis of the previous SPR fill policy compared to the current policy.

DOE should restore its SPR business procedures allowing deferrals of oil deliveries to the SPR when crude oil prices are high or commercial crude oil supplies are tight.

Both Houses of Congress support the goal of filling the SPR to its capacity. I support this goal, too. This amendment seeks to further this goal and our national energy security at least cost to the taxpayers. For many years the SPR program followed the types of procedures that DOE has recently abandoned. The SPR program office itself has recommended the DOE return to using these market-based procedures. Under the amendment DOE would continue to have the discretion to determine when to buy oil for the SPR, and under which procedures, but DOE would be encouraged to use that discretion in a way to minimize costs while maximizing national energy security.

Any successful businessperson knows the saying, ''Buy low, sell high.'' This is as true for oil as it is for pork bellies and stocks. It is as true for the Strategic Petroleum Reserve as it is for any business involving a commodity. Indeed, in a recent presentation to other countries on how to create and manage a strategic reserve, DOE itself states: ''The Key To A Successful Strategic Reserve Is Cost Control.'' DOE identifies the major cost elements of a strategic reserve as capital costs, maintenance costs, and oil acquisition costs. Once constructed, the capital costs and the maintenance costs are largely fixed. The main variable cost, therefore, is the cost of acquiring oil

for the SPR. DOE itself identifies for other countries the ''Lessons Learned to Control Oil Acquisition Costs'' as follows:

Let the markets determine your buying pattern.
Buy in weak markets.
Delay deliveries during strong markets.
Use your acquisition strategy to stabilize markets.

Prior to early 2002 DOE followed this sensible strategy when acquiring oil for the SPR. Mr. President, I ask unanimous consent that excerpts from this DOE presentation to other countries be entered into the record.

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

(See exhibit 1.)

Mr. LEVIN. Part of this strategy—allowing deliveries to be deferred when prices were high and supplies tight—was spelled out in the ''Business Procedures'' for the SPR program issued by DOE in January 2002. The Business Procedures spell out how scheduled deliveries of oil to the SPR can be deferred. Generally, companies will ask for a deferral when the market is tight so they can meet their supply commitments to refiners who have an immediate need for the oil. DOE's procedures provided that a company could be granted a deferral in return for additional barrels of oil to be delivered at the later date. DOE calculated the amount of additional oil that would be delivered by comparing the market prices at the time of delivery was originally scheduled and at the time of the deferred delivery.

DOE's own documents state that deferrals of oil scheduled to be delivered in 2001 provided an additional 3½ million barrels of oil for the SPR at no additional cost to the Government. Deferrals of deliveries scheduled for 1999 and 2000 had added another 3½ million barrels. At an average cost of $25 per barrel, these deferrals added a total of 7 million barrels of oil to the Reserve, worth about $175 million, for no cost to the taxpayer. The SPR program projected:

The potential for savings to the Treasury if we continue to follow this business model until the Reserve is full is additional hundreds of millions of dollars.

But in April 2002, DOE stopped allowing deferrals of scheduled deliveries. Instead, DOE began to buy oil for the SPR without regard to the cost of oil or the supply of oil, and refused requests for deferrals. DOE has not explained the reason for abandoning its previous policy.

In addition to losing the benefits from deferrals, both in terms of oil gained and dollars saved, the abandonment of the previous policy is costing taxpayers because DOE has been paying top dollar for the oil placed into the SPR. Oil acquired for the SPR at $35 per barrel costs the taxpayers $10 more per barrel than oil acquired at $25 per barrel. Even more modest savings per barrel add up to large savings over the course of the program. In 2002, DOE's SPR program calculated:

If the SPR can average down the price of oil it injects in the Reserve by $1 per barrel between now and 2005, the U.S. Treasury will be better off by $125 million, a direct benefit.

But in these times of high gas prices, the DOE shift has another highly negative effect.

Filling up the SPR affects the price of oil and gasoline. In a tight market, filling the SPR reduces the amount of oil in private sector inventories, which, because it reduces available supply, will then lead to increases in the price of oil and petroleum products, such as gasoline, diesel fuel, jet fuel, and home heating oil. When prices are high and the market is tight, refiners will use up the oil in their inventories rather than purchase new oil in an expensive market, and wait for prices to fall before buying more oil. In a tight market, therefore, the additional demand for oil created by the SPR program will lead companies to take even more oil out of their own inventories to fill Government needs. In a tight market, the net result of the SPR program will not be any overall increase in domestic oil supplies, since the amounts of oil added to the SPR will come at the expense of oil in private sector inventories. These private commercial inventories are thereby reduced as a result of filling the SPR.

Oil prices are directly related to the supply of oil. When supplies are plentiful, prices fall. When supplies are scarce, prices rise. The supply of oil is determined by the amount of oil produced in oil wells around the world and the amount of oil in storage. As either the amount of oil produced or the amount of oil in storage decreases, prices will increase. In a tight market, therefore, when supplies are scarce, filling the SPR will lead both to a decrease in private sector inventories and a corresponding increase in the price of oil.

The Department of Energy's own documents explain this effect as follows:

If we look at the SPR from the perspective of daily supply and demand, the SPR fill rates are inconsequential. The fill rate is 100–170,000 barrels per day compared to world production and consumption of 75 million barrels per day. However, when OPEC countries are determined to maintain discipline in their export quotas, the cumulative impact of filling the SPR becomes more significant when compared to U.S. and Atlantic basin inventories. Essentially, if the SPR inventory grows, the OPEC does not accommodate that growth by exporting more oil, the increase comes at the expense of commercial inventories. Most analysts agree that oil prices are directly correlated with inventories, and a drop of 20 million barrels over a 6-month period can substantially increase prices.

Oil companies doing business with the SPR program supported DOE's business procedures in place prior to the spring of last year. These procedures afforded the contractors the flexibility to re-schedule deliveries to the SPR in accordance with market conditions. In exchange for providing the oil companies with this flexibility, the U.S. government was able to obtain additional barrels of oil for the SPR at no additional cost to the taxpayer. This enabled the Reserve to be filled faster and at less cost than if contractors were not allowed to reschedule their deliveries. These procedures were a win-win for taxpayers and the SPR.

And, of course, any increase in the price of oil will soon lead to an increase in the price of the various petroleum products, including gasoline, diesel fuel, home heating oil, and jet fuel. Hence, the SPR program affects price of basic oil products for a wide variety of American consumers and businesses.

The amendment I am offering today would encourage DOE to reinstate these ''win-win'' procedures for filling the SPR.

Mr. President, I ask unanimous consent to have printed in the RECORD a recent editorial critical of DOE's cost-blind approach to filling the SPR.

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

(See Exhibit 2.)

Mr. LEVIN. The editorial, in the Omaha World Herald, dated August 14, reads:

In general, we are strong supporters of keeping the nation's Strategic Petroleum Reserve at or near capacity in case of a national emergency. However, there is such a thing as bad timing. We believe the administration has been making a mistake by refilling the reserve to the tune of about 11 million barrels since the start of May. Commercial U.S. oil stocks have been low for months. Filling the reserve just now puts upward pressure on prices. . . . Washington should back off until oil prices fall somewhat. Doing otherwise is costing the Treasury unnecessarily and is punishing motorists during summer vacation driving time.

Under our amendment DOE would retain the complete discretion to determine the pace and schedule for filling the SPR. However, DOE would be required to issue procedures to guide this discretion, and would be required to consider how to maximize our national energy security and minimize costs to the taxpayers while filling the SPR. If implemented properly, such procedures can promote our national energy security, save taxpayers money, and lower oil and gasoline prices for consumers.

EXHIBIT 1

PROCEEDINGS OF APEC ENERGY SECURITY INITIATIVE WORKSHOP ON ELEMENTS OF ENERGY SECURITY POLICY IN THE CONTEXT OF PETROLEUM, AMARI WATERGATE HOTEL, BANGKOK, THAILAND, SEPTEMBER 14–15, 2001

ASIA-PACIFIC ECONOMIC COOPERATION, ENERGY WORKING GROUP, CLEAN FOSSIL ENERGY EXPERTS' GROUP

Jointly Organized by: Department of Industry, Science and Resource (ISR), Australia; The Institute of Energy Economics, Japan (IEEJ), Japan; Ministry of Commerce, Industry & Energy (MOCIE), Republic of Korea; Ministry of Energy, Mexico; National Energy Policy Office (NEPO), Thailand; and Department of Energy (DOE), United States.

Supported by: Asia Pacific Economic Cooperation (APEC) and Ministry of Economy, Trade and Industry (METI), Japan

STRATEGIC PETROLEUM RESERVE

APEC Workshop on Energy Security Policy: John Shages.

UNITED STATES POLICY ON RESPONDING TO OIL SUPPLY DISRUPTIONS

The policy of the United States regarding oil supply disruptions is to rely on market forces to allocate supply, and to ordinarily supplement supply by the early drawdown of the Strategic Petroleum Reserve in large volumes and in coordination with our allies and trading partners.

CRITICAL ELEMENTS TO JUSTIFY A DRAWDOWN

A Disruption Event.
Evidence of Supply Stress.
A Price Spike.

THE KEY TO A SUCCESSFUL STRATEGIC RESERVE IS COST CONTROL

The benefits come with a drawdown—but the number and extent of futures disruptions is unknown.

Measuring the degree of damage from a disruption, and the consequent benefits of a petroleum reserve, to an individual economy is an uncertain science.

Cost is the easiest aspect to control and has the highest probability of making the Reserve cost beneficial.

MAJOR COST ELEMENTS

Capital Costs—Including land, facilities, and logistics systems.
Maintenance Costs.
Oil Acquisition Costs.

CAPITAL COSTS

Dependent on location.
Technology and type of storage facilities.
Refer to the 1999 APERC Study supported by conceptual designs and cost estimates from PBKBB, Inc.

LESSONS LEARNED TO CONTROL OIL ACQUISITION COSTS

Let the markets determine your buying pattern.
Buy in weak markets.
Delay deliveries during strong markets.
Use your acquisition strategy to stabilize markets.

EXHIBIT 2

[From the Omaha World Herald, Aug. 14, 2003]

OIL'S NOT WELL—FILLING THE STRATEGIC RESERVE IS A GOOD IDEA—BUT NOT RIGHT NOW.

In general, we are strong supporters of keeping the nation's Strategic Petroleum Reserve at or near capacity in case of a national emergency. However, there is such a thing as bad timing. We believe the administration has been making a mistake by refilling the reserve to the tune of about 11 million barrels since the start of May.

Commercial U.S. oil stocks have been low for months. Filling the reserve just now puts upwards pressure on prices. Every motorists sees this at the gasoline pump, where regular-grade gas is hovering around $1.60.

Oil has again begun to flow from Iraq's vast fields, which will help somewhat—weeks from now. Meanwhile, the strategic reserve is at 84 percent of capacity. This seems to us a comfortable level.

Washington should back off until oil prices fall somewhat. Doing otherwise is costing the Treasury unnecessarily and is punishing motorists during summer vacation driving time.

Ms. COLLINS. Mr. President, I rise today to join the ranking member of the Senate Permanent Subcommittee on Investigations, Senator LEVIN, in offering an amendment that would require the U.S. Department of Energy to develop and maintain cost-effective procedures to fill the nation's Strategic Petroleum Reserve. The amendment simply requires the Department of Energy to publish procedures for obtaining oil for the Strategic Petroleum Reserve in a manner that maximizes supplies, minimizes costs, and is consistent with national security. The amendment would give the Department of Energy 180 days to publish these procedures and would allow an opportunity for public comment prior to final publication.

Two years ago, Senator CARL LEVIN, who at the time was chairman of the Senate Permanent Subcommittee on Investigations, initiated an investigation into gas prices in the United States. Part-way through this effort he expanded the investigation to include analysis of Department of Energy policies with respect to the Strategic Petroleum Reserve. Last year, I joined Senator LEVIN in requesting information from the Department of Energy on the impacts of filling the Strategic Petroleum Reserve on crude oil prices.

In March of this year, the Permanent Subcommittee on Investigations released a report which described the findings of the investigation. Among other things, the Committee found that inconsistent Department of Energy policies had led to filling the reserve during tight market conditions. The Committee found that this action had increased oil prices, hurt U.S. consumers, and increased the cost to taxpayers.

The Department of Energy should adopt procedures to ensure that oil purchases for the SPR minimize the economic impact on consumers. The Department of Energy needs to take full advantage of techniques such as deferred payments, use of the futures market, and careful cost-benefit analysis in order to lessen the impact of oil purchases on consumers. Although the Department has used all of these policies on occasion, it should do so consistently.

The United States has the ability to partially mitigate dramatic spikes in gas prices, if we properly use and maintain our domestic reserve. In fact, it is our duty to do so, to ease the economic impact that drastically rising gas prices have on Americans who need to fill their tanks in order to do their jobs, buy their groceries, and drive their kids to school.

Our amendment would ensure that price and market impact are top considerations in managing this vital domestic emergency oil supply. It would give the Department of Energy an opportunity to focus increased attention on its policies and procedures for filling the Strategic Petroleum Reserve, with particular regard to the effect of its policies on gas prices and oil markets. I ask my colleagues to join Senator LEVIN and me in supporting this amendment.

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

The amendment (No. 1750) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

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

Mr. MCCAIN. Mr. President, I come to the floor to talk, as I do quite frequently, about the number of unrequested, unauthorized, and locality-specific earmarks contained in this bill. Fortunately, this year's Interior appropriations bill does not contain as many pork projects as the bill the Senate passed last year. This year's bill has over $403 million in porkbarrel projects. Last year's had $429 million, so I guess there is a $26 million improvement. I guess I should be grateful for this apparent savings, but I do not see this as evidence of tremendous fiscal restraint.

Citizens Against Government Waste, a nationally recognized, well-respected, nonpartisan government watchdog organization found that in fiscal year 2003, the Appropriations Committee stuck 9,362 projects into the 13 annual appropriations bills, an increase of over 12 percent from the previous year's total of 8,341. A further note: in the last 2 years the total number of projects has increased by some 48 percent.

I have compiled a 21-page list of 332 objectionable provisions contained within this bill, totaling $423 million. I will post the full list on my official Senate Web site.

Let me just highlight some of the more egregious projects in this bill: An earmark for $4 million for the construction, renovation, and furnishing and demolition or removal of buildings at National Energy Technology Laboratory facilities in Morgantown, WV, and Pittsburg, PA; $15 million for alcohol control enforcement, prevention, treatment, sobriety and wellness, and education in Alaska, distributed in lump sum payments to various entities; one of our old favorites, $1 million above the request to continue work at the National Center for Ecologically-Based Noxious Weed Management at Montana State University—they got an extra $1 million; $500,000 for continued funding of the Idaho Sage Grouse Management Plan through the Idaho Office of Species Conservation; $2 million above the budget request of the President for Atlantic salmon recovery activities; $900,000 above the budget request for Eider Duck recovery work by the Alaska SeaLife Center; $1.2 million above the budget request for the Wolf Recovery Program in the State of

Idaho; $1.4 million for the Washington State Regional Salmon Enhancement; $200,000 for bald eagle restoration work performed in cooperation with the Vermont National Heritage Partners Program; $500,000 for the Native Roadside Vegetation Center at the University of Northern Idaho; $700,000 for invasive species control in Hawaii; $500,000 for the Delaware Bay Oyster Revitalization Project in the States of Delaware and New Jersey; $500,000 for salmon restoration work in Puget Sound in cooperation with the Seattle Art Museum—the Seattle Art Museum is going to work in cooperation with Puget Sound for salmon restoration—$750,000 for ferret reintroduction in the Rosebud Sioux tribal lands; $1.5 million for the Bitter Lake, NM, Visitors Center—that is sweet—$1 million for Kenai, AK, for cabins, trails, and campgrounds; $3 million for the Kodiak, AK, Visitors Center—I can tell you that Alaska is doing very well by doing good—$2.1 million for the Ohio River Islands, WV, Visitors Center and miscellaneous improvements; $525,000 for the Okefenokee Concession Facility in Georgia; $300,000 for the Garrison Dam, ND, fishpond improvements; $850,000 for the Savannah, GA, Visitors Center—we are big on visitors centers in this particular bill—$2 million for the World Birding Center in Texas; $3 million for the Abraham Lincoln Library in Illinois; $500,000 to design a visitors center on Assateague Island in Maryland; $1.1 million to rehabilitate off-road vehicle trails in Big Cypress National Park in Florida; $1.7 million to rehabilitate General Grant's tomb in New York—I wonder if we should ascertain whether General Grant is actually there before we rehabilitate his tomb—$3 million for a visitors center in the Grand Teton National Park; $7.4 million for rehabilitation of the Horace Albright Training Center in Arizona. I am told that the Horace Albright Training Center in Arizona is a place near the bottom of the Grand Canyon where park personnel are trained.

The committee report directs 26 separate unrequested land acquisitions under the Fish and Wildlife Service totaling nearly $35 million.

It is the process that I have a problem with. The committee effectively usurps the power of the authorizing committee and acts as one all-powerful funding machine. Projects are often funded with little or no background study and are approved simply after being requested by a fellow Member.

As all my colleagues know, the Congressional Budget Office recently projected a potentially debilitating $480 billion deficit for 2004 and the President has asked for additional appropriations of $87 billion for the military operations in Iraq and Afghanistan, and everybody is asking: Where is the money coming from? After years of unchecked and questionable spending, we are in the unfortunate position of facing critical budget constraints that will hamper our ability to fully fund necessary programs. Instead, we are cutting deep into the taxpayers' pockets once again by expecting them to shell out more than $403 million in porkbarrel spending included in this bill.

I think at some point the President of the United States is going to have to veto one of these bills and demand that this unnecessary, unwarranted, unauthorized, and unrequested spending be removed because we really are talking about real money.

I understand we are going to have a voice vote on final passage of this bill. I would be recorded as voting no if there were a recorded vote.

I yield the floor.

AMENDMENT NO. 1739

Mr. DASCHLE. Mr. President, I call for the regular order, and I believe my amendment is pending.

The PRESIDING OFFICER. That is correct.

Mr. DASCHLE. Mr. President, I had the opportunity to speak to this amendment a couple of times, so I will not belabor it. I know we are getting close to the end of the debate.

I compliment the distinguished manager of the bill and ranking member for a job well done on the bill.

This amendment recognizes two things. It recognizes, first, when it comes to trust responsibility and the very vexing problems we have had in carrying out trust responsibility with all Indian tribes, that we are a long way from any implementation of that responsibility today. What efforts have been made in trying to establish some mechanism for carrying out those responsibilities in a fair and meaningful way are yet to be found. In fact, if anything, we are mired more than we have been in a long time.

There is a need to create a better partnership with all tribal governments, and, as a result of that need for greater partnership, a recognition that until we have meaningful trust responsibility in policy and in law, to put an infrastructure in place which is supposedly designed to implement a policy that doesn't exist is premature. In fact, it sends all the wrong messages about what the intention of the BIA, the Congress, or this administration is with regard to that responsibility in the first place.

The National Congress of American Indians has written to Congress asking Congress not to fund the implementation of the policy today because it is premature. Virtually every national Indian organization has pleaded with the Congress to recognize the importance of tribal sovereignty and tribal partnership with their government and has asked us not to implement the policy.

That is the first point I would make with this amendment. The second point is equally as important.

We have, as I said this morning, an extraordinary deficiency in health care. We are underfunded by about $2.9 billion in health care funding on reservations today, with regard to IHS clinical services alone. As a result of that underfunding, the per capita commitment to Indian health care today is about $1,900. That is half of what our per capita commitment is today for Federal prisoners' health care. In other words, an Indian child on a reservation gets half the commitment through the Federal Government that a prisoner does regardless of that prisoner's crime in the Federal system today.

What I simply am proposing with this amendment is that we take part of the money allocated for the implementation of this trust responsibility effort that is now underway in the BIA and shift it over to where it can do the most good; that is, in health care. We need every dollar we can get in health care, and $79 million—which is what this amendment provides—will go at least a little ways.

Since we weren't able to pass the amendment offering $292 million for IHS clinical services, $79 million transferred to Indian health care from the trust fund budget that is within the BIA would at least send the right message to NCAI and to all of the Native American organizations that we listen, that we understand, and that this is important to us as well.

Some will argue that to do so would actually prevent us from cutting checks to allottees. If this bill were enacted today, the Office of Special Trustee would receive $143 million, the same as last year. So we would have the same amount of money for allottees through the Office of Special Trustee that we had in the last fiscal year. The system that cuts the checks—the Trust Fund Accounting System—would not be affected. That costs approximately $14 million. According to the President's budget request, my amendment would still allow $32 million in the Operation and Support Account. In the Operation and Support Account we strike $20 million. We leave $32 million.

There is a $6 million reduction in the trust accountability account. We leave $51 million. We take $15 million from field operations and still leave $24 million. We take $38 million from the historical accounting fund and we still leave $27 million. The total amount available for the Office of Special Trustee under this amendment is $143 million.

This is our last opportunity on this bill to do something worthwhile, to recognize we have failed to meet our obligations in addressing the crisis we have in health care on reservations in the country today and to recognize, as well, the Office of the Special Trustee, as we consider our challenges as well as our responsibilities in carrying out the intent and the spirit of the treaty obligations we have not met and that will not be met under this bill.

Let's use this money where it can do the most good. Let's shift it out of the Office of Special Trustee and into health care. I hope my colleagues on

both sides of the aisle could support this amendment.

Mr. President, the United States of America has been struggling to strike the correct Indian policy for literally 200 years. Since the days of the Louisiana Purchase and the Lewis and Clark exploration, we have attempted to find a policy that was both fair to Native people and yet, at the same time, allowed for the expansion and progress of the United States. That search continues today.

From the treaties of the mid-1800s, to the Dawes Act of 1887, which sought to break up tribal land, to the Indian Reorganization Act of 1934, which sought to undo the damage of the Dawes Act, the United States has vacillated on Indian policy. From a policy of termination to the Indian Self Determination and Education Assistance Act of 1975, we have struggled. In more recent times, through several administrations of both parties, the United States has been committed to honoring its treaty obligations and interacting with Indian tribes on a government-to-government basis.

Through a government-to-government policy, our goal is to respect the integrity of tribal governments and allow them to function with greater autonomy. Tribal governments are administering more and more programs and are being looked to for the provision of local services.

President Bush, discussing his administration's policy on Indian affairs had this to say:

> To enhance our efforts to help Indian nations be self-governing, self-supporting, and self-reliant, my Administration will continue to honor tribal sovereignty by working on a government-to-government basis with American Indians and Alaska Natives. We will honor the rights of Indian tribes and work to protect and enhance tribal resources.

With that background in mind, the question before the Senate is whether or not we should appropriate money to reorganize the Bureau of Indian Affairs when the reorganization plan put forward by the Department of Interior is opposed by Indian tribes all across the country. I think that the answer is clearly ''no.''

What does the phrase ''government-to-government'' mean if we are going to ignore the opinion of tribal leaders on a question of unique importance to Indian people? What does it say if we pay no heed to tribal leaders on how to organize the Bureau of Indian Affairs? I ask my colleagues who have an Indian reservation in their State, how many of you have said you are committed to government-to-government relations between the United States and Indian tribes?

The tribal Chairs in South Dakota are against the proposed BIA reorganization plan. The senior Chairman in South Dakota, Chairman Mike Jandreau of the Lower Brule Sioux Tribe, has been a national leader on this subject. The National Congress of American Indians has written to Congress asking us not to fund the reorganization. If a government-to-government policy means anything, then Congress should respect these tribal leaders, not fund the reorganization, and transfer the proposed funding to higher priorities, health care first and foremost.

I am therefore proposing that we transfer $79 million from accounts that would fund a reorganization of the Department of Interior, Bureau of Indian Affairs, to increase funding for Indian health programs.

The health care statistics on the reservations of South Dakota, and throughout the country, are closer to the statistics of the developing Third World than they are to the national statistics for the United States. Infant mortality and diabetes rates on the reservations far exceed that of the rest of the Nation; every health barometer calls out for prompt intervention and assistance.

There is little disagreement that the Department's stewardship of Indian trust funds has been a colossal and longstanding failure. For over 100 years, the Department of Interior has served as the trustee for the proceeds from the leasing of oil, gas, land and mineral rights on Indian land. Many billions of dollars are at stake. Money that is desperately needed to address basic human needs cannot be accounted for and distributed.

But rather than get directly at the underlying problem, the Department continues to focus on reorganization in order to demonstrate to the tribes, Congress, and the Court that something is happening and that progress is being made. The money in the trust fund belongs to the tribes and its enrolled members.

Congress should not appropriate one more dollar for reorganization of the BIA until the tribes tell us they support the reorganization plan and, most importantly, that the reorganization plan will adequately address the mismanagement of the trust fund.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, we pretty much laid out the facts in this debate. There is no question about the Indian Health Service. I completely agree with my friend from South Dakota.

There are a couple of points I make. If his amendment is successful, it has great ramifications regarding the amount of money going to individual Native Americans, to the tribes, and to trust accounts this year. This transfer of funds shuts down the operation of this historical accounting procedure. This is a problem that has been building for the last 10 or 15 years. In fact, it got so bad under the last administration, the court finally held the Department of Interior in contempt because they were not forthcoming with the figures. Why? Because there was no way to do it. There was no way to present the court with any actual figures to settle the litigation.

The ramifications, if we shut this down: South Dakota alone has 35,714 open accounts. Their annual disbursement to those accounts now under present conditions is over $84 million; Oklahoma, $90 million; my home State, $87 million; $101 million, the State of Washington. That money will not be mailed this year.

On this old reorganization—and we have heard a lot of talk about where is it going, what policy shall we have—the policy is being dictated by the courts. Maybe the policy is we should be on historical accounting so we know accurately what is owed and what is not.

Prior to implementing a major restructuring of the Department's Indian trust functions, Interior engaged in the most extensive consultation in history by senior Department officials with the Indian tribes. Before the new organization was developed, the Department officials held over 45 meetings with tribal leaders throughout the United States, testified at several congressional hearings during the consultation process, and obtained the approval of the House and concurrence of the Senate Appropriations Committee.

What we are talking about is a problem being caused mainly because we stuck our head in the sand and would not face reality when dealing with this. It could be huge. Some plaintiffs say it could go as high as $176 billion. I don't think we are ready to do that just now.

Even if you disagree with the accounting procedure, the Department, regardless of those procedures, the court findings, will be required to implement the court decision should it be made. This amendment will ensure no money is there for implementation.

Now I will focus on IHS for a moment. We have already been down that particular road. We have added money to IHS the last 5 years. We continue to do so. Under the leadership of Senator DOMENICI and also Senator DASCHLE of South Dakota and a lot of Members who live in Indian country, we have worked very hard to pump up those accounts, understanding that we have situations on Indian reservations that are characteristic of their problems.

This amendment should not pass. It should not pass. It should allow the process to go forward and settle this problem that has been completely ignored over the past 10 or 15 years.

I hope the Senators will take a look at this. This is the first administration that has stepped up and said we have to do something about it; we have to address it. Not only are we under the cloud of litigation but it is the right thing to do. It is the right thing to do for our individuals. It is the right thing to do for our tribal governments, tribes, and for their trust funds. It is the right thing to do.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I have great admiration and respect for the

Senator from Montana. I ask him, if it is the right thing to do, why did we exempt the tribes from Montana from this very provision, this very requirement? Section 134 of the bill exempts certain tribes. All of those tribes in Montana are exempt.

We are simply saying, if the exemption is good enough for Montana, it ought to be good enough for the rest of the country, as well. I start with that. It cannot be too good or we would include Montana. But we do not. That is an issue that ought to be clarified.

I also simply say, if it is true these allottees are not going to receive income as a result of the passage of this amendment, how is it possible that virtually every tribal leader in the country, virtually every Indian organization in the country, has expressed support for the amendment? Would they not be concerned for the allottees? Would they not be concerned about the economic impact this would have? The fact is, they support the amendment. The fact is, they know we have money in this bill with this amendment that allows at least some of these responsibilities to be carried forward.

Why would we ever implement a bureaucratic response to a policy that is yet to be written, that is yet to be confirmed and acknowledged and authorized by the courts? Why would we put the organization in place before we know what the responsibilities are? That is what we ask with this amendment.

We have debated it now on several occasions. I am not going to convince the Senator from Montana, even though he looks out for his State, and I don't blame him for doing so. I want the same opportunity to look out for the rest of the country and my State, as well.

I yield the floor.

Mr. BURNS. Mr. President, the exemption he was talking about for Montana, the exemption is the tribes are self-governance tribes. They all have clean audits. They are ready. It is those here in Washington who are not. And we cannot stop the process if we are to be fair to everybody in Indian country.

We have made our points. I am ready to vote if the distinguished minority leader is ready to vote. I know one thing, nobody has greater passion for this issue and for his State than my good friend from South Dakota. But I feel we have kept our head in the sand too long. There has to be some finality to it. We cannot short-circuit the system before it is completed.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. TALENT). Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Connecticut (Mr. DODD), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY) and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''Yea.''

The result was announced—yeas 43, nays 52, as follows:

[Rollcall Vote No. 362 Leg.]

YEAS—43

Akaka	Dorgan	McCain
Baucus	Durbin	Mikulski
Bayh	Feingold	Murray
Biden	Feinstein	Nelson (FL)
Bingaman	Harkin	Nelson (NE)
Boxer	Hollings	Pryor
Breaux	Jeffords	Reed
Byrd	Johnson	Reid
Cantwell	Kennedy	Rockefeller
Carper	Kohl	Sarbanes
Clinton	Landrieu	Schumer
Conrad	Lautenberg	Stabenow
Corzine	Leahy	Wyden
Daschle	Levin	
Dayton	Lincoln	

NAYS—52

Alexander	Dole	Miller
Allard	Domenici	Murkowski
Allen	Ensign	Nickles
Bennett	Enzi	Roberts
Bond	Fitzgerald	Santorum
Brownback	Frist	Sessions
Bunning	Graham (SC)	Shelby
Burns	Grassley	Smith
Campbell	Gregg	Snowe
Chafee	Hagel	Specter
Chambliss	Hatch	Stevens
Cochran	Hutchison	Sununu
Coleman	Inhofe	Talent
Collins	Inouye	Thomas
Cornyn	Kyl	Voinovich
Craig	Lott	Warner
Crapo	Lugar	
DeWine	McConnell	

NOT VOTING—5

Dodd	Graham (FL)	Lieberman
Edwards	Kerry	

The amendment (No. 1739), as further modified, was rejected.

Mr. BURNS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. BURNS. Mr. President, we will have our two managers' packages and then final passage. We will have the packages ready in about 5 or 10 minutes. That is the last vote of the evening, I assume. The leader will be here soon. He will make that announcement.

In the meantime, I thank my good friend from North Dakota, Senator DORGAN, for working on this bill because I think we did it in record time this year. We had some issues that had to be dealt with and we dealt with them. We had a good, spirited debate. I thank all Senators for their cooperation on this piece of legislation.

I yield the floor to my friend from North Dakota.

Mr. DORGAN. Mr. President, let me, too, thank my colleague, Senator BURNS. This is a very significant piece of legislation. We have had excellent cooperation. I also thank the staff, if I might: Peter Kiefhaber, Brooke Livingston, and, of course, the majority staff: Bruce Evans, Ginny James, Steve Fonnesbeck, and also Ryan Thomas.

The Interior bill has, on occasion, been a bill that has taken a long time to move through the floor in some years. Other years, it has moved rather quickly. I think we have had a good discussion on some very important issues. I appreciate the work of my colleague from Montana. I believe we have a couple of managers' packages, and then I think we will have an opportunity to voice vote final. There is one additional amendment as well.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. 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. FRIST. First of all, I congratulate the managers. The bill has been handled perfectly. It allows us to continue on in the appropriations process in an orderly manner. It allows adequate and good time for debate and discussion. I congratulate them.

As the managers just said, there are a couple of packages being worked on now. Then we will have final passage by voice vote. Tonight there will be no more rollcall votes. The exact times will be announced later tonight, but we plan on going to DC appropriations at 10:30 tomorrow morning. The specific times in terms of morning business and all will be announced later. I congratulate the managers and all our colleagues on making tremendous progress in the overall appropriations process. I appreciate everybody's cooperation and patience on these very important bills.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURNS. 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. BURNS. Mr. President, we have the first package of amendments. They have been agreed to on both sides of the aisle. This is in package No. 1, for identification for my good friend from North Dakota. There are two other packages to come, and we are working on those.

AMENDMENT NOS. 1757; 1758; 1752, AS MODIFIED; 1759; 1760; 1761; 1762; 1728, AS MODIFIED; 1763, 1726, 1764, 1765, AND 1766, EN BLOC

Mr. BURNS. Mr. President, I ask unanimous consent that the amendments in package No. 1 be considered en bloc and agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendments are considered en bloc and are agreed to en bloc.

The amendments were agreed to, as follows:

AMENDMENT NO. 1757

(Purpose: To provide funds for trail construction on the Wasatch-Cache National Forest)

On page 70, line 18, immediately following the number ''205'' insert the following:

'', of which $500,000 may be for improvements at Fernwood Park on the Wasatch-Cache National Forest''

AMENDMENT NO. 1758

(Purpose: To provide funds to facilitate a land exchange between the State of Montana and the Lolo National Forest)

On page 64, line 21, immediately following number ''6a(i))'' insert the following:

'', of which $200,000 may be for necessary expenses related to a land exchange between the State of Montana and the Lolo National Forest''

AMENDMENT NO. 1752, AS MODIFIED

On page 20, line 16, after ''$1,636,299,000'' insert the following: '', of which, in accordance with the cooperative agreement entered into between the National Park Service and the Oklahoma City National Memorial Trust and numbered 1443CA125002001, $600,000 may be available for activities of the National Park Service at the Oklahoma City National Memorial and $1,600,000 may be available to the Oklahoma City National Memorial Trust''.

AMENDMENT NO. 1759

(Purpose: To set aside funds for the Wildlife Enhancement and Economic Development Program in Starkville, Mississippi)

On page 11, line 24, after ''2005'' insert the following: '', of which $1,000,000 may be available for the Wildlife Enhancement and Economic Development Program in Starkville, Mississippi''.

AMENDMENT NO. 1760

(Purpose: To improve seismic monitoring and hazard assessment in the Jackson Hole-Yellowstone area of Wyoming)

On page 27, line 17, immediately following ''industries;'' insert:

and of which $250,000 may be available to improve seismic monitoring and hazard assessment in the Jackson Hole-Yellowstone area of Wyoming.

AMENDMENT NO. 1761

(Purpose: To allow fiscal year 2004 funds for futuregen)

On page 82, line 7, insert before the period ''; *Provided Further,* That notwithstanding any other provision of law, within fiscal year 2004 up to $9,000,000 of the funds made available under this heading for obligation in prior years, of funds not obligated or committed to existing Clean Coal Technology projects, and funds committed or obligated to a project that is or may be terminated, may be used for the development of technologies and research facilities that support the production of electricity and hydrogen from coal including sequestration of associated carbon dioxide; provided that, the Secretary may enter into a lease or other agreement, not subject to the conditions or requirements established for Clean Coal Technology projects under any prior law, for a cost-shared public-private partnership with a non-Federal entity representing the coal industry and coal-fueled utilities; and provided further, that the Secretary shall ensure that the entity provides opportunities for participation by technology vendors, States, universities, and other stakeholders''.

AMENDMENT NO. 1762

(Purpose: To provide funding for DES applications integration)

On page 85, on line 4 beginning after ''expended'' insert '', of which $1,500,000 is for DES applications integration''.

AMENDMENT NO. 1728, AS MODIFIED

On page 21, line 21, after ''$60,154,000'' insert the following: '', of which $175,000 may be available for activities to commemorate the Louisiana Purchase at the Jean Lafitte National Historical Park and Preserve in the State of Louisiana''.

AMENDMENT NO. 1763

On page 36, line 4, insert before the period '': *Provided further,* That $48,115,000 shall be operating grants for Tribally Controlled Community Colleges, and $34,710,000 shall be for Information Resources Technology''

AMENDMENT NO. 1726

(Purpose: To provide for a payment of $11,750 to the Harriet Tubman Home in Auburn, New York)

At the end of title I, add the following:

SEC. (a) PAYMENT TO THE HARRIET TUBMAN HOME, AUBURN, NEW YORK, AUTHORIZED.—(1) The Secretary of the Interior may, using amounts appropriated or otherwise made available by this title, make a payment to the Harriet Tubman Home in Auburn, New York, in the amount of $11,750.

(2) The amount specified in paragraph (1) is the amount of widow's pension that Harriet Tubman should have received from January 1899 to March 1913 under various laws authorizing pension for the death of her husband, Nelson Davis, a deceased veteran of the Civil War, but did not receive, adjusted for inflation since March 1913.

(b) USE OF AMOUNTS.—The Harriet Tubman Home shall use amounts paid under subsection (a) for the purposes of—

(1) preserving and maintaining the Harriet Tubman Home; and

(2) honoring the memory of Harriet Tubman.

AMENDMENT NO. 1764

(Purpose: To include electric thermal storage technology as a weatherization material under the Energy Conservation in Existing Buildings Act of 1976)

On page 137, between lines 23 and 24, insert the following:

SEC. 3___. ELECTRIC THERMAL STORAGE TECHNOLOGY.

Section 412(9) of the Energy Conservation in Existing Buildings Act of 1976 (42 U.S.C. 6862(9)) is amended—

(1) in subparagraph (I), by striking ''and'' at the end;

(2) by redesignating subparagraph (J) as subparagraph (K); and

(3) by inserting after subparagraph (I) the following:

''(J) electric thermal storage technology; and''.

AMENDMENT NO. 1765

(Purpose: To provide funds for the Mesa Verde Cultural Center in the State of Colorado, with an offset)

On page 23, beginning on line 12, strike ''$341,531,000'' and all that follows through line 17 and insert ''$342,131,000, to remain available until expended, of which $300,000 for the L.Q.C. Lamar House National Historic Landmark and $375,000 for the Sun Watch National Historic Landmark shall be derived from the Historic Preservation Fund pursuant to 16 U.S.C. 470a and of which $600,000 shall be available for the planning and design of the Mesa Verde Cultural Center in the State of Colorado: *Provided,* That none of the funds''.

On page 71, beginning on line 9, strike ''$77,040,000'' and all that follows through line 11 and insert ''$76,440,000, to be derived from the Land and Water Conservation Fund and to remain available until expended, of which $5,400,000 shall be available for the Beaver Brook Watershed in the State of Colorado: *Provided,* That''.

AMENDMENT NO. 1766

(Purpose: To provide funding for the construction of a statue of Harry S Truman in Kansas City, Missouri, with an offset)

On page, 23, line 17, insert before the '':'' the following: '', and of which $50,000 shall be available for the construction of a statue of Harry S Truman in Union Station in Kansas City, Missouri, and of which $4,289,000 shall be available for the construction of a security fence for the Jefferson National Expansion Memorial in the State of Missouri''.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

IRAQ

Mr. DORGAN. Mr. President, we should momentarily come to the floor with the final managers' package and wrap up this bill and I think we will have a voice vote at the end. I did want to make a couple of comments while we were waiting for the final pieces of this appropriations bill.

Earlier today I visited just a bit about the issue of reconstruction in the country of Iraq. Today we were visited in our Democratic caucus by Ambassador Bremer who just returned from Iraq. He appeared before the Senate Appropriations Committee yesterday, before our caucus today. He talked about the request of $87 billion, both for military appropriations for our defense establishment—that is appropriations of about $60 billion necessary for the efforts we are making in the country of Iraq—and, in addition to that, there is about slightly more than $20 billion for reconstruction in Iraq.

I want to make the point that first I think every dollar requested for the military could, should, and I believe will be appropriated quickly to support the efforts of our troops. This Congress has to understand when we ask our sons and daughters to go to war and to commit themselves for the mission this country asks of them, we must support them with appropriations.

The second issue, the reconstruction in Iraq that is necessary, is a different and an interesting problem. Should the American taxpayer pay for the reconstruction of Iraq? First of all, we did not target Iraq infrastructure. Shock and Awe was a campaign that began with smart bombs and smart weapons. It did not target their electric grid. It did not target their dams. It did not target their roads. It did not target the infrastructure of Iraq. The destruction of the infrastructure of Iraq has come from a guerrilla insurgent movement inside Iraq, but it has not come from American military force. So the question is, who should provide the $20-plus billion for reconstruction of Iraq?

Let me make a point about that. Iraq is a country of 24 million people sitting

on sandy soil that contains the second largest reserves of oil in the world, the second largest reserves in the world next to Saudi Arabia. It is estimated that by next July the Iraqi oil wells will be producing around 3 million barrels per day. It is also estimated at that level the net export value of Iraqi oil will be about $16 billion a year. So over the next 10 years the Iraqi oil revenues should produce about $160 billion.

In addition to that, I asked Ambassador Bremer what do you intend to do with respect to the Iraqi oil revenue and what do you intend to do with respect to debts that are owed to other countries from the country of Iraq? The reason I ask that question is, I said: Why don't you use Iraqi oil to reconstruct Iraq? It seems to me logical you would do that.

He said, We can't do that because Iraq owes a great deal of money. It has great debt.

I said, Who holds the debt?

Yesterday during the Appropriations Committee hearing, he said Russia—Iraq owes Russia money, it owes France money, and Germany money.

Since yesterday I have gotten more information about that. It turns out the largest holders of Iraq debt are Saudi Arabia and Kuwait. It is very interesting to me: Saudi Arabia and Kuwait, the largest holders of debt, according to published reports, from the Iraqi government.

So the Iraqi government owes Kuwait and the Saudis perhaps $50 billion. Who is the Iraqi government? Saddam Hussein. Saddam Hussein obligated the Iraqi government, the Iraqi people, to pay certain moneys to other countries for the debts incurred. But Saddam Hussein does not exist; his government is gone. So who should repay that debt? Ambassador Bremer says the American taxpayer should repay that debt. I don't think so. I think what ought to happen is you ought to collateralize or securitize the next 10 years of Iraqi oil. You can easily provide the resources for the reconstruction in Iraq from the oil that will be pumped from the sands of Iraq in the next 10 years. Iraqi oil ought to be used to pay for the reconstruction in the country of Iraq.

With respect to the debt Ambassador Bremer says under international obligations is owed by the country of Iraq to other countries, it seems to me there is a term called debt forgiveness. I don't know how you say to the Saudis and the Kuwaitis: You were owed money by Iraq. Go find Saddam Hussein and collect it. I don't know quite how you say that, but there must be a way of saying that. Go find Saddam Hussein and try to collect that debt. That is who obligated that debt on behalf of the Iraqi people.

It seems to me, the first thing we ought to do is say this debt that overhangs the people of Iraq ought to be negotiated down, first and foremost. Second, it seems to me we ought to say we will provide all the money that is requested, first for the military side of the request for the appropriations the President asked for, and second, we will provide the money, because we should, with respect to reconstruction. But it will not be American taxpayers' money. We will provide the mechanism by which we monetize or rather collateralize or securitize the oil revenues that we pump from under the sands of Iraq over the next 10 years.

Ambassador Bremer says that will be up to 3 million barrels per day by next July. At 3 million barrels per day you produce about $20 billion a year, about $4 billion of which is going to be needed for Iraqi oil needs, the rest of which is available for export. That is $16 billion of export earnings. That is the way you reinvest in Iraq. Invest in Iraq infrastructure with oil revenue from Iraq.

Ambassador Bremer said one other thing that was interesting to me. He said, by the way, we have just put together a tax structure in Iraq. I might point out that a nonoil state, that is a nation that doesn't have oil reserves, and that's a good many nations around the world, they put together a revenue structure, a tax system by which they raise the money to build the schools, to build the roads, to maintain the electric grid. They put together a tax system to do that.

They have just put together a new tax system in the country of Iraq and Ambassador Bremer pointed out yesterday we have a new tax system. Apparently that is designed to produce the revenue to run the Government of Iraq. He said the top income tax rate is 15 percent.

I am thinking to myself, so those at the highest income levels in Iraq—and there are some very high income-earners in Iraq—will pay a 15 percent tax and then American taxpayers at the highest level will pay a 39 percent tax and we should pay a 39 percent tax so we can send money to the Government of Iraq so the Government of Iraq can send money to the Saudis and the Kuwaitis to satisfy past debt obligations while the Iraqi citizens at the top of the income level are paying 15 percent income tax. I don't think so. That is not a construct that makes much sense to me.

I am not saying by all of this that we don't have obligations—we do—or that we don't have a priority interest in dealing with the military and the nonmilitary needs in Iraq. We do. The question is not whether; it is how.

My hope is we will bifurcate this request for appropriations of $87 million, and take the military side first and pass that. I support all of that. We ought to move that through this Congress quickly.

Second, we ought to work with Ambassador Bremer and others and describe to those folks how we want to reconstruct Iraq to rebuild the infrastructure.

Let me describe what they are talking about. It is restoring marshland, building seven communities with 3,500 new homes, rehabilitating 1,000 schools, developing a telecommunications system. Need I go on?

Is the reconstruction of Iraq necessary in which to build a market system and a healthy economy? Perhaps. Should it be done? Sure. With whose money? Who pays the bill?

In this case, it makes no sense to me for us to say the American taxpayer should foot that bill for reconstruction. It makes eminent good sense, in my judgment, for us to say we will help, as we already have, to develop the central banking system of Iraq, develop the economy that is now emerging in Iraq, and through that process securitize future Iraqi oil revenues. As I see it, that is $320 billion in revenues over the next 20 years. It just seems to me that $320 billion in 20 years provides the collateral to easily provide the upfront funds—not a grant from the American taxpayer, but a loan in the form of a security document securitizing or collateralizing future oil production in Iraq.

We will have a lot of discussion about this. I suspect some will say if you do not believe in every single sentence or every punctuation mark in the President's request that somehow you are not thinking squarely. I really believe the piece we ought to describe in some great detail here and the piece we ought to debate is the issue of who should pay for the reconstruction of Iraq—not the issue of security. We need to do that. Not the issue of military needs; we need to do that, and now. But we need to have a good, strong debate here in this Congress about how to provide the funds for the reconstruction that is being proposed in Iraq. I for one come down on the side of saying let us have Iraqi oil produce the revenues to invest in Iraq. That is what makes good sense to me.

For the record, let me describe the circumstances with Iraqi debt. The reason I do this is because Ambassador Bremer says that is why they propose the American taxpayer pay the money for Iraqi reconstruction rather than have Iraqi oil do it. The World Bank Debtor Reporting System is where you find the evidence of which countries have how much debt. Saddam Hussein's Iraq was one of the few countries that did not report its debt statistics to the World Bank Debtor Reporting System. So you have to rely on other pieces of information.

The best we can determine, the biggest lenders to Saddam Hussein were France, Germany, Gulf states, Japan, Kuwait, Russia, and Saudi Arabia. Of those, the largest was Saudi Arabia, then Kuwait, and Russia a close third. All the other Gulf states together were substantial—close to $30 billion, France and Germany in the $6 billion range.

I think it is really important to ask the question. If you are saying we can't use Iraqi oil to reconstruct Iraq because Iraq has all of these debts Saddam Hussein apparently incurred, then

how do you tell countries such as Saudi Arabia and Kuwait, and how do you tell them quickly, by the way, that the debt you have, that paper you hold, is the debt you incurred in negotiations with Saddam Hussein. We are sorry. He doesn't live here anymore. You might want to put that piece of paper somewhere where you have other things to collect which have very little worth, then start over understanding that Iraqi oil can be used to reconstruct the urgent needs that exist in the country of Iraq.

I will have more to say about this at some future point. Because Ambassador Bremer is here, I wanted to make that point. Let me also say that I said to Ambassador Bremer we pray for his safety. He has a very difficult job and dangerous job, as do the men and women who wear our country's uniform and who are in Iraq today and stationed in other parts of the world as well. We pray for their safety and thank them for their services to our country.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1768

Mr. BURNS. Mr. President, I send an amendment to the desk which has been agreed to by both sides. This happens to be an amendment that covers almost the core of the debate during this piece of legislation. This has moneys which replace the moneys that were borrowed from all the funds to fight fires.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BURNS], for himself and Mr. DORGAN, proposes an amendment numbered 1768.

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

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

The amendment is as follows:

(Purpose: To provide funds to repay accounts from which funds were borrowed for wildfire suppression)

Immediately following Title III of the bill insert the following new Title:

''TITLE IV—WILDLAND FIRE EMERGENCY APPROPRIATIONS

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

WILDLAND FIRE MANAGEMENT

For necessary expenses to repay advances from other appropriations transferred in fiscal year 2003 for emergency rehabilitation and wildfire suppression activities of the Department of the Interior, $75,000,000 to remain available until expended: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 502 of H. Con. Res. 95, the concurrent resolution on the budget for fiscal year 2004: *Providing further,* That the $75,000,000, that includes designation of the entire amount of $75,000,000 as an emergency requirement as defined in H. Con. Res. 95, the concurrent resolution on the budget for fiscal year 2004, is transmitted by the President to the Congress.

RELATED AGENCY

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

WILDLAND FIRE MANAGEMENT

For necessary expenses to repay advances from other appropriations transferred in fiscal year 2003 for wildfire suppression and emergency rehabilitation activities of the Forest Service, $325,000,000 to remain available until expended: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 502 of H. Con. Res. 95, the concurrent resolution on the budget for fiscal year 2004: *Provided further,* That the entire amount shall be available only to the extent that an official budget request for $325,000,000, that includes designation of the entire amount of $325,000,000 as an emergency requirement as defined in H. Con. Res. 95, the concurrent resolution on the budget for fiscal year 2004, is transmitted by the President to the Congress.''

Mr. BURNS. Mr. President, this amendment provides for $400 million under consequential emergency conditions. It is not offset. We want to thank the administration and the folks down at OMB. We have been working very hard with them. As this moves, we are asking that the Forest Service and the Department of the Interior get out their pencils and give us the number. This number could go up slightly. It could go down by the time the conference is over because that is where it will be settled.

I urge its adoption.

Mr. DORGAN. Mr. President, I support this amendment. We have reviewed it. I am a cosponsor. I asked Senator BURNS to include me as a cosponsor.

This really needs to be done. In fact, we need to do more than this. This is what we can do at this moment and we will continue to work on this in conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1768) was agreed to.

Mr. BURNS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. DORGAN. Mr. President, if I might, while we are waiting, on this issue of fire and fire suppression, I know Senator BURNS has spoken on this floor at some length, and we have had a discussion in the committee. We have to really stop this process of underfunding these accounts at the start of the year. It is not a great surprise that we are going to have forest fires. I come from a State that doesn't have a lot of trees. But my colleague, Senator BURNS, comes from a State that is full of trees.

In a good many States in this country, we have seen the devastation by massive forest fires. They cause a substantial amount of damage. The amount of money that is required to deal with the issue of forest firefighting and forest fire suppression is a very substantial amount of money. We know at the start of the year and in recent years that the money has not been requested which is going to be necessary. Then we come later on in the year acting wide-eyed and surprised—not my colleague from Montana. He never acts wide-eyed and surprised. But there are some who walk around here acting like they have just been hit with this huge surprise. It is not a surprise to us.

At the start of the year we need to ask OMB to request the money that is necessary, and we need the Congress to appropriate the money necessary so we are not in this bind every single year.

The amendment we have just agreed to, the Burns amendment, is an amendment that moves us in the direction of restoring the funding that has been taken from other accounts. But it doesn't provide all the money necessary for that. We have much more to do in conference.

Senator BURNS has done a remarkably good job in trying to fight with those with whom you have to fight to get the resources. We will continue this fight in conference.

Mr. BURNS. Mr. President, you do not do anything by yourself. They say you always like to be like a turtle; a turtle never gets anywhere unless he sticks his neck out. Some folks are proud of that. But if you find one on the top of a fence post, he did not get there by himself.

I appreciate the support we have had from Senator DORGAN and his side of the aisle. It is something that needed doing. We are getting a different fire nowadays. It has a different characteristic. It is hotter and more damaging. We have to deal with it and we have to pay for it.

It is the people's land. It is the people's timber. It is the people's place where they recreate, hunt, and fish. There is a lumber industry that depends on the forest lands. This is a vital resource for this country.

AMENDMENTS NOS. 1769, 1770, 1771, 1772, 1773, 1774, 1775, 1776, 1725 AS MODIFIED, 1777, 1737, 1732 AS MODIFIED, 1778, 1779, 1743 AS MODIFIED, 1733, 1780, 1749, 1781 AND 1782, EN BLOC

Mr. BURNS. I ask unanimous consent to send to the desk the managers' amendments to this bill and ask for their immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendments will be considered en bloc.

Mr. DORGAN. The amendments have been cleared on this side of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments were agreed to en bloc, as follows:

AMENDMENT NO. 1769

(Purpose: To cancel certain unobligated balances in the Department of the Interior's foreign currency account)

On page 44, insert the following after line 23:

''Of the unobligated balances in the Special Foreign Currency account, $1,400,000 are hereby canceled.''

AMENDMENT NO. 1770

(Purpose: To provide authority for the Forest Service to reimburse cooperators who assist with emergency response)

On page 66, line 20, immediately following the '':'' insert the following:

''Provided further, That such funds may be available to reimburse state and other cooperating entities for services provided in response to wildfire and other emergencies or disasters:''

AMENDMENT NO. 1771

(Purpose: To provide authority for the Forest Service to sell certain excess facilities on the Wasatch-Cache National Forest)

On page 81 immediately following line 16, insert the following new paragraph:

''The Secretary of Agriculture may authorize the sale of excess buildings, facilities, and other properties owned by the Forest Service and located on the Wasatch-Cache National Forest, the revenues of which may be retained by the Forest Service and available to the Secretary without further appropriation and until expended for acquisition and construction of administrative sites on the Wasatch-Cache National Forest.''

AMENDMENT NO. 1772

(Purpose: To facilitate rehabilitation efforts on the Kootenai and Flathead National Forests)

Immediately following Title III of the bill insert the following new Title:

''Title IV—The Flathead and Kootenai National Forest Rehabilitation Act

SECTION 1. SHORT TITLE.

This act may be cited as the ''Flathead and Kootenai National Forest Rehabilitation Act of 2003''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) The Robert and Wedge Fire of 2003 caused extensive resource damage to the Flathead National Forest;

(2) The fires of 2000 caused extensive resource damage on the Kootenai National Forest and implementation of rehabilitation and recovery projects developed by the agency for the Forest is critical;

(3) The environmental planning and analysis to restore areas affected by the Robert and Wedge Fire will be completed through a collaborative community process;

(4) The rehabilitation of burned areas needs to be completed in a timely manner in order to reduce the long-term environmental impacts; and

(5) Wildlife and watershed resource values will be maintained in areas affected by the Robert and Wedge Fire while exempting the rehabilitation effort from certain applications of the National Environmental Policy Act (NEPA) and the Clean Water Act (CWA).

(b) The purpose of this Act is to accomplish in a collaborative environment, the planning and rehabilitation of the Robert and Wedge Fire and to ensure timely implementation of recovery and rehabilitation projects on the Kootenai National Forest.

SEC. 3. REHABILITATION PROJECTS.

(a) IN GENERAL.—The Secretary of Agriculture (in this Act referred to as the ''Secretary'') may conduct projects that the Secretary determines are necessary to rehabilitate and restore, and may conduct salvage harvests on, National Forest System lands in the North Fork drainage on the Flathead National Forest, as generally depicted on a map entitled ''North Fork Drainage'' which shall be on file and available for public inspection in the Office of Chief Forest Service, Washington, D.C.

(b) PROCEDURE.—

(1) IN GENERAL.—Except as otherwise provided by this Act, the Secretary shall conduct projects under this Act in accordance with—

(A) the National Environmental Policy Act (42 U.S.C. 4321 et seq.); and

(B) other applicable laws.

(2) ENVIRONMENTAL ASSESSMENT OR IMPACT STATEMENT.—If an environmental assessment or an environmental impact statement (pursuant to section 102(2) of the National Environmental Policy Act (42 U.S.C. 4332(2)) is required for a project under this Act, the Secretary shall not be required to study, develop, or describe any alternative to the proposed agency action in the environmental assessment or the environmental impact statement.

(3) PUBLIC COLLABORATION.—To encourage meaningful participation during preparation of a project under this Act, the Secretary shall facilitate collaboration among the State of Montana, local governments, and Indian tribes, and participation of interested persons, during the preparation of each project in a manner consistent with the Implementation Plan for the 10-year Comprehensive Strategy of a Collaborative Approach for Reducing Wildlife Fire Risks to Communities and the Environment, dated May 2002, which was developed pursuant to the conference report for the Department of the Interior and Related Agencies Appropriations Act, 2001 (House Report 106–646).

(4) COMPLIANCE WITH CLEAN WATER ACT.—Consistent with the Clean Water Act (33 U.S.C. 1251 et seq.) and Montana Code 75–5–703(10)(b), the Secretary is not prohibited from implementing projects under this Act due to the lack of a Total Maximum Daily Load as provided for under section 303(d) of the Clean Water Act (33 U.S.C. 1313(d)), except that the Secretary shall comply with any best management practices required by the State of Montana.

(5) ENDANGERED SPECIES ACT CONSULTATION.—If a consultation is required under section 7 of the Endangered Species Act (16 U.S.C. 1536) for a project under this Act, the Secretary of the Interior shall expedite and give precedence to such consultation over any similar requests for consultation by the Secretary.

(6) ADMINISTRATIVE APPEALS.—Section 322 of the Department of the Interior and Related Agencies Appropriations Act, 1993 (Public Law 102–381; 16 U.S.C. 1612 note) and section 215 of title 36, Code of Federal Regulations shall apply to projects under this Act, except that—

(A) to be eligible to file an appeal, an individual or organization shall submit specific and substantive written comments during the comment period; and

(B) a determination that an emergency situation exists pursuant to section 215.10 of title 36, Federal Regulations, shall be made where it is determined that implementation of all or part of a decision for a project under this Act is necessary for relief from—

(i) adverse affects on soil stability and water quality resulting from vegetation loss; or

(ii) loss of fish and wildlife habitat.

SEC. 4. CONTRACTING AND COOPERATIVE AGREEMENTS.

(a) IN GENERAL.—Notwithstanding chapter 63 of title 31, United States Code, the Secretary may enter into contract or cooperative agreements to carry out a project under this Act.

(b) EXEMPTION.—Notwithstanding any other provisions of law, the Secretary may limit competition for a contract or a cooperative agreement under subsection (a).

SEC. 5. MONITORING REQUIREMENTS.

(a) IN GENERAL.—The Secretary shall establish a multi-party monitoring group consisting of a representative number of interested parties, as determined by the Secretary, to monitor the performance and effectiveness of projects conducted under this Act.

(b) REPORTING REQUIREMENTS.—The multi-party monitoring group shall prepare annually a report to the Secretary on the progress of the projects conducted under this act in rehabilitating and restoring the North Fork drainage. The Secretary shall submit the report to the Senate Subcommittee on Interior Appropriations of the Senate Committee on Appropriations.

SEC. 6. SUNSET.

The authority for the Secretary to issue a decision to carryout a project under this Act shall expire 5 years from the date of enactment.

SEC. 7. IMPLEMENTATION OF RECORDS OF DECISION.

The Secretary of Agriculture shall publish new information regarding forest wide estimates of old growth from volume 103 of the administrative record in the case captioned Ecology Center v. Castaneda, CV–02–200–M–DWM (D. Mont.) for public comment for a 30 day period. The Secretary shall review any comments received during the comment period and decide whether to modify the Records of Decision (hereinafter referred to as the ''ROD's'') for the Pinkham, White Pine, Kelsey-Beaver, Gold/Boulder/Sullivan, and Pink Stone projects on the Kootenai National Forest. The ROD's, whether modified or not, shall not be deemed arbitrary and capricious under the NFMA, NEPA or other applicable law as long as each project area retains 10% designated old growth in the project area.

AMENDMENT NO. 1773

(Purpose: To ensure the perpetual operation of water treatment centers at the Zortman/Landusky mine reclamation site.)

At the end of Title III of the bill insert the following:

SEC. . ZORTMAN/LANDUSKY MINE RECLAMATION TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''Zortman/Landusky Mine Reclamation Trust Fund'' (referred to in this section as the ''Fund'').

(b) For the fiscal year during which this Act is enacted and each fiscal year thereafter until the aggregate amount deposited in the Fund under this subsection is equal to at least $22,500,000, the Secretary of the Treasury shall deposit $2,250,000 in the Fund.

(c) INVESTMENTS.—The Secretary of the Treasury shall invest the amounts deposited under subsection (b) only in interest-bearing obligations of the United States or in obligations guaranteed by the United States as to both principal and interest.

(d) PAYMENTS.—

(1) IN GENERAL.—All amounts credited as interest under subsection (c) may be available, without fiscal year limitation, to the State of Montana for use in accordance with paragraph (3) after the Fund has been fully capitalized.

(2) Withdrawal and transfer of funds.—The Secretary of the Treasury shall withdraw amounts credited as interest under paragraph (1) and transfer the amounts to the State of Montana for use as State funds in

accordance with paragraph (3) after the Fund has been fully capitalized.

(3) Use of transferred funds.—The State of Montana shall use the amounts transferred under paragraph (2) only to supplement funding available from the State Administered ''Zortman/Landusky Long-Term Water Treatment Trust Fund'' to fund annual operation and maintenance costs for water treatment related to the Zortman/Landusky mine site and reclamation areas.

(e) TRANSFERS AND WITHDRAWALS.—The Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

(f) ADMINISTRATIVE EXPENSES.—There are authorized to be appropriated to the Secretary of the Treasury such sums as are necessary to pay the administrative expenses of the Fund.

AMENDMENT NO. 1774

(Purpose: To facilitate renewal of grazing permits managed by the Bureau of Land Management's Jarbridge office)

At the end of Title I, insert the following:

SEC. . Nonrenewable grazing permits authorized in the Jarbridge Field Office, Bureau of Land Management within the past seven years shall be renewed under section 402 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1752) and under section 3 of the Taylor Grazing Act of 1934, as amended (43 U.S.C. 315b). The terms and conditions contained in the most recently expired nonrenewable grazing permit shall continue in effect under the renewed permit. Upon completion of any required analysis or documentation, the permit may be canceled, suspended or modified, in whole or in part, to meet the requirements of applicable laws and regulations. Nothing in this section shall be deemed to extend the nonrenewable permits beyond the standard one-year term.

REPORT LANGUAGE

SEC. . Allows for the renewal of grazing permits in the Jarbridge Field Office and makes the completion of the required NEPA analysis a high priority while ensuring completion of the necessary documents as soon as possible.

AMENDMENT NO. 1775

(Purpose: To modify a provision relating to interim compensation payments for Glacier Bay, Alaska)

On page 63, between lines 2 and 3, insert the following:

SEC. 1___. INTERIM COMPENSATION PAYMENTS.

Section 2303(b) of Public Law 106–246 (114 Stat. 549) is amended by inserting before the period at the end the following: '', unless the amount of the interim compensation exceeds the amount of the final compensation''.

AMENDMENT NO. 1776

(Purpose: To modify a provision relating to applications for waivers of certain maintenance fees)

On page 63, between lines 2 and 3, insert the following:

SEC. 1___. APPLICATIONS FOR WAIVERS OF MAINTENANCE FEES.

Section 10101f(d)(3) of the Omnibus Budget Reconciliation Act of 1993 (30 U.S.C. 28f(d)(3)) is amended by inserting after ''reason'' the following: ''(including, with respect to any application filed on or after January 1, 1999, the filing of the application after the statutory deadline)''.

AMENDMENT NO. 1725, AS MODIFIED

On page 44, line 23, strike the period at the end and insert '': *Provided,* That of this amount, sufficient funds may be available for the Secretary of the Interior, not later than 60 days after the last day of the fiscal year, to submit to Congress a report on the amount of acquisitions made by the Department of the Interior during such fiscal year of articles, materials, or supplies that were manufactured outside the United States. Such report shall separately indicate the dollar value of any articles, materials, or supplies purchased by the Department of the Interior that were manufactured outside the United States, an itemized list of all waivers under the Buy American Act (41 U.S.C. 10a et seq.) that were granted with respect to such articles, materials, or supplies, and a summary of total procurement funds spent on goods manufactured in the United States versus funds spent on goods manufactured outside of the United States. The Secretary of the Interior shall make the report publicly available by posting the report on an Internet website.''.

AMENDMENT NO. 1777

(Purpose: To amend Sec. 301 of Title III of the Energy Policy Act of 1992 (42 U.S.C. 13211) to include neighborhood electric vehicles in the definition of alternative fueled vehicle)

On page 24, line 5, immediately following the colon, insert ''Provided further, That none of the funds provided in this or any other Act may be used for planning, design, or construction of any underground security screening or visitor contact facility at the Washington Monument until such facility has been approved in writing by the House and Senate Committees on Appropriations:''

AMENDMENT NO. 1737

(Purpose: To authorize the use of proceeds from land sales in the State of Nevada for Lake Tahoe restoration projects)

On page 137, between lines 23 and 24, insert the following:

SEC. 3___. LAKE TAHOE RESTORATION PROJECTS.

Section 4(e)(3)(A) of the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2346; 116 Stat. 2007) is amended—

(1) in clause (v), by striking ''and'' at the end;

(2) by redesignating clause (vi) as clause (vii); and

(3) by inserting after clause (v) the following:

''(vi) environmental restoration projects under sections 6 and 7 of the Lake Tahoe Restoration Act (114 Stat. 2354) and environmental improvement payments under section 2(g) of Public Law 96–586 (94 Stat. 3382), in an amount equal to the cumulative amounts authorized to be appropriated for such projects under those Acts and in accordance with a revision to the Southern Nevada Public Land Management Act of 1998 Implementation Agreement to implement this section, which shall include a mechanism to ensure appropriate stakeholders from the States of California and Nevada participate in the process to recommend projects for funding; and''.

AMENDMENT NO. 1732, AS MODIFIED

On page 137, between lines 23 and 24, insert the following:

SEC. ___. ACQUISITION OF LAND IN NYE COUNTY, NEVADA.

(a) IN GENERAL.—Subject to subsection (c), the Secretary of the Interior (referred to in this section as the ''Secretary'') may acquire by donation all right, title, and interest in and to the parcel of land (including improvements to the land) described in subsection (b).

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) is the parcel of land in Nye County, Nevada—

(1) consisting of not more than 15 acres;

(2) comprising a portion of Tract 37 located north of the center line of Nevada State Highway 374; and

(3) located in the E½NW¼, NW¼NE¼ sec. 22, T. 12 S., R. 46 E., Mount Diablo Base and Meridian.

(c) CONDITIONS.—

(1) IN GENERAL.—The Secretary shall not accept for donation under subsection (a) any land or structure if the Secretary determines that the land or structure, or a portion of the land or structure, has or or may be contaminated with—

(A) hazardous substances, pollutants, or contaminants, as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601); or

(B) any petroleum substance, fraction, or derivative.

(2) CERTIFICATION.—Before accepting a donation of land under subsection (a), the Secretary shall certify that any structures on the land to be donated—

(A) meet all applicable building code requirements, as determined by an independent contractor; and

(B) are in good condition, as determined by the Director of the National Park Service.

(d) USE OF LAND.—The parcel of land acquired under subsection (a) shall be used by the Secretary for the development, operation, and maintenance of administrative and visitor facilities for Death Valley National Park.

AMENDMENT NO. 1778

(Purpose: To amend Sec. 301 of Title III of the Energy Policy Act of 1992 (42 U.S.C. 13211) to include neighborhood electric vehicles in the definition of alternative fueled vehicle)

On page 137, between lines 23 and 24, insert the following:

SEC. 3 . Section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211) is amended—

(1) by striking ''or a dual fueled vehicle'' at the end of subparagraph (3) and inserting '', a dual fueled vehicle, or a neighborhood electric vehicle'';

(2) by striking ''and'' at the end of subparagraph (13);

(3) by striking the period at the end of subparagraph (14) and inserting ''; and''; and

(4) by adding at the end the following:

''(15) the term 'neighborhood electric vehicle' means a motor vehicle that qualifies as both—

''(A) a low-speed vehicle, as such term is defined in section 571.3(b) of title 49, Code of Federal Regulations; and

''(B) a zero-emission vehicle, as such term is defined in Section 86.1702–99 of title 40, Code of Federal Regulations''.

AMENDMENT NO. 1779

(Purpose: To facilitate renewal of grazing permits)

On page 122, strike Section 324 and insert:

SEC. 324. A grazing permit or lease issued by the Secretary of the Interior or a grazing permit issued by the Secretary of Agriculture where National Forest System lands are involved that expires, is transferred, or waived during fiscal years 2004–2008 shall be renewed under section 402 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1752), section 19 of the Granger-Thye Act, as amended (16 U.S.C. 5801), title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010 et seq.), or, if applicable, section 510 of the California Desert Protection Act (16 U.S.C. 410aaa–50). The terms and conditions contained in the expired, transferred, or waived permit or lease shall continue in effect under the renewed permit or lease until such time as the Secretary of the Interior or Secretary of Agriculture as appropriate completes processing of such permit or lease in compliance with all applicable laws and regulations, at which

time such permit or lease may be canceled, suspended or modified, in whole or in part, to meet the requirements of such applicable laws and regulations. Nothing in this section shall be deemed to alter the statutory authority of the Secretary of the Interior or the Secretary of Agriculture: *Provided,* That where National Forest System lands are involved and the Secretary of Agriculture has renewed an expired or waived grazing permit prior to or during fiscal year 2004, the terms and conditions of the renewed grazing permit shall remain in effect until such time as the Secretary of Agriculture completes processing of the renewed permit in compliance with all applicable laws and regulations or until the expiration of the renewed permit, whichever comes first. Upon completion of the processing, the permit may be canceled, suspended or modified, in whole or in part, to meet the requirements of applicable laws and regulations. *Provided further,* Beginning in November 2004, and every year thereafter, the Secretaries of the Interior and Agriculture shall report to Congress the extent to which they are completing analysis required under applicable laws prior to the expiration of grazing permits, and beginning in May 2004, and every year thereafter, the Secretaries shall provide Congress recommendations for legislative provisions necessary to ensure all permit renewals are completed in a timely manner. The legislative recommendations provided shall be consistent with the funding levels requested in the Secretaries' budget proposals; *Provided further,* Notwithstanding Section 504 of the Rescissions Act (109 Stat 212), the Secretaries in their sole discretion determine the priority and timing for completing required environmental analysis of grazing allotments based on the environmental significance of the allotments and funding available to the Secretaries for this purpose.

AMENDMENT NO. 1743, AS MODIFIED

(Purpose: To authorize the Secretary to use funds for the Blueberry Lake project)

At the appropriate place, insert the following:

Funds appropriated for the Green Mountain National Forest previously or in this Act may be used for the acquisition of lands in the Blueberry Lake area.

AMENDMENT NO. 1733

(Purpose: To provide for the conveyance of land to the city of Las Vegas, Nevada, for the construction of affordable housing for seniors)

On page 137, between lines 23 and 24, insert the following:

SEC. 3___. CONVEYANCE TO THE CITY OF LAS VEGAS, NEVADA.

Section 705(b) of the Clark County Conservation of Public Land and Natural Resources Act of 2002 (116 Stat. 2015) is amended by striking ''parcels of land'' and all that follows through the period at the end and inserting the following: ''parcel of land identified as 'Tract C' on the map and the approximately 10 acres of land in Clark County, Nevada, described as follows: in the NW¼ SE¼ SW¼ of section 28, T. 20 S., R. 60 E., Mount Diablo Base and Meridian.''.

AMENDMENT NO. 1780

(Purpose: To direct the Secretary of Energy to submit to Congress a report on the use of the Northeast Home Heating Oil Reserve)

On page 137, between lines 23 and 24, insert the following:

SEC. 3___. NORTHEAST HOME HEATING OIL RESERVE REPORT.

Not later than December 1, 2003, the Secretary of Energy shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that—

(1) describes—

(A) the various scenarios under which the Northeast Home Heating Oil Reserve may be used; and

(B) the underlying assumptions for each of the scenarios; and

(2) includes recommendations for alternative formulas to determine supply disruption.

AMENDMENT NO. 1749

(Purpose: To exempt the rural business enterprise grants awarded to Oakridge, OR from the business size restrictions)

At the appropriate place, insert the following: ''The business size restrictions for the rural business enterprise grants for Oakridge, OR do not apply.''

AMENDMENT NO. 1781

(Purpose: To ensure that funds allocated to the Indian Health Service are not redirected to programs and projects that have not been fully justified in the agency's annual budget request and concurred in by the House and Senate Appropriations Committees)

On page 95, at the end of line 17, insert the following new paragraph:

None of the funds made available to the Indian Health Service in this Act shall be used for any Department of Health and Human Services-wide consolidation, restructuring or realignment of functions or for any assessments or charges associated with any such consolidation, restructuring or realignment, except for purposes for which funds are specifically provided in this Act.

AMENDMENT NO. 1782

(Purpose: To make technical modification to the Marine Mammal Protection Act)

At the appropriate place at the end of Title III, insert the following new section:

SEC. . Section 104 (16 U.S.C. 1374) is amended—(1) in subsection (c)(5)(D) by striking ''the date of the enactment of the Marine Mammal Protection Act Amendments of 1994'' and inserting ''February 18, 1997''.

FUNDING FOR DOWNEAST LAKES FORESTRY PARTNERSHIP, MAINE

Ms. COLLINS. I congratulate the distinguished chairman of the Interior Appropriations subcommittee for the fine work he has done putting together this bill. The bill includes substantial funding for programs to conserve our Nation's treasured lands and resources, including $85 million for the forest legacy program; a program that means so much to my home State of Maine.

There is one Maine conservation project, however, that does not receive funds through the Senate bill. It is the Downeast Lakes Forestry Partnership, the goal of which is the sustainable conservation of 342,000 acres in Maine, including 78,800 acres of pristine lakes, 54,000 acres of productive wetlands, 445 miles of unspoiled shoreline, and 342,000 acres of remote forestland. This important project, which enjoys widespread support in my State, including the support of the Governor, is at a critical stage. But it requires Federal support in the coming fiscal year to help bring the project to fruition.

I would therefore ask the chairman whether he will commit to doing all he can to consider funding the Downeast Lakes Forestry Partnership when this bill goes to conference?

Mr. BURNS. I thank the Senator from Maine for her comments and do pledge to help find funds in conference for the Downeast Lakes Forestry Partnership. The Senator from Maine has been a tireless advocate for this worthy project, and I know that she has suggested that it receive funds from the Forest Service's National Forest System account, or the U.S. Fish and Wildlife Service's Resource Management account. I will use my best efforts to consider funding the Downeast Lakes project as the Senator suggests.

Ms. COLLINS. Thank you, Mr. Chairman, for your pledge of support, and for the leadership you consistently demonstrate on conservation issues.

LAND REMOTE SENSING

Mr. DASCHLE. Mr. President, the Interior Appropriations bill includes funding for the United States Geological Survey, USGS, to conduct land remote sensing. I would like to enter into a colloquy with my colleagues from Montana and North Dakota regarding this funding in the Interior Appropriations bill.

It is my understanding that a significant portion of the USGS mapping program budget comes from the sale of data collected from the Landsat 7 satellite. Over the past several months, that satellite has been experiencing problems that will severely hamper its ability to collect scientifically-useful data. Just last week, USGS determined that the problem affecting the Landsat 7 satellite is permanent. While the USGS is working to develop a long-term solution to address this situation, it is clear that USGS will not be collecting the full amount of income from data sales originally planned for when the Senate Appropriations Committee reported out the Interior Appropriations bill. As a result, USGS will not be able to operate in accordance with the budget on which this will is based.

Mr. President, I ask the Senator from Montana and the Senator from North Dakota if the Interior Subcommittee is aware of this problem and willing to work with the United States Geological Survey to address this issue during the conference with the House?

Mr. BURNS. Mr. President, I would respond that, yes, the subcommittee is aware of the problem affecting the Landsat 7 satellite, and we are willing to work with USGS and our friend from South Dakota to address this situation in conference.

Mr. DORGAN. Mr. President, I concur. The chairman is correct, and I, too, want to help ensure this situation is addressed in conference.

Mr. DASCHLE. Mr. President, I thank the Senator from Montana and the Senator from North Dakota for their cooperation and their clarification regarding this matter.

NATIONAL ZOO

Mr. FRIST. Mr. President I want to enter into a colloquy with the distinguished chairman of the Interior Subcommittee concerning the funding in this bill for our National Zoo.

I know that the chairman is very aware of the problems that have plagued our National Zoo over this last year. Many of these problems simply relate to deteriorating physical conditions of the zoo. Buildings and other animal habitats are literally falling apart.

This crown jewel of the Smithsonian is actually at risk of losing its accreditation from the American Zoo and Aquarian Association. What a terrible message this would send to the American public that its national zoo cannot even meet accreditation standards. We owe it to the American people, the thousands of children who visit the zoo annually, to visitors from all over the world, and most importantly to the safety and protection of these wonderful animals to do all we can to restore the conditions there to a safe and healthy environment.

I ask the chairman of the subcommittee, in conference with the House on this bill will you work to provide a level of funding that will once again restore this wonderful institution to the level befitting of being a ''national'' zoo and to help maintain its accreditation?

Mr. BURNS. Yes, I can assure the leader that I am very aware of the physical problems that are now plaguing our National Zoo, and I commit to him that I will work in conference to help address the funding needs of that institution to help maintain its accreditation. I agree that our National Zoo is a symbol of this Capitol City, and more importantly of this country, and we must not let it lose that accreditation.

LITTLE ROCK AUDUBON NATURE CENTER

Mr. PRYOR. I come to the floor today to ask my colleagues to join me in supporting Federal funding for the Little Rock Audubon Nature Center. The Little Rock Audubon Nature Center is a collaborative private-public effort to provide tools and services to historically underserved children. Using the prestige of the Audubon Society's reputation, this project will pull together all stakeholders to promote national science and math goals, environmental education, and wildlife observation.

This isn't the nature center we grew up with. This is a new concept that creates a place to learn math, science, and other academic subjects in a nurturing environment reinforced by a hands-on, out-of-doors experiences. This is a chance to support what our children learn in the classroom and in the textbooks with stimulating reality. This model of learning will stoke our children's curiosity and provoke them to start asking the questions all great thinkers pose: Why does this work? How can that happen? What makes this possible?

Mrs. LINCOLN. I join my friend and colleague in supporting this project. I believe this will be a place that junior high and high school kids will truly enjoy and where they can be engaged. According to the Pew Foundation, academic achievement, student engagement, and teacher satisfaction all improve significantly when schools link academics with hands-on study of the surrounding environment and community and that is exactly what the Little Rock Audubon Nature Center will do.

The Nature Center site is just a 15-minute school bus ride from 50 schools in southeast Little Rock, giving it the ability to serve as an outdoor classroom for thousands of school children.

In short, this is a kid-friendly, cost-effective approach to reaching the underserved and teaching science and math. This is the kind of project this body must support to help our kids meet the challenges of the future.

Mr. PRYOR. Given current budget constraints, it is more important than even to use scarce resources wisely and I rise today to provide my colleagues with not only the numerous benefits associated with this innovative approach to educating our children, but also the costs. Specifically, I am seeking an appropriation of $1.2 million for the project but $1.2 million that will be leveraged by private funding on a better than 2 to 1 match. As Senator LINCOLN pointed out, this Center will serve thousands of children and I believe that federal investment in the Little Rock Audubon Nature Center will produce broad returns that deserve the attention of this body.

Mr. DORGAN. Will the Senator yield for a question?

Mr. PRYOR. I would be delighted to yield to the Senator from North Dakota and our ranking member.

Mr. DORGAN. I am aware of the Senator's interest in the Little Rock Audubon Nature Center, but did the Senator say that the Center will support national science and math goals?

Mr. PRYOR. I did. The Little Rock Audubon Nature Center will assist schools in teaching the sciences of ornithology, ecology, biology, botany and environmental health, to name a few; to excite young people's minds and prepare them for careers in the sciences; and to help improve state science scores. Senator DORGAN, are you aware that our childrens' math and science scores in America are continuing to decline throughout the country? As compared to 38 countries around the world the United States ranks 19th in Mathematics Achievement Scores, according to a 1999 Trends in International Mathematics and Science Study. I am particularly concerned about this decline in our students' performance in my home state of Arkansas. We need fresh ideas and new approaches to turn this situation around. So, I was very interested to learn of a recent study in Northwest Arkansas showed that nature education can be a very powerful tool for helping to address this problem.

Mrs. LINCOLN. What we are talking about here is stimulating the minds of children and fostering their aspirations to become our next great scientists and engineers. The education investments we make now can lead our country to the discovery of the next vital scientific finding, invention or cure. This is an opportunity to inspire our children to strive for greatness in science and mathematics and to harvest their creativity, curiosity and knowledge so they may one day help their fellow man and society at large.

Mr. BURNS. I am aware of the serious problem regarding the decline in our children's math and science scores and I am intrigued by the idea that we might address this problem through nature education.

Mr. DORGAN. Let me add to the chairman's remarks that I, too, am interested in investing in programs that support math and science.

Mr. PRYOR. I appreciate the comments from the distinguished Chairman and Ranking Member and I would like to call to their attention other benefits associated with the Little Rock Audubon Nature Center which would benefit underserved minority communities. In fact, the nature center is located in a former federal housing site for African American veterans from World War II, which has been closed for years. The center is located in the Granite Mountain community in my home state of Arkansas that lies within the boundary of a Federal empowerment zone and would serve, in particular, the minority community and school children of southeast Little Rock.

Mr. DORGAN. So this project would not only help to improve math and science scores for all children but in particular help to assist underserved communities? What other benefits would it provide?

Mr. PRYOR. The Nature Center also would provide access to a beautiful 450 acre park that is currently unavailable to the citizens of Arkansas due to inadequate city funds. This park represents one of the most unique natural areas in Southeast Arkansas because of its incredible biodiversity and a globally significant geological formation, making this site both ecologically important and of great educational value.

Mr. DORGAN. I agree that this sounds like a very worthwhile project. What Federal appropriation would be necessary to begin work on it?

Mr. PRYOR. I am seeking $1.2 million which could be phased in over a multi-year programming plan with a private fund match. I want to point out the Audubon Society's great success in my home state of Arkansas in leveraging private funding to match federal outlays for conservation projects. For example, the Audubon Society successfully restored thousands of acres of Fourche Creek by leveraging private funds to match federal dollars at a ratio of more than 2-to-1. The track record has been established and the private community has made its pledge to allow this Federal

appropriation to be a catalyst for private additional investment in this worthwhile project.

Mr. DORGAN. I appreciate this thorough report about the benefits of the Little Rock Audubon Nature Center.

Mr. BURNS. Yes, I thank the Senators for the clarification. There is more to this project than suggested by its name and I hope that we might give your request every possible consideration.

Mr. PRYOR. I appreciate those remarks. I am making a personal request that the Senate give this project the initial funding needed to help it become a reality for the children of Arkansas. I thank the Senators for assistance in this matter.

FOSSIL ENERGY RESEARCH

Mr. SPECTER. Mr. President, I seek recognition to engage in a short colloquy with the distinguished Chairman of the Appropriations Subcommittee on the Interior, Senator BURNS. The matter is of great importance to my constituent, Air Products and Chemicals of Allentown, PA, and involves two programs in the Fossil Energy Research and Development section of the Interior Appropriations bill.

Mr. BURNS. I am glad to discuss this with my colleague.

Mr. SPECTER. Air Products and its partners, including the Department of Energy, are developing a unique, oxygen-producing technology to use in producing oxygen and electric power for the utility, iron/steel, nonferrous metals, glass, pulp and paper, cogeneration, and chemicals and refining industries. This project, ITM Oxygen, is a cornerstone project in the Department of Energy's Vision-21 Program that has the potential to significantly reduce the cost of tonnage oxygen plants for Integrated Gasification Combined Cycle, IGCC, systems. The ITM Oxygen program is entering its final three funding years during which Air Products and its partners plan to demonstrate and test this unique technology with a pilot unit at a suitable field site. Air Products and the Department of Energy are sharing the cost of this program together with each party responsible for 50 percent. Underfunding this program in FY04 will result in slowing the technical process and schedule of this important project, will halt crucial expansion of test platforms for the final demonstration unit, and in the end will add approximately $10 million more to the total program cost.

Mr. BURNS. I understand the Senator's concerns about the ITM Oxygen program. For this reason I included language in the Committee Report encouraging the Department of Energy to fund ITM Oxygen at a level higher than identified in the budget request in order to keep the program on track for completion. I hope the Department heeds this report language and responds appropriately to avoid unnecessary program costs for the completion of the project.

Mr. SPECTER. I thank the distinguished Chairman for recognizing the importance of the ITM Oxygen program and look forward to working with him and his staff to see that the Department of Energy follows the Committee's intentions.

Another project Air Products is involved in with the Department of Energy is the ITM Syngas project, the purpose of which is to develop and demonstrate a ceramic membrane reactor able to separate oxygen from air in a way that produces hydrogen for use in centralized power generation or with regional distribution for fuel cell applications. This technology also captures the carbon dioxide in the process leading to reduced greenhouse gas emissions, a goal we should all support. The bill includes increases in the Transportation fuels section for syngas membrane technology. I would like to ask the Chairman if part of this increase is intended to be used to fully fund the Air Products ITM Syngas project.

Mr. BURNS. In drafting the Senate Interior Appropriations bill, my staff and I consulted with the Department of Energy to ensure the amount provided in the bill would fully support the fiscal year needs of the ITM syngas membrane technology the Senator just described.

Mr. SPECTER. I appreciate the opportunity to discuss these important items with the Chairman today and thank him for his attention to these crucial fossil energy research and development projects.

FETAL ALCOHOL SYNDROME

Mrs. MURRAY. I would like to enter into a coloquy with Chairman BURNS and Senator DORGAN. The Indian Health Service and the University of Washington have been conducting research into Fetal Alcohol Syndrome with funds provided in the Interior Appropriations bill. I want to thank the Chairman and Senator DORGAN for the Subcommittee's continued support for these research efforts. I hope to work with the Senators in conference related to this on-going research.

Mr. BURNS. I appreciate my colleague's interest in the fetal alcohol syndrome research being conducted by the Indian Health Service and the University of Washington. I look forward to working with my colleague on the continued funding for these research efforts.

Mr. DORGAN. Fetal Alcohol Syndrome is one of the most pressing health issues facing Native Americans and I am committed to helping advance our research efforts in this field.

Mrs. MURRAY. I thank Chairman BURNS and Senator DORGAN.

USGS BINATIONAL GROUNDWATER STUDY

Mr. BINGAMAN. Mr. President, I have filed an amendment to S. 1391 that would allocate $950,000 from the United States Geological Survey's, USGS, Ground-Water Resources Program to initiate a United States-Mexico binational groundwater study of transboundary aquifers. The parameters of this study have been developed by the USGS in cooperation with the Water Resources Research Institutes in Texas, New Mexico, Arizona, and California, and other interested parties. It is very important that the USGS receive funding to implement its plan. During the past decade, the United States-Mexico border region experienced significant economic expansion that was accompanied by rapid population growth and urban development. It is now anticipated that water quantity and water quality will most likely be the limiting factors that ultimately control future economic development, population growth, and human health in the border region. The binational program funded by this request will be a scientific partnership between the USGS, the border states, and several key Universities in the region. It will systematically assess priority transboundary aquifers, and will provide a scientific foundation and create sophisticated tools for State and local water resource managers to address the challenges facing them in the border region.

I have discussed the need for this amendment with the distinguished chairman, and he has been very helpful in discussing various options to secure funding to initiate this study. The President's budget requested $1.0 million for USGS to begin work on a closely related United States-Mexico Border Human Health Initiative. The House of Representatives has provided the full amount in its version of the Interior appropriations bill, but the Senate has only been able to provide $500,000 for this effort. In conference, I have requested that the chairman agree to the higher amount that the House has provided for the Border health initiative but to direct the USGS to use the additional $500,000 to begin the binational groundwater study. I believe this work will address the critical need I just described while also providing valuable data and information that is consistent with the border health initiative.

Mr. BURNS. I appreciate that my colleague, Senator BINGAMAN, is willing to forego offering his amendment and that he will work with me to address the issue of funding the USGS to conduct the binational groundwater study. I think this is a worthy program, and I will work closely with my colleagues in the Senate and House of Representatives to attempt to fully fund the border health initiative at the House level and to specify that the increased funding above the Senate mark, $500,000, be used to initiate the groundwater study consistent with Senator BINGAMAN's suggestion.

Mr. BINGAMAN. I thank the distinguished chairman for his consideration and his work on this important matter. I look forward to continue working with him as the Interior appropriations bill goes to conference.

E85 INFRASTRUCTURE

Mr. DORGAN. Mr. President, I thank the Senator from Montana, the distinguished chairman of the Interior Appropriations Subcommittee, for the committee's recognition of the important environmental and energy security benefits of expanding our nation's E85 Infrastructure.

E85 is a form of alternative transportation fuel consisting of 85 percent Ethanol and 15 percent gasoline developed to address America's air quality needs and dependence on foreign oil. Currently, there are over 3 million E85-capable vehicles in the National Vehicle Fleet. The use of E85 in these vehicles has the potential to reduce foreign oil imports by 34 million barrels a year, while adding $3 billion to total farm income and reduce greenhouse gas emissions.

In the fiscal year 2003 Interior bill, in the committee report for the transportation sector, the committee recommended a $2 million increase in technology deployment for the Clean Cities Program. The report language further recognizes the work being done by the National Ethanol Vehicle Coalition to increase E85 fueling capacity and urges the Department of Energy to give careful consideration to proposals that might be submitted to further this goal. My understanding, is that the Department, consistent with this language, has awarded funds to the NEVC and others for the continued development of E85 Infrastructure and E85 promotion.

On page 69 of the fiscal year 2004 Interior Subcommittee report, under weatherization and intergovernmental activities, it states:

> Within the amount provided for clean cities, the department should continue efforts to expand E85 fueling capacity.

I ask the distinguished Chairman whether I am correct in my understanding that the committee intends that a portion of these funds be used by the Department to continue the existing E85 Infrastructure development initiatives that were funded in fiscal year 2003.

Mr. BURNS. That is my understanding.

Mr. DORGAN. I thank the Chairman.

AIR PRODUCTS AND CHEMICALS

Mr. SPECTER. Mr. President, I seek recognition to engage in a short colloquy with the distinguished chairman of the Appropriations Subcommittee on the Interior, Senator CONRAD BURNS. The matter is of great importance to my constituent, Air Products and Chemicals of Allentown, PA and involves two programs in the Fossil Energy Research and Development section of the Interior Appropriations bill.

Mr. BURNS. I am glad to discuss this with my colleague.

Mr. SPECTER. Air Products and its partners, including the Department of Energy, are developing a unique, oxygen-producing technology to use in producing oxygen and electric power for the utility, iron/steel, nonferrous metals, glass, pulp and paper, cogeneration, and chemicals and refining industries. This project, ITM Oxygen, is a cornerstone project in the Department of Energy's Vision-21 Program that has the potential to significantly reduce the cost of tonnage oxygen plants for Integrated Gasification Combined Cycle, IGCC, systems. The ITM Oxygen program is entering its final three funding years during which Air Products and its partners plan to demonstrate and test this unique technology with a pilot unit at a suitable field site. Air Products and the Department of Energy are sharing the cost of this program together with each party responsible for 50 percent. Underfunding this program in Fiscal Year 2004 will result in slowing the technical process and schedule of this important project, will halt crucial expansion of test platforms for the final demonstration unit, and in the end will add approximately $10 million more to the total program cost.

Mr. BURNS. I understand your concerns about the ITM Oxygen program. For this reason I included language in the committee report encouraging the Department of Energy to fund ITM Oxygen at a level higher than identified in the budget request in order to keep the program on track for completion. I hope the Department heeds this report language and responds appropriately to avoid unnecessary program costs for the completion of the project.

Mr. SPECTER. I thank the distinguished chairman for recognizing the importance of the ITM Oxygen program and look forward to working with him and his staff to see that the Department of Energy follows the committee's intentions.

Another project Air Products is involved in with the Department of Energy is the ITM Syngas project, the purpose of which is to develop and demonstrate a ceramic membrane reactor able to separate oxygen from air in a way that produces hydrogen for use in centralized power generation or with regional distribution for fuel cell applications. This technology also captures the carbon dioxide in the process leading to reduced greenhouse gas emissions, a goal we should all support. The bill includes increases in the Transportation fuels section for syngas membrane technology. I would like to ask the chairman if part of this increase is intended to be used to fully fund the Air Products ITM Syngas project.

Mr. BURNS. In drafting the Senate Interior Appropriations bill, my staff and I consulted with the Department of Energy to ensure the amount provided in the bill would fully support the fiscal year needs of the ITM syngas membrane technology you just described.

Mr. SPECTER. I appreciate the opportunity to discuss these important items with the chairman today, and thank him for his attention to these crucial fossil energy research and development projects.

WIND RIVER IRRIGATION PROJECT

Mr. ENZI. Mr. President, today, I rise to talk about a promise the Federal Government made to Wyoming's Eastern Shoshone and Northern Arapaho Tribes nearly 100 years ago. A promise my colleague from Wyoming and I tried to fulfill this year through the appropriations process. Unfortunately, due to confusion about the project, we came up short-handed. As a result, I would like to take a few minutes to set the record straight.

In 1905, the Federal Government entered into an agreement with the Wind River Tribes to initiate and complete an irrigation project in exchange for the opening of 1.4 million acres of land to the United States. The Tribes lived up to their end of the bargain. The United States, on the other hand, has not. Since 1905, the project, known as the Wind River Irrigation Project has continually battled budgetary shortfalls, inadequate maintenance, and bureaucratic red tape.

The history of the Project's funding is long and complex. Construction began in the early 1900s and was funded under the Public Works Administration Project's budget. Significant improvements were made to the Project under this funding scheme and the Project grew to 13 main canals, 94 main laterals, 268 sub-laterals, two feeder canals and a couple of drainage canals. However, in the 1950s, new construction essentially stopped as Congress changed the way it funded Indian irrigation projects. When Congress began making lump sum appropriations to the Bureau of Indian Affairs for the Construction of Indian Irrigation Projects in 1951, funding became even more sporadic and unpredictable. Sometimes the system was in fair condition, but most of the time it was in poor condition. Finally, in the 1980s, Congress stopped appropriating all together for the construction of Indian Irrigation projects. As a result, the only significant Federal funds the Wind River Irrigation Project has received in nearly 20 years has been for the rehabilitation of the Washakie Dam, which was funded using money from the Safety in Dams program within the BIA.

Mr. BURNS. Will the Senator yield for a question?

Mr. ENZI. Yes.

Mr. BURNS. When my Subcomittee on Interior Appropriations reviewed your request for $3.4 million for the Wind River Irrigation Project, there was some question as to whether or not the BIA is ''legally obligated'' to maintain this system. Has the Senator been able to find out what the BIA's responsibilities are?

Mr. ENZI. It is my understanding that the BIA owns and operates this system and has been responsible for the collection of the operation and management fees since the project was authorized in 1905.

Mr. THOMAS. Would my fellow Senator from Wyoming yield?

Mr. ENZI. Yes.

Mr. THOMAS. It is also my understanding that the BIA assessed the need for repairs on several occasions, including a 1968 Completion Report that found 74 percent of the irrigation structures and 61 percent of the canals needed serious rehabilitation at a cost of $6.6 million in 1968 dollars or approximately $26.0 million in 1993 dollars.

Furthermore, since the BIA's 1968 Completion Report, several additional studies have been conducted, specifically one in 1988 which indicates that $50 million would be needed to completely rehabilitate the Wind River Irrigation system. The most recent study completed in 1994 cited that over 60 percent, or 1200 structures need repair or replacement, and 45 percent, or 190 miles of canals and laterals need repair or reconstruction. Due to the Project's current configuration, it has only 66 acres of irrigated land per mile of canal. In comparison, Midvale Irrigation District, which lies adjacent to the Wind River Reservation, has over 160 acres per mile of canal.

Mr. ENZI. Is the Senator aware that as a general guideline, the Bureau of Reclamation suggests that irrigation projects in the region need at least 140 acres of irrigated land per mile of canal to be economically self sufficient? No wonder the Wind River Irrigation Project has been forced into a state of disrepair. It is pretty difficult to collect enough user fees to maintain a system when it is only serving 55 acres of irrigated land per mile of canal.

Mr. THOMAS. My colleague is exactly right. This situation has resulted in a critical shortage of financial resources to maintain Project facilities, causing less efficient use of water, progressively deteriorating crop quality, and an increase in the proportion of income water users' pay in fee assessments.

This lack of resources should not continue in the Wind River Basin, or catastrophic events like major floods from dam failure and/or severe droughts could occur. The Wind River Irrigation Project needs rehabilitation. The water users in the area—folks who have been hit hard by region's drought—cannot continue to operate their ranches and farms without addressing the root of the problem. The Wind River Irrigation Project is the source of water problems on the Reservation. It affects Indians and non-Indians, and it is recognized by the State of Wyoming as the most critical agricultural and economic issue facing residents on and near the Reservation.

Mr. ENZI. We are both from the great State of Wyoming and I am extremely encouraged by the leadership our State government has shown in helping to address the water problems on the Reservation. We both received letters from our Governor, the Director of the Wyoming Water Development Commission, county commissioners from that area and three State legislators in full support of the project. We have also heard from the Mayor of Riverton, which sits adjacent to the Wind River Reservation, and the three surrounding irrigation districts. While the vocal support is helpful, I am even more encouraged by the State's willingness to put its money where its mouth is.

Mr. THOMAS. My colleague is correct. I would also like to add that during Wyoming's last legislative session, the Wyoming legislature and the Wyoming Water Development Commission worked closely with the Wind River Tribes to develop and pass legislation that will enable the Tribes to act as sponsors of water development projects through the Wyoming Water Development Program. According to the Director of the Wyoming Water Commission, funding for the Wyoming Water Development Program is appropriated annually by the legislature for specific projects, like rehabilitating certain parts of the Wind River Irrigation Project. Unfortunately, the State does not have the financial means or the desire to fund a federally owned and operated system by itself. However, this cooperation highlights that Federal dollars spent on the Wind River Irrigation Project would go a long way towards not only its rehabilitation, but would also encourage the State of Wyoming to become more involved in addressing the water needs of that area.

Mr. BURNS. Senator, we included language in the Interior Subcommittee Report that required the BIA, if legally responsible, to formulate a plan to address the rehabilitation cost no later than 120 days after the Interior Appropriations bill is enacted. Do you believe the BIA has clarified its legal obligation?

Mr. ENZI. I thank the Senator for the question and yes, according to information provided by the Department of the Interior, the Bureau of Indian Affairs owns the system. Although a portion is managed by the Tribes under a 638 contract, the BIA clearly owns and operates the Wind River Irrigation Project.

That is why it is so critical that the Federal Government step up and help fulfill this promise to the Tribes on the Wind River Reservation. Rehabilitating the Wind River Irrigation Project is the only way farmers, ranchers and other land users can produce their commodities. Furthermore, unless we improve the system so that it is a reliable water source, the Tribes cannot attract new and diverse businesses. Without funds to fix this problem, the Reservation cannot move into the 21st century successfully.

Mr. BURNS. I appreciate the interest my colleagues have shown in the Bureau of Indian Affairs' irrigation program. As I have discussed with them in the past, I have similar problems in my own home state of Montana and hope to address them in the near future. Insufficient fee collections and mismanagement have taken their toll on the irrigation systems and both tribal and non-tribal members are now having their livelihoods placed at risk. Unfortunately, within the current Subcommittee allocation we can not even begin to tackle the problem with the current funding levels. I invite my colleagues to work with me in next year's budget process to reform this program and work to provide additional funding specifically for Bureau of Indian Affairs irrigation projects so the Subcommittee on Interior Appropriations has the opportunity to begin addressing the problem.

Mr. ENZI. We will have to find a way to fund the Wind River Irrigation Project and other similar Indian Irrigation projects in the future. I hope we can work with our colleagues on the Budget Committee and Appropriations Committee next year to address the critical shortfall in funding and the lack of planning to address these problems within the BIA.

PRIVATE LANDOWNER'S INCENTIVE PROGRAM

Mr. ENZI. Mr. President, I thank my colleague from Montana, the distinguished chairman of the Senate Interior appropriations subcommittee, for his leadership in bringing this important spending bill to the floor and for helping us establish the spending priorities for our Nation's public lands. Wyoming is greatly impacted by this bill and Senator BURNS' leadership is very much appreciated. Because of this tremendous impact on Wyoming, I would like to ask my colleague if he would join me in a colloquy to discuss one of the programs that is funded in his bill. Specifically, I would like to discuss the Department of the Interior's Private Landowner's Incentive Program and its potential impact on land management planning on private lands within the U.S. Forest Service's Thunder Basin National Grasslands.

Mr. BURNS. I would be glad to join my colleague from Wyoming in a discussion about this program. The Senate Interior appropriations bill is proposing to fund this program at $40 million and should provide States and private landowners some of the dollars they need to protect and restore habitats on private lands, to benefit federally listed, proposed or candidate species or other species determined to be at-risk, and it provides technical and financial assistance to private landowners for habitat protection and restoration. I agree with my colleague from Wyoming that this is an important program for the West, and, if it is implemented properly, it should help States like Wyoming and Montana to maximize local habitat restoration efforts by allowing them to target dollars where they are needed most.

Mr. ENZI. I would like to share one example of an effort in Wyoming that has already benefited from this program and which I feel could greatly benefit in the future from its continued participation. Three years ago I met with officials from the Thunder Basin National Grasslands Landowners Association, the Department of the Interior and the U.S. Department of Agriculture to discuss the role that private

landowners could play in developing land management plans on western national grasslands. The Landowners Association presented a revolutionary proposal to combine the talent and resources of all local landowners to develop an ecosystem assessment and to enter into a series of ecosystem management strategy and conservation agreements with the Forest Service and the U.S. Fish and Wildlife Service that would integrate a comprehensive, multi-species land management proposal for more than 260,000 acres of Federal and private lands within the U.S. Forest Service's Thunder Basin National Grasslands. Their proposal was to first establish a scientific baseline where they catalogued what was on the land and what species existed. Then they proposed to use that baseline to make ecosystem-wide management decisions that would make the land as a whole more vibrant and more sustainable for a number of species including the black-tailed prairie dog, the black footed ferret, and the sage grouse. What they would not do was make management plans based on the presence or absence of any one specific species or to pit different species' habitat requirements against each other. Their goal was to make the land healthier as a whole so that all species would be better off.

As a result of their efforts the Department of the Interior was able to provide an initial grant to the association through the Landowner's Incentive Program of $150,000 that allowed them to assemble an advisory committee made up of national grasslands experts that has helped them develop scientific research and monitoring protocols that are now being used to establish baseline information on area wildlife and ecosystem concerns. In fiscal year 2003, we funded this program at $175,000 which allowed the association to continue its monitoring efforts and to host a symposium in Wyoming on cooperative land use efforts. I would like to see this group funded again in fiscal year 2004 at a minimum of $175,000 to ensure that their efforts have not been wasted.

I would like to ask my colleague if he has any thoughts on whether or not we should continue funding this program.

Mr. BURNS. I agree with my colleague that this appears to be a worthy project whose goals of habitat protection and species restoration are consistent with the expressed goals of the Private Landowner's Incentive Program. I believe this is the kind of innovative effort that should be considered for funding by the Department of the Interior and I encourage them to apply for a competitive grant through the LIP program.

Mr. ENZI. I thank my colleague for his thoughts and once again express my appreciation for his leadership in these important issues. I thank the Chair for the opportunity to discuss this program.

REBUILD AMERICA

Mr. LEAHY. Mr. President, I rise to engage the chairman and Senator DORGAN in a colloquy concerning the Rebuild America Program at the Department of Energy. The events of August have dramatically shown all of us that we need to take immediate steps to increase the reliability of our electricity grid. In Vermont, we came very close to being swept up in the blackout cascade. Our transmission grid is under increasing demand pressure. Although there are several proposals to upgrade the transmission grid, everyone recognizes that the only action we can take immediately is energy conservation. This is why I strongly support the Rebuild America Program to help bring emerging technologies to our States to improve energy efficiency in buildings. I would like to work with the chairman and Senator DORGAN to increase funding for this program to bring it closer to the Fiscal Year 2003 level.

Mr. BURNS. I thank the Senator from Vermont and also recognize that Rebuild America can help alleviate the pressure on our transmission grid in the near term. The Department's budget request indicates that every dollar the taxpayer invests in this program gets a return of about $10 in benefits. The program focuses on our schools, hospitals, small communities, and small businesses. It successfully enables the upgrading of millions of square feet per year. I will work with Senators LEAHY and DORGAN to improve funding for this program in conference with the House.

Mr. LEAHY. I thank the chairman and Senator DORGAN. With the events of last month, Vermonters and people across the country need the information and outreach that this program provides. I strongly urge the chairman to use the conference to return this program to a level approaching its Fiscal Year 2003 funding of $12.7 million.

ZERO ENERGY BUILDINGS

Mr. REID. Mr. President, as the ranking member of the Energy and Water Development Committee and a member of the Interior Committee, I rise to express my support for the Zero Energy Buildings program. As a result of the administration's reorganization of the Energy Efficiency and Renewable Energy account, this program was shifted from the solar technologies account to the buildings account. Yet, the administration requested $4 million to fund this program from the Energy and Water Bill—a position that both the House and Senate subcommittees did not support.

This awkward funding situation, if not fixed, will cause us to lose momentum on this important program. Solar initiatives are generally funded from the Energy and Water development bill. Building initiatives are generally funded from Interior. It is my intention to work to restore funding for this program in a manner acceptable to both subcommittees.

ZEB boasts some major achievements given its relative youth. The United States Department of Energy, teaming with homebuilders, energy efficiency professionals, and the renewables industry—primarily the solar industry—are responsible for the creation of the next generation of homes. These homes are more energy efficient than ever and self-generate to the point where their progeny are expected to reach net zero energy consumption. We need these homes to proliferate so that we can enjoy increased national security through a reduction in imported fuels; a cleaner environment; a more reliable grid; and as important as any element, cheaper and more predictable energy costs for American homeowners and small businesses.

Several of the largest homebuilders in the United States now participate in this program, including: Pulte Homes, Centex Homes, Shea Homes, Pardee/Weyerhauser, Morrison Homes, and Mercedes Homes. Many of these have sent letters of support for the program, and it is my understanding that about one dozen additional homebuilders are planning to join with DOE on this program.

The Solar Decathlon held on the Mall in Washington, DC last year, which attracted over 100,000 visitors, featured Zero Energy Homes constructed by university teams from across the United States.

I am proud to say that a Zero Energy Home is now under construction in Las Vegas and will serve as the ''show home'' for next year's International Builders Show hosted by NAHB, which is expected to be attended by more than 90,000 building industry representatives.

In a strong endorsement letter of the program, Michael Luzier, president of the NAHB Research Center, states:

> I urge you to find funds within DOE's budget so the Zero Energy Home program continuity will not be lost. To lose the momentum toward energy independence that this program has created within the home building industry would be a shame. I fear that without funding in FY '04, we will lose the interest of builders we have been working with and the progress in home energy efficiency we all support.

For all of the above reasons, I request the chairman's assistance in working with the Energy and Water Development Subcommittee to find funding for this program in a way that compliments and does not harm other worthy efforts.

Mr. BURNS. I agree that the Zero Energy Buildings program is worthy of support, and I pledge to assist in efforts to provide appropriate funding.

AMENDMENT NO. 1725, AS MODIFIED

Mr. FEINGOLD. Mr. President, the amendment that I am offering today would provide sufficient funding from the underlying bill to enable the Secretary of the Interior to submit to Congress a report on the amount of goods acquired by that Department in fiscal year 2004 that were made overseas.

I want to thank the chairman and the ranking member of the subcommittee for working with me to include this important provision in the bill.

My amendment requires that this report include the following information: (a) the dollar value of any articles, materials, or supplies purchased that are manufactured outside of the United States; (b) an itemized list of all waivers of the Buy American Act granted with respect to such articles, materials, or supplies, and (c) a summary of total procurement funds spent on goods manufactured in the United States versus funds spent on goods manufactured outside of the United States.

The amendment also requires that these reports should be made publicly available on the Internet.

Current law requires that only the Department of Defense report annually on its use of waivers of domestic procurement laws. Earlier this year, I introduced legislation to strengthen the Buy American Act of 1933, the statute that governs procurement by the Federal Government. The name of the act accurately and succinctly describes its purpose: to ensure that the Federal Government supports domestic companies and domestic workers by buying American-made goods. One part of my bill would require that all Federal Departments and Agencies submit the annual reports that are currently required only of the Pentagon. The amendment that I am offering today is based on that provision in my bill. Recently, the Senate adopted a similar amendment that I offered to the fiscal year 2004 Labor-HHS-Education and energy and water appropriations bills.

The Buy American Act requires that the Federal Government support domestic businesses and domestic workers by buying American-made goods. The underlying bill expresses the sense of the Senate that goods and equipment purchased with the funds included in this bill should be American-made.

It only makes sense that Federal Departments and Agencies be required to report to Congress on their compliance with Federal law and with congressional intent regarding this important matter.

The Department of Labor reported recently that the United States economy lost 93,000 jobs in the month of August, including 44,000 manufacturing jobs. The stagnant economy and continued loss of high-paying manufacturing jobs underscore the need for the Federal Government to support American workers and businesses by buying American-made goods.

Again, I thank the chairman and ranking member of the subcommittee for agreeing to accept my amendment.

Mr. LAUTENBERG. Mr. President, I rise today to speak about a disturbing shift in our country's historic support for programs that protect our wildlife refuges, forests and other open spaces. Particularly, the Land and Water Conservation Fund, LWCF.

The Bush administration's 2004 funding request represents a significant decrease in support for land acquisition.

Yet this direction is the opposite of what then Governor Bush promised during his 2000 campaign.

Governor Bush issued a campaign paper on September 13, 2000, that promised to fully fund the Land and Water Conservation Fund at $900 million.

The fund has been enormously effective over the years and is funded, not by taxpayers but from a portion of fees from oil and gas receipts which Congress committed in 1965.

Yet despite the President's pledge, 1 year later the Administration diverted $456 million of that fund to other purposes.

According to the Congressional Research Service, for Fiscal Year 2004, the administration has proposed to decrease Federal land acquisition funding to $128 million below the FY2003 funding level, which will more than offset proposed increases in State grants.

I want to commend by colleagues on the Interior Appropriations Subcommittee who have worked very hard under difficult budgetary conditions to develop the best bill they could.

But the President is playing a funding ''shell game.'' While he claims to support conservation funding, he once again proposes to use $246 million of the LWCF to pay for non-conservation programs.

Only by counting as many as 15 other programs in its annual budget request programs NOT authorized for LWCF funding under the original 1965 law does the President's budget make it appear that the LWCF is well-funded.

Turning his back on campaign promises aside, the President's budget would actually cut the fund's core Federal land acquisition programs by 40 percent from FY03 levels, and fully 60 percent below the authorized level of $900 million for both the Federal and stateside portions!

This direction reverses years of progress in increasing the funding we need to protect our dwindling natural resources. And unfortunately, the funding levels approved by the House are even more abysmal.

Today, there is a $10 billion backlog in needed Federal acquisitions, and billions of dollars in unmet needs at the State and local levels.

This is certainly contrary to the spirit of another Republican president, Theodore Roosevelt, who during his time in the White House had the vision to protect 230 million acres of land.

Today, those lands are enjoyed by hikers, vacationing families, hunters, and many others.

Between 1999 and 2000, the Clinton administration increased funding for the LWCF by 35 percent. President Clinton understood how vital these programs are to preserving our American heritage.

This year the U.S. Forest Service reported that even with all of our land conservation programs, in one decade between 1990 and 2000—our Nation's urban and suburban areas grew in size by an astonishing 25 percent!

This growth has been at the cost of lost forest and farmland all across the Nation and it poses a significant threat to the integrity of these valuable lands.

Forest lands that are intact supply timber products, wildlife habitat, soil and watershed protection, and recreation. But when these areas fragment and disappear, so do the benefits they provide.

Many local governments work hard to guide development away from the most sensitive areas through zoning and other measures.

But in New Jersey, and many other States, these measures are simply not enough to fully protect our forests and open spaces.

New Jersey is the most densely populated State in the Nation and we understand that over-development endangers our water supplies and places severe pressure on all our environmental amenities.

Forest Legacy and the Land to Parks Program are examples of the Federal Government at its best—working in partnership with States and local governments to protect environmentally sensitive lands.

These programs are entirely voluntary. No landowner is required or pressured to participate.

Forest Legacy encourages the protection of privately owned forest lands and helps States develop and carry out their own forest conservation plans.

Aldo Leopold said, ''Our remnants of wilderness will yield bigger values to the Nation's character and health than they will to its pocketbook, and to destroy them will be to admit that the latter are the only values that interest us.''

I don't believe that is true for Americans, and I don't believe that is true for my colleagues in this body.

I urge my colleagues in the Senate and especially those who will represent this body in the conference committee to support the highest levels possible for our land acquisition programs.

Mr. NICKLES. Mr. President, I rise in support of S. 1391, the FY 2004 Interior and Related Agencies Appropriations Bill, as reported by the Senate Committee on Appropriations.

I commend the distinguished Chairman and the Ranking Member for bringing the Senate a carefully crafted spending bill within the Subcommittee's 302(b) allocation and consistent with the discretionary spending cap for 2004.

The pending bill provides $19.6 billion in discretionary budget authority and $19.4 billion in discretionary outlays in FY 2004 for the Department of the Interior, the Forest Service, Energy conservation and research, the Smithsonian and the National Endowment for the Arts, and National Endowment for Humanities.

The bill is at the Subcommittee's 302(b) allocation for budget authority

and $4 million in outlays below the 302(b) allocation. The bill provides $155 million or .8 percent more in discretionary budget authority and $1.0 billion or 5.6 percent more in discretionary outlays than last year's bill. The bill provides $72 million more in discretionary budget authority and $93 million more in discretionary outlays than the President's budget request.

Mr. President, I ask unanimous consent that a table displaying the Budget Committee scoring of the bill be inserted in the RECORD. I urge the adoption of the bill.

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

S. 1391, INTERIOR APPROPRIATIONS, 2004—SPENDING COMPARISONS—SENATE-REPORTED BILL

[Fiscal year 2004, $ millions]

	General purpose	Mandatory	Total
Senate-reported bill:			
Budget authority	19,627	64	19,691
Outlays	19,359	70	19,429
Senate Committee allocation:			
Budget authority	19,627	64	19,691
Outlays	19,363	70	19,433
2003 level:			
Budget authority	19,472	64	19,536
Outlays	18,340	73	18,413
President's request:			
Budget authority	19,555	64	19,619
Outlays	19,266	70	19,336
House-passed bill:			
Budget authority	19,627	64	19,691
Outlays	19,393	70	19,463
Senate Reported bill compared to:			
Senate 302(b) allocation:			
Budget authority	.....	.....	.....
Outlays	(4)	.....	(4)
2003 level:			
Budget authority	155	.....	155
Outlays	1,019	(3)	1,016
President's request:			
Budget authority	72	.....	72
Outlays	93	.....	93
House-passed bill:			
Budget authority	.....	.....	.....
Outlays	(34)	.....	(34)

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

Mr. BURNS. I ask unanimous consent that the Interior appropriations bill move to third reading.

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

If there are no further amendments, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. BURNS. I ask unanimous consent that the bill be considered and agreed to.

The PRESIDING OFFICER. The question is on agreeing to the passage of the bill, as amended.

The bill (H.R. 2691), as amended, was agreed to.

Mr. BURNS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. BURNS. Again, I thank my good friend from North Dakota. We worked very closely on this bill. I think we set a record. Actually, we started last Thursday and everyone shuffled out of town for some reason or other—Isabel or something. But we actually have only worked on this bill—this is Tuesday—we did not have votes yesterday and we got some work done.

I appreciate the Senator's contribution to this bill. His staff has been very good.

I ask unanimous consent that the Senate insist on the amendments, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate.

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

The Presiding Officer (Mr. TALENT) appointed Mr. BURNS, Mr. STEVENS, Mr. COCHRAN, Mr. DOMENICI, Mr. BENNETT, Mr. GREGG, Mr. CAMPBELL, Mr. BROWNBACK, Mr. DORGAN, Mr. BYRD, Mr. LEAHY, Mr. HOLLINGS, Mr. REID, Mrs. FEINSTEIN, and Ms. MIKULSKI conferees on the part of the Senate.

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

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

MORNING BUSINESS

Mr. BURNS. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business.

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

IRAQ

Mr. DORGAN. Mr. President, yesterday we had a hearing in the Senate Appropriations Committee with Ambassador Bremer, who has just returned from Iraq and is here for the week to talk about the needs in the country of Iraq, especially to talk about the requested $87 billion that is the part of the President's request he says is necessary for both the military needs in Iraq, to support the troops stationed in Iraq and now completing their mission in Iraq, and also $20 billion for the reconstruction of Iraq. I want to make a couple of comments about that because, since our hearing yesterday, I have been doing some research.

At the hearing yesterday I said to the Ambassador: It is quite clear to me the Congress will respond affirmatively. First of all, it is unthinkable to send America's sons and daughters wearing our military uniform to war anywhere in the world and not provide all the support that is necessary and that is requested. The military portion of that request, in my judgment, will be granted, should be granted completely and quickly.

Second, on the question of reconstructing Iraq, the $20 billion necessary for the reconstruction of this country, I asked Ambassador Bremer a number of questions. I want to make a comment about that and some of the research I have done since that time.

It is the case that the campaign that was called ''Shock and Awe,'' which we all saw on the television, of bombing and the ensuing military action with smart bombs, smart weapons—that campaign did not target Iraq's infrastructure. It did not target the electric facilities, did not target the power facilities or dams or roads or bridges. It targeted military targets, palaces, and other items of strategic value, but it specifically did not target infrastructure in Iraq. So the damage to the infrastructure in Iraq is not damage caused by America's military action in Iraq. It is caused now, increasingly, by the insurgent movement in Iraq, the terrorists and others who are engaged in destruction in Iraq.

But the question I was asking the Ambassador about reconstructing Iraq is, If we did not destroy Iraq's infrastructure, then why should the American taxpayer be paying money to reconstruct the infrastructure? I suggested the infrastructure obviously needs to be dealt with, but should not the oil reserves in Iraq be used to pump the oil and produce the revenue for the reconstruction of this country? Iraq has the second largest oil reserves in the world. Those oil reserves, it seems to me, ought to be used for the reconstruction of Iraq. Let Iraqi oil pay for the reconstruction of Iraq.

Ambassador Bremer said to me: One of the problems with that approach is Iraq has a substantial amount of accumulated debt.

Since yesterday I began to research what is this debt that Iraq owes the rest of the world. My guess is it is the Saddam Hussein government that owes the rest of the world. That government does not exist. He is in hiding somewhere. The government doesn't exist any longer.

Here are the countries that Saddam Hussein presumably owes money to: Kuwait, probably somewhere around $20 billion; Saudi Arabia, $25 billion; the other gulf states, probably $25 billion; Russia, $10 billion; France, $6 billion. These are not specific amounts that are tied down very well because the World Bank Debtor Reporter System tells us there are no collated figures available from Iraq because Iraq is one of the few countries which did not report its debt statistics.

So no documents exist in the Iraqi Ministry of Finance. None of it has yet emerged. They may well have been lost in the chaos. But would it be ironic if the American taxpayer is told that they must use their money to reconstruct Iraq and the Iraqi oil wells will pump oil, the proceeds of which will be used to pay Saudi Arabia and Kuwait for debts incurred while Saddam Hussein ran the Iraqi Government? You talk about a Byzantine result, that is it.

I believe reconstruction is necessary. But I also believe that reconstruction

ought to be paid for with Iraqi oil. The Ambassador will say, Well, there is not enough money left for the operation of the Iraqi Government, but the Ambassador also said yesterday with some satisfaction that they just put a new tax system in the country of Iraq. He said with some satisfaction that the top income tax rate is 15 percent.

So we are going to ask the Americans who will pay a top rate of 39-percent income tax to send reconstruction money to Iraq whose economy is generating an income tax against that with respect to its wealthiest citizens at a rate of a 15-percent tax rate. I don't think that makes much sense.

My only point is this: Of the $20 billion, $5 billion is for security. So there is $15 billion for security and reconstruction above the military needs. I believe that what we ought to do is have the Ambassador and the administration work very hard to resolve these debts. It seems to me one might well tell the Saudis and the Kuwaitis: You loaned the money to the Saddam Hussein regime. You know that debt is owed to you by Saddam Hussein. Go find him and go collect it. If you think you can find him, tell us where he is. But go find him and collect it. That ought not be a burden on the country of Iraq. The government with which you engaged in this credit transaction no longer exists.

Following that, it seems to me that it would be reasonable to securitize or collateralize Iraqi oil. We know they will by next June or July be pumping 3 million barrels per day. The amount that is not needed in Iraq but that is available for export will yield revenues of about $16 billion a year. That is $160 billion in 10 years, or $320 billion in 20 years, this for a country of 24 million people. If you can't securitize or collateralize $320 billion over 10 years to pay for a $20 billion reconstruction of Iraq, then there is something wrong with all the financiers and all the tall thinkers who are working on this.

I believe the money requested is necessary. But I believe the construct of the reconstruction in Iraq and the payment for that reconstruction should not be a burden on the shoulders of the American taxpayer—not taxpayers who are paying more than double the rate the top taxpayers in Iraq will be asked to bear and not taxpayers who should pay taxes so Iraqi oil wells can pump oil to send money to Saudi Arabia and Kuwait. What a perverse result that would be.

We are going to have a lot of discussion about that, and we should have. The President has made a request and said the money is necessary. He is right. The money is necessary. The question is not whether it is necessary on the military side because we ought to appropriate that money. We ought to do it now, and we ought not delay.

On the reconstruction side, let us understand the money is necessary but it ought to come from the resources from Iraqi oil. By my calculation, those resources would be $320 billion conservatively in the next 20 years. It is easy to collateralize or securitize that with the private sector. Or, for that matter, if you do not want the private sector with the IMF or the World Bank in order not to impose this burden on the American taxpayer but instead rely on Iraqi oil, once again the second largest reserves of oil in the world under the sands of Iraq, a country with 24 million people, they surely can afford to construct a plan—that is, the Iraqi council, and also the allies that are involved, including this country—can surely construct a plan by which we use that resource to reconstruct and reinvest in that country. It is Iraq's resource. It is Iraq's oil. It ought not be an obligation of the American taxpayer to pay for that portion of the emergency request.

My hope is, as we begin these discussions in the coming days, that two things will emerge: No. 1, the President and others will understand that Congress is going to respond and respond affirmatively to the needs that exist, especially for our soldiers but also with respect to reconstruction, and, No. 2, that Congress does not, should not, and will not respond by imposing a burden on the taxpayers of this country for the reconstruction needs that should be financed with Iraqi oil. That is a debate that we must have.

I hope the result will be positive for the American taxpayer and positive for the people of Iraq, for that matter, because they have substantial resources with which to reconstruct the infrastructure of Iraq, which, by the way, was not destroyed by this country. That infrastructure in Iraq was not destroyed by this country's military campaign. This country's military campaign removed a brutal dictator. We are now opening football-field-size graves containing 10,000 and 12,000 skeletons.

That campaign, however, while removing the Saddam Hussein government, did not destroy their country's infrastructure, and there are plenty of resources under the sands of Iraq to produce oil with which to produce revenue to reinvest in that infrastructure and in the future without having the American people bear that burden.

NOMINATION OF GOVERNOR MIKE LEAVITT TO HEAD THE EPA

Mr. ALEXANDER. Mr. President, I rise to commend President Bush for nominating Gov. Mike Leavitt to be head of the Environmental Protection Agency. Governor Leavitt's hearing was this morning and, from all accounts, he performed admirably, as I would expect. He is a distinguished public servant who has worked diligently to address the environmental problems in Utah and the Western States.

I believe the President has found the right person for the job of leading the EPA. The EPA Administrator must establish realistic regulations that often require compromise and balance. In my experience, almost all of the issues that deal with our environment require a good sense of balance because there are so many competing interests. Governor Leavitt has demonstrated his ability to work with all groups affected by environmental regulation. He pulled together, for example, Governors, tribal leaders, industrial leaders, and environmental activists to get behind a comprehensive plan to clear the haze obscuring the scenic views in the West, including the Grand Canyon.

For nearly 11 years, Governor Leavitt managed to bring together a diverse group of State and tribal officials, industrial leaders, and environmental activists who focused on developing a plan which led to action that is clearing the air in the West.

I hope that a similar plan can be developed to clear the haze in the great Smoky Mountain National Park, which is about 2 miles from where I live. It is the Nation's most visited national park, and it also has earned the unwelcome distinction of becoming the most polluted national park in America.

We welcome the help of Governor Leavitt as head of the EPA in coming up and working with our Governor and Federal delegation and our communities in Tennessee, who are very concerned about this, to help get on a long-term path that would clear the haze in the Smokies and restore its natural beauty.

This will require cooperation among local, State, and Federal Governments and industry and environmental activists. I believe Governor Leavitt is the right person to help lead that effort. He has demonstrated he can do this by getting collaboration among groups instead of polarization.

As Governor, Mike Leavitt has encouraged results-oriented environmental action. I strongly support his views that policy should encourage outside-the-box thinking in solving problems rather than just complying with Federal programs.

Our environmental problems are complex. They require examination of many strategies to achieve our Nation's goals. The EPA Administrator plays a crucial role in balancing our desire to protect the environment and our desire for jobs and prosperity.

I believe we can have good jobs and strong industry and clean air and clean energy. The solutions are not easy, and in most cases—many cases—require new technology. However, with Governor Leavitt's leadership, I believe we will be able to develop the solutions and partnership to meet realistic environmental goals.

The job of protecting the environment is a difficult one, one in which I take a great personal interest. The President of the United States—this President—has distinguished himself by making a number of superb appointments. He has made another such nomination, and I look forward to the

chance to vote for Mike Leavitt as EPA Administrator.

May I add just a personal note, Mr. President? I was elected Governor first in 1978 in Tennessee. Since then, I have known more than 200 Governors, probably served with 80 or 100. Only a handful of those Governors, some on each side of the aisle—Democratic and Republican—have really understood the job, have used that office to set a clear agenda to develop a strategy to meet the agenda, and then persuade at least half the people they are right. All three of those elements are being part of being a good Governor. Those Governors have transformed their States.

Mike Leavitt is one of those Governors. Because of that, he was elected to be the chair of the National Governors' Association. He would not have been elected, and he would not have succeeded in the job if he had not been able to work with both Democratic and Republican Governors. He has earned and shares the respect of all who have known and worked with him. He is one of the outstanding State leaders of the last quarter of a century. He has a great sense of balance. He has an imaginative sense of what is possible, and he has an excellent ability to persuade half that he is right, which is a very important part of doing that job.

I am very pleased to see him coming to Washington, and I am delighted with President Bush's appointment. I wanted to be among the first to welcome him here. I thank the Chair.

CEASAR SALICCHI

Mr. REID. Mr. President, in 1970, a young man in Elko, NV spent $365 to run for the position of Elko County Treasurer.

That was the last time Ceasar Salicchi ever had to spend a dime in a political campaign . . . and the last time he had an opponent.

Since then, Salicchi has won eight additional terms as county treasurer. Overall, his career in public service to the people of Elko County has spanned five different decades . . . almost 42 years.

For those who have never had the fortune of visiting northeast Nevada, it is in the opinion of many the most beautiful part of the Silver State. Elko County boasts majestic mountains, and unlike most other parts of our state, gets enough rain to provide good range for livestock. So Elko is a prime area for ranching—a place, it would seem, where many beautiful scenes in cowboy movies could have been filmed.

Salicchi is the son of local ranchers Cesare and Nella Salicchi, Italian immigrants who are now deceased. Ceasar served in the Army in 1945 and '46, and returned home to start ranching with his father and his brother, Alfred. He married his first wife, Jeanine, in 1950, and they started a family and settled into life on the ranch.

I am sure Ceasar expected to spend his life as a rancher, as so many in that part of the country do. But on December 15, 1952, at age 25, he was stricken with polio. After his recovery, he faced living with disabilities that required him to walk with crutches.

Salicchi vowed that he wouldn't let his disabilities keep him down . . . and they certainly did not. Since ranching was no longer a viable way for him to support a young family, he went to the Reno Business College, earned a degree in business administration, and set out to forge a new career.

His exceptional skills in organization and fiscal management not only allowed him to succeed in that endeavor, but also benefited the people of Elko County.

In 1962, Ceasar was working in the local hardware store on Commercial Street in downtown Elko. A man named Al Haber, the accountant for the county-owned Elko General Hospital, offered him a job as the hospital's business manager.

Ceasar immediately started making positive changes in the hospital's operations. For example, he is credited with bringing the first computer to the hospital, an IBM Model 3. As he continued to look for ways to make things run better, he developed a reputation as a good steward of the public's money.

He decided to run for county treasurer in 1970, promising to modernize operations in the same way he had done at the hospital. The people of Elko County had faith in him, and he won the election. Since then, he has been re-elected eight times without opposition.

Salicchi is a life-long Democrat, and he reminisces with razor-sharp clarity about voting for President Harry Truman after he returned home from his Army tour in 1948.

But the secret to his political success is a personal approach to the job, not ideology.

''I enjoy this job,'' he says. ''Serving the public and friends provides me with personal satisfaction, and service is my main objective.''

He has provided tremendous service. At the time Ceasar took office, all of the financial operations at the Elko courthouse were still performed by hand. About 9,000 tax bills were processed by hand, and kept on the treasurer's office counter for people to walk in and pay.

Salicchi's efforts to modernize the office began in 1976 with the installation of the first computer system, and modernization has continued to this day. Earlier this year, following approval from the county commission, the treasurer's office successfully began auctioning delinquent property on the Internet.

Today, Ceasar's office processes more than 37,000 tax bills each year. He also oversees the management and investment of public money. The portfolio for Elko County runs from $19 million to $23 million, and the interest and dividends are distributed to the local school district and other public funds.

In the 1970s, when national efforts to protect the rights of persons with disabilities were just beginning, Salicchi served on several Governor-appointed committees to implement those policies in Nevada. That was around the same time I first met Ceasar, when I was running for Lieutenant Governor.

Since then, it has always been a delight to visit Elko and see Ceasar. I was there just a few weeks ago, and I asked him if he was planning to retire anytime soon.

He responded with that familiar twinkle in his eye and sly grin: ''Maybe.''

But his wife Darlene, who is also his biggest supporter, said, ''We'll see about that.''

While Ceasar has faithfully served the people of Elko County, his first love has always been his family.

His first wife, Jeanine, passed away on October 23, 1969. In 1984 he married Darlene, whom he had met when they both worked at the county hospital. Their children include Judy Trotter and Chet Gilbert, both of Elko; Tina Snow of Anchorage, Alaska; Dee Dee Kelsey of Aldrich, Minnesota; and Paul Gilbert of Los Angeles. Two sons, Ceasar Raymond Salicchi and Doug Shatto, are deceased.

Ceasar Salicchi has been a fixture in the public life of Elko, NV since 1962. The city of Elko, Elko County, and the State of Nevada are all better places because of a man who doesn't know the meaning of defeat—Ceasar Salicchi.

TRIBUTE TO GREG MADDUX

Mr. REID. Mr. President, I rise today to salute a great Nevadan, a great human being and a great athlete . . . my friend, Greg Maddux.

Mr. Maddux pitches for the Atlanta Braves baseball club. Since he went to Atlanta almost 11 years ago,the Braves have won their division every single season.

This is no coincidence. Greg Maddux has been the heart and soul of the Atlanta Braves and the key to their remarkable string of success.

From 1992 through 1995, he won the Cy Young award as the best pitcher in baseball—4 years in a row. No other pitcher has ever accomplished that—and I doubt anyone else ever will.

He finished the 1990s with a 2.54 earned run average for the decade. Only two pitchers had posted a better ERA over a decade since 1910—Hoyt Wilhelm and Sandy Koufax. That's pretty good company. And in 1995, Maddux became the first pitcher to log back-to-back seasons with an ERA under 1.80.

From 1990 through 2001—12 consecutive years—Greg won the National League Gold Glove as the league's best-fielding pitcher.

He pitched nine scoreless innings in game one of the 1995 World Series, leading the Braves over the Cleveland Indians.

Greg could have retired years ago, and he would still be assured of entering the Baseball Hall of Fame on the first day he is eligible.

But he keeps pitching, and he keeps setting a new standard of excellence.

Sunday, he broke a record that had been held by the great Cy Young himself, winning at least 15 games for the 16th consecutive season.

For a major league pitcher, winning 15 games in a season is a feat that only the best will ever accomplish. To do it for 16 straight years is almost unthinkable.

They say records are made to be broken. Well, I think this one will stand for a long, long time.

The success of Greg Maddux is even more amazing when you consider that he doesn't have overwhelming speed. In an era of 100 mph fastballs, his clock in the mid-80s. He doesn't try to overpower hitters . . . he just outsmarts them.

Maddux is an unsurpassed student of the game who relies on his pinpoint control and his unyielding determination. He never gives in to hitters. He makes them swing at his pitches.

After he defeated the Florida Marlins to break Cy Young's record, 72-year-old Florida manager Jack McKeon said, ''He doesn't get you out—he makes you get yourself out.''

Anybod who is a baseball fan, as I am, would be proud to know Greg Maddux. But he is more than a great athlete . . . he's a great person.

He is a devoted family man, married to a wonderful wife Kathy. They have a daughter Amanda Paige and a son Chase Alan.

Obviously, the Maddux family could live anywhere they want to. I am proud that they have chosen to live in Las Vegas, where Greg grew up and graduated from Valley High School.

Greg doesn't endorse commercial products, and he has no interest in the glamorous life of a celebrity. Instead, he and his family live quietly, giving generously of their time and money for causes that benefit our community.

Kathy and Greg lead the Maddux Foundation, which is involved in several charitable activities in Las Vegas and Atlanta. The Foundation supports children's homes, domestic crisis shelters, and boys and girls clubs.

In recent years, the Madduxes have expanded their philanthropic efforts, and his brother Mike also has a foundation that helps children.

Baseball fans all over America know Greg Maddux as one of the greatest pitchers in the history of the game.

In southern Nevada, we know him as a devoted family man, a positive role model for kids, and a great neighbor.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement 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 on August 30, 2003, in New Orleans, LA. There, a 53-year old gay man from Pennsylvania was stabbed in the back. Upon arrest, his attacker confessed that he ''wanted to kill a gay man.''

I believe that our 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.

HONORING OUR ARMED FORCES

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Hagerstown, IN. Staff Sergeant Frederick L. Miller, Jr., 27 years old, was killed in Ar Ramadi on September 20, 2003 when an explosive device hit his vehicle while he was on security patrol. Frederick joined the Army with his entire life before him. He chose to risk everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

Frederick was the sixteenth Hoosier soldier to be killed while serving his country in Operation Iraqi Freedom. He leaves behind his parents, Ann and Frederick Miller, his wife, Jamie, and two daughters, Haley and Sierra. Jamie is pregnant with the couple's third child, a boy. Today, I join Frederick's family, his friends, and the entire Hagerstown community in mourning his death. While we struggle to bear our sorrow over his death, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is this courage and strength of character that people will remember when they think of Frederick, a memory that will burn brightly during these continuing days of conflict and grief.

Frederick L. Miller, Jr., joined the Army after graduating from Richmond High School in 1994 and would have marked his eighth year of military service next month. He commanded a Bradley Fighting Vehicle in Troop K in the 3rd Squadron of the 3rd Armored Cavalry Regiment. Before Iraq, he served in combat zones in Kosovo, Yugoslavia and Bosnia. Frederick was discharged after his first tour of duty, but chose to re-enlist after the September 11 attacks. His family remembers him as a true American hero, who returned to the Army during our Nation's most trying time because he felt bound by duty, and today, we honor the sacrifice he made while serving his country.

As I search for words to do justice in honoring Frederick L. Miller, Jr.'s sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: ''We cannot dedicate, we cannot consecrate, we cannot hallow his ground. The brave men, living and dead, who struggled here have consecrated it far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did there.'' This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Frederick's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Frederick L. Miller, Jr. in the official record of the United States Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Frederick's can find comfort in the words of the prophet Isaiah who said, ''He will swallow up death in victory; and the Lord God will wipe away tears from all faces.''

May God grant strength and peace to those who mourn, and may God bless the United States of America.

CONFIRMATION OF GLEN EDWARD CONRAD

Mr. HATCH. Mr. President, I am pleased today to speak in support of Glen Conrad, who has been confirmed for the United States District Court for the Western District of Virginia.

Judge Conrad is no stranger to the Western District or its Federal court: He has served there as a magistrate judge for 27 years. Following his graduation from the Marshall Wythe School of Law at the College of William and Mary in 1974, he clerked for district judge Ted Dalton of the Western District of Virginia—the same court to which Judge Conrad has been nominated. During the time of his clerkship, Judge Conrad also served as Federal probation officer.

Since the end of his clerkship in 1976, to the present day, Judge Conrad has served as Federal magistrate judge in various districts throughout Virginia. During his lengthy tenure on the bench, Judge Conrad has been recommended for reappointment by three separate Merit Selection Committees.

Judge Conrad has illustrated exemplary care and concern for the state of the law in his home district. He has contributed to continuing legal education efforts over the course of his career, helping to produce course materials for young lawyers starting their practice in the Western District of Virginia. He has also served as a member of the Civil Justice Reform Act Advisory Committee, where he has helped recommend measures to improve the efficiency of the Virginia court system and reduce the costs of civil litigation.

In addition to being a model citizen, Judge Conrad is an extremely qualified

judge. I thank my colleagues for supporting his confirmation.

CONFIRMATION OF HENRY FRANKLIN FLOYD

Mr. HATCH. Mr. President, I am pleased today to speak in support of Henry Floyd, who has been confirmed for the United States District Court for the District of South Carolina.

Judge Floyd has had a stellar legal career on both sides of the bench. He served as a private practice litigator for 19 years before being elevated to the 13th Judicial Circuit of South Carolina in 1992, where he currently sits. He has also served as a 1st Lieutenant in the U.S. Army and as a member of the South Carolina House of Representatives.

During his tenure in private practice, Judge Floyd specialized in civil, criminal, and domestic relations litigation, with a general practice of deeds, wills, and estates, and real estate closings. He represented regulated utilities, including an electric cooperative, municipalities, and the County of Pickens.

Judge Floyd served on the Board of Commissioners on Grievances and Discipline, which was empowered to deal with complaints against members of the bar in the State and to make certain recommendations for disciplinary conduct.

Since his elevation to the bench, Judge Floyd has also been designated to sit as an Acting Justice on the South Carolina Supreme Court from time to time.

Judge Floyd is an extremely well-qualified nominee. He brings more than 30 years of legal experience to the Federal bench. I am confident that he will be a fine addition to the bench and thank my colleagues for supporting his confirmation.

ADDITIONAL STATEMENTS

AMERICAN ASSOCIATION ON MENTAL RETARDATION AWARD WINNERS

● Mr. DURBIN. Mr. President, I am pleased today to join the Illinois chapter of the American Association on Mental Retardation, AAMR, in recognizing the recipients of the 2003 Direct Service Professional Award. These individuals are being honored for their outstanding devotion to the effort to enrich the lives of people with developmental disabilities in Illinois.

These recipients have displayed a strong sense of humanity and professionalism in their work with persons with disabilities. Their efforts have inspired the lives of those for whom they care, and they are an inspiration to me as well. They have set a fine example of community service for all Americans to follow.

These honorees spend more than 50 percent of their time at work in direct, personal involvement with their clients. They are not primarily managers or supervisors. They are direct service workers at the forefront of America's effort to care for people with special needs. They go to work every day with little recognition, providing much needed and greatly valued care and assistance.

It is my honor and privilege to recognize the Illinois recipients of AAMR's 2003 Direct Service Professional Award: Marsha Andrews, Abelardo Cabreros, Janice Davila, Linda Dunlap, Sylvia Eiland, Guy Evans, Liz Foose, Tanya Garrett, Emma Grebenick, Jenny Greiner, James Harden, Susan Jauch, Carolyn Jones, Greg LeRette, Luvinia Mayfield, Broderick Porter, and Ginny Seaworth.

I know my fellow Senators will join me in congratulating the winners of the 2003 Direct Service Professional Award. I applaud their dedication and thank them for their service.●

TREEPEOPLE'S 30TH ANNIVERSARY

● Mrs. BOXER. Mr. President, on October 11, TreePeople will celebrate the 30th anniversary of its founding. Few organizations have had such an impact, have energized so many volunteers or have so transformed a community as has TreePeople. I applaud them and thank them for their wonderful work over the past 30 years.

TreePeople, much like the trees it plants, started as a tiny seed before blossoming into the powerful organization it is today. TreePeople was founded by a then-15-year-old summer camper, Andy Lipkis. Andy, like many foresters, understood that substantial tree die offs in the local mountains were the consequence of Los Angeles' smog, and wanted to do something about it. Andy organized his fellow campers, and together they ripped up a parking lot and planted a meadow. But he was not finished. Andy next obtained 8,000 seedlings from the California Department of Forestry's surplus stock and started the California Conservation Project, later renamed ''TreePeople.''

Since its founding, TreePeople has been committed to planting trees millions of trees. They began by planting 50,000 trees with 50,000 student volunteers in environmental programs at Coldwater Canyon Park. Several years later, after the City of Los Angeles estimated that it would take 20 years to plant a million trees in order to comply with the Clean Air Act, TreePeople took on the project and did it in three years. Later, TreePeople helped launch the Los Angeles Conservation Corps, and Kate and Andy Lipkis were elected to the United Nations Environmental Programme's Global 500 Honor Roll. TreePeople's work has extended across international boundaries with thousands of fruit trees being shipped to foreign lands to avert hunger and starvation.

TreePeople has also focused on environmental education programs and played an important part in getting 60,000 elementary school children to work toward the City's goal of mandatory recycling. In the 1990s, TreePeople launched the Campus Forestry Program, now boasting the participation of more than one million children and teenagers. TreePeople has also developed the Trans-Agency Resources for Environment and Economic Sustainability, or T.R.E.E.S., program to promote better watershed management practices.

Today, TreePeople continues to work tirelessly to make Los Angeles a better and healthier place to live. TreePeople started modestly as one person with a dream. With steadfast determination and passion, his dream became a reality. Andy Lipkis is living proof that one person, with a corps of countless volunteers, can make a big difference. I commend his vision, and I applaud him and all those who helped make his vision tangible. TreePeople's greatest strength is in its ability to attract volunteers who are willing to work for a better community. I thank them for their great work.

I extend my congratulations to everyone involved with TreePeople on this special anniversary and wish them all many more years of continued success.●

RECOGNIZING ROBERT G. MACEACHRAN

● Mr. LEVIN. Mr. President, it is with great pride that I pay tribute to an exceptional educator from my home State of Michigan. On September 27th, Robert G. MacEachran will retire after 16 years as Superintendent of the Suttons Bay Public Schools. Mr. MacEachran's dedication to his students and lifelong commitment to maintaining a standard of excellence for the Suttons Bay Public Schools has made a great difference in the lives of many residents of northern Michigan.

Mr. MacEachran began his work in public education as a junior high school math teacher in the Battle Creek School District. He then moved to the East Grand Rapids School District and taught high school math for several years. With many years of teaching under his belt, he decided to pursue his longtime goal of becoming an educational administrator to ensure that schools maintained an environment that encouraged learning by stimulating the minds of all students. Mr. MacEachran moved to the Comstock Park Schools where he served as Assistant Principal, Athletic Director, and Director of Community Service.

After 22 years of service as an educator, Mr. MacEachran moved to northern Michigan and took the position of Superintendent for the Suttons Bay public school system. In this position, he has stressed the importance of using the newest technology to ensure that students have all the resources needed to enrich their learning experience. Mr. MacEachran has also made great

strides in developing new relationships between private and public schools. He developed a partnership between the local Montessori school and Suttons Bay Public Schools that incorporates the Montessori educators and their techniques into the public school curriculum. He was also pivotal in the construction of a new high school. This new building allowed all K–12 grades to be moved to new classrooms.

The dedication and innovation that Robert MacEachran has brought to the Suttons Bay Public Schools during his 16-year tenure as Superintendent and 38 years within the Michigan public school community is exceptional. He has demonstrated unwavering support for the education of Michigan's youth. The legacy that he has left within the Suttons Bay public school system will endure after his retirement. Future generations will greatly benefit from his commitment to the education and development of all children. I am confident my colleagues will join me in offering our heartfelt thanks and appreciation to Robert G. MacEachran and in wishing him well in his retirement.●

RECOGNIZING TONY AUTORE

● Mr. LEVIN. Mr. President, it is my pleasure to recognize Tony Autore for his outstanding commitment to community service in my home State of Michigan. On September 26, 2003, the Chippewa-Luce-Mackinac Community Action Agency will honor Tony for his exemplary service to the Eastern Upper Peninsula and to the Community Action Agency.

Tony began his service to the community in 1952, when he entered the United States Army and served until he was honorably discharged in 1954. After his two years in the Army, Tony moved to Cedarville, MI, with his wife Ethel and began a successful local business. Tony's service continued as he became a member of the Les Cheneaux Chamber of Commerce. The Chamber recently hosted the Michigan Outdoor Writers' winter and summer conventions, bringing over 300 writers to the area to discuss and celebrate the conservation and preservation of the state of Michigan's natural resources.

Tony has also served his community on the Clark Township volunteer fire department and the Les Cheneaux Community Foundation Board and was instrumental in establishing a Boy Scout Troop in the area. Along with these activities, Tony has devoted his time and talent improving his community for others as a member of the planning commission, the Mackinac County Housing Commission, and the economic development corporation. Tony has also been involved with other local organizations. He is a member of the Lions Club, the Knights of Columbus, and the Christopher Columbus Association.

For the past 18 years, Tony has served on the Board of the Chippewa-Luce-Mackinac Community Action Agency. He is currently the treasurer of the group, which strives to address poverty by helping to enable people to become self-sufficient members of society. The counsel and advice he has given the Agency Director and staff have been invaluable. During his time with the agency he has helped provide a truck and driver free of charge to help with the periodic distribution of food commodities in the area. Additionally, through his ties to the local community, Tony helped the agency secure use of the town hall for senior congregate meals. Tony also assisted the Community Action Agency in the development of a Head Start Center in Cedarville. Appropriately, this center will be dedicated as the ''Autore Center, Community Action Agency Head Start''.

I am confident that my colleagues in the Senate will join with me in thanking Tony Autore for his outstanding service to his community and congratulate him on receiving this high honor from the Community Action Agency.●

KEN FERGESON, CHAIRMAN OF THE ABA

● Mr. NICKLES. Mr. President, today I rise to honor an Oklahoman who has climbed to the top of his profession. Today, Ken Fergeson, from Altus, OK, is being installed as the American Bankers Association chairman. He is also the chairman of National Bank Commerce in Altus.

Ken has been active in the ABA for many years. He has chaired its Government Relations Council, Community Bankers Council, a joint trade association Credit Union Steering Committee and Minbanc Capital Corp., in addition to serving on the board of the Corporation for American Banking. He also served on the ABA Communications Council, Education Foundation and Professional Development Council, and chaired the Oklahoma Banker's Association.

After graduating from college Ken began his career at Liberty Bank in Oklahoma City. A native Texan, Ken had interviewed and considered a better job offer from a Houston Bank, but he decided to go with the Liberty job in part because, as he joked, it had cheaper parking.

It was at Liberty that Ken first became involved in the ABA and the Oklahoma Bankers Association as well as numerous charitable organizations, trade groups and civic organizations.

After leaving Liberty, Ken went on to purchase National Bank Commerce in Altus. At the time of the purchase the 38-year-old father of two didn't have the money to buy the bank, but he knew if he could somehow find it he could make the venture work. So he decided to take some risks that he admits were ''stupid'' in retrospect: he got the biggest loan he could get, sold his house, withdrew his kid's college funds, and issued debentures and subordinated notes. His risk was rewarded as he expanded the bank's markets and customer base.

Ken's success has grown over the decades, and for good reason. He conducts business with one concern in mind: What is best for the customer? He understands that a bank that conducts business in this manner will retain customers for life. Ken tells his employees not to ''sell anything you wouldn't sell your mother.'' Many today will see this mentality as old fashioned, but you can't argue with success.

When Ken was approached by his daughter about her desire to be a foreign missionary, his response was telling of his view of his business. He encouraged her to come to work for the bank. Ken noted that there is no greater mission field than the ''ministry of banking.'' In his own words he explains that the banking industry helps people ''plan for their children's education, or buy their first home, or plan for retirement, or expand a business. If those outcomes are not a ministry, I don't know what is.''

The next chairman of the ABA will bring this experience and worldview to bear upon his new post. He plans on making ethics a central theme of his chairmanship. Ken believes that in life and in business you need a set of ethics to live by so that when tough decisions come your way, you will have a moral reference point to help you reach a conclusion. I am excited about Ken's chairmanship and the ideas and values he will bring to the table.

I extend my sincere congratulations to Ken and his family and I wish him all the best as he takes his new post.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, 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.)

ENROLLED BILLS SIGNED

The following enrolled bills, previously signed by the Speaker of the House, were signed on September 18, 2003, by the President pro tempore (Mr. STEVENS):

S. 520. An act to authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District in the State of Idaho.

S. 678. An act to amend chapter 10 of title 39, United States Code, to include postmasters and postmasters' organizations in the process for the development and planning of certain policies, schedules, and programs, and for other purposes.

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. GRASSLEY (for himself and Mr. BINGAMAN):

S. 1641. A bill to amend title XIX of the Social Security Act to extend medicare cost-sharing for certain qualifying individuals (QI–1s); to the Committee on Finance.

By Mr. LEAHY:

S. 1642. A bill to extend the duration of the immigrant investor regional center pilot program for 5 additional years, and for other purposes; to the Committee on the Judiciary.

By Mr. HOLLINGS:

S. 1643. A bill to exempt certain coastal barrier property from financial assistance and flood insurance limitations under the Coastal Barriers Resources Act and the National Flood Act of 1968; to the Committee on Environment and Public Works.

By Mr. GRASSLEY:

S. 1644. A bill to amend the Packers and Stockyards Act, 1921, to limit the number of packer-owned swine that certain packers may slaughter in any calendar year; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CRAIG (for himself, Mr. KENNEDY, Mr. SMITH, Mr. GRAHAM of Florida, Mr. COCHRAN, Mr. SCHUMER, Mr. GREGG, Mr. LIEBERMAN, Mr. MCCAIN, Mr. KERRY, Mr. HAGEL, Ms. CANTWELL, Mr. VOINOVICH, Mr. WYDEN, Mr. COLEMAN, Mrs. CLINTON, Mr. DEWINE, Mrs. BOXER, and Mrs. MURRAY):

S. 1645. A bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H-2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes; to the Committee on the Judiciary.

By Mr. MCCAIN (for himself and Mr. HOLLINGS):

S. 1646. A bill to provide a 5-month extension of highway safety programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century; 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 Mr. NELSON of Florida:

S. Res. 228. A resolution recognizing the teams and players of the Negro Baseball Leagues for their achievements, dedication, sacrifices, and contributions to baseball and the Nation; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CRAPO:

S. Res. 229. A resolution supporting the goals and ideals of Chronic Obstructive Pulmonary Disease Awareness Month; considered and agreed to.

By Mr. LUGAR (for himself, Mr. SARBANES, Mr. HAGEL, Mr. BIDEN, Mr. DODD, and Mr. BROWNBACK):

S. Res. 230. A resolution calling on the People's Republic of China immediately and unconditionally to release Rebiya Kadeer, and for other purposes; to the Committee on Foreign Relations.

By Mr. FEINGOLD (for himself and Mr. ALEXANDER):

S. Res. 231. A resolution commending the Government and people of Kenya; to the Committee on Foreign Relations.

By Mr. MILLER (for himself, Mr. BURNS, Mr. CHAMBLISS, and Mr. CORZINE):

S. Res. 232. A resolution expressing the condolences of the Senate upon the death on September 3, 2003, of the late General Raymond G. Davis (United States Marine Corps, retired) and expressing the appreciation and admiration of the Senate for the unwavering commitment demonstrated by General Davis to his family, the Marine Corps, and the Nation; considered and agreed to.

By Mr. COLEMAN (for himself and Mr. DAYTON):

S. Res. 233. A resolution commending the Rochester, Minnesota A's American Legion baseball team for winning the 2003 National American Legion World Series; considered and agreed to.

ADDITIONAL COSPONSORS

S. 18

At the request of Mr. DASCHLE, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S . 18, a bill to improve early learning opportunities and promote preparedness by increasing the availability of Head Start programs, to increase the availability and affordability of quality child care, to reduce child hunger and encourage healthy eating habits, to facilitate parental involvement, and for other purposes.

S. 242

At the request of Mr. DOMENICI, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 242, a bill to amend the Internal Revenue Code of 1986 to provide the same capital gains treatment for art and collectibles as for other investment property and to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

S. 300

At the request of Mr. KERRY, the names of the Senator from Montana (Mr. BAUCUS) and the Senator from Tennessee (Mr. FRIST) were added as cosponsors of S. 300, a bill to award a congressional gold medal to Jackie Robinson (posthumously), in recognition of his many contributions to the Nation, and to express the sense of Congress that there should be a national day in recognition of Jackie Robinson.

S. 596

At the request of Mrs. BOXER, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 596, a bill to amend the Internal Revenue Code of 1986 to encourage the investment of foreign earnings within the United States for productive business investments and job creation.

S. 596

At the request of Mr. ENSIGN, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 596, supra.

S. 606

At the request of Mr. GREGG, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 606, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 741

At the request of Mr. SESSIONS, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 741, a bill to amend the Federal Food, Drug, and Cosmetic Act with regard to new animal drugs, and for other purposes.

S. 818

At the request of Ms. SNOWE, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 818, a bill to ensure the independence and nonpartisan operation of the Office of Advocacy of the Small Business Administration.

S. 884

At the request of Ms. LANDRIEU, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 884, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 1245

At the request of Ms. COLLINS, the names of the Senator from New Mexico (Mr. DOMENICI) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 1245, a bill to provide for homeland security grant coordination and simplification, and for other purposes.

S. 1298

At the request of Mr. AKAKA, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1298, a bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of non-ambulatory livestock, and for other purposes.

S. 1303

At the request of Mr. BROWNBACK, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 1303, a bill to amend title XVIII of the Social Security Act and otherwise revise the Medicare Program to reform the method of paying for covered drugs, drug administration services, and chemotherapy support services.

S. 1396

At the request of Ms. SNOWE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1396, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 1404

At the request of Mr. MCCAIN, the name of the Senator from Colorado

(Mr. CAMPBELL) was added as a cosponsor of S. 1404, a bill to amend the Ted Stevens Olympic and Amateur Sports Act.

S. 1454

At the request of Mr. DOMENICI, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 1454, a bill to establish a National Drought Council within the Department of Agriculture, to improve national drought preparedness, mitigation, and response efforts, and for other purposes.

S. 1483

At the request of Mr. DODD, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1483, a bill to amend the Head Start Act to reauthorize that Act, and for other purposes.

S. 1531

At the request of Mr. HATCH, the names of the Senator from Connecticut (Mr. DODD), the Senator from Utah (Mr. BENNETT) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 1531, a bill to require the Secretary of the Treasury to mint coins in commemoration of Chief Justice John Marshall.

S. 1557

At the request of Mr. MCCONNELL, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 1557 , a bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Armenia.

S. 1558

At the request of Mr. ALLARD, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 1558, a bill to restore religious freedoms.

S. 1559

At the request of Mr. KENNEDY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1559, a bill to amend the Public Health Service Act with respect to making progress toward the goal of eliminating tuberculosis, and for other purposes.

S. 1568

At the request of Mr. HATCH, the names of the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 1568, a bill to amend the Internal Revenue Code of 1986 to simplify certain provisions applicable to real estate investment trusts.

S. 1586

At the request of Mr. SCHUMER, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 1586, a bill to authorize appropriate action if the negotiations with the People's Republic of China regarding China's undervalued currency and currency manipulations are not successful.

S. 1594

At the request of Mrs. FEINSTEIN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1594, a bill to require a report on reconstruction efforts in Iraq.

S. 1618

At the request of Mr. ROCKEFELLER, the names of the Senator from South Dakota (Mr. DASCHLE) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 1618, a bill to reauthorize Federal Aviation Administration Programs for the period beginning on October 1, 2003, and ending on March 31, 2004, and for other purposes.

S. 1622

At the request of Mr. GRAHAM of Florida, the names of the Senator from California (Mrs. BOXER), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KERRY) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 1622, a bill to amend title 10, United States Code, to exempt certain members of the Armed Forces from the requirement to pay subsistence charges while hospitalized.

S. CON. RES. 61

At the request of Mr. LOTT, the names of the Senator from Colorado (Mr. ALLARD), the Senator from Vermont (Mr. LEAHY), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Massachusetts (Mr. KERRY) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. Con. Res. 61, a concurrent resolution authorizing and requesting the President to issue a proclamation to commemorate the 200th anniversary of the birth of Constantino Brumidi.

S. CON. RES. 67

At the request of Mr. COCHRAN, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. Con. Res. 67, a concurrent resolution expressing the need for enhanced public awareness of traumatic brain injury and supporting the designation of a National Brain Injury Awareness Month.

S. RES. 202

At the request of Mr. CAMPBELL, the names of the Senator from Georgia (Mr. CHAMBLISS), the Senator from Delaware (Mr. BIDEN) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. Res. 202, a resolution expressing the sense of the Senate regarding the genocidal Ukraine Famine of 1932–33.

AMENDMENT NO. 1731

At the request of Mr. REID, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from Hawaii (Mr. AKAKA), the Senator from Vermont (Mr. LEAHY), the Senator from Maryland (Mr. SARBANES), the Senator from Massachusetts (Mr. KERRY) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of amendment No. 1731 proposed to H.R. 2691, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

AMENDMENT NO. 1731

At the request of Mr. EDWARDS, his name was added as a cosponsor of amendment No. 1731 proposed to H.R. 2691, supra.

AMENDMENT NO. 1731

At the request of Mr. JEFFORDS, his name was added as a cosponsor of amendment No. 1731 proposed to H.R. 2691, supra.

AMENDMENT NO. 1734

At the request of Mr. DASCHLE, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Washington (Mrs. MURRAY), the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of amendment No. 1734 proposed to H.R. 2691, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

AMENDMENT NO. 1740

At the request of Mr. BINGAMAN, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of amendment No. 1740 proposed to H.R. 2691, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY (for himself and Mr. BINGAMAN):

S. 1641. A bill to amend title XIX of the Social Security Act to extend medicare cost-sharing for certain qualifying individuals (QI–1s); to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1641

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 ''QI–1s Medicare Cost-Sharing Extension Act of 2003''.

SEC. 2. EXTENSION OF MEDICARE COST-SHARING FOR CERTAIN QUALIFYING INDIVIDUALS.

(a) EXTENSION OF SUNSET.—Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is amended—

(1) by striking subclause (II);

(2) beginning in the matter preceding subclause (I), by striking ''ending with December 2002'' and all that follows through ''for medicare cost-sharing described'' in subclause (I) and inserting ''ending with March 2004) for medicare cost-sharing described''; and

(3) by striking '', and'' at the end and inserting a semicolon.

(b) TOTAL AMOUNT AVAILABLE FOR ALLOCATION.—Section 1933(c) of the Social Security Act (42 U.S.C. 1396u–3(c)) is amended—

(1) in paragraph (1)(E), by striking ''fiscal year 2002'' and inserting ''each of fiscal years 2002 and 2003''; and

(2) in paragraph (2)(A), by striking ''the sum of'' and all that follows through ''1902(a)(10)(E)(iv)(II) in the State; to'' and inserting ''the total number of individuals described in section 1902(a)(10)(E)(iv) in the State; to''.

(c) SPECIAL RULE FOR FIRST QUARTER OF 2004.—Section 1933 of the Social Security Act (42 U.S.C. 1396u–3) is amended by adding at the end the following:

''(g) SPECIAL RULE.—With respect to the period that begins on January 1, 2004, and ends on March 31, 2004, a State shall select qualifying individuals, and provide such individuals with assistance, in accordance with the provisions of this section as in effect with respect to calendar year 2003, except that for such purpose—

''(1) references in the preceding subsections of this section to 'fiscal year' and 'calendar year' shall be deemed to be references to such period; and

''(2) the total allocation amount under subsection (c) for such period shall be $100,000,000.''.

By Mr. GRASSLEY:

S. 1644. A bill to amend the Packers and Stockyards Act, 1921, to limit the number of packer-owned swine that certain packers may slaughter in any calendar year; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. GRASSLEY. Mr. President, today I am introducing legislation which will set a ceiling on vertical integration in the pork industry. Specifically, this bill will make it unlawful for any packer with an annual slaughter capacity of more than 20 million swine to slaughter more than 10 million packer-owned swine in any calendar year.

I am offering this because I believe the pork industry is at a critical juncture due to the impending sale of Farmland's pork division.

Either we stop the trend toward vertical integration, or we prepare for the inevitable ''chicken-ization'' of the pork industry.

It is vital that we sustain a place in the market for the independent pork producer. This legislation will at least limit the cancerous growth of vertical integration until we can pass a cure.

I ask unanimous consent 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. 1644

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ANNUAL LIMITATION ON NUMBER OF PACKER-OWNED SWINE SLAUGHTERED BY CERTAIN PACKERS.

(a) IN GENERAL.—Title II of the Packers and Stockyards Act, 1921 (7 U.S.C. 191 et seq.) is amended by adding at the end the following:

''Subtitle C—Annual Limitation on Number of Packer-Owned Swine Slaughtered by Certain Packers

''SEC. 231. DEFINITIONS.

''In this subtitle:

''(1) AFFILIATE.—The term 'affiliate' has the meaning given the term in section 231 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635i).

''(2) PACKER.—The term 'packer' has the meaning given the term in section 231 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635i).

''(3) PACKER-OWNED SWINE.—The term 'packer-owned swine' means swine that a packer (including a subsidiary or affiliate of the packer) owns for at least 7 days (excluding any Saturday or Sunday) before slaughter.

''(4) SLAUGHTER CAPACITY.—The term 'slaughter capacity' means the total number of swine that a packer (including a subsidiary or affiliate of the packer) could slaughter in a calendar year if all federally inspected swine processing plants operated by the packer were operated at full capacity for 260 days each calendar year.

''(5) SWINE.—The term 'swine' has the meaning given the term in section 231 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635i).

''SEC. 232. UNLAWFUL PRACTICE.

''It shall be unlawful for any packer with an annual slaughter capacity of more than 20,000,000 swine to slaughter more than 10,000,000 packer-owned swine in any calendar year.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendment made by subsection (a) takes effect on the date of enactment of this Act.

(2) EXISTING PACKERS.—In the case of a packer that, on the date of enactment of this Act, would otherwise be in violation of section 232 of the Packers and Stockyards Act, 1921 (as added by subsection (a)), the amendment made by subsection (a) takes effect on the date that is 18 months after the date of enactment of this Act.

By Mr. CRAIG (for himself, Mr. KENNEDY, Mr. SMITH, Mr. GRAHAM of Florida, Mr. COCHRAN, Mr. SCHUMER, Mr. GREGG, Mr. LIEBERMAN, Mr. MCCAIN, Mr. KERRY, Mr. HAGEL, Ms. CANTWELL, Mr. VOINOVICH, Mr. WYDEN, Mr. COLEMAN, Mrs. CLINTON, Mr. DEWINE, Mrs. BOXER, and Mrs. MURRAY):

S. 1645. A bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes; to the Committee on the Judiciary.

Mr. CRAIG. Mr. President, I am pleased to announce today the introduction of bipartisan farmworker reform legislation with a bipartisan group of Members in both the Senate and the House of Representatives. Our leading sponsors include Senator TED KENNEDY, Congressman HOWARD BERMAN, and Congressman CHRIS CANNON.

The name of the bill says it all—''AgJOBS.'' That stands for the ''Agricultural Job Opportunity, Benefits, and Security Act of 2003.'' We are introducing this bill today because Members of Congress realize our Nation is facing a growing crisis—for farm workers, growers, and the wider public. We want and need a stable, predictable, legal work force in American agriculture.

Willing American workers deserve a system that puts them first in line for available jobs with fair market wages. We want all workers to receive decent treatment and protection of fundamental legal rights. Consumers deserve a safe, stable, domestic food supply. American citizens and taxpayers deserve secure borders and a government that works.

Yet Americans are being threatened on all these counts, because agriculture, more than any other sector of the economy, has become dependent for its existence on the labor of immigrants who are here without legal documentation. The only program currently in place to respond to a lack of legal domestic workers, the H–2A Guest Workers Program, is profoundly broken. Outside of H–2A, farm employers have no effective, reliable assurance that their employees are legal. Our own government has estimated that half of the total 1.6 million agricultural work force are not legally authorized to work in this country, based, astoundingly, on self-disclosure in worker surveys. Responsible private estimates run to 85 percent.

Several more times in recent months, we have read of the senseless and inhuman deaths of farmworkers being smuggled illegally into the United States. Those who survive to work in the fields are among the most vulnerable persons in this country, unable to assert the most basic legal rights and protections. This situation never was acceptable. It has become intolerable. Immigrants not legally authorized to work in this country know they must work in hiding. They have been known to pay ''coyotes''—labor smugglers—thousands of dollars to be smuggled into this country. They cannot even claim basic legal rights and protections. They are vulnerable to predation and exploitation. They sometimes have been stuffed inhumanly into dangerously enclosed truck trailers and car trunks, in order to be transported, hidden from the view of the law. We heard with horror of the young girl who died this summer when a labor smuggler abandoned her entire family in the desert in the Southwest.

In contrast, legal workers have legal protections. They can assert wage, safety, and other legal protections. They can bargain openly and join unions. H–2A workers, in fact, are guaranteed housing and transportation. Time is running out for American agriculture, farmworkers, and consumers. What was a problem years ago is a crisis today and will be a catastrophe if we do not act immediately. A growing number of family farms simply are going out of business as growers try to, but cannot, secure a legal work force. All Americans face the danger of losing more and more of our safe, domestic food supply to imports.

Many farmers have seen recently hired workers scattered unpredictably by a government letter or random raid. As enforcement of our immigration and employment documentation laws has been stepped up—sporadically and haphazardly—workers are rarely deported,

but the workplace is frequently and widely disrupted. Between computerized checking by the Social Security Administration and audits and raids by the Immigration and Naturalization Service, more and more employers have discovered they have undocumented employees. More and more workers here illegally are being discovered and evicted from their jobs. The larger the so-called ''underground economy,'' the harder it is to knowledgeably and effectively provide for our homeland security needs.

The H–2A status quo is complicated and legalistic. The Department of Labor's compliance manual alone is more than 300 pages long. A General Accounting Office study found that DOL missed deadlines in processing H–2A applications 40 percent of the time. For workers and growers alike, the H–2A status quo is slow, bureaucratic, and inflexible. It does nothing to recognize the uncertainties farmers face, from changes in the weather to global market demands. The current H–2A process is so hard to use, it will place only about 40,000 legal guest workers this year—2 to 3 percent of the total agricultural work force.

The answer is AgJOBS. This farmworker reform legislation builds upon some six years of discussion and ideas from among growers, farmworker advocates, Latino and immigration issue groups, Members of both parties in both Houses of Congress, and others. The coming together of all these diverse viewpoints and interests makes AgJOBS truly an historic piece of legislation. Our AgJOBS bill offers a thoughtful, two-step solution. On a one-time basis, experienced, trusted workers with a significant work history in American agriculture would be allowed to stay here legally and earn adjustment to legal status. For workers and growers using the H–2A legal guest worker program, that program would be overhauled and made more streamlined, practical, and secure. AgJOBS takes a win-win-win approach for our nation, workers, and farmers.

AgJOBS may be no one's idea of perfect labor and immigration legislation in an ideal world. However, for the imperfect world we live in, it is a balanced, practical, and achievable approach to resolving urgent problems that require immediate attention. The broad bipartism support for this approach is reflected already in the cosponsorship of a number of our colleagues. Among others, I am happy we are joined by Senators GORDON SMITH and BOB GRAHAM as original cosponsors, both of whom have invested years of work in this issue. Supporters of this legislation include the United Farm Workers of America, the National Council of La Raza, and the AFL–CIO, all of whom participated in a press conference the principal sponsors held earlier today, as well as the U.S. Chamber of Commerce. This bill has overwhelming support in the agriculture community, including the National Council of Agricultural Employers, the American Nursery and Landscape Association, and the American Farm Bureau Federation.

I ask unanimous consent to print in the RECORD a list from the Agriculture Coalition for Immigration Reform that includes a large number of agricultural groups around the country who support this bill. I also ask unanimous consent to print a technical summary of the bill; a side-by-side comparison with current law; an open letter to Congress from our former Secretary of Agriculture, Ambassador Clayton Yeutter; and the next of the AgJOBS bill.

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

AGRICULTURE COALITION FOR IMMIGRATION REFORM

NATIONAL CO-CHAIRS

American Nursery & Landscape Association; National Council of Agricultural Employers; New England Apple Council.

ASSOCIATION MEMBERS AND SUPPORTERS

Agricultural Affiliates; American Farm Bureau Federation; American Frozen Foods Institute; American Horse Council; American Mushroom Institute; CoBank-Northeast Farm Credit Regional Council; Council of Northeast Farmer Cooperatives; National Association of State Departments of Agriculture; National Cattleman's Beef Association; National Chicken Council; National Christmas Tree Association; National Cotton Council; National Council of Farmer Cooperatives; National Potato Council; National Watermelon Association, Inc.; Nisei Farmers League; Northeast Dairy Coops; Northern Christmas Tree Growers; Northern Ohio Growers Association; Northwest Horticultural Council.

Society of American Florists; United Egg Association; United Egg Producers; United Fresh Fruit & Vegetable Association; U.S. Apple Association; U.S. Custom Harvesters Association; Western Growers Association; Agricultural Council of California; Alabama Farmers Federation; Alabama Nursery Association; Arizona Nursery Associations; Arkansas Green Industry Association; Associated Landscape Contractors of Colorado; Associated Landscape Contractors of Massachusetts; California Association of Nurserymen; California Citrus Mutual; California Farm Bureau; California Grape and Tree Fruit League; Nursery Growers Association (CA); Colorado Nursery Association.

Connecticut Nursery & Landscape Association; Florida Citrus Mutual; Florida Farm Bureau Federation; Florida Nurserymen & Growers Association; Florida Fruit and Vegetable Association; Georgia Green Industry Association; Gulf Citrus Growers, Association; Idaho Nursery Association: Illinois Landscape Contractors Association; Illinois Nurserymen's Association; Illinois Specialty Growers Association; Indiana Nursery & Landscape Association; Iowa Nursery and Landscape Association; Kansas Nursery and Landscape Association; Kentucky Nursery & Landscape Association; Louisiana Nursery & Landscape Association; Massachusetts Nursery & Landscape Association; Michigan Nursery and Landscape Association; Minnesota Nursery & Landscape Association; Mississippi Nursery Association.

Missouri Landscape & Nursery Association; New England Nursery Association; New Jersey Nursery & Landscape Association; New York State Nursery & Landscape Association; New York State Vegetable Growers Association; North Carolina Association of Nurserymen; Northern California Growers Association; Nursery Growers of Lake County Ohio, Inc.; Ohio Nursery & Landscape Association; Oregon Association of Nurserymen; Oregon Farm Bureau Federation; Pacific Tomato Growers; Pennsylvania Landscape & Nursery Association; Rhode Island Nursery and Landscape Association; Senseny South Corporation; Snake River Farmers Association; South Carolina Nursery Association; Southern Nursery Association; State Horticultural Association of Pennsylvania; Tennessee Nursery & Landscape Association.

Texas Nursery & Landscape Association; Texas Produce Association; Turfgrass Producers International; Ventura County Agriculture Association; Virginia Agricultural Growers Association; Virginia Nursery and Landscape Association; Wasco County Fruit & Produce League; Washington Growers Clearing House Association, Inc.; Washington Growers League; Washington Potato & Onion Association; Washington State Nursery & Landscape Association; Western Grower Law Group; West Virginia Nursery and Landscape Association; Wisconsin Nursery Association; Wisconsin Landscape Federation; Wisconsin Christmas Tree Producers.

AGRICULTURAL JOB OPPORTUNITY, BENEFITS, AND SECURITY ACT OF 2003—SUMMARY OF SIGNIFICANT PROVISIONS—SEPTEMBER 2003

TITLE I—ADJUSTMENT OF AGRICULTURAL WORKERS TO TEMPORARY AND PERMANENT RESIDENT STATUS

Title I establishes a program whereby agricultural workers in the United States who lack authorized immigration status but who can demonstrate that they have worked 100 or more days in a 12 consecutive month period during the 18-month period ending on August 31, 2003 can apply for adjustment of status. Eligible applicants would be granted temporary resident status. If the farmworker performs at least 360 work days of agricultural employment during the 6-year period ending on August 31, 2009, including at least 240 work days during the first 3 years following adjustment, and at least 75 days of agricultural work during each of three 12-month periods in the 6-years following adjustment to temporary resident status, the farmworker may apply for permanent resident status.

During the period of temporary resident status the farmworker is employment authorized, and can travel abroad and re-enter the United States. Workers adjusting to temporary resident status may work in non-agricultural occupations, as long as their agricultural work requirements are met. While in temporary resident status, workers may select their employers and may switch employers. During the period of temporary resident status, the farmworker's spouse and minor children who are residing in the United States may remain in the United States, but are not employment authorized. The spouse and minor children may adjust to permanent resident status once the farmworker adjusts to permanent resident status. Unauthorized workers who do not apply or are not qualified for adjustment to temporary resident status are subject to removal. Temporary residents under this program who do not fulfill the agricultural work requirement or are inadmissible under immigration law or commit a felony or three or more misdemeanors as temporary residents are denied adjustment to permanent resident status and are subject to removal. The adjustment program is funded through application fees.

TITLES II AND III—REFORM OF THE H–2A TEMPORARY AND SEASONAL AGRICULTURAL WORKER PROGRAM

This section modifies the existing H–2A temporary and seasonal foreign agricultural worker program. Employers desiring to employ H–2A foreign workers in seasonal jobs (10 months or less) will file an application and a job offer with the Secretary of Labor. If the application and job offer meets the requirements of the program and there are no obvious deficiencies the Secretary must approve the application. Employers must seek to employ qualified U.S. workers prior to the arrival of H–2A foreign workers by filing a job order with a local job service office at least 28 days prior to date of need and also authorizing the posting of the job on an electronic job registry.

All workers in job opportunities covered by an H–2A application must be provided with workers' compensation insurance, and no job may be filled by an H–2A worker that is vacant because the previous occupant is on strike or involved in a labor dispute. If the job is covered by a collective bargaining agreement, the employer must also notify the bargaining agent of the filing of the application. If the job opportunity is not covered by a collective bargaining agreement, the employer is required to provide additional benefits, as follows. The employer must provide housing at no cost, or a monetary housing allowance where the governor of a State has determined that there is sufficient migrant housing available, to workers whose place of residence is beyond normal commuting distance. The employer must also reimburse inbound and return transportation costs to workers who meet employment requirements and who travel more than 100 miles to come to work for the employer. The employer must also guarantee employment for at least three quarters of the period of employment, and assure at least the highest of the applicable statutory minimum wage, the prevailing wage in the occupation and area of intended employment, or a reformed Adverse Effect Wage Rate (AEWR). If the AEWR applies, it will not be higher than that existing on 1/01/03 and if Congress fails to enact a new wage rate within 3 years, the AEWR will be indexed to the change in the consumer price index, capped at 4 percent per year beginning December 1, 2006. Employers must meet specific motor vehicle safety standards.

H–2A foreign workers are admitted for the duration of the initial job, not to exceed 10 months, and may extend their stay if recruited for additional seasonal jobs, to a maximum continuous stay of 3 years, after which the H–2A foreign worker must depart the United States. H–2A foreign workers are authorized to be employed only in the job opportunity and by the employer for which they were admitted. Workers who abandon their employment or are terminated for cause must be reported by the employer, and are subject to removal. H–2A foreign workers are provided with a counterfeit resistant identity and employment authorization document.

The Secretary of Labor is required to provide a process for filing, investigating and disposing of complaints, and may order back wages and civil money penalties for program violators. The Secretary of Homeland Security may order debarment of violators for up to 2 years. H–2A workers are provided with a limited Federal private right of action to enforce the requirements of housing, transportation, wages, the employment guarantee, motor vehicle safety, retaliation and any other written promises in the employer's job offer. Either party may request mediation after the filing of the complaint. State contract claims seeking to enforce terms of the H–2A program are preempted by the limited Federal right of action. No other State law rights are preempted or restricted.

The administration of the H–2A program is funded through a user fee paid by agricultural employers.

COMPARISON OF THE CURRENT H-2A AGRICULTURAL GUEST WORKER PROGRAM AND THE CRAIG / KENNEDY AGRICULTURAL JOB OPPORTUNITY, BENEFTIS, AND SECURITY ACT OF 2003
September 22, 2003

One-Time Adjustment to Legal Status (non-H-2A)

(Legislation would create a new program; therefore, this table contains no "Current Law" column)

Issue	Bipartisan AgJOBS Reform Plan
Agricultural Work Required to Adjust to Legal Status	Workers must prove that they worked in agricultural employment in the U.S. the lesser of 575 hours or 100 work days, during any 12 consecutive months in the 18 month period ending on August 31, 2003.
Application Process to Qualify to Adjust to Legal Status	Application must be made beginning 7 months after enactment (after regulations are issued) and not later than 18 months thereafter.
Proof of Qualifying Employment	Workers applying for adjustment have the burden of proving by a preponderance of evidence the qualifying days or hours of agricultural employment through employment records from employers, unions, government agencies and other reliable documentation.
Status of Adjusted Workers	Adjusted workers obtain temporary resident status. They may remain in the U.S. year-round. To qualify for temporary and permanent resident status, applicants are subject to the same admissibility standards as any other alien, except that they are granted a one-time waiver of ineligibility for unlawful presence.
Right to Work and Travel of Adjusted Workers	Adjusted workers must satisfy an annual agricultural work requirement during the qualifying adjustment of status period. They are allowed to work in industries outside of agriculture during periods in which they are not working in agriculture. Workers have the right to travel within the U.S. and between the U.S. and their resident country and will be given a counterfeit-resistant document of authorization to enter or reenter the U.S.
Agricultural Work Requirements to Adjust to Permanent Resident Status	The adjusting worker must perform at least 2060 hours or 360 work days, whichever is less, of agricultural employment in the U.S. during the 6 year period ending on August 31, 2009. Adjusting workers must work at least 75 work days of agricultural employment in each of three 12 month periods ending on August 31, 2006 and at least 240 work days of agricultural employment during the first 3 of the 6 years following adjustment to temporary resident status. Upon completion of the work requirement, workers obtain permanent resident status.

Issue	Bipartisan AgJOBS Reform Plan
Status of Spouses and Dependents	Spouses and minor children of workers who adjust status may not be removed nor given employment authorization while the qualifying worker is in temporary resident status. Once a worker obtains permanent resident status through satisfaction of the agricultural work requirement, he/she may seek to adjust the status of a spouse and minor child
Proof of Agricultural Work During Qualifying Period After Enactment	Adjusting workers claiming that they are deprived of qualifying days of work in agriculture through termination without just cause are entitled to arbitration of their termination. A favorable arbitration decision for a worker can result only in a credit of work days or hours but cannot be used for any other purpose in any other litigation. Workers also can get credit for days lost through an inability to work due to injury or disease arising out of agricultural employment during the qualifying period, as long as proven through medical records. Secretary of the Department of Homeland Security (DHS) has limited authority to relax hours of agricultural work requirement during the first 3 years due to a natural disaster.
Confidentiality of Information	Information provided by workers and employers to the Secretary of DHS shall remain confidential and can only be used to determine whether a worker qualifies to adjust to legal status.

H-2A GUEST WORKER REFORMS

Issue	Current Law	Bipartisan AgJOBS Reform Plan
DOMESTIC WORKER RECRUITMENT AND SEC. OF LABOR CERTIFICATION OF EMPLOYERS TO EMPLOY H-2A *FOREIGN GUEST* WORKERS		
Limitation on Covered Job Opportufnities	Job opportunities must be "agricultural" and must be "temporary" or "seasonal". Maximum duration of temporary jobs 364 days; maximum practical duration of seasonal jobs 10 months. Agriculture defined as in FLSA and Internal Revenue Code.	Job opportunities must be "agricultural" and must be "temporary" or "seasonal". Maximum duration of jobs 10 months. Agriculture defined as in Fair Labor Standards Act and Internal Revenue Code.
Mechanics of Process	Labor Certification: Application for temporary guest worker labor certification must be filed at least 45 days before date of need with local office and DOL regional office. DOL accepts or requests modification in 7 days. Certification 30 days before date of need. DOL has discretion to waive time frames in "emergency" situations. Requests for redetermination allowed.	Labor Condition Application: Process similar to H-1B high-tech program. Application for H-2A workers is filed with Secretary of Labor (SOL). Application provides assurances that employer will comply with program requirements most of which are set forth in the following Labor Standards section. Unless the application is incomplete or contains obvious inaccuracies, SOL must approve it.
Domestic Recruitment	Local and interstate orders, filed with DOL 45 days before date of need for workers. Newspaper, radio advertising and other requirements imposed by Secretary of Labor (SOL). Emergency provisions allow SOL to waive recruitment requirements where there is insufficient time before date of need and need could not have reasonably been foreseen.	Employer must contact former workers and advertise jobs in local paper likely to be patronized by farmworkers no later than 14 days before date of need for workers. Employer must file job order with local job service office 28 days prior to date of need and authorize posting of job on an electronic job registry. Interstate recruitment of workers is not required. Emergency provisions allow SOL to waive recruitment requirements where there is insufficient time before date of need and need could not have reasonably been foreseen.

Issue	Current Law	Bipartisan AgJOBS Reform Plan
LABOR STANDARDS		
In General	Open-ended, terms and conditions of employment may not adversely affect U.S. workers.	Limited to standards in statute unless higher wages, benefits or working conditions are offered or provided to H-2A workers.
Wages	Highest of Adverse Effect Wage Rate (AEWR) administratively established by DOL, prevailing wage, or federal or state minimum wage. AEWR methodology set by SOL by regulation.	Similar to existing H-2A, except AEWR may not be higher than the applicable AEWR on 1-1-03. If Congress fails to enact a new wage rate within 3 years of enactment, thereafter the existing AEWRs will be annually indexed by the % change in the CPI, with a maximum adjustment of 4% annually. During 3 year period after enactment, GAO and Congressional commission study wage rate and make recommendations to Congress.
Housing	Employer must offer housing to all non-local workers. H-2A application limited to capacity of available housing. May use public accommodation housing. Local workers not requiring housing not counted against H-2A request up to number of local workers usually employed. No charge for housing permitted.	Employer must provide housing or a housing allowance. From the date of enactment, the housing allowance may be offered only if the Governor of State certifies that housing is available in the area of intended employment. Housing allowance is based on HUD Section 8 statewide average fair market rental rates for existing housing. In non-metropolitan counties the allowance is the statewide average fair market rental for existing housing for non-metropolitan counties and for metropolitan counties it is the statewide average for metropolitan counties.
Transportation	Reimburse in-bound if worker completes 50% of period of employment; pay outbound if worker completes 100% of period of employment. Transportation must be advanced if it is prevailing practice.	Same as existing H-2A program except no reimbursement if worker travels less than 100 miles or does not reside in employer provided housing or housing obtained through an allowance.
Workers' Compensation	State coverage or equivalent.	State coverage or equivalent.

Issue	Current Law	Bipartisan AgJOBS Reform Plan
Employment Guarantee	Employer guarantees employment for 3/4 of work hours of anticipated period of employment. Guarantee terminated if an "Act of God" terminates need for workers. Guarantee waived for workers terminated for lawful job related reasons or who abandon employment.	Same as existing H-2A program except statute defines "Act of God" circumstances that cause termination of guarantee.
Collective Bargaining Agreement	No Provision.	If the job opportunity is covered by a collective bargaining agreement, the employer does not have to provide the wages and other benefits required of employers without such an agreement.
Preference for U.S. Workers	Must hire qualified U.S. worker who applies until 50% of period of employment has expired. Prohibits entities from withholding U.S. workers until H-2A workers arrive.	Must hire qualified U.S. worker who applies until 50% of period of employment has expired. Prohibits entities from withholding U.S. workers until H-2A workers arrive and requires SOL to place U.S. workers with other employers for which DOL has job orders for similar job opportunities in the area of intended employment prior to displacing H-2A workers. If a U.S. worker displaces an H-2A worker and then quits the job, the employer may obtain a replacement H-2A worker in an expedited manner.
Lawful Job-Related Requirements	Permitted at the discretion of SOL. Complicated scheme for regulating productivity standards.	Permitted. Employers may use legitimate selection criteria that are normal or customary to the job.
Application of MSPA to H-2A Workers	H-2A workers are exempt from the coverage of MSPA.	H-2A workers are exempt from the coverage of MSPA. H-2A workers are provided a federal private right of action to enforce the housing, transportation, wage, employment guarantee, motor vehicle safety and retaliation provisions and any other written promises in the employer's job offer. Either party may request mediation after the filing of the complaint. H-2A worker must elect between DOL enforcement of rights or right to sue. State contract claims based on H-2A program requirements are preempted by federal right of action.

Issue	Current Law	Bipartisan AgJOBS Reform Plan
Enforcement of Labor Standards	SOL has the authority to investigate compliance with H-2A requirements and assurances. SOL has authority to seek civil money penalties and backpay through an administrative hearing process for alleged violations of program requirements and has the authority to debar employers from the H-2A program for program violations.	Aggrieved persons or third parties can bring a complaint to SOL within 12 months of employer's alleged failure to comply with assurances, for misrepresentations in the labor condition application, and for displacement of U.S. workers. If, after investigation, SOL finds reasonable cause, the parties are entitled to a hearing and the SOL must make a finding not less than 60 days after the hearing. If a violation is found after a hearing, SOL may require backpay for wages and benefits not paid, as well as civil money penalties (CMPs) of up to $1,000 for non-willful violations, $5,000 for willful violations and $15,000 for displacement of U.S. workers. CMPs are capped for all types of violations at no more than $90,000.
Initial Waiver of Ineligibility for Unlawful Presence	Banned from admission up to 10 years for previous unlawful presence. Must show non-immigrant intent and meet other criteria for admissibility.	One time waiver of bar on admission for unlawful presence. Must show non-immigrant intent and meet other criteria for admissibility.
Strike and Lockout	Cannot hire an H-2A worker if the specific job opportunity for which the employer is requesting an H-2A worker is vacant because the former occupant is on strike or being out in the course of a labor dispute.	Same as current law.
GUEST WORKER ADMISSION AND ELIGIBILITY PROVISIONS		
Procedures for Admission of H-2A guest workers	Governed by current INS statute and regulations. Employer petitions INS and, upon approval, workers apply for visas and admission.	Employer files petition with Secretary of the Dept. of Homeland Security (DHS), accompanied by valid labor certification covering petitioner. Secretary of DHS is required to adjudicate petitions on an expedited basis within 7 working days and send copies of approved petition to petitioning employer and consular office where worker will apply.
Issuance of Identity and Employment Eligibility Document	Subject to current INS regulations and law. Receives same documents as all other admissions.	Requires counterfeit–proof document.

Issue	Current Law	Bipartisan AgJOBS Reform Plan
Extension of Stay of H-2A worker	Worker may remain in U.S. for 14 days after period of employment ends to seek additional employment. Cannot work for employer who files an extension until extension approved. Continuous stay for period of labor certification up to 3 years with successive certified employers.	Worker may remain in U.S. for period of labor certification plus 14 additional days after period of employment ends to seek employment. Can work immediately for employer who has filed an extension of stay but must within 60 days obtain valid work authorization documents. Continuous stay up to 3 years with successive approved employers, but no more than ten months in each job opportunity.
MISCELLANEOUS PROVISIONS		
Filing by Associations of Agricultural Employment	Permitted; association may be agent, joint employer or sole employer. Association must be joint employer for workers to transfer among members.	Similar to current law. Associations may file applications as actual employers or on behalf of members who have written agreements to comply with program requirements.
Public Notice and Access to Information	No provision.	Employers covered by a collective bargaining agreement must at the time of filing of the application give notice to the bargaining representative of the employees in the occupational classification at the place of employment for which H-2A workers are sought. Employers must keep copy of application at principal place of business for public inspection. SOL must keep a public list by employer of the applications filed under the H-2A program, including the wage rate, number of workers sought, period of intended employment and date of need. The list is available for examination at DOL in Washington, D.C.
Continuation of Obligation to Meet H-2A Standards Upon Withdraw from Program	May withdraw. Policy on applicability of program requirements not clear, but generally believed that H-2A obligations continue if any workers are recruited under H-2A terms.	May withdraw if no H-2A guest workers are employed. Any employer obligations incurred under other laws would continue.
Payment of Users' Fee	Employers pay fees set by SOL and INS.	Employers pay user's filing fee for filing labor condition application and for admission of H-2A guest workers. Fees established by federal standards.
Effective Date	Not applicable.	One year after enactment.

Issue	Current Law	Bipartisan AgJOBS Reform Plan
Regulations	Not applicable.	Secretaries of Labor and Agriculture and DHS consult regarding regulations, which must be issued 1 year after enactment.

TEXT OF OPEN LETTER TO CONGRESS ON AGRICULTURAL LABOR REFORM, AUGUST, 2003

The recent tragic truck-trailer deaths of Mexican workers seeking illegal entry to the U.S. have raised once again the wisdom and feasibility of our immigration policies at the U.S./Mexico border. This is an issue that many of us in American agriculture have tried to address over the years, but few have listened. Perhaps our views can now be heard.

Many of the workers entering the U.S. from Mexico are hoping for jobs on farms or in nurseries. As you know, such jobs often await them, for thousands of American farmers wonder every year whether they'll have dependable help at harvest time. This is especially critical for our fruit and vegetable industries, where the ''open window'' for harvest can be very short-lived. But similar concerns are now emerging in many other farm enterprises, ranging from dairy to poultry to greenhouse crops to beef to Christmas trees. This has become a national problem, and a recurring nightmare for our agricultural employers nationwide.

Government statistics and other evidence suggest that at least 50% and perhaps 70% of the current agricultural workforce is not in this country legally. The immediate reaction of some is to say that these workers have broken the law and should be deported, and that U.S. farmers and other employers have brought this problem on themselves by not doing a better job of detecting fraudulent documents.

That ''easy'' answer ignores the reality that few Americans are drawn to highly seasonal and physically demanding work in agriculture. At chaotic harvest times, a stable, dependable workforce is essential. Instead, American farmers are in a ''damned if you do, damned if you don't'' situation where they're required by law to be policemen, immigration officials, and security experts while simultaneously trying to get their crops harvested before they spoil.

My experience over many years tells me that agricultural employers do not want to hire illegal immigrants. What they want is a stable, viable program with integrity that will meet their labor force needs in a timely, effective way. What they do not want is a program with major shortcomings, for which they will inevitably be blamed. Unfortunately, that is what our laws have imposed upon them.

As a nation, we can and must do better—for agricultural employers and for immigrant workers. Many of these workers have come to the U.S. on a regular basis. Many have lived here for years doing our toughest jobs, and some would like to earn the privilege of living here permanently. Why not permit them to do so, over a specified timeframe, thereby keeping the best workers here? That has the additional advantage of permitting our government to better focus its limited monitoring/enforcement resources, particularly where security may be a concern. Let's use entry/exit tracking, tamper proof documentation, biometric identification, etc. where it will truly pay security dividends, and let's stop painting all immigrants with the same brush.

A limited, earned legalization for agriculture is nothing like an amnesty program. It would apply only to immigrants who are at work, paying taxes, and are willing to earn their way to citizenship so that they can share in the American dream. These workers form the foundation of much of our nation's agricultural workforce. We need them!

Agricultural employers need an updated guest work program to replace the antiquated ''H2A'' temporary worker system, which is too expensive and too bureaucratic to be of practical use. Necessary reforms include fair and stronger security and identification measures, market-based wage rates, and comprehensive application procedures.

The reform program I have outlined already has broad bipartisan support, thanks to the good work and leadership of Sens. Larry Craig, Gordon Smith, Ted Kennedy, and Bob Graham, among others, and a bipartisan group of House colleagues. Their work product deserves immediate and serious consideration by the Congress. The status quo is simply unacceptable. It puts both American employers and immigrant workers in an untenable situation—with a high cost in economic efficiency, respect for the law, and sometimes even in human life. The reforms now being proposed are a practical solution to a serious problem that is evolving into a national crisis.

As President Bush has stated, we can and must do better to match a willing and hard-working immigrant worker with producers who are in desperate need of a lawful workforce. It is time, and in our great country's interest, to enact these reforms.

Sincerely,

CLAYTON YEUTTER
(Former Agriculture Secretary and U.S. Trade Representative).

S. 1645

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 ''Agricultural Job Opportunity, Benefits, and Security Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—ADJUSTMENT TO LAWFUL STATUS

Sec. 101. Agricultural workers.
Sec. 102. Correction of Social Security records.

TITLE II—REFORM OF H–2A WORKER PROGRAM

Sec. 201. Amendment to the Immigration and Nationality Act.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Determination and use of user fees.
Sec. 302. Regulations.
Sec. 303. Effective date.

SEC. 2. DEFINITIONS.

In this Act:

(1) AGRICULTURAL EMPLOYMENT.—The term ''agricultural employment'' means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)). For purposes of this paragraph, agricultural employment includes employment under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(2) EMPLOYER.—The term ''employer'' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

(3) JOB OPPORTUNITY.—The term ''job opportunity'' means a job opening for temporary full-time employment at a place in the United States to which United States workers can be referred.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(5) TEMPORARY.—A worker is employed on a ''temporary'' basis where the employment is intended not to exceed 10 months.

(6) UNITED STATES WORKER.—The term ''United States worker'' means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(7) WORK DAY.—The term ''work day'' means any day in which the individual is employed 1 or more hours in agriculture.

TITLE I—ADJUSTMENT TO LAWFUL STATUS

SEC. 101. AGRICULTURAL WORKERS.

(a) TEMPORARY RESIDENT STATUS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall confer upon an alien who qualifies under this subsection the status of an alien lawfully admitted for temporary residence if the Secretary determines that the following requirements are satisfied with respect to the alien:

(A) PERFORMANCE OF AGRICULTURAL EMPLOYMENT IN THE UNITED STATES.—The alien must establish that the alien has performed agricultural employment in the United States for at least 575 hours or 100 work days, whichever is less, during any 12 consecutive months during the 18-month period ending on August 31, 2003.

(B) APPLICATION PERIOD.—The alien must apply for such status during the 18-month application period beginning on the 1st day of the 7th month that begins after the date of enactment of this Act.

(C) ADMISSIBLE AS IMMIGRANT.—The alien must establish that the alien is otherwise admissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as otherwise provided under subsection (e)(2).

(2) AUTHORIZED TRAVEL.—During the period an alien is in lawful temporary resident status granted under this subsection, the alien has the right to travel abroad (including commutation from a residence abroad) in the same manner as an alien lawfully admitted for permanent residence.

(3) AUTHORIZED EMPLOYMENT.—During the period an alien is in lawful temporary resident status granted under this subsection, the alien shall be provided an ''employment authorized'' endorsement or other appropriate work permit, in the same manner as an alien lawfully admitted for permanent residence.

(4) TERMINATION OF TEMPORARY RESIDENT STATUS.—During the period of temporary resident status granted an alien under this subsection, the Secretary may terminate such status only upon a determination under this Act that the alien is deportable.

(5) RECORD OF EMPLOYMENT.—

(A) IN GENERAL.—Each employer of a worker granted status under this subsection shall annually—

(i) provide a written record of employment to the alien; and

(ii) provide a copy of such record to the Secretary.

(B) SUNSET.—The obligation under subparagraph (A) terminates on August 31, 2009.

(b) RIGHTS OF ALIENS GRANTED TEMPORARY RESIDENT STATUS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, an alien who acquires the status of an alien lawfully admitted for temporary residence under subsection (a), such status not having changed, shall be considered to be an alien lawfully admitted for permanent residence for purposes of any law other than any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(2) TERMS OF EMPLOYMENT RESPECTING ALIENS ADMITTED UNDER THIS SECTION.—

(A) PROHIBITION.—No alien granted status under subsection (a) may be terminated from employment by any employer during the period of temporary resident status except for just cause.

(B) TREATMENT OF COMPLAINTS.—

(i) ESTABLISHMENT OF PROCESS.—The Secretary shall establish a process for the receipt, initial review, and disposition in accordance with this subparagraph of complaints by aliens granted temporary resident status under subsection (a) who allege that they have been terminated without just cause. No proceeding shall be conducted under this subparagraph with respect to a termination unless the Secretary determines that the complaint was filed not later than 6 months after the date of the termination.

(ii) INITIATION OF ARBITRATION.—If the Secretary finds that a complaint has been filed in accordance with clause (i) and there is reasonable cause to believe that the complainant was terminated without just cause, the Secretary shall initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint a mutually agreeable arbitrator from the roster of arbitrators maintained by such Service for the geographical area in which the employer is located. The procedures and rules of such Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings. The Secretary shall pay the fee and expenses of the arbitrator.

(iii) ARBITRATION PROCEEDINGS.—The arbitrator shall conduct the proceeding in accordance with the policies and procedures promulgated by the American Arbitration Association applicable to private arbitration of employment disputes. The arbitrator shall make findings respecting whether the termination was for just cause. The arbitrator may not find that the termination was for just cause unless the employer so demonstrates by a preponderance of the evidence. If the arbitrator finds that the termination was not for just cause, the arbitrator shall make a specific finding of the number of days or hours of work lost by the employee as a result of the termination. The arbitrator shall have no authority to order any other remedy, including, but not limited to, reinstatement, back pay, or front pay to the affected employee. Within 30 days from the conclusion of the arbitration proceeding, the arbitrator shall transmit the findings in the form of a written opinion to the parties to the arbitration and the Secretary. Such findings shall be final and conclusive, and no official or court of the United States shall have the power or jurisdiction to review any such findings.

(iv) EFFECT OF ARBITRATION FINDINGS.—If the Secretary receives a finding of an arbitrator that an employer has terminated an alien granted temporary resident status under subsection (a) without just cause, the Secretary shall credit the alien for the number of days or hours of work lost for purposes of the requirement of subsection (c)(1).

(v) TREATMENT OF ATTORNEY'S FEES.—The parties shall bear the cost of their own attorney's fees involved in the litigation of the complaint.

(vi) NONEXCLUSIVE REMEDY.—The complaint process provided for in this subparagraph is in addition to any other rights an employee may have in accordance with applicable law.

(vii) EFFECT ON OTHER ACTIONS OR PROCEEDINGS.—Any finding of fact or law, judgment, conclusion, or final order made by an arbitrator in the proceeding before the Secretary shall not be conclusive or binding in any separate or subsequent action or proceeding between the employee and the employee's current or prior employer brought before an arbitrator, administrative agency, court, or judge of any State or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts, except that the arbitrator's specific finding of the number of days or hours of work lost by the employee as a result of the employment termination may be referred to the Secretary pursuant to clause (iv).

(C) CIVIL PENALTIES.—

(i) IN GENERAL.—If the Secretary finds, after notice and opportunity for a hearing, that an employer of an alien granted temporary resident status under subsection (a) has failed to provide the record of employment required under subsection (a)(5) or has provided a false statement of material fact in such a record, the employer shall be subject to a civil money penalty in an amount not to exceed $1,000 per violation.

(ii) LIMITATION.—The penalty applicable under clause (i) for failure to provide records shall not apply unless the alien has provided the employer with evidence of employment authorization granted under this section.

(c) ADJUSTMENT TO PERMANENT RESIDENCE.—

(1) AGRICULTURAL WORKERS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall adjust the status of an alien granted lawful temporary resident status under subsection (a) to that of an alien lawfully admitted for permanent residence if the Secretary determines that the following requirements are satisfied:

(i) QUALIFYING EMPLOYMENT.—The alien has performed at least 2,060 hours or 360 work days, whichever is less, of agricultural employment in the United States, during the period beginning on September 1, 2003, and ending on August 31, 2009.

(ii) QUALIFYING YEARS.—The alien has performed at least 430 hours or 75 work days, whichever is less, of agricultural employment in the United States in at least 3 nonoverlapping periods of 12 consecutive months during the period beginning on September 1, 2003, and ending on August 31, 2009. Qualifying periods under this clause may include nonconsecutive 12-month periods.

(iii) QUALIFYING WORK IN FIRST 3 YEARS.—The alien has performed at least 1,380 hours or 240 work days, whichever is less, of agricultural employment during the period beginning on September 1, 2003, and ending on August 31, 2006.

(iv) APPLICATION PERIOD.—The alien applies for adjustment of status not later than August 31, 2010.

(v) PROOF.—In meeting the requirements of clauses (i), (ii), and (iii), an alien may submit the record of employment described in subsection (a)(5) or such documentation as may be submitted under subsection (d)(3).

(vi) DISABILITY.—In determining whether an alien has met the requirements of clauses (i), (ii), and (iii), the Secretary shall credit the alien with any work days lost because the alien was unable to work in agricultural employment due to injury or disease arising out of and in the course of the alien's agricultural employment, if the alien can establish such disabling injury or disease through medical records.

(B) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS.—The Secretary may deny an alien adjustment to permanent resident status, and provide for termination of the temporary resident status granted such alien under subsection (a), if—

(i) the Secretary finds by a preponderance of the evidence that the adjustment to temporary resident status was the result of fraud or willful misrepresentation, as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(ii) the alien—

(I) commits an act that makes the alien inadmissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as provided under subsection (e)(2); or

(II) is convicted of a felony or 3 or more misdemeanors committed in the United States.

(C) GROUNDS FOR REMOVAL.—Any alien granted temporary resident status under subsection (a) who does not apply for adjustment of status under this subsection before the expiration of the application period described in subparagraph (A)(iv), or who fails to meet the other requirements of subparagraph (A) by the end of the applicable period, is deportable and may be removed under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a). The Secretary shall issue regulations establishing grounds to waive subparagraph (A)(iii) with respect to an alien who has completed at least 200 days of the work requirement specified in such subparagraph in the event of a natural disaster which substantially limits the availability of agricultural employment or a personal emergency that prevents compliance with such subparagraph.

(2) SPOUSES AND MINOR CHILDREN.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall confer the status of lawful permanent resident on the spouse and minor child of an alien granted status under paragraph (1), including any individual who was a minor child on the date such alien was granted temporary resident status, if the spouse or minor child applies for such status, or if the principal alien includes the spouse or minor child in an application for adjustment of status to that of a lawful permanent resident.

(B) TREATMENT OF SPOUSES AND MINOR CHILDREN PRIOR TO ADJUSTMENT OF STATUS.—A spouse and minor child of an alien granted temporary resident status under subsection (a) may not be—

(i) removed while such alien maintains such status; and

(ii) granted authorization to engage in employment in the United States or be provided an ''employment authorized'' endorsement or other work permit, unless such employment authorization is granted under another provision of law.

(d) APPLICATIONS.—

(1) TO WHOM MAY BE MADE.—

(A) WITHIN THE UNITED STATES.—The Secretary shall provide that—

(i) applications for temporary resident status under subsection (a) may be filed—

(I) with the Secretary, but only if the applicant is represented by an attorney; or

(II) with a qualified designated entity (designated under paragraph (2)), but only if the applicant consents to the forwarding of the application to the Secretary; and

(ii) applications for adjustment of status under subsection (c) shall be filed directly with the Secretary.

(B) OUTSIDE THE UNITED STATES.—The Secretary, in cooperation with the Secretary of State, shall establish a procedure whereby an alien may apply for temporary resident status under subsection (a) at an appropriate consular office outside the United States.

(C) PRELIMINARY APPLICATIONS.—

(i) IN GENERAL.—During the application period described in subsection (a)(1)(B), the Secretary may grant admission to the United States as a temporary resident and provide an ''employment authorized'' endorsement or other appropriate work permit to any alien who presents a preliminary application for such status under subsection (a) at a designated port of entry on the southern

land border of the United States. An alien who does not enter through a port of entry is subject to deportation and removal as otherwise provided in this Act.

(ii) DEFINITION.—For purposes of clause (i), the term ''preliminary application'' means a fully completed and signed application which contains specific information concerning the performance of qualifying employment in the United States, together with the payment of the appropriate fee and the submission of photographs and the documentary evidence which the applicant intends to submit as proof of such employment.

(iii) ELIGIBILITY.—An applicant under clause (i) must be otherwise admissible to the United States under subsection (e)(2) and must establish to the satisfaction of the examining officer during an interview that the applicant's claim to eligibility for temporary resident status is credible.

(D) TRAVEL DOCUMENTATION.—The Secretary shall provide each alien granted status under this section with a counterfeit-resistant document of authorization to enter or reenter the United States that meets the requirements established by the Secretary.

(2) DESIGNATION OF ENTITIES TO RECEIVE APPLICATIONS.—

(A) IN GENERAL.—For purposes of receiving applications under subsection (a), the Secretary—

(i) shall designate qualified farm labor organizations and associations of employers; and

(ii) may designate such other persons as the Secretary determines are qualified and have substantial experience, demonstrate competence, and have traditional long-term involvement in the preparation and submittal of applications for adjustment of status under section 209, 210, or 245 of the Immigration and Nationality Act, Public Law 89–732, Public Law 95–145, or the Immigration Reform and Control Act of 1986.

(B) REFERENCES.—Organizations, associations, and persons designated under subparagraph (A) are referred to in this Act as ''qualified designated entities''.

(3) PROOF OF ELIGIBILITY.—

(A) IN GENERAL.—An alien may establish that the alien meets the requirement of subsection (a)(1)(A) or subsection (c)(1)(A) through government employment records or records supplied by employers or collective bargaining organizations, and other reliable documentation as the alien may provide. The Secretary shall establish special procedures to properly credit work in cases in which an alien was employed under an assumed name.

(B) DOCUMENTATION OF WORK HISTORY.—(i) An alien applying for status under subsection (a)(1) or subsection (c)(1) has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of hours or days (as required under subsection (a)(1)(A) or subsection (c)(1)(A)).

(ii) If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien's burden of proof under clause (i) may be met by securing timely production of those records under regulations to be promulgated by the Secretary.

(iii) An alien can meet such burden of proof if the alien establishes that the alien has in fact performed the work described in subsection (a)(1)(A) or subsection (c)(1)(A) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

(4) TREATMENT OF APPLICATIONS BY QUALIFIED DESIGNATED ENTITIES.—Each qualified designated entity must agree to forward to the Secretary applications filed with it in accordance with paragraph (1)(A)(i)(II) but not to forward to the Secretary applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Secretary. Upon the request of the alien, a qualified designated entity shall assist the alien in obtaining documentation of the work history of the alien.

(5) LIMITATION ON ACCESS TO INFORMATION.—Files and records prepared for purposes of this subsection by qualified designated entities operating under this subsection are confidential and the Secretary shall not have access to such files or records relating to an alien without the consent of the alien, except as allowed by a court order issued pursuant to paragraph (6).

(6) CONFIDENTIALITY OF INFORMATION.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, neither the Secretary, nor any other official or employee of the Department of Homeland Security, or bureau or agency thereof, may—

(i) use the information furnished by the applicant pursuant to an application filed under this section, the information provided to the applicant by a person designated under paragraph (2)(A), or any information provided by an employer or former employer, for any purpose other than to make a determination on the application, or for enforcement of paragraph (7);

(ii) make any publication whereby the information furnished by any particular individual can be identified; or

(iii) permit anyone other than the sworn officers and employees of the Department of Homeland Security, or bureau or agency thereof, or, with respect to applications filed with a qualified designated entity, that qualified designated entity, to examine individual applications.

(B) CRIME.—Whoever knowingly uses, publishes, or permits information to be examined in violation of this paragraph shall be fined not more than $10,000.

(7) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

(A) CRIMINAL PENALTY.—Whoever—

(i) files an application for status under subsection (a) or (c) and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

(ii) creates or supplies a false writing or document for use in making such an application;

shall be fined in accordance with title 18, United States Code, or imprisoned not more than 5 years, or both.

(B) INADMISSIBILITY.—An alien who is convicted of a crime under subparagraph (A) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

(8) ELIGIBILITY FOR LEGAL SERVICES.—Section 504(a)(11) of Public Law 104–134 (110 Stat. 1321–53 et seq.) shall not be construed to prevent a recipient of funds under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) from providing legal assistance directly related to an application for adjustment of status under this section.

(9) APPLICATION FEES.—

(A) FEE SCHEDULE.—The Secretary shall provide for a schedule of fees that—

(i) shall be charged for the filing of applications for status under subsections (a) and (c); and

(ii) may be charged by qualified designated entities to help defray the costs of services provided to such applicants.

(B) PROHIBITION ON EXCESS FEES BY QUALIFIED DESIGNATED ENTITIES.—A qualified designated entity may not charge any fee in excess of, or in addition to, the fees authorized under subparagraph (A)(ii) for services provided to applicants.

(C) DISPOSITION OF FEES.—

(i) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the ''Agricultural Worker Immigration Status Adjustment Account''. Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under subparagraph (A)(i).

(ii) USE OF FEES FOR APPLICATION PROCESSING.—Amounts deposited in the ''Agricultural Worker Immigration Status Adjustment Account'' shall remain available to the Secretary until expended for processing applications for status under subsections (a) and (c).

(e) WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR INADMISSIBILITY.—

(1) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act (8 U.S.C. 1151 and 1152) shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

(2) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—In the determination of an alien's eligibility for status under subsection (a)(1)(C) or an alien's eligibility for adjustment of status under subsection (c)(1)(B)(ii)(I), the following rules shall apply:

(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(B) WAIVER OF OTHER GROUNDS.—

(i) IN GENERAL.—Except as provided in clause (ii), the Secretary may waive any other provision of such section 212(a) in the case of individual aliens for humanitarian purposes, to ensure family unity, or when it is otherwise in the public interest.

(ii) GROUNDS THAT MAY NOT BE WAIVED.—The following provisions of such section 212(a) may not be waived by the Secretary under clause (i):

(I) Subparagraphs (A) and (B) of paragraph (2) (relating to criminals).

(II) Paragraph (4) (relating to aliens likely to become public charges).

(III) Paragraph (2)(C) (relating to drug offenses).

(IV) Paragraph (3) (relating to security and related grounds).

(iii) CONSTRUCTION.—Nothing in this subparagraph shall be construed as affecting the authority of the Secretary other than under this subparagraph to waive provisions of such section 212(a).

(C) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for status under this section by reason of a ground of inadmissibility under section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

(f) TEMPORARY STAY OF REMOVAL AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

(1) BEFORE APPLICATION PERIOD.—Effective on the date of enactment of this Act, the Secretary shall provide that, in the case of an alien who is apprehended before the beginning of the application period described in subsection (a)(1)(B) and who can establish a nonfrivolous case of eligibility for temporary resident status under subsection (a) (but for the fact that the alien may not apply for such status until the beginning of

such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for temporary resident status, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an ''employment authorized'' endorsement or other appropriate work permit for such purpose.

(2) DURING APPLICATION PERIOD.—The Secretary shall provide that, in the case of an alien who presents a nonfrivolous application for temporary resident status under subsection (a) during the application period described in subsection (a)(1)(B), including an alien who files such an application within 30 days of the alien's apprehension, and until a final determination on the application has been made in accordance with this section, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an ''employment authorized'' endorsement or other appropriate work permit for such purpose.

(g) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(1) IN GENERAL.—There shall be no administrative or judicial review of a determination respecting an application for status under subsection (a) or (c) except in accordance with this subsection.

(2) ADMINISTRATIVE REVIEW.—

(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

(B) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

(3) JUDICIAL REVIEW.—

(A) LIMITATION TO REVIEW OF REMOVAL.—There shall be judicial review of such a determination only in the judicial review of an order of removal under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

(B) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

(h) DISSEMINATION OF INFORMATION ON ADJUSTMENT PROGRAM.—Beginning not later than the 1st day of the application period described in subsection (a)(1)(B), the Secretary, in cooperation with qualified designated entities, shall broadly disseminate information respecting the benefits that aliens may receive under this section and the requirements to be satisfied to obtain such benefits.

(i) REGULATIONS.—The Secretary shall issue regulations to implement this section not later than the 1st day of the 7th month that begins after the date of enactment of this Act.

(j) EFFECTIVE DATE.—This section shall take effect on the date that regulations are issued implementing this section on an interim or other basis.

(k) FUNDING.—There are hereby appropriated, out of any money in the Treasury not otherwise appropriated, $40,000,000 for each of fiscal years 2004 through 2007 to the Secretary to carry out this section.

SEC. 102. CORRECTION OF SOCIAL SECURITY RECORDS.

(a) IN GENERAL.—Section 208(d)(1) of the Social Security Act (42 U.S.C. 408(d)(1)) is amended—

(1) in subparagraph (B)(ii), by striking ''or'' at the end;

(2) in subparagraph (C), by inserting ''or'' at the end;

(3) by inserting after subparagraph (C) the following:

''(D) who is granted status as a lawful temporary resident under the Agricultural Job Opportunity, Benefits, and Security Act of 2003,''; and

(4) by striking ''1990.'' and inserting ''1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred prior to the date on which the alien was granted lawful temporary resident status.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the 1st day of the 7th month that begins after the date of enactment of this Act.

TITLE II—REFORM OF H–2A WORKER PROGRAM

SEC. 201. AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by striking section 218 (8 U.S.C. 1188) and inserting the following:

''H–2A EMPLOYER APPLICATIONS

''SEC. 218. (a) APPLICATIONS TO THE SECRETARY OF LABOR.—

''(1) IN GENERAL.—No alien may be admitted to the United States as an H–2A worker, or otherwise provided status as an H–2A worker, unless the employer has filed with the Secretary of Labor an application containing—

''(A) the assurances described in subsection (b);

''(B) a description of the nature and location of the work to be performed;

''(C) the anticipated period (expected beginning and ending dates) for which the workers will be needed; and

''(D) the number of job opportunities in which the employer seeks to employ the workers.

''(2) ACCOMPANIED BY JOB OFFER.—Each application filed under paragraph (1) shall be accompanied by a copy of the job offer describing the wages and other terms and conditions of employment and the bona fide occupational qualifications that must be possessed by a worker to be employed in the job opportunity in question.

''(b) ASSURANCES FOR INCLUSION IN APPLICATIONS.—The assurances referred to in subsection (a)(1) are the following:

''(1) JOB OPPORTUNITIES COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is covered under a collective bargaining agreement:

''(A) UNION CONTRACT DESCRIBED.—The job opportunity is covered by a union contract which was negotiated at arm's length between a bona fide union and the employer.

''(B) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

''(C) NOTIFICATION OF BARGAINING REPRESENTATIVES.—The employer, at the time of filing the application, has provided notice of the filing under this paragraph to the bargaining representative of the employer's employees in the occupational classification at the place or places of employment for which aliens are sought.

''(D) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

''(E) OFFERS TO UNITED STATES WORKERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or the nonimmigrants are, sought and who will be available at the time and place of need.

''(F) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

''(2) JOB OPPORTUNITIES NOT COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is not covered under a collective bargaining agreement:

''(A) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

''(B) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

''(C) BENEFIT, WAGE, AND WORKING CONDITIONS.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by section 218A to all workers employed in the job opportunities for which the employer has applied under subsection (a) and to all other workers in the same occupation at the place of employment.

''(D) NONDISPLACEMENT OF UNITED STATES WORKERS.—The employer did not displace and will not displace a United States worker employed by the employer during the period of employment and for a period of 30 days preceding the period of employment in the occupation at the place of employment for which the employer seeks approval to employ H–2A workers.

''(E) REQUIREMENTS FOR PLACEMENT OF NONIMMIGRANT WITH OTHER EMPLOYERS.—The employer will not place the nonimmigrant with another employer unless—

''(i) the nonimmigrant performs duties in whole or in part at 1 or more work sites owned, operated, or controlled by such other employer;

''(ii) there are indicia of an employment relationship between the nonimmigrant and such other employer; and

''(iii) the employer has inquired of the other employer as to whether, and has no actual knowledge or notice that, during the period of employment and for a period of 30 days preceding the period of employment, the other employer has displaced or intends to displace a United States worker employed by the other employer in the occupation at the place of employment for which the employer seeks approval to employ H–2A workers.

''(F) STATEMENT OF LIABILITY.—The application form shall include a clear statement explaining the liability under subparagraph (E) of an employer if the other employer described in such subparagraph displaces a United States worker as described in such subparagraph.

''(G) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

''(H) EMPLOYMENT OF UNITED STATES WORKERS.—

''(i) RECRUITMENT.—The employer has taken or will take the following steps to recruit United States workers for the job opportunities for which the H–2A nonimmigrant is, or H–2A nonimmigrants are, sought:

''(I) CONTACTING FORMER WORKERS.—The employer shall make reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any United States worker the employer employed during the previous season in the occupation at the place of intended employment for which the employer is applying for workers and has made the availability of the employer's job opportunities in the occupation at the place of intended employment known to such previous workers, unless the worker was terminated from employment by the employer for a lawful job-related reason or abandoned the job before the worker completed the period of employment of the job opportunity for which the worker was hired.

''(II) FILING A JOB OFFER WITH THE LOCAL OFFICE OF THE STATE EMPLOYMENT SECURITY AGENCY.—Not later than 28 days prior to the date on which the employer desires to employ an H–2A worker in a temporary or seasonal agricultural job opportunity, the employer shall submit a copy of the job offer described in subsection (a)(2) to the local office of the State employment security agency which serves the area of intended employment and authorize the posting of the job opportunity on 'America's Job Bank' or other electronic job registry, except that nothing in this subclause shall require the employer to file an interstate job order under section 653 of title 20, Code of Federal Regulations.

''(III) ADVERTISING OF JOB OPPORTUNITIES.—Not later than 14 days prior to the date on which the employer desires to employ an H–2A worker in a temporary or seasonal agricultural job opportunity, the employer shall advertise the availability of the job opportunities for which the employer is seeking workers in a publication in the local labor market that is likely to be patronized by potential farm workers.

''(IV) EMERGENCY PROCEDURES.—The Secretary of Labor shall, by regulation, provide a procedure for acceptance and approval of applications in which the employer has not complied with the provisions of this subparagraph because the employer's need for H–2A workers could not reasonably have been foreseen.

''(ii) JOB OFFERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or nonimmigrants are, sought and who will be available at the time and place of need.

''(iii) PERIOD OF EMPLOYMENT.—The employer will provide employment to any qualified United States worker who applies to the employer during the period beginning on the date on which the foreign worker departs for the employer's place of employment and ending on the date on which 50 percent of the period of employment for which the foreign worker who is in the job was hired has elapsed, subject to the following requirements:

''(I) PROHIBITION.—No person or entity shall willfully and knowingly withhold United States workers prior to the arrival of H–2A workers in order to force the hiring of United States workers under this clause.

''(II) COMPLAINTS.—Upon receipt of a complaint by an employer that a violation of subclause (I) has occurred, the Secretary of Labor shall immediately investigate. The Secretary of Labor shall, within 36 hours of the receipt of the complaint, issue findings concerning the alleged violation. If the Secretary of Labor finds that a violation has occurred, the Secretary of Labor shall immediately suspend the application of this clause with respect to that certification for that date of need.

''(III) PLACEMENT OF UNITED STATES WORKERS.—Prior to referring a United States worker to an employer during the period described in the matter preceding subclause (I), the Secretary of Labor shall make all reasonable efforts to place the United States worker in an open job acceptable to the worker, if there are other job offers pending with the job service that offer similar job opportunities in the area of intended employment.

''(iv) STATUTORY CONSTRUCTION.—Nothing in this subparagraph shall be construed to prohibit an employer from using such legitimate selection criteria relevant to the type of job that are normal or customary to the type of job involved so long as such criteria are not applied in a discriminatory manner.

''(c) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—

''(1) IN GENERAL.—An agricultural association may file an application under subsection (a) on behalf of 1 or more of its employer members that the association certifies in its application has or have agreed in writing to comply with the requirements of this section and sections 218A through 218C.

''(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association filing an application under paragraph (1) is a joint or sole employer of the temporary or seasonal agricultural workers requested on the application, the certifications granted under subsection (e)(2)(B) to the association may be used for the certified job opportunities of any of its producer members named on the application, and such workers may be transferred among such producer members to perform the agricultural services of a temporary or seasonal nature for which the certifications were granted.

''(d) WITHDRAWAL OF APPLICATIONS.—

''(1) IN GENERAL.—An employer may withdraw an application filed pursuant to subsection (a), except that if the employer is an agricultural association, the association may withdraw an application filed pursuant to subsection (a) with respect to 1 or more of its members. To withdraw an application, the employer or association shall notify the Secretary of Labor in writing, and the Secretary of Labor shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

''(2) LIMITATION.—An application may not be withdrawn while any alien provided status under section 101(a)(15)(H)(ii)(a) pursuant to such application is employed by the employer.

''(3) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by an employer under any other law or regulation as a result of the recruitment of United States workers or H–2A workers under an offer of terms and conditions of employment required as a result of making an application under subsection (a) is unaffected by withdrawal of such application.

''(e) REVIEW AND APPROVAL OF APPLICATIONS.—

''(1) RESPONSIBILITY OF EMPLOYERS.—The employer shall make available for public examination, within 1 working day after the date on which an application under subsection (a) is filed, at the employer's principal place of business or work site, a copy of each such application (and such accompanying documents as are necessary).

''(2) RESPONSIBILITY OF THE SECRETARY OF LABOR.—

''(A) COMPILATION OF LIST.—The Secretary of Labor shall compile, on a current basis, a list (by employer and by occupational classification) of the applications filed under this subsection. Such list shall include the wage rate, number of workers sought, period of intended employment, and date of need. The Secretary of Labor shall make such list available for examination in the District of Columbia.

''(B) REVIEW OF APPLICATIONS.—The Secretary of Labor shall review such an application only for completeness and obvious inaccuracies. Unless the Secretary of Labor finds that the application is incomplete or obviously inaccurate, the Secretary of Labor shall certify that the intending employer has filed with the Secretary of Labor an application as described in subsection (a). Such certification shall be provided within 7 days of the filing of the application.

''H–2A EMPLOYMENT REQUIREMENTS

''SEC. 218A. (a) PREFERENTIAL TREATMENT OF ALIENS PROHIBITED.—Employers seeking to hire United States workers shall offer the United States workers no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H–2A workers. Conversely, no job offer may impose on United States workers any restrictions or obligations which will not be imposed on the employer's H–2A workers.

''(b) MINIMUM BENEFITS, WAGES, AND WORKING CONDITIONS.—Except in cases where higher benefits, wages, or working conditions are required by the provisions of subsection (a), in order to protect similarly employed United States workers from adverse effects with respect to benefits, wages, and working conditions, every job offer which must accompany an application under section 218 shall include each of the following benefit, wage, and working condition provisions:

''(1) REQUIREMENT TO PROVIDE HOUSING OR A HOUSING ALLOWANCE.—

''(A) IN GENERAL.—An employer applying under section 218(a) for H–2A workers shall offer to provide housing at no cost to all workers in job opportunities for which the employer has applied under that section and to all other workers in the same occupation at the place of employment, whose place of residence is beyond normal commuting distance.

''(B) TYPE OF HOUSING.—In complying with subparagraph (A), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation. In the absence of applicable local or State standards, Federal temporary labor camp standards shall apply.

''(C) FAMILY HOUSING.—When it is the prevailing practice in the occupation and area of intended employment to provide family housing, family housing shall be provided to workers with families who request it.

''(D) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

''(E) LIMITATION.—Nothing in this paragraph shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

''(F) CHARGES FOR HOUSING.—

''(i) CHARGES FOR PUBLIC HOUSING.—If public housing provided for migrant agricultural workers under the auspices of a local, county, or State government is secured by an employer, and use of the public housing unit normally requires charges from migrant workers, such charges shall be paid by the employer directly to the appropriate individual or entity affiliated with the housing's management.

''(ii) DEPOSIT CHARGES.—Charges in the form of deposits for bedding or other similar incidentals related to housing shall not be levied upon workers by employers who provide housing for their workers. However, an employer may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

''(G) HOUSING ALLOWANCE AS ALTERNATIVE.—

''(i) IN GENERAL.—In lieu of offering housing pursuant to subparagraph (A), the employer may provide a reasonable housing allowance, but only if the requirement of clause (ii) is satisfied. Upon the request of a worker seeking assistance in locating housing, the employer shall make a good faith effort to assist the worker in identifying and locating housing in the area of intended employment. An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this clause shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance. However, no housing allowance may be used for housing which is owned or controlled by the employer.

''(ii) CERTIFICATION.—The requirement of this clause is satisfied if the Governor of the State certifies to the Secretary of Labor that there is adequate housing available in the area of intended employment for migrant farm workers, and H–2A workers, who are seeking temporary housing while employed at farm work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

''(iii) AMOUNT OF ALLOWANCE.—

''(I) NONMETROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this subparagraph is a nonmetropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(II) METROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this paragraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for metropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(2) REIMBURSEMENT OF TRANSPORTATION.—

''(A) TO PLACE OF EMPLOYMENT.—A worker who completes 50 percent of the period of employment of the job opportunity for which the worker was hired shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker came to work for the employer (or place of last employment, if the worker traveled from such place) to the place of employment.

''(B) FROM PLACE OF EMPLOYMENT.—A worker who completes the period of employment for the job opportunity involved shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place of employment to the place from which the worker, disregarding intervening employment, came to work for the employer, or to the place of next employment, if the worker has contracted with a subsequent employer who has not agreed to provide or pay for the worker's transportation and subsistence to such subsequent employer's place of employment.

''(C) LIMITATION.—

''(i) AMOUNT OF REIMBURSEMENT.—Except as provided in clause (ii), the amount of reimbursement provided under subparagraph (A) or (B) to a worker or alien shall not exceed the lesser of—

''(I) the actual cost to the worker or alien of the transportation and subsistence involved; or

''(II) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

''(ii) DISTANCE TRAVELED.—No reimbursement under subparagraph (A) or (B) shall be required if the distance traveled is 100 miles or less, or the worker is not residing in employer-provided housing or housing secured through an allowance as provided in paragraph (1)(G).

''(D) EARLY TERMINATION.—If the worker is laid off or employment is terminated for contract impossibility (as described in paragraph (4)(D)) before the anticipated ending date of employment, the employer shall provide the transportation and subsistence required by subparagraph (B) and, notwithstanding whether the worker has completed 50 percent of the period of employment, shall provide the transportation reimbursement required by subparagraph (A).

''(E) TRANSPORTATION BETWEEN LIVING QUARTERS AND WORK SITE.—The employer shall provide transportation between the worker's living quarters (i.e., housing provided by the employer pursuant to paragraph (1), including housing provided through a housing allowance) and the employer's work site without cost to the worker, and such transportation will be in accordance with applicable laws and regulations.

''(3) REQUIRED WAGES.—

''(A) IN GENERAL.—An employer applying for workers under section 218(a) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate. No worker shall be paid less than the greater of the hourly wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State minimum wage.

''(B) LIMITATION.—Effective on the date of enactment of the Agricultural Job Opportunity, Benefits, and Security Act of 2003 and continuing for 3 years thereafter, no adverse effect wage rate for a State may be more than the adverse effect wage rate for that State in effect on January 1, 2003, as established by section 655.107 of title 20, Code of Federal Regulations.

''(C) REQUIRED WAGES AFTER 3-YEAR FREEZE.—

''(i) FIRST ADJUSTMENT.—Unless Congress acts to set a new wage standard applicable to this section, effective on December 1, 2006, the adverse effect wage rate then in effect shall be adjusted by the 12 month percentage change in the Consumer Price Index for All Urban Consumers between December of the preceding year and December of the second preceding year, except that such adjustment shall not exceed 4 percent.

''(ii) SUBSEQUENT ANNUAL ADJUSTMENTS.—Effective on March 1, 2007, and each March 1 thereafter, the adverse effect wage rate then in effect shall be adjusted in accordance with the requirements of clause (i).

''(D) DEDUCTIONS.—The employer shall make only those deductions from the worker's wages that are authorized by law or are reasonable and customary in the occupation and area of employment. The job offer shall specify all deductions not required by law which the employer will make from the worker's wages.

''(E) FREQUENCY OF PAY.—The employer shall pay the worker not less frequently than twice monthly, or in accordance with the prevailing practice in the area of employment, whichever is more frequent.

''(F) HOURS AND EARNINGS STATEMENTS.—The employer shall furnish to the worker, on or before each payday, in one or more written statements the following information:

''(i) The worker's total earnings for the pay period.

''(ii) The worker's hourly rate of pay, piece rate of pay, or both.

''(iii) The hours of employment which have been offered to the worker (broken out by hours offered in accordance with and over and above the three-quarters guarantee described in paragraph (4)).

''(iv) The hours actually worked by the worker.

''(v) An itemization of the deductions made from the worker's wages.

''(vi) If piece rates of pay are used, the units produced daily.

''(G) REPORT ON WAGE PROTECTIONS.—Not later than June 1, 2007, the Resources, Community and Economic Development Division, and the Health, Education and Human Services Division, of the General Accounting Office shall jointly prepare and transmit to the Secretary of Labor and to the Committees on the Judiciary of the House of Representatives and the Senate a report which shall address—

''(i) whether the employment of H–2A or unauthorized aliens in the United States agricultural work force has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

''(ii) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

''(iii) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

''(iv) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage; and

''(v) recommendations for future wage protection under this section.

''(H) COMMISSION ON WAGE STANDARDS.—

''(i) ESTABLISHMENT.—There is established the Commission on Agricultural Wage Standards under the H–2A program (in this subparagraph referred to as the 'Commission').

''(ii) COMPOSITION.—The Commission shall consist of 10 members as follows:

''(I) 4 representatives of agricultural employers and 1 representative of the Department of Agriculture, each appointed by the Secretary of Agriculture.

''(II) 4 representatives of agricultural workers and 1 representative of the Department of Labor, each appointed by the Secretary of Labor.

''(iii) FUNCTIONS.—The Commission shall conduct a study that shall address—

''(I) whether the employment of H–2A or unauthorized aliens in the United States agricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

''(II) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

''(III) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

''(IV) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage rate; and

''(V) recommendations for future wage protection under this section.

''(iv) FINAL REPORT.—Not later than June 1, 2007, the Commission shall submit a report to the Congress setting forth the findings of the study conducted under clause (iii).

''(v) TERMINATION DATE.—The Commission shall terminate upon submitting its final report.

''(4) GUARANTEE OF EMPLOYMENT.—

''(A) OFFER TO WORKER.—The employer shall guarantee to offer the worker employment for the hourly equivalent of at least three-fourths of the work days of the total period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer. For purposes of this subparagraph, the hourly equivalent means the number of hours in the work days as stated in the job offer and shall exclude the worker's Sabbath and Federal holidays. If the employer affords the United States or H–2A worker less employment than that required under this paragraph, the employer shall pay such worker the amount which the worker would have earned had the worker, in fact, worked for the guaranteed number of hours.

''(B) FAILURE TO WORK.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker's Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

''(C) ABANDONMENT OF EMPLOYMENT, TERMINATION FOR CAUSE.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the 'three-fourths guarantee' described in subparagraph (A).

''(D) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required for reasons beyond the control of the employer due to any form of natural disaster, including but not limited to a flood, hurricane, freeze, earthquake, fire, drought, plant or animal disease or pest infestation, or regulatory drought, before the guarantee in subparagraph (A) is fulfilled, the employer may terminate the worker's employment. In the event of such termination, the employer shall fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed from the first work day after the arrival of the worker to the termination of employment. In such cases, the employer will make efforts to transfer the United States worker to other comparable employment acceptable to the worker. If such transfer is not effected, the employer shall provide the return transportation required in paragraph (2)(D).

''(5) MOTOR VEHICLE SAFETY.—

''(A) MODE OF TRANSPORTATION SUBJECT TO COVERAGE.—

''(i) IN GENERAL.—Except as provided in clauses (iii) and (iv), this subsection applies to any H–2A employer that uses or causes to be used any vehicle to transport an H–2A worker within the United States.

''(ii) USES OR CAUSES TO BE USED.—(I) In this subsection, the term 'uses or causes to be used' applies only to transportation provided by an H–2A employer to an H–2A worker, or by a farm labor contractor to an H–2A worker at the request or direction of an H–2A employer.

''(II) The term 'uses or causes to be used' does not apply to—

''(aa) transportation provided, or transportation arrangements made, by an H–2A worker himself or herself, unless the employer specifically requested or arranged such transportation; or

''(bb) carpooling arrangements made by H–2A workers themselves, using one of the workers' own vehicles, unless specifically requested by the employer directly or through a farm labor contractor.

''(III) The mere providing of a job offer by an employer to an H–2A worker that causes the worker to travel to or from the place of employment, or the payment or reimbursement of the transportation costs of an H–2A worker by an H–2A employer, shall not constitute an arrangement of, or participation in, such transportation.

''(iii) AGRICULTURAL MACHINERY AND EQUIPMENT EXCLUDED.—This subsection does not apply to the transportation of an H–2A worker on a tractor, combine, harvester, picker, or other similar machinery or equipment while such worker is actually engaged in the planting, cultivating, or harvesting of agricultural commodities or the care of livestock or poultry or engaged in transportation incidental thereto.

''(iv) COMMON CARRIERS EXCLUDED.—This subsection does not apply to common carrier motor vehicle transportation in which the provider holds itself out to the general public as engaging in the transportation of passengers for hire and holds a valid certification of authorization for such purposes from an appropriate Federal, State, or local agency.

''(B) APPLICABILITY OF STANDARDS, LICENSING, AND INSURANCE REQUIREMENTS.—

''(i) IN GENERAL.—When using, or causing to be used, any vehicle for the purpose of providing transportation to which this subparagraph applies, each employer shall—

''(I) ensure that each such vehicle conforms to the standards prescribed by the Secretary of Labor under section 401(b) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)) and other applicable Federal and State safety standards;

''(II) ensure that each driver has a valid and appropriate license, as provided by State law, to operate the vehicle; and

''(III) have an insurance policy or a liability bond that is in effect which insures the employer against liability for damage to persons or property arising from the ownership, operation, or causing to be operated, of any vehicle used to transport any H–2A worker.

''(ii) AMOUNT OF INSURANCE REQUIRED.—The level of insurance required shall be determined by the Secretary of Labor pursuant to regulations to be issued under this subsection.

''(iii) EFFECT OF WORKERS' COMPENSATION COVERAGE.—If the employer of any H–2A worker provides workers' compensation coverage for such worker in the case of bodily injury or death as provided by State law, the following adjustments in the requirements of subparagraph (B)(i)(III) relating to having an insurance policy or liability bond apply:

''(I) No insurance policy or liability bond shall be required of the employer, if such workers are transported only under circumstances for which there is coverage under such State law.

''(II) An insurance policy or liability bond shall be required of the employer for circumstances under which coverage for the transportation of such workers is not provided under such State law.

''(c) COMPLIANCE WITH LABOR LAWS.—An employer shall assure that, except as otherwise provided in this section, the employer will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer, except that a violation of this assurance shall not constitute a violation of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

''(d) COPY OF JOB OFFER.—The employer shall provide to the worker, not later than the day the work commences, a copy of the employer's application and job offer described in section 218(a), or, if the employer will require the worker to enter into a separate employment contract covering the employment in question, such separate employment contract.

''(e) RANGE PRODUCTION OF LIVESTOCK.—Nothing in this section or sections 218 or 218B shall preclude the Secretary of Labor and the Secretary from continuing to apply special procedures and requirements to the admission and employment of aliens in occupations involving the range production of livestock.

''PROCEDURE FOR ADMISSION AND EXTENSION OF STAY OF H–2A WORKERS

''SEC. 218B. (a) PETITIONING FOR ADMISSION.—An employer, or an association acting as an agent or joint employer for its members, that seeks the admission into the United States of an H–2A worker may file a petition with the Secretary. The petition shall be accompanied by an accepted and currently valid certification provided by the Secretary of Labor under section 218(e)(2)(B) covering the petitioner.

''(b) EXPEDITED ADJUDICATION BY THE SECRETARY.—The Secretary shall establish a procedure for expedited adjudication of petitions filed under subsection (a) and within 7 working days shall, by fax, cable, or other means assuring expedited delivery, transmit a copy of notice of action on the petition to the petitioner and, in the case of approved petitions, to the appropriate immigration officer at the port of entry or United States consulate (as the case may be) where the petitioner has indicated that the alien beneficiary (or beneficiaries) will apply for a visa or admission to the United States.

''(c) CRITERIA FOR ADMISSIBILITY.—

''(1) IN GENERAL.—An H–2A worker shall be considered admissible to the United States if

the alien is otherwise admissible under this section, section 218, and section 218A, and the alien is not ineligible under paragraph (2).

''(2) DISQUALIFICATION.—An alien shall be considered inadmissible to the United States and ineligible for nonimmigrant status under section 101(a)(15)(H)(ii)(a) if the alien has, at any time during the past 5 years—

''(A) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

''(B) otherwise violated a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

''(3) WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—

''(A) IN GENERAL.—An alien who has not previously been admitted into the United States pursuant to this section, and who is otherwise eligible for admission in accordance with paragraphs (1) and (2), shall not be deemed inadmissible by virtue of section 212(a)(9)(B). If an alien described in the preceding sentence is present in the United States, the alien may apply from abroad for H–2A status, but may not be granted that status in the United States.

''(B) MAINTENANCE OF WAIVER.—An alien provided an initial waiver of ineligibility pursuant to subparagraph (A) shall remain eligible for such waiver unless the alien violates the terms of this section or again becomes ineligible under section 212(a)(9)(B) by virtue of unlawful presence in the United States after the date of the initial waiver of ineligibility pursuant to subparagraph (A).

''(d) PERIOD OF ADMISSION.—

''(1) IN GENERAL.—The alien shall be admitted for the period of employment in the application certified by the Secretary of Labor pursuant to section 218(e)(2)(B), not to exceed 10 months, supplemented by a period of up to 1 week before the beginning of the period of employment (to be granted for the purpose of travel to the work site) and a period of 14 days following the period of employment (to be granted for the purpose of departure or extension based on a subsequent offer of employment), except that—

''(A) the alien is not authorized to be employed during such 14-day period except in the employment for which the alien was previously authorized; and

''(B) the total period of employment, including such 14-day period, may not exceed 10 months.

''(2) CONSTRUCTION.—Nothing in this subsection shall limit the authority of the Secretary to extend the stay of the alien under any other provision of this Act.

''(e) ABANDONMENT OF EMPLOYMENT.—

''(1) IN GENERAL.—An alien admitted or provided status under section 101(a)(15)(H)(ii)(a) who abandons the employment which was the basis for such admission or status shall be considered to have failed to maintain nonimmigrant status as an H–2A worker and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

''(2) REPORT BY EMPLOYER.—The employer (or association acting as agent for the employer) shall notify the Secretary within 7 days of an H–2A worker's having prematurely abandoned employment.

''(3) REMOVAL BY THE SECRETARY.—The Secretary shall promptly remove from the United States any H–2A worker who violates any term or condition of the worker's nonimmigrant status.

''(4) VOLUNTARY TERMINATION.—Notwithstanding paragraph (1), an alien may voluntarily terminate his or her employment if the alien promptly departs the United States upon termination of such employment.

''(f) REPLACEMENT OF ALIEN.—

''(1) IN GENERAL.—Upon presentation of the notice to the Secretary required by subsection (e)(2), the Secretary of State shall promptly issue a visa to, and the Secretary shall admit into the United States, an eligible alien designated by the employer to replace an H–2A worker—

''(A) who abandons or prematurely terminates employment; or

''(B) whose employment is terminated after a United States worker is employed pursuant to section 218(b)(2)(H)(iii), if the United States worker voluntarily departs before the end of the period of intended employment or if the employment termination is for a lawful job-related reason.

''(2) CONSTRUCTION.—Nothing in this subsection is intended to limit any preference required to be accorded United States workers under any other provision of this Act.

''(g) IDENTIFICATION DOCUMENT.—

''(1) IN GENERAL.—Each alien authorized to be admitted under section 101(a)(15)(H)(ii)(a) shall be provided an identification and employment eligibility document to verify eligibility for employment in the United States and verify such person's proper identity.

''(2) REQUIREMENTS.—No identification and employment eligibility document may be issued which does not meet the following requirements:

''(A) The document shall be capable of reliably determining whether—

''(i) the individual with the identification and employment eligibility document whose eligibility is being verified is in fact eligible for employment;

''(ii) the individual whose eligibility is being verified is claiming the identity of another person; and

''(iii) the individual whose eligibility is being verified is authorized to be admitted into, and employed in, the United States as an H–2A worker.

''(B) The document shall be in a form that is resistant to counterfeiting and to tampering.

''(C) The document shall—

''(i) be compatible with other databases of the Secretary for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

''(ii) be compatible with law enforcement databases to determine if the alien has been convicted of criminal offenses.

''(h) EXTENSION OF STAY OF H–2A ALIENS IN THE UNITED STATES.—

''(1) EXTENSION OF STAY.—If an employer seeks approval to employ an H–2A alien who is lawfully present in the United States, the petition filed by the employer or an association pursuant to subsection (a), shall request an extension of the alien's stay and a change in the alien's employment.

''(2) LIMITATION ON FILING A PETITION FOR EXTENSION OF STAY.—A petition may not be filed for an extension of an alien's stay—

''(A) for a period of more than 10 months; or

''(B) to a date that is more than 3 years after the date of the alien's last admission to the United States under this section.

''(3) WORK AUTHORIZATION UPON FILING A PETITION FOR EXTENSION OF STAY.—In the case of an alien who is lawfully present in the United States, the alien is authorized to commence the employment described in a petition under paragraph (1) on the date on which the petition is filed. For purposes of the preceding sentence, the term 'file' means sending the petition by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition. The employer shall provide a copy of the employer's petition to the alien, who shall keep the petition with the alien's identification and employment eligibility document as evidence that the petition has been filed and that the alien is authorized to work in the United States. Upon approval of a petition for an extension of stay or change in the alien's authorized employment, the Secretary shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.

''(4) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—An expired identification and employment eligibility document, together with a copy of a petition for extension of stay or change in the alien's authorized employment that complies with the requirements of paragraph (1), shall constitute a valid work authorization document for a period of not more than 60 days beginning on the date on which such petition is filed, after which time only a currently valid identification and employment eligibility document shall be acceptable.

''(5) LIMITATION ON AN INDIVIDUAL'S STAY IN STATUS.—

''(A) MAXIMUM PERIOD.—The maximum continuous period of authorized status as an H–2A worker (including any extensions) is 3 years.

''(B) REQUIREMENT TO REMAIN OUTSIDE THE UNITED STATES.—

''(i) IN GENERAL.—Subject to clause (ii), in the case of an alien outside the United States whose period of authorized status as an H–2A worker (including any extensions) has expired, the alien may not again apply for admission to the United States as an H–2A worker unless the alien has remained outside the United States for a continuous period equal to at least ⅕ the duration of the alien's previous period of authorized status as an H–2A worker (including any extensions).

''(ii) EXCEPTION.—Clause (i) shall not apply in the case of an alien if the alien's period of authorized status as an H–2A worker (including any extensions) was for a period of not more than 10 months and such alien has been outside the United States for at least 2 months during the 12 months preceding the date the alien again is applying for admission to the United States as an H–2A worker.

''(i) SPECIAL RULES FOR ALIENS EMPLOYED AS SHEEPHERDERS.—Notwithstanding any other provision of the Agricultural Job Opportunity, Benefits, and Security Act of 2003, aliens admitted under section 101(a)(15)(H)(ii)(a) for employment as sheepherders—

''(1) may be admitted for a period of 12 months;

''(2) may be extended for a continuous period of up to 3 years; and

''(3) shall not be subject to the requirements of subsection (h)(5) relating to periods of absence from the United States.

''WORKER PROTECTIONS AND LABOR STANDARDS ENFORCEMENT

''SEC. 218C. (a) ENFORCEMENT AUTHORITY.—

''(1) INVESTIGATION OF COMPLAINTS.—

''(A) AGGRIEVED PERSON OR THIRD-PARTY COMPLAINTS.—The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting a petitioner's failure to meet a condition specified in section 218(b), or an employer's misrepresentation of material facts in an application under section 218(a). Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be

conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure, or misrepresentation, respectively. The Secretary of Labor shall conduct an investigation under this subparagraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

''(B) DETERMINATION ON COMPLAINT.—Under such process, the Secretary of Labor shall provide, within 30 days after the date such a complaint is filed, for a determination as to whether or not a reasonable basis exists to make a finding described in subparagraph (C), (D), (E), or (H). If the Secretary of Labor determines that such a reasonable basis exists, the Secretary of Labor shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary of Labor shall make a finding concerning the matter not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same applicant, the Secretary of Labor may consolidate the hearings under this subparagraph on such complaints.

''(C) FAILURES TO MEET CONDITIONS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a condition of paragraph (1)(A), (1)(B), (1)(D), (1)(F), (2)(A), (2)(B), or (2)(G) of section 218(b), a substantial failure to meet a condition of paragraph (1)(C), (1)(E), (2)(C), (2)(D), (2)(E), or (2)(H) of section 218(b), or a material misrepresentation of fact in an application under section 218(a)—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $1,000 per violation) as the Secretary of Labor determines to be appropriate; and

''(ii) the Secretary may disqualify the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) for a period of 1 year.

''(D) WILLFUL FAILURES AND WILLFUL MISREPRESENTATIONS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b), a willful misrepresentation of a material fact in an application under section 218(a), or a violation of subsection (d)(1)—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $5,000 per violation) as the Secretary of Labor determines to be appropriate;

''(ii) the Secretary of Labor may seek appropriate legal or equitable relief to effectuate the purposes of subsection (d)(1); and

''(iii) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 2 years.

''(E) DISPLACEMENT OF UNITED STATES WORKERS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b) or a willful misrepresentation of a material fact in an application under section 218(a), in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer during the period of employment on the employer's application under section 218(a) or during the period of 30 days preceding such period of employment—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $15,000 per violation) as the Secretary of Labor determines to be appropriate; and

''(ii) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 3 years.

''(F) LIMITATIONS ON CIVIL MONEY PENALTIES.—The Secretary of Labor shall not impose total civil money penalties with respect to an application under section 218(a) in excess of $90,000.

''(G) FAILURES TO PAY WAGES OR REQUIRED BENEFITS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages, or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment, required under section 218A(b), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or H–2A worker employed by the employer in the specific employment in question. The back wages or other required benefits under section 218A(b) shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

''(2) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority of the Secretary of Labor to conduct any compliance investigation under any other labor law, including any law affecting migrant and seasonal agricultural workers, or, in the absence of a complaint under this section, under section 218 or 218A.

''(b) RIGHTS ENFORCEABLE BY PRIVATE RIGHT OF ACTION.—H–2A workers may enforce the following rights through the private right of action provided in subsection (c), and no other right of action shall exist under Federal or State law to enforce such rights:

''(1) The providing of housing or a housing allowance as required under section 218A(b)(1).

''(2) The reimbursement of transportation as required under section 218A(b)(2).

''(3) The payment of wages required under section 218A(b)(3) when due.

''(4) The benefits and material terms and conditions of employment expressly provided in the job offer described in section 218(a)(2), not including the assurance to comply with other Federal, State, and local labor laws described in section 218A(c), compliance with which shall be governed by the provisions of such laws.

''(5) The guarantee of employment required under section 218A(b)(4).

''(6) The motor vehicle safety requirements under section 218A(b)(5).

''(7) The prohibition of discrimination under subsection (d)(2).

''(c) PRIVATE RIGHT OF ACTION.—

''(1) MEDIATION.—Upon the filing of a complaint by an H–2A worker aggrieved by a violation of rights enforceable under subsection (b), and within 60 days of the filing of proof of service of the complaint, a party to the action may file a request with the Federal Mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute. Upon a filing of such request and giving of notice to the parties, the parties shall attempt mediation within the period specified in subparagraph (B).

''(A) MEDIATION SERVICES.—The Federal Mediation and Conciliation Service shall be available to assist in resolving disputes arising under subsection (b) between H–2A workers and agricultural employers without charge to the parties.

''(B) 90-DAY LIMIT.—The Federal Mediation and Conciliation Service may conduct mediation or other non-binding dispute resolution activities for a period not to exceed 90 days beginning on the date on which the Federal Mediation and Conciliation Service receives the request for assistance unless the parties agree to an extension of this period of time.

''(C) AUTHORIZATION.—There is hereby authorized to be appropriated annually not to exceed $500,000 to the Federal Mediation and Conciliation Service to carry out this section, provided that, any contrary provision of law notwithstanding, the Director of the Federal Mediation and Conciliation Service is authorized to conduct the mediation or other dispute resolution activities from any other appropriated funds available to the Director and to reimburse such appropriated funds when the funds are appropriated pursuant to this authorization, such reimbursement to be credited to appropriations currently available at the time of receipt thereof.

''(2) MAINTENANCE OF CIVIL ACTION IN DISTRICT COURT BY AGGRIEVED PERSON.—An H–2A worker aggrieved by a violation of rights enforceable under subsection (b) by an agricultural employer or other person may file suit in any district court of the United States having jurisdiction of the parties, without regard to the amount in controversy, without regard to the citizenship of the parties, and without regard to the exhaustion of any alternative administrative remedies under this Act, not later than 3 years after the date the violation occurs.

''(3) ELECTION.—An H–2A worker who has filed an administrative complaint with the Secretary of Labor may not maintain a civil action under paragraph (2) unless a complaint based on the same violation filed with the Secretary of Labor under subsection (a)(1) is withdrawn prior to the filing of such action, in which case the rights and remedies available under this subsection shall be exclusive.

''(4) PREEMPTION OF STATE CONTRACT RIGHTS.—Nothing in this Act shall be construed to diminish the rights and remedies of an H–2A worker under any other Federal or State law or regulation or under any collective bargaining agreement, except that no court or administrative action shall be available under any State contract law to enforce the rights created by this Act.

''(5) WAIVER OF RIGHTS PROHIBITED.—Agreements by employees purporting to waive or modify their rights under this Act shall be void as contrary to public policy, except that a waiver or modification of the rights or obligations in favor of the Secretary of Labor shall be valid for purposes of the enforcement of this Act. The preceding sentence may not be construed to prohibit agreements to settle private disputes or litigation.

''(6) AWARD OF DAMAGES OR OTHER EQUITABLE RELIEF.—

''(A) If the court finds that the respondent has intentionally violated any of the rights enforceable under subsection (b), it shall award actual damages, if any, or equitable relief.

''(B) Any civil action brought under this section shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

''(7) WORKERS' COMPENSATION BENEFITS; EXCLUSIVE REMEDY.—

''(A) Notwithstanding any other provision of this section, where a State's workers' compensation law is applicable and coverage is provided for an H–2A worker, the workers' compensation benefits shall be the exclusive remedy for the loss of such worker under this section in the case of bodily injury or death in accordance with such State's workers' compensation law.

''(B) The exclusive remedy prescribed in subparagraph (A) precludes the recovery under paragraph (6) of actual damages for

loss from an injury or death but does not preclude other equitable relief, except that such relief shall not include back or front pay or in any manner, directly or indirectly, expand or otherwise alter or affect—

''(i) a recovery under a State workers' compensation law; or

''(ii) rights conferred under a State workers' compensation law.

''(8) TOLLING OF STATUTE OF LIMITATIONS.—If it is determined under a State workers' compensation law that the workers' compensation law is not applicable to a claim for bodily injury or death of an H–2A worker, the statute of limitations for bringing an action for actual damages for such injury or death under subsection (c) shall be tolled for the period during which the claim for such injury or death under such State workers' compensation law was pending. The statute of limitations for an action for actual damages or other equitable relief arising out of the same transaction or occurrence as the injury or death of the H–2A worker shall be tolled for the period during which the claim for such injury or death was pending under the State workers' compensation law.

''(9) PRECLUSIVE EFFECT.—Any settlement by an H–2A worker and H–2A employer reached through the mediation process required under subsection (c)(1) shall preclude any right of action arising out of the same facts between the parties in any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

''(10) SETTLEMENTS.—Any settlement by the Secretary of Labor with an H–2A employer on behalf of an H–2A worker of a complaint filed with the Secretary of Labor under this section or any finding by the Secretary of Labor under subsection (a)(1)(B) shall preclude any right of action arising out of the same facts between the parties under any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

''(d) DISCRIMINATION PROHIBITED.—

''(1) IN GENERAL.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against an employee (which term, for purposes of this subsection, includes a former employee and an applicant for employment) because the employee has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of section 218 or 218A or any rule or regulation pertaining to section 218 or 218A, or because the employee cooperates or seeks to cooperate in an investigation or other proceeding concerning the employer's compliance with the requirements of section 218 or 218A or any rule or regulation pertaining to either of such sections.

''(2) DISCRIMINATION AGAINST H-2A WORKERS.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against an H–2A employee because such worker has, with just cause, filed a complaint with the Secretary of Labor regarding a denial of the rights enumerated and enforceable under subsection (b) or instituted, or caused to be instituted, a private right of action under subsection (c) regarding the denial of the rights enumerated under subsection (b), or has testified or is about to testify in any court proceeding brought under subsection (c).

''(e) AUTHORIZATION TO SEEK OTHER APPROPRIATE EMPLOYMENT.—The Secretary of Labor and the Secretary shall establish a process under which an H–2A worker who files a complaint regarding a violation of subsection (d) and is otherwise eligible to remain and work in the United States may be allowed to seek other appropriate employment in the United States for a period not to exceed the maximum period of stay authorized for such nonimmigrant classification.

''(f) ROLE OF ASSOCIATIONS.—

''(1) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf an application is filed by an association acting as its agent is fully responsible for such application, and for complying with the terms and conditions of sections 218 and 218A, as though the employer had filed the application itself. If such an employer is determined, under this section, to have committed a violation, the penalty for such violation shall apply only to that member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowledge, or reason to know, of the violation, in which case the penalty shall be invoked against the association or other association member as well.

''(2) VIOLATIONS BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application as a sole or joint employer is determined to have committed a violation under this section, the penalty for such violation shall apply only to the association unless the Secretary of Labor determines that an association member or members participated in or had knowledge, or reason to know of the violation, in which case the penalty shall be invoked against the association member or members as well.

''DEFINITIONS

''SEC. 218D. For purposes of sections 218 through 218C:

''(1) AGRICULTURAL EMPLOYMENT.—The term 'agricultural employment' means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)). For purposes of this paragraph, agricultural employment includes employment under section 101(a)(15)(H)(ii)(a).

''(2) BONA FIDE UNION.—The term 'bona fide union' means any organization in which employees participate and which exists for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of work for agricultural employees. Such term does not include an organization formed, created, administered, supported, dominated, financed, or controlled by an employer or employer association or its agents or representatives.

''(3) DISPLACE.—In the case of an application with respect to 1 or more H–2A workers by an employer, the employer is considered to 'displace' a United States worker from a job if the employer lays off the worker from a job for which the H–2A worker or workers is or are sought.

''(4) ELIGIBLE.—The term 'eligible', when used with respect to an individual, means an individual who is not an unauthorized alien (as defined in section 274A(h)(3)).

''(5) EMPLOYER.—The term 'employer' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

''(6) H–2A EMPLOYER.—The term 'H–2A employer' means an employer who seeks to hire 1 or more nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a).

''(7) H–2A WORKER.—The term 'H–2A worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

''(8) JOB OPPORTUNITY.—The term 'job opportunity' means a job opening for temporary full-time employment at a place in the United States to which United States workers can be referred.

''(9) LAYS OFF.—

''(A) IN GENERAL.—The term 'lays off', with respect to a worker—

''(i) means to cause the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, contract impossibility (as described in section 218A(b)(4)(D)), or temporary layoffs due to weather, markets, or other temporary conditions; but

''(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under section 218(b)(2)(E), with either employer described in such section) at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

''(B) STATUTORY CONSTRUCTION.—Nothing in this paragraph is intended to limit an employee's rights under a collective bargaining agreement or other employment contract.

''(10) REGULATORY DROUGHT.—The term 'regulatory drought' means a decision subsequent to the filing of the application under section 218 by an entity not under the control of the employer making such filing which restricts the employer's access to water for irrigation purposes and reduces or limits the employer's ability to produce an agricultural commodity, thereby reducing the need for labor.

''(11) SEASONAL.—Labor is performed on a 'seasonal' basis if—

(A) ordinarily, it pertains to or is of the kind exclusively performed at certain seasons or periods of the year; and

(B) from its nature, it may not be continuous or carried on throughout the year.

''(12) SECRETARY.—The term 'Secretary' means the Secretary of Homeland Security.

''(13) TEMPORARY.—A worker is employed on a 'temporary' basis where the employment is intended not to exceed 10 months.

''(14) UNITED STATES WORKER.—The term 'United States worker' means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a).''.

(b) TABLE OF CONTENTS.—The table of contents of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by striking the item relating to section 218 and inserting the following:

''Sec. 218. H–2A employer applications.
''Sec. 218A. H–2A employment requirements.
''Sec. 218B. Procedure for admission and extension of stay of H–2A workers.
''Sec. 218C. Worker protections and labor standards enforcement.
''Sec. 218D. Definitions.''.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. DETERMINATION AND USE OF USER FEES.

(a) SCHEDULE OF FEES.—The Secretary shall establish and periodically adjust a schedule of fees for the employment of aliens under this Act, and a collection process for such fees from employers participating in the program provided under this Act. Such fees shall be the only fees chargeable to employers for services provided under this Act.

(b) DETERMINATION OF SCHEDULE.—

(1) IN GENERAL.—The schedule under subsection (a) shall reflect a fee rate based on

the number of job opportunities indicated in the employer's application under section 218 of the Immigration and Nationality Act, as added by section 201 of this Act, and sufficient to provide for the direct costs of providing services related to an employer's authorization to employ eligible aliens pursuant to this Act, to include the certification of eligible employers, the issuance of documentation, and the admission of eligible aliens.

(2) PROCEDURE.—

(A) IN GENERAL.—In establishing and adjusting such a schedule, the Secretary shall comply with Federal cost accounting and fee setting standards.

(B) PUBLICATION AND COMMENT.—The Secretary shall publish in the Federal Register an initial fee schedule and associated collection process and the cost data or estimates upon which such fee schedule is based, and any subsequent amendments thereto, pursuant to which public comment shall be sought and a final rule issued.

(c) USE OF PROCEEDS.—Notwithstanding any other provision of law, all proceeds resulting from the payment of the alien employment user fees shall be available without further appropriation and shall remain available without fiscal year limitation to reimburse the Secretary, the Secretary of State, and the Secretary of Labor for the costs of carrying out sections 218 and 218B of the Immigration and Nationality Act, as added by section 201 of this Act, and the provisions of this Act.

SEC. 302. REGULATIONS.

(a) REGULATIONS OF THE SECRETARY.—The Secretary shall consult with the Secretary of Labor and the Secretary of Agriculture on all regulations to implement the duties of the Secretary under this Act.

(b) REGULATIONS OF THE SECRETARY OF STATE.—The Secretary of State shall consult with the Secretary, the Secretary of Labor, and the Secretary of Agriculture on all regulations to implement the duties of the Secretary of State under this Act.

(c) REGULATIONS OF THE SECRETARY OF LABOR.—The Secretary of Labor shall consult with the Secretary of Agriculture and the Secretary on all regulations to implement the duties of the Secretary of Labor under this Act.

(d) DEADLINE FOR ISSUANCE OF REGULATIONS.—All regulations to implement the duties of the Secretary, the Secretary of State, and the Secretary of Labor created under sections 218, 218A, 218B, and 218C of the Immigration and Nationality Act, as added by section 201, shall take effect on the effective date of section 201 and shall be issued not later than 1 year after the date of enactment of this Act.

SEC. 303. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided, sections 201 and 301 shall take effect on the date that is 1 year after the date of enactment of this Act.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the appropriate committees of the Congress a report that describes the measures being taken and the progress made in implementing this Act.

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues in introducing the Agricultural Jobs, Opportunity, Benefits, and Security Act.

The treatment of immigrant farm workers, dating back to the Bracero program, represents a shameful chapter in our history. The decades of exploitation these workers have endured continues to this day. Large numbers of men and women employed in agriculture today are indispensable workers who also happen to be undocumented. As a result, they are easily exploited by unscrupulous employers, who get away with paying them very low wages and forcing them to work in dangerous conditions. Inevitably, that means lower wages for legal farm workers.

We have been struggling for decades to find a solution to this emotional heart-wrenching problem. This legislation—a historic and far-reaching agreement between the United Farm Workers of America and the representatives of agricultural industries—provides a common sense solution to this longstanding problem. It will provide farm workers and their families with dignity and justice and give agricultural industries with a legal workforce.

We need an agriculture policy grounded in reality, a policy that recognizes their contributions and respects and rewards their work. This legislation will improve the wages and working conditions of all farm workers, and provide a way for foreign-born workers to become permanent residents.

Under this bill, 500,000 farm workers currently working the United States will be able to legalize their status. These changes will benefit both workers and growers. The legislation will improve the wages and working conditions of all farm workers, and provide a way for foreign-born workers to become permanent residents.

Agriculture is a unique industry. Growers must have an immediate and reliable workforce at harvest time. Everyone is harmed when crops rot in the field because the workers are not available. With these changes, growers will have greater access to dependable, hard-working employees, and a workforce that is no longer subject to sudden immigration raids.

I urge my colleagues to support this needed legislation. These reforms are long overdue, to improve the lives and working conditions of all farm workers, and it is long past time for Congress to act.

Mr. GRAHAM. Mr. President, I am pleased to join my colleagues, Senator KENNEDY of Massachusetts and Senator CRAIG of Idaho, in introducing the Agricultural Job Opportunity Benefits and Security Act of 2003. For the last six years, I have been working closely with several of my colleagues in the Senate and House of Representatives, including the Senators from Massachusetts and Idaho, to enact legislation that would provide a balanced approach to reforming our agricultural guest worker program.

There is one thing I believe we can all agree on—the status quo of agricultural guest workers in America is unacceptable. Under the status quo, we have created an underground society and pushed many of our Nation's hardest workers into the shadows. This is unfair treatment for workers who play such a vital part in our Nation's economic health.

Recently, the Miami Herald published a series documenting the horrible working and living conditions of agricultural workers in Florida. I have attached parts of that series for the RECORD. This series substantiates what we have all known anecdotally for years. Farm workers in our country—those who are legal citizens or residents of the United States as well as those who are undocumented—live in uninhabitable housing, are transported in vehicles that do not meet basic safety standards, and are subject to predatory lending practices that require payment of as much as 100 percent interest on accumulated debt.

Mr. President, I ask unanimous consent that the text of the series be printed in the RECORD.

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

[From the Miami Herald, Aug. 31, 2003]

FIELDS OF DESPAIR—FLORIDA FARMHANDS REAP A HARVEST OF POVERTY, PAIN AND EXPLOITATION

(By Ronnie Green)

First of three parts

JACKSONVILLE.—The recruiters come rolling through in roomy vans, searching for a fresh crop of farmworkers from the homeless shelters, haggard parks and soup kitchens dotting North Florida's urban hubs.

They target the addicted, the vulnerable, the desperate with promises of good pay, cash upfront, cold beer. Some talk of crack cocaine and ready sex.

Step inside that van, say those who have, and journey straight to hell.

Florida is America's second-richest agricultural state. But for the farmhands who labor along the lowest rung of the food chain, the riches are a mirage.

Their world is filled with sweatshop hours, slum housing, poverty pay and criminal abuse. At its extreme, it includes modern-day slavery in a state where oranges adorn license plates and tourists pull in for a free cup of juice when they cross the border.

The brutality in North Florida has an unusual, bitter twist, a Herald examination has found. While most farmworkers in Florida and nationwide are undocumented Mexicans who have trekked through the desert in search of fortune, the laborers who toil unnoticed in hamlets like East Palatka and Hastings are mostly poor black Americans.

They are recruited by crew-chief contractors who serve as middlemen between the farmers who grow crops and the laborers who pick, package and sort them. These bosses can control nearly every aspect of the workers' lives: their housing, their food, their transportation and even their paycheck.

In interviews with The Herald, farmworkers told harrowing stories of life in a hot stretch of North Florida farm country that welcomes passersby with signs saying ''Jesus is Lord, Welcome to Hastings'' and ''Florida's Potato Capital.''

Many were recruited from gathering spots for the homeless—soup kitchens, parks and shelters in Jacksonville, Orlando, Tampa. They say they were lured with vows of good pay, sprinkled with promises of partying and $15 in cash when they reached the farm.

What they didn't know: They would live in slum housing, work long hours for scant pay, and, in several cases, have to pay back $1 of interest for most every $1 loaned to them to buy food—including the $15 that first lured them into the van.

Poor, isolated, without transportation, these men said they became slaves to the

boss and their debts. One said he was beaten about the face this year when he couldn't repay his ''debt.'' Two nights later, he slipped away at midnight and walked for hours to escape.

CASES INVESTIGATED

Focus is on recruitment by farm labor contractors

Federal prosecutors are now examining cases in which North Florida farm labor contractors recruited from homeless shelters—only to exploit the laborers who stepped into those vans. Investigators confirmed the inquiry, but would not elaborate.

''We've been contacted about this situation,'' Douglas Molloy, managing assistant U.S. attorney in Fort Myers, said last week.

One former worker, Angelo Jennings, said a Hastings crew boss lured him from a scraggly lot across from the Clara White Mission in Jacksonville, a lot where birds snip at dirty bread and shopping carts and beer cans cover the grounds.

''This is when he catches you at your lowest point,'' said Jennings, a recovering drug addict working to reform his ways. ''If you have any good sense, he doesn't want you. He wants you where he can use you.

''If you're tired and hungry, they'll go out and buy some food and a six-pack, and put it on ice.''

Then, almost as an afterthought, he said: ''Just like a rat trying to get some cheese.''

The mission's chief executive officer, Ju'Coby Pittman, said: ''They go from shelter to shelter and prey on them''

Such tactics became so routine, and the promises so hollow, that Pittman once posted a sign: ''Do not get in the van.''

But the vans still roll through here, through Tampa, through Orlando, on the road to farm country.

A BIG FARM STATE

Abuse is an unseen element in Florida's No. 2 industry

Agriculture is a huge business in Florida. The state produces three-fourths of the citrus harvested across the United States each year, and it leads the world in production of grapefruit. In 2000, the top 10 vegetable growers in the Southeastern United States were based in Florida. Across the country, only California boasts a richer agricultural crop.

Yet behind the sunny image of Florida's No. 2 industry, abuse abounds, and it is not limited to one rough boss or one patch of hard-luck laborers.

''It's incredibly widespread,'' said prosecutor Molloy, who has previously sent bosses away for enslaving farmworkers. ''There is someone who has been making money off the misery—and off the hopes and dreams—of other people.''

At the bottom rung of the system are the 200,000 seasonal farmworkers who harvest crops from outside the State's urban hubs to its dusty corridors.

''You've made a job so bad that the only people who are going to do farm work are undocumented aliens or crack addicts,'' said Gregory S. Schell, a Lake Worth lawyer with the Migrant Farmworker Justice Project of Florida Legal Services. ''That's a tremendous indictment of the agricultural industry.''

His criticism is not of the workers who harvest Florida's bountiful crops, but of the industry enriched by their sweat labor.

Most pickers in Florida and nationwide are undocumented foreign workers, and many native farmhands have had run-ins with the law. There is a reason for that worker profile, advocates say: Crew bosses hire the vulnerable because they can exploit them. The laborers, hungry for a fresh start, are quick to take the job.

Florida is home to more crew-chief contractors than any State in the Nation, with more than one in three—3,027 of 8,832—based in the State. Florida also leads the Nation in the number of crew-chief contractors and assistants currently stripped of licenses to work because of labor violations, with 43 percent of the total, The Herald has found. They have relegated workers to shabby housing, cheated them of pay or otherwise skirted Federal migrant worker laws.

For a glimpse inside this world, follow Lisa Butler, a Florida Rural Legal Services attorney representing workers who fled their contractors' employ in far North Florida.

Butler does her legwork at night and in potentially dangerous environs, visiting housing camps to pass out fliers letting workers know their rights. More than once, she has been confronted by crew chiefs or their workers.

''There is a pattern up here of severe violations,'' Butler said as she wheeled through Hastings and Spuds and East Palatka, on her way to the next cramped housing camp. ''It's a function of how this industry lets crew leaders control the pay.''

The picture she sees evokes images of America's darkest days.

''I felt like being a slave, just working to support his family,'' farmworker Isiah Brown, 43, a native of South Carolina, said of the boss who controlled him.

That boss, Ronald M. Jones, is a six-foot-four, 250-pound homegrown son who spins through town in a muscular Cadillac Escalade and flashes cash he gets from Florida farmers to employ laborers at the lowest, dirtiest rung of the chain. He did not respond to multiple interview requests.

START OF A JOURNEY

Promise of work and pay is irresistible—and elusive

Brown's journey to Jones began on a Sunday in Orlando, when another farm recruiter approached him as he lounged in a park. There's work up north, the man said. Honest day, honest pay.

Brown hopped in, traveling 100 miles to Hastings and neighboring East Palatka, where he ultimately lived in a squalid, illegal hellhole for farmworkers operated by Jones and stood for long hours sorting potatoes for a few dollars' pay.

Brown came to the job poor and said boss Jones made him poorer, fronting him cash for food and supplies, but demand $1 in interest for most ever $1 loaned. With no car and little cash, he was captive to the debts—struggling to work enough hours to pay back the 100 percent interest.

Five former workers said in interviews that Jones forced the same arrangement on them.

''It was the only way I could eat,'' Brown said. ''This farm thing, you put in the work, but the money just don't match the work.''

In East Palatka, he slept in a decrepit trailer along with nine other farmworkers in a trashy compound that housed up to two dozen workers. His trailer had no running water and no air conditioning.

When workers returned to the camp after long days, area drug dealers and bootleggers showed up, Brown said, the bootleggers selling 65-cent beer for $1.25.

''Everybody makes money off farmworkers,'' he said at a nearby park days after fleeing. ''It seems like when farmworkers come to town, everything goes up 20 percent.''

HIRING OF FARMHANDS

Homeless people in park described as ''easy targets''

Crew leader Jones was employed by Bulls-Hit Ranch & Farm, maker of gourmet potato chips, to provide farm laborers like Brown.

William Oglesby, 50, a one-time truck driver, also worked at Bulls-Hit under Jones and lived in the same compound.

Like Brown, he had been recruited where the homeless congregate, at Confederate Park in Jacksonville. ''Most of them were easy targets,'' Oglesby said.

He said he wasn't homeless but needed work. ''They told me I could go with them today and work,'' he said ''And they said I could make some money. But money, I haven't seen.''

One week, Oglesby calculated, he should have earned $300 by sorting potatoes and packing them into trucks, rising at 5:30 a.m. and sometimes not returning to the camp until 10 p.m.

His pay stub from Jones showed $154.51. Bug Oglesby—like Brown—said even the pay stub did not reflect what actually went into his pocket. To understand how that could happen, follow the money.

Bulls-Hit President Thomas R. Lee said he would write Jones a check each week to cover the work completed. But then the boss, not the farmer, was responsible for paying workers from that bounty.

''He pays them, I don't,'' Lee said. ''He has a daily record of what he pays the crew.''

Lee said he told Jones not to make any loans at Bulls-Hit, since such transactions on farm property could reflect upon the farmer. ''I told him that whatever he did off my property was his business,'' Lee said.

Critics say this arrangement is ripe for abuse. When crew bosses control the cash, they are more apt to cheat the workers below them. Simply put, every $1 they skimp from workers is an extra $1 in their pocket. Jones' former workers say they were cheated of thousands.

Contrary to the figure on his pay stub, Oglesby said he got $35 in cash stuffed into an envelope at week's end. Brown said he pocketed $32.06 one week.

The men say Jones did not pay them for all the hours they worked. They say he also docked from their pay the loans and interest he charged them, and billed $30 a week to live in the slum complex.

''They've got a way to make sure you stay in their debt,'' Oglesby said. ''You don't think straight when you're tired and hungry.''

Jones, 40, is known in these parts as ''Too Tall.'' He did not reply to written questions delivered to his house in Hastings, nor did he respond to three requests for an interview placed with his wife, Sylvia.

Jennings, the Jacksonville man recruited near a homeless shelter, said he lived at another Jones compound in Palatka and also sorted potatoes at Bulls-Hit. He said Jones zeroed in on his weakness at that scraggly Jacksonville lot, luring him and four others.

''I've got a deal for you, and y'all can make a lot of money,'' he quoted Jones as saying. ''If you smoke crack, that's the place to be.''

Once he was in Palatka, Jennings said, prostitutes were ready visitors to the housing camp—at a cost. ''They would come there and smoke crack,'' he said.

Jennings is working to get straight at the Trinity Rescue Ministries in Jacksonville. The program supervisor, Cornell Robinson, said: ''They find your weakness and they force this on you.''

The city is a ready target for farm recruiters. The Jacksonville/Duval County hub is home to nearly 15,000 homeless people a year, according to a recent study by the Emergency Services and Homeless Coalition of Jacksonville.

For the homeless who turn to farm work, the cycle can become brutal. Many become fearful of talking publicly.

In late May, The Herald encountered a Jones worker at another of Jones' properties, a house in Hastings. With an elderly man sitting on a porch chair that day, the worker said he had no complaints.

Later that day, the worker was carrying a sack of potatoes back to the house, out of sight of the man in the chair. ''That housing is unfit,'' he said, saying he was billed $30 a week to live there.

Two months later, by chance, The Herald ran into the worker outside a Jacksonville feeding line. Now free of the boss, he said that ''Too Tall'' had recruited him at a soup kitchen with the same tired promises: good pay, nice housing, plentiful food.

''Nothing was true,'' he said. ''It's a death trap. You can't get out of there.''

He said that Jones loaned him money each day, and that a Jones associate loaned him cash each afternoon. Both demanded 100 percent interest. The debts got so heavy, he said, that one week he pocketed $1.08 for six days of work.

''It keeps you in a hole you can never get out of,'' said the worker, who asked that his name not be used.

He said the Jones associate beat him when he didn't have money to repay the debt, hitting him in the face two or three times and knocking him to the ground. ''He told me I better have his money or I'll be in trouble.'' Two days later, he made his midnight exit.

Misery in North Florida isn't limited to Jones' camps, and poverty pay and slum housing are not the only abuses. Many workers, struggling when they start their farm duty, quickly find themselves in dangerous conditions. Injuries, or worse, become part of the trade.

In January, a migrant worker at the nearby Uzzles Labor Camp in Elkton was stabbed to death with a butcher knife after a dispute with another laborer.

Three months later, attorney Butler went to the camp to hand out fliers letting workers know their rights. She was not well received, nor were journalists who accompanied her for this report.

Ron Uzzle, the burly crew boss, became angry when a photographer started snapping pictures. He had little patience for Butler either. ''Does anyone want to talk to these people?'' Uzzle bellowed.

''Hell no!'' came the reply. Some of his crew members refused to accept fliers from Butler as Uzzle watched. Uzzle refused a request for an interview.

Another nearby complex housed a catalog of pain. To one side of that squat blue building, Butler inspected farmworker William Durham, who pulled up his shirt to expose a stomach covered by an unsightly, itchy white rash.

Durham feared that the rash came from pesticides. ''It did happen on the job,'' he told Butler. She took his story and his picture.

Nearby, Richard Williams, 53, a picker for nine years, worked without a right forefinger.

Wearing a T-shirt that said ''Nature Can't Be Restocked,'' Williams said he thinks pesticides got under his fingernail as he picked winter cabbage in North Carolina in 2001.

''By the time I got here, it was too late,'' he said. The finger was amputated.

Butler took his information. Another potential case at a camp oozing booze and misery.

William Anderson said he heard the promises at a Tampa Salvation Army shelter and went to a camp run by Ronald Evans, a veteran East Palatka contractor. Evans did not reply to four interview requests, nor did he respond to written questions.

''A van rolled around,'' Anderson recounted. ''They said, 'Are you looking for work? . . . We've got a swimming pool,' When we got there, it was more like a slave camp. After he gets you there, he's got you.''

At night at the camp, next to the dinner line, more goods were for sale. ''You get your cigarettes, your beer and your drugs. Everything was there on the camp,'' Anderson said from an upstate shelter, to which he turned after leaving.

''A couple of guys said they owed $10,000. You might as well owe them your soul, because where can you go?

''I'm not going to sugarcoat it. We were doing what everyone else was doing. You do your beer, your cigarettes and your drugs.''

After four months of work, he left with $90 in his pocket, he said. ''I've been down and out. Right now, I'm sleeping wherever I can.''

Tammy Byrer, executive director of the St. Francis House shelter in St. Augustine, which provides a roof and job counseling for displaced workers like Anderson, said Florida's farmers surely know what's going on.

''Don't ask, don't tell,'' was how she described the prevailing attitude, as volunteers prepared 600 sandwiches delivered daily to area farmworkers.

''Somebody needs to come up to the plate.''

FARM CAMP ''UNSAFE FOR HUMAN OCCUPANCY''

(By Ronnie Greene)

EAST PALATKA.—When inspectors showed up at Ronald Jones' farmworker housing camp here, they found a place unfit for humans.

Within a day in early May, the multicolored buildings were condemned, with bright red ''Danger'' signs on each door: ''This building is deemed unsafe for human occupancy.''

Inspectors found five open septic systems; bad plumbing; substandard floors, roofs and ceilings—and ''evidence of occupancy of the cabins'' even though the complex didn't have the proper permits to house migrant workers.

As dragonflies buzzed overhead one May day, an exposed septic tank was filled with sewage. A 32-ounce Schlitz Malt Liquor bottle lay nearby.

''It just was miserable living there. And I just wanted out of that filth,'' farmworker Earnest Louis Mitchell, 57, said in a telephone interview from a homeless shelter.

''The commode wouldn't flush, you smelled all through the house at night, and water was all on the floor. You could get electrocuted when you went into the bathroom.''

He doesn't intend to go back. ''I'm just going to bum the street—no more farm work.''

Mitchell had walked away from Jones' employ and called the number on a Legal Services flier. Lisa Butler, a Florida Rural Legal Services attorney, notified the state Department of Health, which investigated along with the Putnam County code enforcement division.

Jones, who owns several farm housing camps in the area, did not reply to written questions. But later that May day, his wife happened to stop by the housing camp.

''A lot of things we didn't know about,'' said Sylvia Jones, who said she co-owns the property with her husband. ''It was like this when we got it.''

The Jones camp is just one of many around the state where workers live in squalor. Yet little is done to help them—unless someone complains.

''Migrant workers aren't one to complain too much,'' said John Salmons, the Putnam County code enforcement supervisor, who examined the buildings with Code Officer Dina K. Trull.

''I think they're afraid for whatever reason. If they're illegal aliens or just happy to be working, we don't get a lot of calls on migrant labor camps.''

THE FACE OF FLORIDA'S FARMWORKERS—DRIVEN BY HARSH CONDITIONS IN THEIR HOMELANDS, LABORERS TRAVEL FAR, ONLY TO SEE NEW HARDSHIPS HERE

(By Ronnie Greene)

IMMOKALEE.—At dawn, the migrant workers huddle around the red-and-blue buses that deliver them to Florida's rich farm fields. One by one, they pile into the rickety carriers, their fingers dirty with Florida soil, their faces weathered from sun-soaked labor.

This is farm country, Immokalee, Florida. Just 100 short miles from South Florida's urban shuffle, Immokalee feels a century away. The streets are dusty, the traffic slow—farmhands trudging or riding bikes, cars a luxury beyond the reach of most.

By day, they pluck the tomatoes and oranges that are the lifeblood of Florida's agriculture economy. By night, they return to their modest camps, where they turn on fans to shoo the heat and tally the earnings they will send back home.

In Immokalee, you will find the face of Florida's farmworkers. While some pockets of the Sunshine State include American men recruited from homeless camps to harvest crops, Immokalee's workforce, mirroring the farmworker profile across the nation, is largely Mexican-born.

The men, women and some children laboring here paid steep fees for the privilege. Many walked through the desert to touch U.S. soil in Arizona, then paid $1,000 or more to be smuggled to Florida on the back floor of furtive vans.

And, like farmworkers nationwide, they struggle. Certainly, the long hours under the sun provide more pay than most ever earned back home.

But this prosperity is relative. Most farmworkers nationwide earn less than poverty pay. And in Florida, some have been criminally abused. Immokalee and the farm beyond it have been home to three of the five farmworkers slavery prosecutions brought against Florida farm contractors and smugglers since 1996.

In 2000, the U.S. Department of Labor issued A Demographic and Employment Profile of U.S. Farmworkers, which was based on interviews with 4,199 farmworkers in 85 counties from 1996 to 1998.

The study found that:

61 percent of U.S. farmworkers had income below the poverty level.

The median income was less than $7,500 a year.

14 percent of farmworkers owned or were buying a home in 1997–98. Three years earlier, the ratio had been one in three.

77 percent of U.S. farmworkers were Mexican-born.

More than half of America's farmworkers—52 of every 100—were unauthorized workers.

In Immokalee, these numbers have faces.

ADVOCATES DON'T FEEL LABOR DEPARTMENT IS ALLY

(By Ronnie Greene)

Farmworker advocates say the federal government does little to protect the laborers whose sweat brings fruit and vegetables to the state's tables.

Now they fear even less protection. The head of the agency overseeing farm work conditions recently told Florida growers that she wants to work with—not against—them.

''If you have an issue with an investigator [who cites you], you shouldn't just pay the money. Go up the chain of command and

complain. You will get fair treatment from us,'' Tammy McCutchen, the U.S. Department of Labor's wage and hour administrator, told growers in Orlando last year, according to an industry publication.

Her comments were viewed by many growers as ''the most encouraging they had heard from a Department of Labor administrator in years,'' Gempler's Alert newsletter said. Her remarks came at a time when the department faced dwindling investigative staffing.

In an interview with The Herald, McCutchen said critics are mistaken if they accuse her office of lax supervision.

She said her approach is to work with companies that act in ''good faith'' and if farmers don't work to fix flaws, ''we will hit them hard with enforcement.''

''If you can get employers to voluntarily comply early on, you can do a lot better job for the workers. Instead of waiting two or three years for litigation, you are able to fix the problem in a few weeks or a few months.''

Statistics from wage and hour show the division collected 30 percent more in back wages for agriculture workers last year than a year earlier.

In fiscal year 2002, it assessed $230,600 in civil penalties against growers and contractors in the Southeast.

''Defending one of our lawsuits cost [growers] that much,'' said Rob Williams, director of the Migrant Farmworker Justice Project of Florida Legal Services, which has tangled with growers over wage and other inequities.

He believes McCutchen's message means that enforcement will be rarer still.

McCutchen had also told growers that a checklist used to inspect migrant housing would be significantly pared down, to weed out minor items in order to focus on major housing concerns. She said her own inspectors would undergo ''professional conduct'' training to improve relations with growers they inspect.

Other numbers support critics' concerns. The wage and hour division had 945 investigators to examine agriculture and other industries at the end of fiscal year 2001, but 862 as of March. In Florida, the number dipped from 77 to 73 in January 2003. ''I'm very proud of our enforcement efforts, no matter what the raw numbers show,'' McCutchen said.

Last year, the Labor Department conducted an informal study to see how many growers and contractors were in compliance with the four main provisions of the Migrant and Seasonal Agricultural Worker Protection Act. It found:

Thirty-nine percent did not comply with the law's disclosure rules, which require employers to inform workers of their rights.

Twenty-six percent did not comply with housing safety and health rules.

Ten percent to 15 percent did not comply with various transportation requirements.

Nine percent did not comply with wage laws.

Although the federal agency is more apt to punish labor contractors, it sometimes goes after farmers.

In August 2002, it fined West Coast Tomato $3,650 for operating a Manatee County camp in squalid condition.

Former Manatee County Commissioner Daniel P. McClure is president of West Coast, the ninth-largest vegetable grower in the Southeast.

At 6747 Prospect Rd. in Bradenton, inspectors found the roof rotting and leaking. The garage was used as a sleeping room, four beds on the floor. Gas tanks had been installed without a permit.

McClure, who lives in a Bradenton mansion with a $1.6 million market value, had blamed the camp conditions on a former crew boss.

''That's past history, fella,'' McClure said, declining interview requests. ''Sounds like you're looking for some way to sensationalize the news. If you want to talk about the past, don't come.''

Mr. GRAHAM of Florida. Hard-working, law-abiding farmers and growers also suffer under the current system. They continue to be at legal risk for hiring undocumented workers who frequently present fraudulent documents that appear to be credible. The current agricultural guest worker program also fails to provide for unforeseen labor shortages.

The bill before us provides an essential balance. It establishes a legal system that ensures basic rights and protections for workers who make significant contributions to our nation's economy. It also ensures the development of an efficient agricultural guest worker program that improves farmer and grower access to legal agricultural workers.

Agricultural workers do extremely grueling work, work that puts fruits, vegetables and flowers on the tables of many American households. Dedicated, experienced farm workers deserve the dignity, empowerment and improved quality of life that come with earning legal status. Farmers that play by the rules should have a modern, streamlined program that provides easier access to legal agricultural workers.

Congress has not focused on farm worker issues since the mid-1980s. Reform of our agricultural guest worker program is long overdue, and I am hopeful that we will move beyond our status quo and address this important issue this year.

By Mr. MCCAIN (for himself and Mr. HOLLINGS):

S. 1646. A bill to provide a 5-month extension of highway safety programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, today, I am joined by Senator HOLLINGS in introducing legislation to provide a short-term extension of the safety programs administered by the Federal Motor Carrier Safety Administration (FMCSA), the National Highway Traffic Safety Administration (NHTSA), and the boating safety program administered by the Coast Guard. It is our expectation that this measure will be joined with broader legislation to extend the highway and transit programs for five months.

I take pride in the fact that the Senate Commerce Committee completed work last June on a 6-year reauthorization of the safety programs under its jurisdiction. The bipartisan bill is designed to meet the level of commitment to safety needed to achieve aggressive goals for reducing accidents and fatalities on the nation's roadways. This short-term extension is consistent with our Committee's longer-term reauthorization proposal. It is also consistent with the President's budget request for fiscal year 2004 and with the appropriations bill for fiscal year 2004 that has been reported by the Senate Appropriations Committee.

We look forward to working with our colleagues to approve the extension to ensure the continuity of these important safety programs.

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. 1646

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 ''Transportation Safety Program Extension Act of 2003''.

SEC. 2. EXTENSION OF MOTOR CARRIER SAFETY PROGRAM.

(a) ADMINISTRATIVE EXPENSES.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation for administration of motor carrier safety programs, motor carrier safety research, and border enforcement activities, including the border enforcement program authorized under section 350 of the Department of Transportation and Related Agencies Appropriations Act, 2002, $119,125,000 for the period beginning on October 1, 2003, and ending on February 29, 2004, to carry out the functions and operations of the Federal Motor Carrier Safety Administration of which $19,583,000 shall be available for the construction of State border safety inspection facilities at the border between the United States and Mexico and at the border between the United States and Canada and of which $4,583,000 shall be used for regulatory development.

(b) MOTOR CARRIER SAFETY ACCOUNT.—Funds made available under subsection (a) shall be administered in the account established in the Treasury entitled ''Motor Carrier Safety 69–8055–0–7–401''.

(c) MAINTENANCE OF EXPENDITURES.—The Secretary of Transportation may make a grant under section 31107 of title 49, United States Code, to a State from funds made available under subsection (a) only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of United States Government amounts, will be maintained at a level at least equal to the average level of that expenditure by the State and political subdivisions of the State for the last 2 fiscal years before October 1, 2003.

(d) CONTRACT AUTHORITY.—Funds made available under subsection (a) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

SEC. 3. EXTENSION OF MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.

(a) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—Section 31104(a) of title 49, United States Code, is amended by adding at the end the following:

''(7) Not more than $77,125,000 for the period beginning on October 1, 2003, and ending on February 29, 2004.''.

(b) INFORMATION SYSTEMS.—Section 31107(a) of title 49, United States Code, is amended—

(1) by striking ''and'' after the semicolon in paragraph (2);

(2) by striking ''2002.'' in paragraph (3) and inserting ''2002;'';

(3) by striking ''2003.'' in paragraph (4) and inserting ''2003; and''; and

(4) by adding at the end the following:

''(5) $8,333,000 for the period beginning on October 1, 2003, and ending on February 29, 2004.''

(c) MAINTENANCE OF EXPENDITURES.—The Secretary of Transportation may make a grant to a State from funds made available under section 31104(a)(7) of title 49, United States Code, only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of United States Government amounts, will be maintained at a level at least equal to the average level of that expenditure by the State and political subdivisions of the State for the last 2 fiscal years before October 1, 2003.

SEC. 4. EXTENSION OF HIGHWAY SAFETY PROGRAMS.

(a) CHAPTER 4 HIGHWAY SAFETY PROGRAMS.—Section 2009(a)(1) of the Transportation Equity Act of the 21st Century (112 Stat. 337) is amended—

(1) by striking ''and''; and

(2) by striking ''2003.'' and inserting ''2003, and $68,640,000 for the period beginning on October 1, 2003, and ending on February 29, 2004.''.

(b) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—Section 2009(a)(2) of that Act (112 Stat. 337) is amended by striking ''2003.'' and inserting ''2003, and $29,952,000 for the period beginning on October 1, 2003, and ending on February 29, 2004.''.

(c) OCCUPANT PROTECTION INCENTIVE GRANTS.—Section 2009(a)(3) of that Act (112 Stat. 337) is amended—

(1) by striking ''and''; and

(2) by striking ''2003.'' and inserting ''2003, and $8,320,000 for the period beginning on October 1, 2003, and ending on February 29, 2004.''.

(d) INCENTIVE GRANTS FOR ALCOHOL-IMPAIRED DRIVING COUNTER-MEASURES.—

(1) EXTENSION OF PROGRAM.—Section 410 of title 23, United States Code, is amended—

(A) by striking ''6'' in subsection (a)(3) and inserting ''7''; and

(B) by striking ''fifth and sixth'' in subsection (a)(4)(C) and inserting ''fifth, sixth, and seventh''.

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 2009(a)(4) of the Transportation Equity Act of the 21st Century (112 Stat. 337) is amended—

(A) by striking ''and'' the last place it appears; and

(B) by striking ''2003.'' and inserting ''2003, and $16,640,000 for the period beginning on October 1, 2003, and ending on February 29, 2004.''.

(e) NATIONAL DRIVER REGISTER.—Section 2009(a)(6) of that Act (112 Stat. 338) is amended by striking ''2003.'' and inserting ''2003, and $1,498,000 for the period beginning on October 1, 2003, and ending on February 29, 2004.''.

(f) ALLOCATIONS.—Section 2009(b) of that Act (112 Stat. 338) is amended by striking ''2003,'' each place it appears and inserting ''2004,''.

(g) APPLICABILITY OF TITLE 23.—Section 2009(c) of that Act (112 Stat. 338) is amended by striking ''2003'' and inserting ''2004''.

SEC. 5. EXTENSION OF SPORT FISHING AND BOATING SAFETY PROGRAM.

Section 13106 of title 46, United States Code, is amended by striking subsection (c) and inserting the following:

''(c) BOATING SAFETY FUNDS.—

''(1) IN GENERAL.—Of the amount transferred to the Secretary of Homeland Security under paragraph (4) of section 4(b) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(b)), $2,083,333 is available to the Secretary for payment of expenses of the Coast Guard for personnel and activities directly related to coordinating and carrying out the national recreational boating safety program under this title, of which $833,333 shall be available to the Secretary only to ensure compliance with chapter 43 of this title.

''(2) USE OF FUNDS.—No funds available to the Secretary of Homeland Security under this sub-section may be used—

''(A) to replace funding traditionally provided through general appropriations; or

''(B) for any purposes except a purpose authorized by this section.

''(3) AVAILABILITY OF FUNDS.—Amounts made available by this subsection shall remain available until expended.

''(4) ACCOUNTING.—The Secretary shall publish annually in the Federal Register a detailed accounting of the projects, programs, and activities funded under this subsection.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 228—RECOGNIZING THE TEAMS AND PLAYERS OF THE NEGRO BASEBALL LEAGUES FOR THEIR ACHIEVEMENTS, DEDICATION, SACRIFICES, AND CONTRIBUTIONS TO BASEBALL AND THE NATION

Mr. NELSON of Florida submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 228

Whereas even though African-Americans were excluded from playing in the major leagues of baseball with their Caucasian counterparts, the desire of some African-Americans to play baseball could not be repressed;

Whereas Major League Baseball was not fully integrated until July 1959;

Whereas African-Americans began organizing their own professional baseball teams in 1885;

Whereas 6 separate baseball leagues, known collectively as the Negro Baseball Leagues, were organized by African-Americans between 1920 and 1960;

Whereas the Negro Baseball Leagues included exceptionally talented players;

Whereas Jackie Robinson, whose career began in the Negro Baseball Leagues, was named Rookie of the Year in 1947 and subsequently led the Brooklyn Dodgers to 6 National League pennants and a World Series championship;

Whereas by achieving success on the baseball field, African-American baseball players helped break down color barriers and integrate African-Americans into all aspects of society in the United States;

Whereas during World War II, more than 50 Negro Baseball League players served in the Armed Forces of the United States;

Whereas during an era of sexism and gender barriers, 3 women played in the Negro Baseball Leagues;

Whereas the Negro Baseball Leagues helped teach the people of the United States that what matters most is not the color of a person's skin, but the content of that person's character and the measure of that person's skills and abilities;

Whereas only in recent years has the history of the Negro Baseball Leagues begun receiving the recognition that it deserves;

Whereas in 1997 Major League Baseball created a pension plan for former players of the Negro Baseball Leagues who went on to play in Major League Baseball; and

Whereas baseball is the national pastime and reflects the history of the Nation: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the teams and players of the Negro Baseball Leagues for their achievements, dedication, sacrifices, and contributions to both baseball and our Nation; and

(2) encourages Major League Baseball to reach a fair compensation agreement with former players of the Negro Baseball Leagues who were excluded under Major League Baseball's 1997 pension plan.

SENATE RESOLUTION 229—SUPPORTING THE GOALS AND IDEALS OF CHRONIC OBSTRUCTIVE PULMONARY DISEASE AWARENESS MONTH

Mr. CRAPO submitted the following resolution; which was considered and agreed to:

S. RES. 229

Whereas chronic obstructive pulmonary disease (''COPD'') is primarily associated with emphysema and chronic bronchitis;

Whereas an estimated 10,000,000 adults in the United States have been diagnosed by a physician with COPD;

Whereas an estimated 24,000,000 adults in the United States have symptoms of impaired lung function, indicating that COPD is underdiagnosed;

Whereas COPD is progressive and is not fully reversible;

Whereas as COPD progresses, the airways and alveoli in the lungs lose elasticity and the airway walls collapse, closing off smaller airways and narrowing larger ones;

Whereas symptoms of COPD include chronic coughing, shortness of breath, increased effort to breathe, increased mucus production, and frequent clearing of the throat;

Whereas risk factors for COPD include long-term smoking, a family history of COPD, exposure to air pollution or second-hand smoke, and a history of frequent childhood respiratory infections;

Whereas more than half of all adults who suffer from COPD report that their condition limits their ability to work, sleep, and participate in social and physical activities;

Whereas more than half of all adults who suffer from COPD feel they are not in control of their breathing, panic when they cannot catch their breath, and expect their condition to worsen;

Whereas nearly 119,000 adults died in the United States of COPD in 2000, making COPD the fourth leading cause of death in the United States;

Whereas COPD accounted for 8,000,000 office visits to doctors, 1,500,000 emergency department visits, and 726,000 hospitalizations by adults in the United States in 2000;

Whereas COPD cost the economy of the United States an estimated $32,100,000,000 in 2002;

Whereas too many people with COPD are not diagnosed or are not receiving adequate treatment; and

Whereas the establishment of a Chronic Obstructive Pulmonary Disease Awareness Month would raise public awareness about the prevalence of chronic obstructive pulmonary disease and the serious problems associated with the disease: Now, therefore, be it

Resolved, That the Senate supports the goals and ideals of Chronic Obstructive Pulmonary Disease Awareness Month.

SENATE RESOLUTION 230—CALLING ON THE PEOPLE'S REPUBLIC OF CHINA IMMEDIATELY AND UNCONDITIONALLY TO RELEASE REBIYA KADEER, AND FOR OTHER PURPOSES

Mr. LUGAR (for himself, Mr. SARBANES, Mr. HAGEL, Mr. BIDEN, Mr. DODD, and Mr. BROWNBACK) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 230

Whereas Rebiya Kadeer, a prominent businesswoman from Xinjiang Uighur Autonomous Region of the People's Republic of China, was arrested in September 1999, while trying to meet United States Congressional staff;

Whereas the Congressional staff was on an official visit to China organized under the auspices of the Mutual Educational and Cultural Exchange Program of the United States Information Agency;

Whereas Rebiya Kadeer was convicted at a secret trial and sentenced on March 10, 2000, to 8 years in prison for ''illegally giving state information across the border'';

Whereas the newspapers she was carrying with her at the time of her arrest were all available to the public;

Whereas from 1993 to 1998, Rebiya Kadeer was elected as a member of the Provincial People's Political Consultative Conference in Xinjiang;

Whereas in 1995, Rebiya Kadeer was a delegate to the United Nations Fourth World Conference on Women in Beijing;

Whereas Rebiya Kadeer's health is deteriorating in prison and she is finding it difficult to perform her prison labor due to sickness;

Whereas Rebiya Kadeer is the mother of 10 children;

Whereas the United States Department of State has repeatedly expressed concerns about the continued imprisonment of Rebiya Kadeer;

Whereas United States Assistant Secretary of State for Democracy, Human Rights, and Labor, Lorne Craner, visited Xinjiang in December 2002 with the expectation that she would soon be released;

Whereas the day before Secretary Craner's visit to Xinjiang, 3 of Rebiya Kadeer's children were taken into custody and were released later with strict instructions not to talk to anyone about their mother's case;

Whereas Rebiya Kadeer's case was brought up before a hearing of the Senate Foreign Relations Committee on September 11, 2003, by T. Kumar of Amnesty International USA;

Whereas Chinese authorities are ignoring repeated requests from the United States Congress to release her; and

Whereas President Bush is planning to attend the APEC Conference in October 2003, in Thailand and is planning to have meetings with the Chinese President, Hu Jintao, at the Conference: Now, therefore, be it

Resolved, That the Senate—

(1) condemns and deplores the detention of Rebiya Kadeer and calls for her immediate and unconditional release;

(2) urges President Bush to take urgent steps to secure the release of Rebiya Kadeer as soon as possible; and

(3) urges President Bush to demand Rebiya Kadeer's immediate release when he meets with Chinese President Hu Jintao at the APEC Conference.

SENATE RESOLUTION 231—COMMENDING THE GOVERNMENT AND PEOPLE OF KENYA

Mr. FEINGOLD (for himself and Mr. ALEXANDER) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 231

Whereas on December 27, 2002, the Republic of Kenya successfully held presidential, parliamentary, and local elections;

Whereas the elections were widely praised by objective international observers as free and fair;

Whereas the elections signal a major step forward for democracy in Kenya, particularly when compared with other elections held in Kenya since Kenya became an independent state in 1963;

Whereas the transition of power started by the elections culminated on December 30, 2002, when former President Daniel Toroitich arap Moi peaceably transferred the Kenyan presidency to President Mwai Kibaki;

Whereas the people of Kenya have manifested a strong desire to combat the endemic corruption that has crippled Kenyan society for years; and

Whereas the Government of Kenya has responded to this desire with concrete initiatives aimed at fostering transparency and accountability in Kenya: Now, therefore, be it

Resolved, That the Senate—

(1) commends the people of the Republic of Kenya for conducting free and fair elections;

(2) commends the Government of Kenya for the successful completion of a peaceful and orderly transition of power;

(3) expresses its desire to see this new democracy in Kenya thrive;

(4) acknowledges the suffering inflicted on the people of Kenya as a result of terrorist activity and appreciates the assistance and cooperation of Kenya to the global fight against terrorism;

(5) reaffirms the friendship that exists between the people of the United States and the people of Kenya, as 2 nations bound together by the shared values of democracy;

(6) applauds the regional peacemaking efforts of Kenya and the contributions of Kenya to international peacekeeping;

(7) commends the commitment and concrete steps taken by the Government and people of Kenya—

(A) to strengthen democracy, human rights, and the rule of law;

(B) to combat corruption, including through the passage by the Kenyan Parliament of the Public Officer Ethics Bill and the Anti-Corruption and Economic Crimes Bill;

(C) to improve access to education; and

(D) to prevent the transmission of HIV/AIDS;

(8) commits to working with the people of Kenya to continue making progress in combating corruption, encouraging development, fighting HIV/AIDS, and fostering respect for the rule of law and a climate of transparency; and

(9) welcomes the October 2003 visit of Kenyan President Mwai Kibaki to the United States.

SENATE RESOLUTION 232—EXPRESSING THE CONDOLENCES OF THE SENATE UPON THE DEATH ON SEPTEMBER 3, 2003, OF THE LATE GENERAL RAYMOND G. DAVIS (UNITED STATES MARINE CORPS, RETIRED) AND EXPRESSING THE APPRECIATION AND ADMIRATION OF THE SENATE FOR THE UNWAVERING COMMITMENT DEMONSTRATED BY GENERAL DAVIS TO HIS FAMILY, THE MARINE CORPS, AND THE NATION

Mr. MILLER (for himself, Mr. BURNS, Mr. CHAMBLISS, and Mr. CORZINE) submitted the following resolution; which was considered and agreed to:

S. RES. 232

Whereas General Raymond Gilbert Davis (United States Marine Corps, retired) of Stockbridge, Georgia, an American hero who represented the supreme ideals of an American and a Marine, died on Wednesday, September 3, 2003, at the age of 88;

Whereas Raymond Gilbert Davis, born on January 13, 1915, in Fitzgerald, Georgia, was commissioned as a second lieutenant in the United States Marine Corps in 1938 following graduation from the Georgia School of Technology;

Whereas during World War II, he participated in the Guadalcanal Tulagi landings, the capture and defense of Guadalcanal, the Eastern New Guinea and Cape Gloucester campaigns, and the Peleliu operation;

Whereas during the fighting on Peleliu, although wounded during the first hour of the landing, he refused evacuation to remain with his men and, on one occasion, when heavy Marine casualties and the enemy's point-blank cannon fire had enabled the Japanese to break through, he personally rallied and led his men in fighting to reestablish defense positions;

Whereas his actions while commanding the 1st Battalion of the 1st Marines at Peleliu in September 1944 earned him the Navy Cross and the Purple Heart and a promotion to lieutenant colonel;

Whereas returning to the United States in November 1944, Lieutenant Colonel Davis was assigned to the Quantico Marine Barracks, Quantico, Virginia, as Tactical Inspector, Marine Corps Schools, and was named chief of the Infantry Section, Marine Air-Infantry School, Quantico, in May 1945, and served in that post for two years before returning to the Pacific area in July 1947 to serve with the 1st Provisional Marine Brigade on Guam;

Whereas following other peace-time duties, in August 1950 he embarked for Korea to command the 1st Battalion, 7th Marines, 1st Marine Division, in the Korean conflict and, in that capacity, heroically enabled the historic breakout of the 1st Marine Division from an entrapment by overwhelming numbers of Chinese soldiers at the Chosin Reservoir in North Korea;

Whereas on the night before the breakout then Lieutenant Colonel Davis led his battalion in an epic across-country fight against vastly superior numbers of entrenched enemy soldiers, across ice- and snow-covered terrain, in subzero temperatures to save a beleaguered rifle company and seize a critical mountain pass that enabled the escape of two Marine regiments, arriving three days later at the port of Hagaru-ri with every one of his wounded Marines;

Whereas as a result of his actions in Korea, Lieutenant Colonel Davis was awarded the Medal of Honor for his actions in the Chosin Reservoir, twice earned the Silver Star Medal by exposing himself to heavy enemy

fire while leading and encouraging his men in the face of strong enemy opposition, received the Legion of Merit with Combat ''V'' for exceptionally meritorious conduct and professional skill in welding the 1st Battalion into a highly effective combat team, and earned the Bronze Star Medal with Combat ''V'' for his part in rebuilding the regiment after the Chosin Reservoir campaign;

Whereas following service in the Korean conflict, Lieutenant Colonel Davis served in a series of increasingly responsible staff and training positions, while being promoted to colonel in October 1953 and brigadier general in July 1963;

Whereas his first assignment as a general officer was in the Far East where he served as Assistant Division Commander, 3d Marine Division, on Okinawa, from October 1963 to November 1964;

Whereas he was assigned to Headquarters, Marine Corps, from December 1964 until March 1968 and during that service was awarded a second Legion of Merit and was promoted to major general;

Whereas when ordered to the Republic of Vietnam in March 1968, Major General Davis served briefly as Deputy Commanding General, Provisional Corps, and then became Commanding General, 3d Marine Division where he was awarded the Distinguished Service Medal and three personal decorations by the Vietnamese Government for service in the latter capacity from May 2, 1968 until April 14, 1969;

Whereas upon his return to the United States in May 1969, he was assigned duty as Deputy for Education with additional duty as Director, Education Center, Marine Corps Development and Education Command, Quantico, Virginia, and upon his promotion to lieutenant general on July 1, 1970, he was assigned as Commanding General, Marine Corps Development and Education Command;

Whereas on February 23, 1971, President Nixon nominated General Davis for appointment to the grade of general and assignment to the position of Assistant Commandant of the Marine Corps and, after confirmation by the Senate for service in that position, he received his fourth star upon assuming those duties on March 12, 1971;

Whereas upon his retirement on March 31,1972, after more than 33 years of active commissioned service, he ended his military career as Assistant Commandant of the Marine Corps, the second highest ranking Marine;

Whereas General Davis' decorations include the Medal of Honor, the Navy Cross, the Distinguished Service Medal with Gold Star in lieu of a second award, the Silver Star Medal with Gold Star in lieu of a second award, the Legion of Merit with Combat ''V'' and Gold Star in lieu of a second award, the Bronze Star Medal with Combat ''V'', the Purple Heart, the Presidential Unit Citation with four bronze stars indicative of second through fifth awards, the Navy Unit Commendation, numerous campaign and service medals, and numerous foreign decorations;

Whereas following retirement from his beloved Corps, General Davis directed the Georgia Chamber of Commerce for several years and later took on the challenge of design, funding, and dedication of the Korean War Veterans Memorial in Washington, DC;

Whereas General Davis continued to work in support of issues concerning the national interest, including a visit to North Korea in an effort to persuade that government to allow more travel and to become more active in identifying missing American soldiers; and

Whereas General Raymond G. Davis is survived by his wife of 61 years, Knox Heafner Davis, two sons Raymond Gil Davis Jr. of Covington, Georgia, and Gordon Miles Davis of Seminole, Alabama, a daughter Willa Kerr of Stockbridge, Georgia, seven grandchildren, and two great-grandchildren: Now, therefore, be it

Resolved,

SECTION 1. CONDOLENCES AND RECOGNITION.

The Senate—

(1) has learned with profound sorrow of the death of General Raymond G. Davis (United States Marine Corps, retired) on September 3, 2003, and extends its condolences to his family; and

(2) recognizes and expresses its appreciation and admiration for the unwavering commitment demonstrated by General Davis to his family, the Marine Corps, and the Nation.

SEC. 2. TRANSMITTAL OF RESOLUTION.

The Secretary of the Senate shall transmit an enrolled copy of this resolution to the family of General Raymond G. Davis.

SENATE RESOLUTION 233—COMMENDING THE ROCHESTER, MINNESOTA A'S AMERICAN LEGION BASEBALL TEAM FOR WINNING THE 2003 NATIONAL AMERICAN LEGION WORLD SERIES

Mr. COLEMAN (for himself and Mr. DAYTON) submitted the following resolution; which was considered and agreed to:

S. RES. 233

Whereas on Wednesday, August 27, 2003, the Rochester, Minnesota A's won the National American Legion World Series by defeating Cherry Hill, North Carolina 5 to 2 in Bartlesville, Oklahoma;

Whereas the American Legion Baseball League is the oldest and most prestigious baseball league in the United States with over 5,200 teams competing nationwide, nearly 50 percent of major league baseball players having played American Legion baseball as teenagers, and nearly 70 percent of all college players having played American Legion baseball as teenagers;

Whereas the A's became only the fourth team from Minnesota to ever win the National American Legion World Series in the 77-year history of the Series;

Whereas the A's finished a stellar season with a record of 52 wins and 5 losses;

Whereas the A's displayed determination and resolve by battling back from a 2 to 0 deficit in the championship game to prove themselves the best high school age baseball team in the Nation;

Whereas the American Legions of America, including Rochester American Legion Post 92, should be commended for their service to the youth of the United States and to the entire Nation;

Whereas the players and coaches of the A's represented Rochester and the State of Minnesota in outstanding fashion with their masterful play, competitive spirit, and good sportsmanship on and off the field, despite 100 degree-plus heat; and

Whereas the players, coaches, managers, and their families exemplified the heart of Minnesota during a special season that has made all of Minnesota proud: Now, therefore, be it

Resolved, That the Senate—

(1) commends the Rochester, Minnesota A's for winning the 2003 National American Legion World Series;

(2) recognizes the achievements of all the players, coaches, and support staff of the team; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to—

(A) the Rochester American Legion Post 92 for appropriate display; and

(B) each coach and member of the 2003 National American Legion World Series championship team.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1749. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

SA 1750. Mr. LEVIN (for himself, Ms. COLLINS, Mr. LAUTENBERG, Mr. KENNEDY, and Mr. PRYOR) submitted an amendment intended to be proposed by him to the bill H.R. 2691, supra.

SA 1751. Mr. NICKLES submitted an amendment intended to be proposed by him to the bill H.R. 2691, supra; which was ordered to lie on the table.

SA 1752. Mr. NICKLES submitted an amendment intended to be proposed by him to the bill H.R. 2691, supra.

SA 1753. Mrs. BOXER proposed an amendment to the bill H.R. 2691, supra.

SA 1754. Mr. VOINOVICH (for himself and Mr. THOMAS) proposed an amendment to the bill H.R. 2691, supra.

SA 1755. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill H.R. 2691, supra; which was ordered to lie on the table.

SA 1756. Mr. GRAHAM, of Florida (for himself and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by him to the bill H.R. 2691, supra; which was ordered to lie on the table.

SA 1757. Mr. BURNS (for himself and Mr. BENNETT) proposed an amendment to the bill H.R. 2691, supra.

SA 1758. Mr. BURNS proposed an amendment to the bill H.R. 2691, supra.

SA 1759. Mr. BURNS (for Mr. COCHRAN) proposed an amendment to the bill H.R. 2691, supra.

SA 1760. Mr. BURNS (for Mr. ENZI (for himself and Mr. THOMAS)) proposed an amendment to the bill H.R. 2691, supra .

SA 1761. Mr. BURNS proposed an amendment to the bill H.R. 2691, supra.

SA 1762. Mr. DORGAN proposed an amendment to the bill H.R. 2691, supra.

SA 1763. Mr. BURNS (for himself and Mr. DORGAN) proposed an amendment to the bill H.R. 2691, supra.

SA 1764. Mr. DORGAN proposed an amendment to the bill H.R. 2691, supra.

SA 1765. Mr. BURNS (for Mr. CAMPBELL) proposed an amendment to the bill H.R. 2691, supra.

SA 1766. Mr. BURNS (for Mr. TALENT) proposed an amendment to the bill H.R. 2691, supra.

SA 1767. Mr. BURNS (for Mr. CAMPBELL) proposed an amendment to the bill S. 1404, to amend the Ted Stevens Olympic and Amateur Sports Act.

SA 1768. Mr. BURNS (for himself and Mr. DORGAN) proposed an amendment to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

SA 1769. Mr. BURNS proposed an amendment to the bill H.R. 2691, supra.

SA 1770. Mr. BURNS proposed an amendment to the bill H.R. 2691, supra.

SA 1771. Mr. BURNS (for Mr. BENNETT) proposed an amendment to the bill H.R. 2691, supra.

SA 1772. Mr. BURNS proposed an amendment to the bill H.R. 2691, supra.

SA 1773. Mr. BURNS proposed an amendment to the bill H.R. 2691, supra.

SA 1774. Mr. BURNS (for Mr. CRAIG) proposed an amendment to the bill H.R. 2691, supra.

SA 1775. Mr. BURNS (for Mr. STEVENS) proposed an amendment to the bill H.R. 2691, supra.

SA 1776. Mr. BURNS (for Mr. STEVENS) proposed an amendment to the bill H.R. 2691, supra.

SA 1777. Mr. DORGAN proposed an amendment to the bill H.R. 2691, supra.

SA 1778. Mr. DORGAN proposed an amendment to the bill H.R. 2691, supra.

SA 1779. Mr. BURNS (for himself and Mr. DORGAN) proposed an amendment to the bill H.R. 2691, supra.

SA 1780. Mr. BURNS (for Ms. SNOWE (for herself and Mr. DODD)) proposed an amendment to the bill H.R. 2691, supra.

SA 1781. Mr. BURNS (for himself and Mr. DORGAN) proposed an amendment to the bill H.R. 2691, supra.

SA 1782. Mr. BURNS proposed an amendment to the bill H.R. 2691, supra.

TEXT OF AMENDMENTS

SA 1749. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place, insert the following: ''The business size restrictions for the rural business enterprise grants for Oakridge, OR do not apply.''

SA 1750. Mr. LEVIN (for himself, Ms. COLLINS, Mr. LAUTENBERG, Mr. KENNEDY, and Mr. PRYOR) submitted an amendment intended to be proposed by him to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 85, line 21, insert after ''until expended'' the following:

'': *Provided*, That the Department of Energy shall develop, with an opportunity for public comment, procedures to obtain oil for the Strategic Petroleum Reserve in a manner that maximizes the overall domestic supply of crude oil (including amounts stored in private sector inventories) and minimizes the costs to the Department of the Interior and the Department of Energy of acquiring such oil (including foregone revenues to the Treasury when oil for the Reserve is obtained through the Royalty-in-Kind program), consistent with national security. Such procedures shall include procedures and criteria for the review of requests for the deferrals of scheduled deliveries. No later than 120 days following the enactment of this act the Department shall propose and no later than 180 days following the enactment of this Act the Department shall publish and follow such procedures when acquiring oil for the Reserve''.

SA 1751. Mr. NICKLES submitted an amendment intended to be proposed by him to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 20, line 16, strike ''$1,636,299,000'' and insert the following: ''$1,638,499,000, of which, in accordance with the cooperative agreement entered into between the National Park Service and the Oklahoma City National Memorial Trust and numbered 1443CA125002001, $600,000 shall be available for activities of the National Park Service at the Oklahoma City National Memorial and $1,600,000 shall be available to the Oklahoma City National Memorial Trust''.

On page 44, line 18, strike ''$78,433,000'' and insert ''$76,233,000''.

SA 1752. Mr. NICKLES submitted an amendment intended to be proposed by him to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 20, line 16, after ''$1,636,299,000'' insert the following: '', of which, in accordance with the cooperative agreement entered into between the National Park Service and the Oklahoma City National Memorial Trust and numbered 1443CA125002001, $600,000 shall be available for activities of the National Park Service at the Oklahoma City National Memorial and $1,600,000 shall be available to the Oklahoma City National Memorial Trust''.

SA 1753. Mrs. BOXER proposed an amendment to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

Strike section 333.

SA 1754. Mr. VOINOVICH (for himself and Mr. THOMAS) proposed an amendment to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

Strike lines 3 through 6, and insert the following:

SEC. ___. Not later than December 31 of each year, the Secretary of the Interior shall submit to Congress a report on the competitive sourcing activities on the list required under the Federal Activities Inventory Reform Act of 1998 (Public Law 105-270; 31 U.S.C. 501 note) that were performed for the Department of the Interior during the previous fiscal year by Federal Government sources. The report shall include—

(1) the total number of competitions completed;

(2) the total number of competitions announced, together with a list of the activities covered by such competitions;

(3) the total number of full-time equivalent Federal employees studied under completed competitions;

(4) the total number of full-time equivalent Federal employees being studied under competitions announced, but not completed;

(5) the incremental cost directly attributable to conducting the competitions identified under paragraphs (1) and (2), including costs attributable to paying outside consultants and contractors;

(6) an estimate of the total anticipated savings, or a quantifiable description of improvements in service or performance, derived from completed competitions;

(7) actual savings, or a quantifiable description of improvements in service or performance, derived from the implementation of competitions completed after May 29, 2003;

(8) the total projected number of full time equivalent Federal employees covered by competitions scheduled to be announced in the fiscal year covered by the next report required under this section; and

(9) a general description of how the competitive sourcing decisionmaking processes of the Department of the Interior are aligned with the strategic workforce plan of that department.

SA 1755. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 137, between lines 23 and 24, insert the following.

SEC. 3___. ACQUISITION OF LAND IN THE STATE OF MICHIGAN.

(a) IN GENERAL.—The Secretary of the Interior (referred to in this section as the ''Secretary'') may acquire by purchase from a willing seller all right, title, and interest in and to the land described in subsection (b).

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) is the approximately 104.45 acres of unimproved land, as generally depicted on National Park Service map entitled ''Bayberry Mills, Inc. Crystal River, MI Proposed Expansion Unit to Sleeping Bear Dunes National Lakeshore'' and numbered 634/80078.

(c) LIMITATION.—The Secretary may not acquire the land described in subsection (b) through an exchange or conveyance of land that is within the boundary of the Sleeping Bear Dunes National Lakeshore as of the date of enactment of this Act.

(d) AVAILABILITY OF MAP.—The map referred to in subsection (b) shall be on file and available for inspection in the appropriate offices of the Director of the National Park Service.

SA 1756. Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill under TITLE , DEPARTMENT OF THE INTERIOR GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR, insert the following:

''SEC. . The document entitled the ''Agreement for the Acquisition and Donation of the Mineral Estate between the United States of America and the Collier Family'' (hereinafter the ''Agreement''), dated January 13, 2003, executed by the Department of the Interior and the Collier Family, together with any technical amendments or modifications that may be agreed to by the parties, is hereby ratified, confirmed and approved, and the terms, conditions, procedures and other provisions set forth in the Agreement are declared to be obligations and commitments of the United States and the Collier Family, subject to appropriation.

SA 1757. Mr. BURNS (for himself and Mr. BENNETT) proposed an amendment to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 70, line 18, immediately following the number ''205'' insert the following:

'', of which $500,000 may be for improvements at Fernwood Park on the Wasatch-Cache National Forest''

SA 1758. Mr. BURNS proposed an amendment to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 64, line 21, immediately following the number ''6a(i))'' insert the following:

'', of which $200,000 may be for necessary expenses related to a land exchange between the State of Montana and the Lolo National Forest''

SA 1759. Mr. BURNS (for Mr. COCHRAN) proposed an amendment to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 11, line 24, after ''2005'' insert the following: '', of which $1,000,000 may be available for the Wildlife Enhancement and Economic Development Program in Starkville, Mississippi''.

SA 1760. Mr. BURNS (for Mr. ENZI (for himself and Mr. THOMAS)) proposed an amendment to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 27, line 17, immediately following ''industries;'' insert: and of which $250,000 may be available to improve seismic monitoring and hazard assessment in the Jackson Hole-Yellowstone area of Wyoming.

SA 1761. Mr. BURNS proposed an amendment to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 82, line 7, insert before the period '': *Provided further,* That notwithstanding any other provision of law, within fiscal year 2004 up to $9,000,000 of the funds made available under this heading for obligation in prior years, of funds not obligated or committed to existing Clean Coal Technology projects, and funds committed or obligated to a project that is or may be terminated, may be used for the development of technologies and research facilities that support the production of electricity and hydrogen from coal including sequestration of associated carbon dioxide; provided that, the Secretary may enter into a lease or other agreement, not subject to the conditions or requirements established for Clean Coal Technology projects under any prior law, for a cost-shared public-private partnership with a non-Federal entity representing the coal industry and coal-fueled utilities; and provided further, that the Secretary shall ensure that the entity provides opportunities for participation by technology vendors, States, universities, and other stakeholders''

SA 1762. Mr. DORGAN proposed an amendment to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 85, on line 4 beginning after ''expended'' insert '', of which $1,500,000 is for DES applications integration''.

SA 1763. Mr. BURNS (for himself and Mr. DORGAN) proposed an amendment to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 36, line 4, insert before the period '': *Provided further,* That $48,115,000 shall be for operating grants for Tribally Controlled Community Colleges, and $34,710,000 shall be for Information Resources Technology''

SA 1764. Mr. DORGAN proposed an amendment to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 137, between lines 23 and 24, insert the following:

SEC. 3___. ELECTRIC THERMAL STORAGE TECHNOLOGY.

Section 412(9) of the Energy Conservation in Existing Buildings Act of 1976 (42 U.S.C. 6862(9)) is amended—

(1) in subparagraph (I), by striking ''and'' at the end;

(2) by redesignating subparagraph (J) as subparagraph (K); and

(3) by inserting after subparagraph (I) the following:

''(J) electric thermal storage technology; and''.

SA 1765. Mr. BURNS (for Mr. CAMPBELL) proposed an amendment to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 23, beginning on line 12, strike ''$341,531,000'' and all that follows through line 17 and insert ''$342,131,000, to remain available until expended, of which $300,000 for the L.Q.C. Lamar House National Historic Landmark and $375,000 for the Sun Watch National Historic Landmark shall be derived from the Historic Preservation Fund pursuant to 16 U.S.C. 470a and of which $600,000 shall be available for the planning and design of the Mesa Verde Cultural Center in the State of Colorado: *Provided,* That none of the funds''.

On page 71, beginning on line 9, strike ''$77,040,000'' and all that follows through line 11 and insert ''$76,440,000, to be derived from the Land and Water Conservation Fund and to remain available until expended, of which $5,400,000 shall be available for the Beaver Brook Watershed in the State of Colorado: *Provided,* That''.

SA 1766. Mr. BURNS (for Mr. TALENT) proposed an amendment to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page, 23, line 17, insert before the ''.'' the following: '', and of which'' and insert the following: ''of which $50,000 shall be available for the construction of a statue of Harry S Truman in Union Station in Kansas City, Missouri, and of which $4,289,000 shall be available for the construction of a security fence for the Jefferson National Expansion Memorial in the State of Missouri''.

SA 1767. Mr. BURNS (for Mr. CAMPBELL) proposed an amendment to the bill S. 1404, to amend the Ted Stevens Olympic and Amateur Sports Act; as follows:

On page 22, between lines 18 and 19, insert the following:

SEC. 6. RELOCATION OF HEADQUARTERS.

Section 220508 is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''The corporation shall''; and

(2) by adding at the end the following:

''(b) RELOCATION OF HEADQUARTERS.—The corporation may not relocate its principal office and national headquarters after the date of enactment of the United States Olympic Committee Reform Act unless—

''(1) the board of directors determines that relocation of the principal office and national headquarters is in the best interests of the corporation;

''(2) the board, by rollcall vote, agrees unanimously to refer the proposed relocation of the principal office and national headquarters to the assembly for its concurrence; and

''(3) the assembly, by a vote of not less than three-fifths of its members duly chosen and qualified, concurs in the determination of the board.''.

SA 1768. Mr. BURNS (for himself and Mr. DORGAN) proposed an amendment to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

Immediately following Title III of the bill insert the following new Title:

''TITLE IV—WILDLAND FIRE EMERGENCY APPROPRIATIONS

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

WILDLAND FIRE MANAGEMENT

For necessary expenses to repay advances from other appropriations transferred in fiscal year 2003 for emergency rehabilitation and wildfire suppression activities of the Department of the Interior, $75,000,000 to remain available until expended: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 502 of H. Con. Res. 95, the concurrent resolution on the budget for fiscal year 2004: *Provided further,* That the entire amount shall be available only to the extent that an official budget request for $75,000,000, that includes designation of the entire amount of $75,000,000 as an emergency requirement as defined in H. Con. Res. 95, the concurrent resolution on the budget for fiscal year 2004, is transmitted by the President to the Congress.

RELATED AGENCY

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

WILDLAND FIRE MANAGEMENT

For necessary expenses to repay advances from other appropriations transferred in fiscal year 2003 for wildfire suppression and emergency rehabilitation activities of the Forest Service, $325,000,000 to remain available until expended: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 502 of H. Con. Res. 95, the concurrent resolution on the budget for fiscal year 2004: *Provided further,* That the entire amount shall be available only to the extent that an official budget request for $325,000,000, that includes designation of the entire amount of $325,000,000 as an emergency requirement as

defined in H. Con. Res. 95, the concurrent resolution on the budget for fiscal year 2004, is transmitted by the President to the Congress.''

SA 1769. Mr. BURNS proposed an amendment to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 44, insert the following after line 23:

''Of the unobligated balances in the Special Foreign Currency account, $1,400,000 are hereby canceled.''

SA 1770. Mr. BURNS proposed an amendment to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 66, line 20, immediately following the ''.'' insert the following:

''*Provided further,* That such funds may be available to reimburse state and other cooperating entities for services provided in response to wildfire and other emergencies or disasters:''

SA 1771. Mr. BURNS (for Mr. BENNETT) proposed an amendment to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 81 immediately following line 16, insert the following new paragraph:

''The Secretary of Agriculture may authorize the sale of excess buildings, facilities, and other properties owned by the Forest Service and located on the Wasatch-Cache National Forest, the revenues of which may be retained by the Forest Service and available to the Secretary without further appropriation and until expended for acquisition and construction of administrative sites on the Wasatch-Cache National Forest.''

SA 1772. Mr. BURNS proposed an amendment to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

Immediately following Title III of the bill insert the following new Title:

TITLE IV—THE FLATHEAD AND KOOTENAI NATIONAL FOREST REHABILITATION ACT

SECTION 1. SHORT TITLE.

This act may be cited as the ''Flathead and Kootenai National Forest Rehabilitation Act of 2003''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) The Robert Fire and Wedge Fire of 2003 caused extensive resource damage in the Flathead National Forest;

(2) The fires of 2000 caused extensive resource damage on the Kootenai National Forest and implementation of rehabilitation and recovery projects developed by the agency for the Forest is critical;

(3) The environmental planning and analysis to restore areas affected by the Robert and Wedge Fire will be completed through a collaborative community process;

(4) The rehabilitation of burned areas needs to be completed in a timely manner in order to reduce the long-term environmental impacts; and

(5) Wildlife and watershed resource values will be maintained in areas affected by the Robert and Wedge Fire while exempting the rehabilitation effort from certain applications of the National Environmental Policy Act (NEPA) and the Clean Water Act (CWA).

(b) The purpose of this Act is to accomplish in a collaborative environment, the planning and rehabilitation of the Robert and Wedge Fire and to ensure timely implementation of recovery and rehabilitation projects on the Kootenai National Forest.

SEC. 3. REHABILITATION PROJECTS.

(a) IN GENERAL.—The Secretary of Agriculture (in this Act referred to as the ''Secretary'') may conduct projects that the Secretary determines are necessary to rehabilitate and restore, and may conduct salvage harvests on, National Forest System lands in the North Fork drainage on the Flathead National Forest, as generally depicted on a map entitled ''North Fork Drainage'' which shall be on file and available for public inspection in the Office of Chief, Forest Service, Washington, D.C.

(b) PROCEDURE.—

(1) IN GENERAL.—Except as otherwise provided by this Act, the Secretary shall conduct projects under this Act in accordance with—

(A) the National Environmental Policy Act (42 U.S.C. 4321 et seq.); and

(B) other applicable laws.

(2) ENVIRONMENTAL ASSESSMENT OR IMPACT STATEMENT.—If an environmental assessment or an environmental impact statement (pursuant to section 102(2) of the National Environmental Policy Act (42 U.S.C. 4332(2)) is required for a project under this Act, the Secretary shall not be required to study, develop, or describe any alternative to the proposed agency action in the environmental assessment or the environmental impact statement.

(3) PUBLIC COLLABORATION.—To encourage meaningful participation during preparation of a project under this Act, the Secretary shall facilitate collaboration among the State of Montana, local governments, and Indian tribes, and participation of interested persons, during the preparation of each project in a manner consistent with the Implementation Plan for the 10-year Comprehensive Strategy of a Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment, dated May 2002, which was developed pursuant to the conference report for the Department of the Interior and Related Agencies Appropriations Act, 2001 (House Report 106–646).

(4) COMPLIANCE WITH CLEAN WATER ACT.—Consistent with the Clean Water Act (33 U.S.C. 1251 et seq.) and Montana Code 75–5–703(10)(b), the Secretary is not prohibited from implementing projects under this Act due to the lack of a Total Maximum Daily Load as provided for under section 303(d) of the Clean Water Act (33 U.S.C. 1313(d)), except that the Secretary shall comply with any best management practices required by the State of Montana.

(5) ENDANGERED SPECIES ACT CONSULTATION.—If consultation is required under section 7 of the Endangered Species Act (16 U.S.C. 1536) for a project under this Act, the Secretary of the Interior shall expedite and give precedence to such consultation over any similar requests for consultation by the Secretary.

(6) ADMINISTRATIVE APPEALS.—Section 322 of the Department of the Interior and Related Agencies Appropriations Act, 1993 (Public Law 102–381; 16 U.S.C. 1612 note) and section 215 of title 36, Code of Federal Regulations shall apply to projects under this Act, except that—

(A) to be eligible to file an appeal, an individual or organization shall submit specific and substantive written comments during the comment period; and

(B) a determination that an emergency situation exists pursuant to section 215.10 of title 36, Code of Federal Regulations, shall be made where it is determined that implementation of all or part of a decision for a project under this Act is necessary for relief from—

(i) adverse affects on soil stability and water quality resulting from vegetation loss; or

(ii) loss of fish and wildlife habitat.

SEC. 4. CONTRACTING AND COOPERATIVE AGREEMENTS.

(a) IN GENERAL.—Notwithstanding chapter 63 of title 31, United States Code, the Secretary may enter into contract or cooperative agreements to carry out a project under this Act.

(b) EXEMPTION.—Notwithstanding any other provision of law, the Secretary may limit competition for a contract or a cooperative agreement under subsection (a).

SEC. 5. MONITORING REQUIREMENTS.

(a) IN GENERAL.—The Secretary shall establish a multi-party monitoring group consisting of a representative number of interested parties, as determined by the Secretary, to monitor the performance and effectiveness of projects conducted under this Act.

(b) REPORTING REQUIREMENTS.—The multi-party monitoring group shall prepare annually a report to the Secretary on the progress of the projects conducted under this Act in rehabilitating and restoring the North Fork drainage. The Secretary shall submit the report to the Senate Subcommittee on Interior Appropriations of the Senate Committee on Appropriations.

SEC. 6. SUNSET.

The authority for the Secretary to issue a decision to carry out a project under this Act shall expire 5 years from the date of enactment.

SEC. 7. IMPLEMENTATION OF RECORDS OF DECISION.

The Secretary of Agriculture shall publish new information regarding forest wide estimates of old growth from volume 103 of the administrative record in the case captioned Ecology Center v. Castaneda, CV–02–200–M–DWM (D. Mont.) for public comment for a 30 day period. The Secretary shall review any comments received during the comment period and decide whether to modify the Records of Decision (hereinafter referred to as the ''ROD's'') for the Pinkham, White Pine, Kelsey-Beaver, Gold/Boulder/Sullivan, and Pink Stone projects on the Kootenai National Forest. The ROD's, whether modified or not, shall not be deemed arbitrary and capricious under the NFMA, NEPA or other applicable law as long as each project area retains 10% designated old growth in the project area.

SA 1773. Mr. BURNS proposed an amendment to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the end of Title III of the bill insert the following:

SEC. XXX. ZORTMAN/LANDUSKY MINE RECLAMATION TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''Zortman/Landusky Mine Reclamation Trust Fund'' referred to in this section as the ''Fund'').

(b) For the fiscal year during which this Act is enacted and each fiscal year thereafter until the aggregate amount deposited

in the Fund under this subsection is equal to at least $22,500,000, the Secretary of the Treasury shall deposit $2,250,000 in the Fund.

(c) INVESTMENTS.—The Secretary of the Treasury shall invest the amounts deposited under subsection (b) only in interest-bearing obligations of the United States or in obligations guaranteed by the United States as to both principal and interest.

(d) PAYMENTS.—

(1) IN GENERAL—All amounts credited as interest under subsection (c) may be available, without fiscal year limitation, to the State of Montana for use in accordance with paragraph (3) after the Fund has been fully capitalized.

(2) WITHDRAWAL AND TRANSFER OF FUNDS.—The Secretary of the Treasury shall withdraw amounts credited as interest under paragraph (1) and transfer the amounts to the State of Montana for use as State funds in accordance with paragraph (3) after the Fund has been fully capitalized.

(3) USE OF TRANSFERRED FUNDS.—The State of Montana shall use the amounts transferred under paragraph (2) only to supplement funding available from the State Administered ''Zortman/Landusky Long-Term Water Treatment Trust Fund'' to fund annual operation and maintenance costs for water treatment related to the Zortman/Landusky mine site and reclamation areas.

(e) TRANSFERS AND WITHDRAWALS.—The Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

(f) ADMINISTRATIVE EXPENSES.—There are authorized to be appropriated to the Secretary of the Treasury such sums as are necessary to pay the administrative expenses of the Fund.

SA 1774. Mr. BURNS (for Mr. CRAIG) proposed an amendment to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the end of title I, insert the following:

''SEC. XXX. Nonrenewable grazing permits authorized in the Jarbidge Field Office, Bureau of Land Management within the past seven years shall be renewed under section 402 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1752) and under section 3 of the Taylor Grazing Act of 1934, as amended (43 U.S.C. 315b). The terms and conditions contained in the most recently expired nonrenewable grazing permit shall continue in effect under the renewed permit. Upon completion of any required analysis or documentation, the permit may be canceled, suspended, or modified, in whole or in part, to meet the requirements of applicable laws and regulations. Nothing in this section shall be deemed to extend the nonrenewable permits beyond the standard one-year term.

REPORT LANGUAGE

SECTION XXX. Allows for the renewal of grazing permits in the Jarbidge Field Office and makes the completion of the required NEPA analysis a high priority while ensuring completion of the necessary documents as soon as possible.

SA 1775. Mr. BURNS (for Mr. STEVENS) proposed an amendment to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 63, between lines 2 and 3, insert the following:

SEC. 1___. INTERIM COMPENSATION PAYMENTS.

Section 2303(b) of Public Law 106–246 (114 Stat. 549) is amended by inserting before the period at the end the following: '', unless the amount of the interim compensation exceeds the amount of the final compensation''.

SA 1776. Mr. BURNS (for Mr. STEVENS) proposed an amendment to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 63, between lines 2 and 3, insert the following:

SEC. 1___. APPLICATIONS FOR WAIVERS OF MAINTENANCE FEES.

Section 10101f(d)(3) of the Omnibus Budget Reconciliation Act of 1993 (30 U.S.C. 28f(d)(3)) is amended by inserting after ''reason'' the following: ''(including, with respect to any application filed on or after January 1, 1999, the filing of the application after the statutory deadline)''.

SA 1777. Mr. DORGAN proposed an amendment to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 24, line 5, immediately following the colon, insert ''*Provided further*, That none of the funds provided in this or any other Act may be used for planning, design, or construction of any underground security screening or visitor contact facility at the Washington Monument until such facility has been approved in writing by the House and Senate Committees on Appropriations:''

SA 1778. Mr. DORGAN proposed an amendment to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 137, between lines 23 and 24, insert the following:

SEC. . Section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211) is amended—

(1) by striking ''or a dual fueled vehicle'' at the end of subparagraph (3) and inserting '', a dual fueled vehicle, or a neighborhood electric vehicle'';

(2) by striking ''and'' at the end of subparagraph (13);

(3) by striking the period at the end of subparagraph (14) and inserting ''; and''; and

(4) by adding at the end the following:

''(15) the term 'neighborhood electric vehicle' means a motor vehicle that qualifies as both—

''(A) a low-speed vehicle, as such term is defined in section 571.3(b) of title 49, Code of Federal Regulations; and

''(B) a zero-emission vehicle, as such term is defined in Section 86.1702–99 of title 40, Code of Federal Regulations.''.

SA 1779. Mr. BURNS (for himself and Mr. DORGAN) proposed an amendment to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 122, Strike Section 324 and insert;

SEC. 324. A grazing permit or lease issued by the Secretary of the Interior or a grazing permit issued by the Secretary of Agriculture where National Forest System lands are involved that expires, is transferred, or waived during fiscal years 2004–2008 shall be renewed under section 402 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1752), section 19 of the Granger-Thye Act, as amended (16 U.S.C. 5801), title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010 et seq.), or, if applicable, section 510 of the California Desert Protection Act (16 U.S.C. 410aaa-50). The terms and conditions contained in the expired, transferred, or waived permit or lease shall continue in effect under the renewed permit or lease until such time as the Secretary of the Interior or Secretary of Agriculture as appropriate completes processing of such permit or lease in compliance with all applicable laws and regulations, at which time such permit or lease may be canceled, suspended or modified, in whole or in part, to meet the requirements of such applicable laws and regulations. Nothing in this section shall be deemed to alter the statutory authority of the Secretary of the Interior or the Secretary of Agriculture: *Provided*, That where National Forest System lands are involved and the Secretary of Agriculture has renewed an expired or waived grazing permit prior to or during fiscal year 2004, the terms and conditions of the renewed grazing permit shall remain in effect until such time as the Secretary of Agriculture completes processing of the renewed permit in compliance with all applicable laws and regulations or until the expiration of the renewed permit, whichever comes first. Upon completion of the processing, the permit may be canceled, suspended or modified, in whole or in part, to meet the requirements of applicable laws and regulations. *Provided Further*, Beginning in November 2004, and every year thereafter, the Secretaries of the Interior and Agriculture shall report to Congress the extent to which they are completing analysis required under applicable laws prior to the expiration of grazing permits, and beginning in May 2004, and two year thereafter, the Secretaries shall provide Congress recommendations for legislative provisions necessary to ensure all permit renewals are completed in a timely manner. The legislative recommendations provided shall be consistent with the funding levels requested in the Secretaries' budget proposals; *Provided Further*, Notwithstanding Section 504 of the Rescissions Act (109 Stat. 212), the Secretaries in their sole discretion determine the priority and timing for completing required environmental analysis of grazing allotments based on the environmental significance of the allotments and funding available to the Secretaries for this purpose.

SA 1780. Mr. BURNS (for Ms. SNOWE (for herself and Mr. DODD)) proposed an amendment to the bill HR. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 137, between lines 23 and 24, insert the following:

SEC. 3___. NORTHEAST HOME HEATING OIL RESERVE REPORT.

Not later than December 1, 2003, the Secretary of Energy shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that—

(1) describes—

(A) the various scenarios under which the Northeast Home Heating Oil Reserve may be used; and

(B) the underlying assumptions for each of the scenarios; and

(2) includes recommendations for alternative formulas to determine supply disruption.

SA 1781. Mr. BURNS (for himself and Mr. DORGAN) proposed an amendment to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 95, at the end of line 17, insert the following paragraph:

None of the funds made available to the Indian Health Service in this Act shall be used for any Department of Health and Human Services-wide consolidation, restructuring, or realignment of functions or for any assessments or charges associated with any such consolidation, restructuring or realignment, except for purposes for which funds are specifically provided in this Act.

SA 1782. Mr. BURNS proposed an amendment to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

''SEC. . Section 104 (16 U.S.C. 1374) is amended—(1) in subsection (c)(5)(D) by striking ''the date of the enactment of the Marine Mammal Protection Act Amendments of 1994'' and inserting ''February 18, 1997''.''

NOTICE OF HEARINGS/MEETINGS

SUBCOMMITTEE ON WATER AND POWER
COMMITTEE ON INDIAN AFFAIRS

Ms. MURKOWSKI. Mr. President, I would like to announce for the information on the Senate and the public that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources and the Committee on Indian Affairs will hold a joint-hearing on September 30, 2003 at 10 a.m. in SD–366.

The purpose of this hearing is to examine of S. 437, the Arizona Water Settlements Acts, which is a bill to provide for adjustments to the Central Arizona Project in Arizona, to authorize the Gila River Indian Community water rights settlement, to reauthorize and amend the Southern Arizona Water Rights Settlement Act of 1982, and for other purposes.

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, SD–364, Washington, D.C. 20510–6150 prior to the hearing date.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, September 23, 2003, at 11 a.m., in open session to consider the nomination of the Honorable Gordon R. England to be Secretary of the Navy.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on September 23, 2003, at 10 a.m. to conduct a hearing on ''The Implementation of the Sarbanes-Oxley Act and Restoring Investor Confidence.''

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on September 23, 2003, at 2 p.m., to conduct a markup of the following original legislation: the ''National Consumer Credit Reporting System Improvement Act of 2003''; the ''Defense Production Reauthorization Act of 2003''; and the ''Federal Transit Extension Act of 2003.''

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Tuesday, September 23 at 9 a.m. to conduct a business meeting to consider the TEA–21 extension and to conduct a hearing immediately following the markup to consider the nomination of Michael O. Leavitt, to be Administrator of the Environment Protection Agency.

The business meeting and the hearing will take place in SD–406 (Hearing Room).

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

COMMITTEE ON FINANCE

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Tuesday, September 23, 2003, at 10 a.m., to hear testimony on ''Unfulfilled Promises: Mexican Barrier to U.S. Agricultural Exports.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, September 23, 2003 at 2:30 p.m. to hold a hearing on Iraq: Next Steps

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, September 23, 2003, at 9:30 a.m. for a classified hearing titled ''Combating Terrorist Financing: Are We on the Right Track?''

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on Health Technology during the session of the Senate on Tuesday, September 23, 2003 at 10 a.m. in SD–430.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Tuesday, September 23, 2003, for a hearing on proposals to limit eligibility for veterans' compensation benefits to disabilities directly related to ''performance of duty'' injuries only.

The hearing will take place in room 418 of the Russell Senate Office Building at 2:30 p.m.

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

SPECIAL COMMITTEE ON AGING

Mr. BURNS. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on Tuesday, September 23, 2003 from 9:30 a.m.–11:30 a.m. in Dirksen 628 for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON IMMIGRATION AND BORDER SECURITY

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Immigration and Border Security be authorized to meet to conduct a hearing on ''Information Sharing and Coordination for Visa Issuance: Our first line of defense for homeland security'' on Tuesday, September 23, 2003, at 2:30 p.m., in SD226.

WITNESS LIST

Panel I: Maura Harty, Assistant Secretary for Consular Affairs, Department of State, Washington, D.C.; C. Stewart Verdery, Jr., Assistant Secretary for Policy and Planning, Border and Transportation Security, Department of Homeland Security, Arlington, Virginia.

Panel II: John O. Brennan, Director, Terrorist Threat Integration Center (TTIC), Office of the Director of Central Intelligence, McLean, Virginia; Larry A. Mefford, Executive Assistant Director, Counter-terrorism and Counter-intelligence, Federal Bureau of Investigation, Department of Justice, Washington, D.C.

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

SUBCOMMITTEE ON WATER AND POWER

Mr. BURNS. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, September 23, at 2:30 p.m.

The purpose of the hearing is to receive testimony on S. 213, a bill to clear title to certain real property in New Mexico associated with the middle Rio Grande Project, and for other purposes; S. 1236, a bill directing the Secretary of the Interior to establish a program to control or eradicate Tamarisk in the western United States, and for other purposes; S. 1516, a bill to further the purposes of the Reclamation Projects Authorization and Adjustment Act of 1992 by directing the Secretary of the Interior, acting through the Commissioner of Reclamation, to carry out an assessment and demonstration program to assess potential increases in water availability for Bureau of Reclamation projects and other uses through control of salt cedar and Russian olive; H.R. 856, a bill authorizing the Secretary of the Interior to revise a repayment contract with the Tom Green county water control and improvement district No. 1 San Angelo Project, Texas, and for other purposes; and H.R. 961, a bill to promote Department of the of the Interior efforts to provide a scientific basis for the management of sediment and nutrient loss in the upper Mississippi River Basin, and for other purposes. (Contact: Shelly Randel 202–224–7933, Erik Webb 202–224–4756 or Meghan Beal at 202–224–7556).

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

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that Larry Kennedy, a fellow on my staff, be permitted the privilege of the floor during debate on the Interior appropriations bill.

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

UNITED STATES OLYMPIC COMMITTEE REFORM ACT

Mr. BURNS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 237, S. 1404.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1404) to amend the Ted Stevens Olympic and Amateur Sports Act.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 1404

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 ''United States Olympic Committee Reform Act''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) There is a widespread loss of confidence in the United States Olympic Committee.

(2) Restoring confidence in the United States Olympic Committee is critical to achieving the original intent of the Ted Stevens Amateur and Olympic Sports Act.

(3) Confusion exists concerning the primary purposes and priorities of the United States Olympic Committee.

(4) The current governance structure of the United States Olympic Committee is dysfunctional.

(5) The ongoing national corporate governance debate and recent reforms have important implications for the United States Olympic Committee.

(6) There exists no clear line of authority between the United States Olympic Committee volunteers and the United States Olympic Committee paid staff.

(7) There is a widespread perception that the United States Olympic Committee lacks financial transparency.

SEC. 3. AMENDMENT OF TED STEVENS OLYMPIC AND AMATEUR SPORTS ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Ted Stevens Olympic and Amateur Sports Act (36 U.S.C. 220501 et seq.).

SEC. 4. GOVERNANCE OF THE UNITED STATES OLYMPIC COMMITTEE.

(a) IN GENERAL.—The Act (36 U.S.C. 220501) is amended by adding at the end the following:

''SUBCHAPTER III. GOVERNANCE

''§ 220541. Board of directors

''(a) IN GENERAL.—The board of directors is the governing body of the corporation and shall establish the policies and priorities of the corporation. The board of directors shall have the full authority to manage the affairs of the corporation.

''(b) STRUCTURE OF THE BOARD.—

''(1) IN GENERAL.—The board of directors shall consist of 9 elected members and the ex officio members described in paragraph (3).

''(2) ELECTED MEMBERS.—The elected directors, elected as provided in subsection (g), are—

''(A) 5 independent directors, as defined in the constitution and bylaws of the corporation;

''(B) 2 directors elected from among those nominated by the Athletes' Advisory Council, who at the time of nomination meet the specifications of section 220504(b)(2)(B) of this title; and

''(C) 2 directors elected from among those nominated by the National Governing Bodies' Council.

''(3) EX OFFICIO MEMBERS.—The ex officio members are—

''(A) the speaker of the assembly; and

''(B) the International Olympic Committee member or members from the United States who are required to be ex officio members of the executive organ of the corporation under the terms of the Olympic Charter.

''(c) TERMS OF OFFICE.—

''(1) ELECTED DIRECTORS.—The term of office of an elected director shall be 4 years. An individual elected to replace a director who does not serve a full 4-year term shall be elected initially to serve only the balance of the expired term of the member that director replaces. No director shall be eligible for reelection, except a director whose total period of service, if elected, would not exceed 6 years. The chair of the board shall be eligible to serve an additional 2 years as required to complete his or her term as chair.

''(2) STAGGERED TERMS.—Notwithstanding paragraph (1), of the directors first elected to the board after the date of enactment of the United States Olympic Committee Reform Act—

''(A) 2 of the directors elected under paragraph (2)(A) shall be elected for terms of 2 years;

''(B) 3 of the directors elected under paragraph (2)(A) shall be elected for terms of 4 years;

''(C) 1 of the directors elected under paragraph (2)(B) shall be elected for a term of 2 years;

''(D) 1 of the directors elected under paragraph (2)(B) shall be elected for a term of 4 years;

''(E) 1 of the directors elected under paragraph (2)(C) shall be elected for a term of a term of 2 years; and

''(F) 1 of the directors elected under paragraph (2)(C) shall be elected for a term of a term of 4 years.

''(3) EX OFFICIO MEMBERS.—The speaker of the assembly shall serve as a non-voting ex officio member of the board while holding the position of speaker of the assembly. An International Olympic Committee member shall serve as an ex officio member of the board for so long as the member is a member of that Committee.

''(d) VOTING.—

''(1) ELECTED MEMBERS.—Each elected director shall have 1 vote on all matters on which the board votes, consistent with the constitution and bylaws of the corporation.

''(2) EX OFFICIO MEMBERS.—Each voting ex officio member shall have 1 vote on matters on which the ex officio members vote, consistent with the constitution and bylaws of the corporation, and the votes of the ex officio members shall be weighted such that, in the aggregate, the votes of all voting ex officio members are equal to the vote of one elected director.

''(3) TIE VOTES.—In the event of a tie vote of the board, the vote of the chair of the board shall serve to break the tie.

''(4) QUORUM.—The board may not take action in the absence of a quorum, which shall be 7 members, of whom at least 3 shall be members described in subsection (b)(2)(A).

''(e) CHAIR OF THE BOARD.—The board shall elect 1 of the members described in subsection (b)(2) to serve as chair of the board first elected after the date of enactment of the United States Olympic Committee Reform Act. The chair of the board shall preside at all meetings of the board and have such other duties as may be provided in the constitution and bylaws of the corporation. No individual may hold the position of chair of the board for more than 4 years.

''(f) COMMITTEES.—

''(1) IN GENERAL.—The board of directors shall establish the following 4 standing committees:

''(A) The Audit Committee.

''(B) The Compensation Committee.

''(C) The Ethics Committee.

''(D) The Nominating and Governance Committee.

''(2) COMMITTEE MEMBERSHIP.—The Compensation Committee shall consist of 3 board members selected by the board. The Audit Committee, Ethics Committee, and Nominating and Governance Committee shall each consist of—

''(A) 3 board members described in subsection (b)(2)(A), selected by the board;

''(B) 1 board member described in subsection (b)(2)(B), selected by the board; and

''(C) 1 board member described in subsection (b)(2)(C), selected by the board.

''(3) ADDITIONAL COMMITTEES.—The board may establish such additional committees, subcommittees, and task forces as may be necessary or appropriate and for which sufficient funds exist.

''(g) NOMINATION AND ELECTION.—

''(1) IN GENERAL.—The nominating and governance committee shall recommend candidates to the board of directors to fill vacancies on the board as provided in the constitution and bylaws of the corporation. For each vacancy that is to be filled by a nominee of the Athletes' Advisory Council or the National Governing Bodies' Council, the Athletes' Advisory Council or the National Governing Bodies' Council shall recommend 3 individuals to the nominating and governance committee, which shall nominate 1 of the recommended individuals to the board of directors.

''(2) RECUSAL OF MEMBERS ELIGIBLE FOR RE-ELECTION.—Any member of the nominating and governance committee who is eligible for re-election by virtue of serving for an initial term of less than 2 years shall be recused from participation in the nominating and recommendation process.

''(3) BOARD TO ELECT MEMBERS.—Except as provided in section 4(c)(2) of the United States Olympic Committee Reform Act, the board of directors shall elect directors from the candidates proposed by the nominating and governance committee.

''§ 220542. Assembly

''(a) IN GENERAL.—

''(1) FORUM FUNCTION.—The assembly shall be a forum for all stakeholders of the corporation. The assembly shall have an advisory function only, except as otherwise expressly provided in this chapter.

''(2) VOTING ON MATTERS RELATING TO THE OLYMPIC GAMES.—The assembly shall have the right to vote on, and shall have ultimate authority to decide, matters relating to the Olympic Games. The board of directors shall determine whether a matter is a question relating to the Olympic Games on which the assembly is entitled to vote. The determination of the board shall be final and binding.

''(3) MEETINGS.—The assembly shall convene annually in a meeting open to the public. The board of directors may convene special meetings of the assembly.

''(4) ANNUAL BUDGET.—The board of directors shall establish an annual budget for the assembly, as provided in the constitution and bylaws of the corporation. In establishing the budget, the board of directors shall take into account the interest of the corporation in minimizing the costs associated with the assembly.

''(b) STRUCTURE OF THE ASSEMBLY.—

''(1) IN GENERAL.—The assembly shall consist of—

''(A) representatives of the constituencies of the corporation specified in section 220504 of this title (other than former United States Olympic Committee members);

''(B) the International Olympic Committee's members for the United States; and

''(C) not more than 3 individuals who have represented the United States in an Olympic Games not within the preceding 10 years, selected through a process to be determined by the board of directors in accordance with the constitution and bylaws of the corporation.

''(2) AMATEUR ATHLETE REPRESENTATION.—Amateur athletes shall constitute not less than 20 percent of the membership in the assembly.

''(c) VOTING.—

''(1) REPRESENTATIVES OF THE NATIONAL GOVERNING BODIES.—Representatives of the national governing bodies shall constitute not less than 51 percent of the voting power held in the assembly.

''(2) AMATEUR ATHLETES.—Amateur athletes shall constitute not less than 20 percent of the voting power held in the assembly.

''(d) SPEAKER OF THE ASSEMBLY.—The speaker of the assembly shall be a member of the assembly (who, as a member, is entitled to vote) who is elected by the members of the assembly for a 4-year term. An individual may not serve as speaker for more than 4 years. The speaker shall preside at all meetings of the assembly and serve as a nonvoting ex officio member of the board of directors as provided in section 220541. The speaker shall have no other duties or powers (other than the right to vote), except as may be expressly assigned by the board of directors.

''§ 220543. Chief executive officer

''(a) IN GENERAL.—The corporation shall have a chief executive officer who shall not be a member of the board of directors. The chief executive officer shall be selected by, and shall report to, the board of directors, as provided in the constitution and bylaws of the corporation. The chief executive officer shall be responsible, with board approval, for filling other key senior management positions as provided in the constitution and bylaws of the corporation.

''(b) DUTIES.—The chief executive officer shall, either directly or by delegation—

''(1) manage all staff functions and the day-to-day affairs and business operations of the corporation, including but not limited to relations with international organizations; and

''(2) implement the mission and policies of the corporation, as determined by the Board.

''§ 220544. Whistleblower procedures and protections

''The corporation, through the board of directors, shall establish procedures for—

''(1) the receipt, retention, and treatment of complaints received by the corporation regarding accounting, auditing or ethical matters; and

''(2) the protection against retaliation by any officer, employee, director or member of the corporation against any person who submits such complaints.

''§ 220545. Ethics and compliance

''(a) IN GENERAL.—The ethics committee shall be responsible for oversight of—

''(1) all matters relating to ethics policy and practices of the corporation's employees, board members, and volunteers;

''(2) officers or directors of a member organization insofar as their activities relate to corporation business; and

''(3) paid and volunteer leadership staff of a bid city organization for activities that relate directly to the bid city process.

''(b) INTERNAL ETHICS OFFICER.—

''(1) IN GENERAL.—The board of directors shall employ and fix the compensation of a chief ethics officer to implement the ethics policy for the corporation.

''(2) DUTIES.—The ethics committee shall establish policies and procedures to delineate the duties of the chief ethics officer.

''(3) LINE OF AUTHORITY.—

''(A) IN GENERAL.—The chief ethics officer shall report to the chief executive officer of the corporation.

''(B) CERTAIN PARTIES.—Notwithstanding subparagraph (A), the chief ethics officer shall report to the ethics committee whenever an alleged violation involves—

''(i) senior management or directors of the corporation;

''(ii) officers or directors of a member organization;

''(iii) a bid city; or

''(iv) the International Olympic Committee.

''(c) ETHICS POLICY.—The ethics committee shall establish an ethics policy for the corporation, subject to the approval of the board of directors, modeled upon the best practices used in corporate and government offices. The policy shall include—

''(1) a conflict of interest policy;

''(2) an anti-discrimination policy;

''(3) a workplace harassment policy;

''(4) a gift, travel reimbursement, honorarium, and outside income policy;

''(5) a financial propriety policy, including a prohibition on loans to corporation officers and employees;

''(6) a bid-city policy which includes a transparent and objective set of criteria published in advance by which the corporation will choose a United States city to submit a bid to the International Olympic Committee for an Olympic games, which adheres in all respects to the rules and ethics guidelines of the Olympic Charter and the International Olympic Committee, and which applies to the leaders and staff of a city, or organizations representing a bid city, that file an official bid with the corporation to host Olympic games;

''(7) potential sanctions and penalties for violations of the ethics policy, which may include removal from corporation duties;

''(8) a procedure for reporting and investigating potential ethics violations; and

''(9) procedures to assure due process for any individual accused of an ethics violation, including—

''(A) a timely hearing before the ethics committee;

''(B) the right to be represented by counsel; and

''(C) access to all documentation and statements that would be used in an ethics proceeding against that individual.

''(d) WRITTEN STATEMENT REQUIRED.—All members of the board, employees, and officers, directors of member organizations, and leaders or representatives of United States bid cities must sign a statement that they have read the corporation's ethics policy and agree to abide by its rules.

''(e) ETHICS COMMITTEE ADJUDICATION OF VIOLATIONS.—When the ethics committee determines that an individual has violated the corporation's ethics policy, it will report to the Board and may make recommendations for action to be taken.

''(f) INVESTIGATION, REPORTING, AND REVIEW PROCEDURES.—The ethics committee shall establish a procedure for the prompt review and investigation of ethics violations, and establish regular reporting and review procedures to document the number and types of complaints or issues brought to the ethics committee and the ethics officer.

''(g) OUTSIDE COUNSEL.—The ethics committee may hire outside counsel to conduct investigations, report findings, and make recommendations.

''(h) BID CITY DEFINED.—In this section, the term 'bid city' means 1 or more cities, States, regional organizations, or other organizations that file an official bid with the corporation to be chosen as the site nominated by the United States to the International Olympic Committee to host an Olympic Games.''.

(b) TRANSITION.—The individuals serving as members of the board of directors of the United States Olympic Committee on the date of enactment of this Act shall continue to serve as the board of directors until a board of directors has been elected under subsection (c)(2) of this section.

(c) INITIAL NOMINATING AND GOVERNANCE COMMITTEE.—

(1) IN GENERAL.—Until the initial board of directors has been elected and taken office, the nominating and governance committee required by section 220541(f) of title 36, United States Code, shall consist of—

(A) 1 individual selected by the Athlete's Advisory Council from among its members;

(B) 1 individual selected by the National Governing Bodies' Council from among its members;

(C) 1 individual selected by the public-sector directors of the United States Olympic Committee from among such directors serving on the date of enactment of this Act;

(D) 1 individual selected by the Independent Commission on Reform of the established by the United States Olympic Committee in March, 2003, from among its members, who shall chair the committee; and

(E) 1 individual selected by the Governance and Ethics Task Force established by the United States Olympic Committee in February, 2003, from among its members.

(2) ELECTION OF NEW BOARD OF DIRECTORS.—The nominating and governance committee established by paragraph (1) shall—

(A) elect an initial board or directors who shall serve for the terms provided in section 220541(c)(2) of title 36, United States Code; and

(B) elect 1 of the members described in section 220541(b)(2)(A) of that title to serve as chair until the terms of the members elected under subparagraph (A) have expired.

(d) CONFORMING AMENDMENTS.—

(1) REPRESENTATION REQUIREMENTS.—Section 220504(b) is amended—

(A) by striking ''representation of—'' and inserting ''representation on its board of directors and in its assembly of—''; and

(B) by striking subparagraph (B) of paragraph (2) and inserting the following:

''(B) ensure that—

''(i) the membership and voting power of such amateur athletes is not less than 20 percent of the membership and voting power of each committee, subcommittee, working group, or other subordinate decision-making group, of the corporation; and

''(ii) the voting power held by members of the board of directors who were nominated by the Athlete's Advisory Council is not less than 20 percent of the total voting power held in the board of directors;''.

(2) CONSTITUTION AND BYLAWS.—Section 220505(a) is amended—

(A) by striking ''bylaws.'' and inserting ''bylaws consistent with this chapter, as determined by the board of directors. The board of directors shall adopt and amend the constitution and bylaws of the corporation, consistent with this chapter.'';

(B) by inserting ''the board of directors proposes and approves by majority vote such an amendment and'' after ''only if''; and

(C) by striking ''publication,'' in paragraph (1) and inserting ''publication and on its website,''.

(3) OMBUDSMAN TO REPORT TO BOARD OF DIRECTORS.—Section 220509(b) is amended—

(A) by inserting ''the board of directors and'' in paragraph (1)(C) after ''report to'';

(B) by striking ''corporation's executive director'' in paragraph (2)(A)(i) and inserting ''board of directors'';

(C) by striking clauses (ii) and (iii) of paragraph (2)(A) and inserting the following:

''(ii) The board of directors shall hire or not hire such person after fully considering the advice and counsel of the Athlete's Advisory Council.'';

(D) by striking ''corporation'' the first place it appears in paragraph (2)(B) and inserting ''board of directors'';

(E) by striking ''to the corporation's executive committee by either the corporation's executive director'' in paragraph (2)(B)(ii) and inserting ''by 1 or more members of the board of directors''; and

(F) by striking ''corporation's executive committee'' in paragraph (2)(B)(iii) and inserting ''board of directors''.

(4) ELIGIBILITY REQUIREMENTS.—Section 220522(a)(4)(B) is amended by striking ''corporation's executive committee'' and inserting ''board of directors''.

(5) CHAPTER ANALYSIS.—The chapter analysis for chapter 2205 [of title 36, United States Code,] is amended by adding at the end the following:

''SUBCHAPTER III. GOVERNANCE

''220541. Board of directors

''220542. Assembly

''220543. Chief executive officer

''220544. Whistleblower procedures and protections

''220545. Ethics and compliance''.

SEC. 5. REPORTS.

Section 220511 is amended—

(1) by striking so much of subsection (a) as precedes paragraph (2) and inserting the following:

''(a) BIENNIAL REPORT.—On or before the first day of June of every other year, the corporation shall transmit simultaneously to the President and to each House of Congress a detailed report of its operations for the preceding 2 years, including—

''(1) annual financial statements—

''(A) audited in accordance with generally accepted accounting principles by an independent certified public accountant; and

''(B) certified by the chief executive officer and the chief financial officer of the corporation as to their accuracy and completeness;'';

(2) by striking ''4-year period;'' in subsection (a)(2) and inserting ''2-year period;''; and

(3) by inserting ''free of charge on its website (or via a similar medium that is widely available to the public), and otherwise'' in subsection (b) after ''persons''.

SEC. 6. SENIOR OLYMPICS.

Notwithstanding section 220506(a) of title 36, United States Code, the National Senior Games Association of Baton Rouge, Louisiana, is authorized to use the words ''Senior Olympics'' to promote national athletic competition among senior citizens.

Mr. MCCAIN. The amendment to the United States Olympic Committee Reform Act of 2003, S. 1404, being offered by Senator CAMPBELL permits the new USOC board, together with the new USOC assembly, to determine the location of the organization's headquarters. This amendment is consistent with what is already in the USOC's Federal charter, which currently allows the USOC to determine where in the United States the organization's headquarters should be maintained.

To move the headquarters, the newly constituted board would first determine whether it is in the best interest of the USOC to relocate the headquarters. A unanimous vote by the board would be required to refer the matter to the assembly for consideration, and then, only by a three-fifths majority of the assembly could the USOC headquarters be relocated.

Mr. STEVENS. Mr. President, I thank Senators MCCAIN and CAMPBELL for their work on this important issue. My work on the Olympic Sports Act began in the 1970s. I believe the reforms in our bill today are necessary adjustments that will return the focus of the United States Olympic Committee to our original intent—our American athletes!

The USOC Internal Taskforce and the Senate appointed Independent Commission did excellent jobs in reviewing the problems and offering solutions to the recent problems that have plagued the USOC. I thank the USOC Taskforce and the Independent Commission on the United States Olympic Committee for their hard work. S. 1404 includes many of the suggested changes from both groups.

This is a good bill and I support all but one aspect of it. I cannot support and will work to remove the section that gives special consideration to the Senior Olympics. The only fundraising tool that Congress gave the USOC was the exclusive rights to the name, seals, emblems and badges of the USOC. The language that allows the Senior Olympics to use the Olympic symbols without the USOC permission will lead to the destruction of the fundraising ability of the USOC. Above all, the use of these symbols should not be subject to being ''licensed out'' by any entity but the USOC. I would have opposed this language in committee but unfortunately I was chairing a Defense Appropriations hearing when the language was offered. I will not hold up the passage of this important legislation but will work to remove the language creating a death knell to the USOC's ability to raise the funds necessary to meet the objectives of our Nation ion international competitions.

This is an important agreement on the location of the USOC headquarters. Now this bill can go to conference, after which, with the President's approval, it will become law and our American athletes can focus all of their efforts on the 2004 Olympic Games.

I thank Senator MCCAIN's Commerce staff for their hard work on this issue. Especially Ken Nahigian and also Brian Feintech of Senator CAMPBELL's staff. Their hard work along with that of George Lowe on my staff have insured that this important legislation is ready to move forward.

Mr. CAMPBELL. Mr. President, I thank Senator MCCAIN for his patience and understanding in this matter and ask to be an original cosponsor of this legislation.

The USOC was crying out for reform. There was the mismanagement of funds, poor judgments, and frequent turnover of management. I would like to recognize the USOC's internal efforts for reform. Reform has been long overdue.

My opposition to this legislation was to protect not only my constituents, but the USOC employees and athletes training in Colorado Springs, CO, as well. Again and again, I have heard rumblings about moving the headquarters of the USOC to another city, possibly New York City. This would be a terrible mistake and I cannot and will not allow this to happen.

The moving expenses would far outweigh the benefits of moving the headquarters and I do not want another dime wasted on the governance and management of the USOC. I cannot, and I do not think that we can make it clear enough: the money raised is first and foremost for the benefit and training of athletes, not for extra cushions on the chairs of those sitting in offices with pretty views of skylines.

The costs to the State of Colorado must be recognized too. The presence

of the USOC in Colorado Springs generates over $300 million per year in revenue. My State cannot afford taking a hit like that now. To be exact, the USOC generates $315.9 million a year for the Pikes Peak Region; employs over 500 fund-raising staff; is home to 250 Olympic hopefuls, resident athletes in various sports; provides about 4,800 jobs in the Colorado Springs area, directly and indirectly; and serves about 38,000 tourists each year.

I would like to point out Colorado's own commitment to the United States Olympic Committee. The Colorado State legislature passed law allowing out-of-State doctors to practice medicine at the center without having to pass a Colorado test for a medical license; passed a law allowing out-of-State athletes at the training center to pay instate college tuition so they could continue their education while training; and created a check-off box on State income tax returns allowing taxpayers to donate $1, which initially raised about $200,000 a year.

The argument that moving to a major metropolitan area to have better access to marketing and mass media is completely invalid. NBC agreed to pay $2.2 billion for U.S. television rights to the 2010 Winter Olympic Games and the 2012 Summer Olympic Games. That deal includes a sponsorship by NBC parent company, General Electric, which is based in Connecticut. San Francisco-based VISA continues to support the Olympic movement as does Bank of America, based in Charlotte, NC. Obviously, the USOC is not having any problem securing media coverage or sponsorships.

Lastly, I would like to point out Section 834 of Public Law 99–167, passed during the 1st Session of the 99th Congress, in 1985. The current home of the USOC used to be part of Ent Air Force Base in Colorado Springs. Section 834 conveyed land that the USOC had been leasing from the U.S. Air Force to the USOC under the conditions that the property be used by the USOC solely for USOC activities and if it is not used for that purpose, the property shall be repossessed by the Government. This did not imply that the USOC could use it for a while or use it only in part. If the USOC is not going to use it, then the property should be given back to us.

Mr. BURNS. Mr. President, I ask unanimous consent that the committee amendments be agreed to, the Campbell amendment be agreed to, the bill, as amended, be read a third time and passed, and the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

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

The committee amendments were agreed to.

The amendment (No. 1767) was agreed to, as follows:

On page 22, between lines 18 and 19, insert the following:

SEC. 6. RELOCATION OF HEADQUARTERS.

Section 220508 is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''The corporation shall''; and

(2) by adding at the end the following:

''(b) RELOCATION OF HEADQUARTERS.—The corporation may not relocate its principal office and national headquarters after the date of enactment of the United States Olympic Committee Reform Act unless—

''(1) the board of directors determines that relocation of the principal office and national headquarters is in the best interests of the corporation;

''(2) the board, by rollcall vote, agrees unanimously to refer the proposed relocation of the principal office and national headquarters to the assembly for its concurrence; and

''(3) the assembly, by a vote of not less than three-fifths of its members duly chosen and qualified, concurs in the determination of the board.''.

The bill (S. 1404), as amended, was read the third time and passed, as follows:

S. 1404

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 ''United States Olympic Committee Reform Act''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) There is a widespread loss of confidence in the United States Olympic Committee.

(2) Restoring confidence in the United States Olympic Committee is critical to achieving the original intent of the Ted Stevens Amateur and Olympic Sports Act.

(3) Confusion exists concerning the primary purposes and priorities of the United States Olympic Committee.

(4) The current governance structure of the United States Olympic Committee is dysfunctional.

(5) The ongoing national corporate governance debate and recent reforms have important implications for the United States Olympic Committee.

(6) There exists no clear line of authority between the United States Olympic Committee volunteers and the United States Olympic Committee paid staff.

(7) There is a widespread perception that the United States Olympic Committee lacks financial transparency.

SEC. 3. AMENDMENT OF TED STEVENS OLYMPIC AND AMATEUR SPORTS ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Ted Stevens Olympic and Amateur Sports Act (36 U.S.C. 220501 et seq.).

SEC. 4. GOVERNANCE OF THE UNITED STATES OLYMPIC COMMITTEE.

(a) IN GENERAL.—The Act (36 U.S.C. 220501) is amended by adding at the end the following:

''SUBCHAPTER III. GOVERNANCE

''§ 220541. Board of directors

''(a) IN GENERAL.—The board of directors is the governing body of the corporation and shall establish the policies and priorities of the corporation. The board of directors shall have the full authority to manage the affairs of the corporation.

''(b) STRUCTURE OF THE BOARD.—

''(1) IN GENERAL.—The board of directors shall consist of 9 elected members and the ex officio members described in paragraph (3).

''(2) ELECTED MEMBERS.—The elected directors, elected as provided in subsection (g), are—

''(A) 5 independent directors, as defined in the constitution and bylaws of the corporation;

''(B) 2 directors elected from among those nominated by the Athletes' Advisory Council, who at the time of nomination meet the specifications of section 220504(b)(2)(B) of this title; and

''(C) 2 directors elected from among those nominated by the National Governing Bodies' Council.

''(3) EX OFFICIO MEMBERS.—The ex officio members are—

''(A) the speaker of the assembly; and

''(B) the International Olympic Committee member or members from the United States who are required to be ex officio members of the executive organ of the corporation under the terms of the Olympic Charter.

''(c) TERMS OF OFFICE.—

''(1) ELECTED DIRECTORS.—The term of office of an elected director shall be 4 years. An individual elected to replace a director who does not serve a full 4-year term shall be elected initially to serve only the balance of the expired term of the member that director replaces. No director shall be eligible for reelection, except a director whose total period of service, if elected, would not exceed 6 years. The chair of the board shall be eligible to serve an additional 2 years as required to complete his or her term as chair.

''(2) STAGGERED TERMS.—Notwithstanding paragraph (1), of the directors first elected to the board after the date of enactment of the United States Olympic Committee Reform Act—

''(A) 2 of the directors elected under paragraph (2)(A) shall be elected for terms of 2 years;

''(B) 3 of the directors elected under paragraph (2)(A) shall be elected for terms of 4 years;

''(C) 1 of the directors elected under paragraph (2)(B) shall be elected for a term of 2 years;

''(D) 1 of the directors elected under paragraph (2)(B) shall be elected for a term of 4 years;

''(E) 1 of the directors elected under paragraph (2)(C) shall be elected for a term of a term of 2 years; and

''(F) 1 of the directors elected under paragraph (2)(C) shall be elected for a term of a term of 4 years.

''(3) EX OFFICIO MEMBERS.—The speaker of the assembly shall serve as a non-voting ex officio member of the board while holding the position of speaker of the assembly. An International Olympic Committee member shall serve as an ex officio member of the board for so long as the member is a member of that Committee.

''(d) VOTING.—

''(1) ELECTED MEMBERS.—Each elected director shall have 1 vote on all matters on which the board votes, consistent with the constitution and bylaws of the corporation.

''(2) EX OFFICIO MEMBERS.—Each voting ex officio member shall have 1 vote on matters on which the ex officio members vote, consistent with the constitution and bylaws of the corporation, and the votes of the ex officio members shall be weighted such that, in the aggregate, the votes of all voting ex officio members are equal to the vote of one elected director.

''(3) TIE VOTES.—In the event of a tie vote of the board, the vote of the chair of the board shall serve to break the tie.

''(4) QUORUM.—The board may not take action in the absence of a quorum, which shall be 7 members, of whom at least 3 shall be members described in subsection (b)(2)(A).

''(e) CHAIR OF THE BOARD.—The board shall elect 1 of the members described in subsection (b)(2) to serve as chair of the board first elected after the date of enactment of the United States Olympic Committee Reform Act. The chair of the board shall preside at all meetings of the board and have such other duties as may be provided in the constitution and bylaws of the corporation. No individual may hold the position of chair of the board for more than 4 years.

''(f) COMMITTEES.—

''(1) IN GENERAL.—The board of directors shall establish the following 4 standing committees:

''(A) The Audit Committee.

''(B) The Compensation Committee.

''(C) The Ethics Committee.

''(D) The Nominating and Governance Committee.

''(2) COMMITTEE MEMBERSHIP.—The Compensation Committee shall consist of 3 board members selected by the board. The Audit Committee, Ethics Committee, and Nominating and Governance Committee shall each consist of—

''(A) 3 board members described in subsection (b)(2)(A), selected by the board;

''(B) 1 board member described in subsection (b)(2)(B), selected by the board; and

''(C) 1 board member described in subsection (b)(2)(C), selected by the board.

''(3) ADDITIONAL COMMITTEES.—The board may establish such additional committees, subcommittees, and task forces as may be necessary or appropriate and for which sufficient funds exist.

''(g) NOMINATION AND ELECTION.—

''(1) IN GENERAL.—The nominating and governance committee shall recommend candidates to the board of directors to fill vacancies on the board as provided in the constitution and bylaws of the corporation. For each vacancy that is to be filled by a nominee of the Athletes' Advisory Council or the National Governing Bodies' Council, the Athletes' Advisory Council or the National Governing Bodies' Council shall recommend 3 individuals to the nominating and governance committee, which shall nominate 1 of the recommended individuals to the board of directors.

''(2) RECUSAL OF MEMBERS ELIGIBLE FOR RE-ELECTION.—Any member of the nominating and governance committee who is eligible for re-election by virtue of serving for an initial term of less than 2 years shall be recused from participation in the nominating and recommendation process.

''(3) BOARD TO ELECT MEMBERS.—Except as provided in section 4(c)(2) of the United States Olympic Committee Reform Act, the board of directors shall elect directors from the candidates proposed by the nominating and governance committee.

''§ 220542. Assembly

''(a) IN GENERAL.—

''(1) FORUM FUNCTION.—The assembly shall be a forum for all stakeholders of the corporation. The assembly shall have an advisory function only, except as otherwise expressly provided in this chapter.

''(2) VOTING ON MATTERS RELATING TO THE OLYMPIC GAMES.—The assembly shall have the right to vote on, and shall have ultimate authority to decide, matters relating to the Olympic Games. The board of directors shall determine whether a matter is a question relating to the Olympic Games on which the assembly is entitled to vote. The determination of the board shall be final and binding.

''(3) MEETINGS.—The assembly shall convene annually in a meeting open to the public. The board of directors may convene special meetings of the assembly.

''(4) ANNUAL BUDGET.—The board of directors shall establish an annual budget for the assembly, as provided in the constitution and bylaws of the corporation. In establishing the budget, the board of directors shall take into account the interest of the corporation in minimizing the costs associated with the assembly.

''(b) STRUCTURE OF THE ASSEMBLY.—

''(1) IN GENERAL.—The assembly shall consist of—

''(A) representatives of the constituencies of the corporation specified in section 220504 of this title (other than former United States Olympic Committee members);

''(B) the International Olympic Committee's members for the United States; and

''(C) not more than 3 individuals who have represented the United States in an Olympic Games not within the preceding 10 years, selected through a process to be determined by the board of directors in accordance with the constitution and bylaws of the corporation.

''(2) AMATEUR ATHLETE REPRESENTATION.—Amateur athletes shall constitute not less than 20 percent of the membership in the assembly.

''(c) VOTING.—

''(1) REPRESENTATIVES OF THE NATIONAL GOVERNING BODIES.—Representatives of the national governing bodies shall constitute not less than 51 percent of the voting power held in the assembly.

''(2) AMATEUR ATHLETES.—Amateur athletes shall constitute not less than 20 percent of the voting power held in the assembly.

''(d) SPEAKER OF THE ASSEMBLY.—The speaker of the assembly shall be a member of the assembly (who, as a member, is entitled to vote) who is elected by the members of the assembly for a 4-year term. An individual may not serve as speaker for more than 4 years. The speaker shall preside at all meetings of the assembly and serve as a nonvoting ex officio member of the board of directors as provided in section 220541. The speaker shall have no other duties or powers (other than the right to vote), except as may be expressly assigned by the board of directors.

''§ 220543. Chief executive officer

''(a) IN GENERAL.—The corporation shall have a chief executive officer who shall not be a member of the board of directors. The chief executive officer shall be selected by, and shall report to, the board of directors, as provided in the constitution and bylaws of the corporation. The chief executive officer shall be responsible, with board approval, for filling other key senior management positions as provided in the constitution and bylaws of the corporation.

''(b) DUTIES.—The chief executive officer shall, either directly or by delegation—

''(1) manage all staff functions and the day-to-day affairs and business operations of the corporation, including but not limited to relations with international organizations; and

''(2) implement the mission and policies of the corporation, as determined by the Board.

''§ 220544. Whistleblower procedures and protections

''The corporation, through the board of directors, shall establish procedures for—

''(1) the receipt, retention, and treatment of complaints received by the corporation regarding accounting, auditing or ethical matters; and

''(2) the protection against retaliation by any officer, employee, director or member of the corporation against any person who submits such complaints.

''§ 220545. Ethics and compliance

''(a) IN GENERAL.—The ethics committee shall be responsible for oversight of—

''(1) all matters relating to ethics policy and practices of the corporation's employees, board members, and volunteers;

''(2) officers or directors of a member organization insofar as their activities relate to corporation business; and

''(3) paid and volunteer leadership staff of a bid city organization for activities that relate directly to the bid city process.

''(b) INTERNAL ETHICS OFFICER.—

''(1) IN GENERAL.—The board of directors shall employ and fix the compensation of a chief ethics officer to implement the ethics policy for the corporation.

''(2) DUTIES.—The ethics committee shall establish policies and procedures to delineate the duties of the chief ethics officer.

''(3) LINE OF AUTHORITY.—

''(A) IN GENERAL.—The chief ethics officer shall report to the chief executive officer of the corporation.

''(B) CERTAIN PARTIES.—Notwithstanding subparagraph (A), the chief ethics officer shall report to the ethics committee whenever an alleged violation involves—

''(i) senior management or directors of the corporation;

''(ii) officers or directors of a member organization;

''(iii) a bid city; or

''(iv) the International Olympic Committee.

''(c) ETHICS POLICY.—The ethics committee shall establish an ethics policy for the corporation, subject to the approval of the board of directors, modeled upon the best practices used in corporate and government offices. The policy shall include—

''(1) a conflict of interest policy;

''(2) an anti-discrimination policy;

''(3) a workplace harassment policy;

''(4) a gift, travel reimbursement, honorarium, and outside income policy;

''(5) a financial propriety policy, including a prohibition on loans to corporation officers and employees;

''(6) a bid-city policy which includes a transparent and objective set of criteria published in advance by which the corporation will choose a United States city to submit a bid to the International Olympic Committee for an Olympic games, which adheres in all respects to the rules and ethics guidelines of the Olympic Charter and the International Olympic Committee, and which applies to the leaders and staff of a city, or organizations representing a bid city, that file an official bid with the corporation to host Olympic games;

''(7) potential sanctions and penalties for violations of the ethics policy, which may include removal from corporation duties;

''(8) a procedure for reporting and investigating potential ethics violations; and

''(9) procedures to assure due process for any individual accused of an ethics violation, including—

''(A) a timely hearing before the ethics committee;

''(B) the right to be represented by counsel; and

''(C) access to all documentation and statements that would be used in an ethics proceeding against that individual.

''(d) WRITTEN STATEMENT REQUIRED.—All members of the board, employees, and officers, directors of member organizations, and leaders or representatives of United States bid cities must sign a statement that they have read the corporation's ethics policy and agree to abide by its rules.

''(e) ETHICS COMMITTEE ADJUDICATION OF VIOLATIONS.—When the ethics committee determines that an individual has violated the corporation's ethics policy, it will report to the Board and may make recommendations for action to be taken.

''(f) INVESTIGATION, REPORTING, AND REVIEW PROCEDURES.—The ethics committee shall establish a procedure for the prompt review and investigation of ethics violations,

and establish regular reporting and review procedures to document the number and types of complaints or issues brought to the ethics committee and the ethics officer.

''(g) OUTSIDE COUNSEL.—The ethics committee may hire outside counsel to conduct investigations, report findings, and make recommendations.

''(h) BID CITY DEFINED.—In this section, the term 'bid city' means 1 or more cities, States, regional organizations, or other organizations that file an official bid with the corporation to be chosen as the site nominated by the United States to the International Olympic Committee to host an Olympic Games.''.

(b) TRANSITION.—The individuals serving as members of the board of directors of the United States Olympic Committee on the date of enactment of this Act shall continue to serve as the board of directors until a board of directors has been elected under subsection (c)(2) of this section.

(c) INITIAL NOMINATING AND GOVERNANCE COMMITTEE.—

(1) IN GENERAL.—Until the initial board of directors has been elected and taken office, the nominating and governance committee required by section 220541(f) of title 36, United States Code, shall consist of—

(A) 1 individual selected by the Athlete's Advisory Council from among its members;

(B) 1 individual selected by the National Governing Bodies' Council from among its members;

(C) 1 individual selected by the public-sector directors of the United States Olympic Committee from among such directors serving on the date of enactment of this Act;

(D) 1 individual selected by the Independent Commission on Reform of the established by the United States Olympic Committee in March, 2003, from among its members, who shall chair the committee; and

(E) 1 individual selected by the Governance and Ethics Task Force established by the United States Olympic Committee in February, 2003, from among its members.

(2) ELECTION OF NEW BOARD OF DIRECTORS.—The nominating and governance committee established by paragraph (1) shall—

(A) elect an initial board or directors who shall serve for the terms provided in section 220541(c)(2) of title 36, United States Code; and

(B) elect 1 of the members described in section 220541(b)(2)(A) of that title to serve as chair until the terms of the members elected under subparagraph (A) have expired.

(d) CONFORMING AMENDMENTS.—

(1) REPRESENTATION REQUIREMENTS.—Section 220504(b) is amended—

(A) by striking ''representation of—'' and inserting ''representation on its board of directors and in its assembly of—''; and

(B) by striking subparagraph (B) of paragraph (2) and inserting the following:

''(B) ensure that—

''(i) the membership and voting power of such amateur athletes is not less than 20 percent of the membership and voting power of each committee, subcommittee, working group, or other subordinate decision-making group, of the corporation; and

''(ii) the voting power held by members of the board of directors who were nominated by the Athlete's Advisory Council is not less than 20 percent of the total voting power held in the board of directors;''.

(2) CONSTITUTION AND BYLAWS.—Section 220505(a) is amended—

(A) by striking ''bylaws.'' and inserting ''bylaws consistent with this chapter, as determined by the board of directors. The board of directors shall adopt and amend the constitution and bylaws of the corporation, consistent with this chapter.'';

(B) by inserting ''the board of directors proposes and approves by majority vote such an amendment and'' after ''only if''; and

(C) by striking ''publication,'' in paragraph (1) and inserting ''publication and on its website,''.

(3) OMBUDSMAN TO REPORT TO BOARD OF DIRECTORS.—Section 220509(b) is amended—

(A) by inserting ''the board of directors and'' in paragraph (1)(C) after ''report to'';

(B) by striking ''corporation's executive director'' in paragraph (2)(A)(i) and inserting ''board of directors'';

(C) by striking clauses (ii) and (iii) of paragraph (2)(A) and inserting the following:

''(ii) The board of directors shall hire or not hire such person after fully considering the advice and counsel of the Athlete's Advisory Council.'';

(D) by striking ''corporation'' the first place it appears in paragraph (2)(B) and inserting ''board of directors'';

(E) by striking ''to the corporation's executive committee by either the corporation's executive director'' in paragraph (2)(B)(ii) and inserting ''by 1 or more members of the board of directors''; and

(F) by striking ''corporation's executive committee'' in paragraph (2)(B)(iii) and inserting ''board of directors''.

(4) ELIGIBILITY REQUIREMENTS.—Section 220522(a)(4)(B) is amended by striking ''corporation's executive committee'' and inserting ''board of directors''.

(5) CHAPTER ANALYSIS.—The chapter analysis for chapter 2205 is amended by adding at the end the following:

''SUBCHAPTER III. GOVERNANCE

''220541. Board of directors
''220542. Assembly
''220543. Chief executive officer
''220544. Whistleblower procedures and protections
''220545. Ethics and compliance''.

SEC. 5. REPORTS.

Section 220511 is amended—

(1) by striking so much of subsection (a) as precedes paragraph (2) and inserting the following:

''(a) BIENNIAL REPORT.—On or before the first day of June of every other year, the corporation shall transmit simultaneously to the President and to each House of Congress a detailed report of its operations for the preceding 2 years, including—

''(1) annual financial statements—

''(A) audited in accordance with generally accepted accounting principles by an independent certified public accountant; and

''(B) certified by the chief executive officer and the chief financial officer of the corporation as to their accuracy and completeness;'';

(2) by striking ''4-year period;'' in subsection (a)(2) and inserting ''2-year period;''; and

(3) by inserting ''free of charge on its website (or via a similar medium that is widely available to the public), and otherwise'' in subsection (b) after ''persons''.

SEC. 6. RELOCATION OF HEADQUARTERS.

Section 220508 is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''The corporation shall''; and

(2) by adding at the end the following:

''(b) RELOCATION OF HEADQUARTERS.—The corporation may not relocate its principal office and national headquarters after the date of enactment of the United States Olympic Committee Reform Act unless—

''(1) the board of directors determines that relocation of the principal office and national headquarters is in the best interests of the corporation;

''(2) the board, by rollcall vote, agrees unanimously to refer the proposed relocation of the principal office and national headquarters to the assembly for its concurrence; and

''(3) the assembly, by a vote of not less than three-fifths of its members duly chosen and qualified, concurs in the determination of the board.''.

SEC. 7. SENIOR OLYMPICS.

Notwithstanding section 220506(a) of title 36, United States Code, the National Senior Games Association of Baton Rouge, Louisiana, is authorized to use the words ''Senior Olympics'' to promote national athletic competition among senior citizens.

Mr. MCCAIN. Mr. President, I am pleased that the Senate has passed S. 1404, the United States Olympic Committee Reform Act of 2003. I thank the cosponsors of this important legislation, Senators STEVENS and CAMPBELL, for their passion for the Olympic movement and their contribution to the reform of the United States Olympic Committee, USOC. S. 1404 is intended to make significant improvements to the governance structure of the USOC by vastly reducing the size of the current board of directors and by creating an assembly of USOC stakeholders. The bill is intended to allow the USOC to operate more effectively within a more streamlined and transparent structure.

S. 1404 is the product of three Commerce Committee hearings held this year in response to a series of embarrassing leadership and ethics scandals that have plagued the USOC and distracted the organization from its mission. The new board of directors, which would be the primary governing body of the organization, would appoint a chief executive officer to carry out the board's policies and run the organization's day-to-day business operations. The board would defer to the judgment of the assembly on matters relating specifically to the Olympic Games.

While maintaining the representation and voting authority of athletes and national governing bodies, this legislation also would provide increased financial transparency to the USOC and establish whistle-blower protection for its employees. The bill is designed to streamline the USOC to allow a larger percentage of the revenue generated by the organization to be allocated to support amateur athletes.

In addition, we have worked to make this bill comply with the charter of the International Olympic Committee, IOC, and will continue to do this. It is important to note that corporate governance in the United States has changed dramatically over the past year, and these changes are leading this country's private and public sectors to adopt higher standards of responsibility and accountability. These same standards should be applied to the USOC to ensure that the narrow agendas of individual USOC constituencies are no longer paramount to the common objectives of the organization. To accomplish this objective, we propose that the USOC adhere to best corporate governance practices, such as requiring that the newly constituted USOC board have at least a majority of independent directors. In the end, the

newly reformed board would govern the day-to-day operations of the USOC, and would be able to work with the IOC to address any concerns that it might have regarding the USOC's operations.

The fast-approaching Olympic Games in Athens next summer, as well as the ongoing bid by New York City to host the games in 2012, lend urgency to this legislation, and I look forward quickly to resolving any differences between the Senate and House measures. I urge my colleagues to support this very important legislation.

SUPPORTING THE GOALS AND IDEALS OF CHRONIC OBSTRUCTIVE PULMONARY DISEASE AWARENESS MONTH

Mr. BURNS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 229, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 229) supporting the goals and ideals of Chronic Obstructive Pulmonary Disease Awareness Month.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BURNS. 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 this matter be printed in the RECORD.

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

The resolution (S. Res. 229) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 229

Whereas chronic obstructive pulmonary disease (''COPD'') is primarily associated with emphysema and chronic bronchitis;

Whereas an estimated 10,000,000 adults in the United States have been diagnosed by a physician with COPD;

Whereas an estimated 24,000,000 adults in the United States have symptoms of impaired lung function, indicating that COPD is underdiagnosed;

Whereas COPD is progressive and is not fully reversible;

Whereas as COPD progresses, the airways and alveoli in the lungs lose elasticity and the airway walls collapse, closing off smaller airways and narrowing larger ones;

Whereas symptoms of COPD include chronic coughing, shortness of breath, increased effort to breathe, increased mucus production, and frequent clearing of the throat;

Whereas risk factors for COPD include long-term smoking, a family history of COPD, exposure to air pollution or secondhand smoke, and a history of frequent childhood respiratory infections;

Whereas more than half of all adults who suffer from COPD report that their condition limits their ability to work, sleep, and participate in social and physical activities;

Whereas more than half of all adults who suffer from COPD feel they are not in control of their breathing, panic when they cannot catch their breath, and expect their condition to worsen;

Whereas nearly 119,000 adults died in the United States of COPD in 2000, making COPD the fourth leading cause of death in the United States;

Whereas COPD accounted for 8,000,000 office visits to doctors, 1,500,000 emergency department visits, and 726,000 hospitalizations by adults in the United States in 2000;

Whereas COPD cost the economy of the United States an estimated $32,100,000,000 in 2002;

Whereas too many people with COPD are not diagnosed or are not receiving adequate treatment; and

Whereas the establishment of a Chronic Obstructive Pulmonary Disease Awareness Month would raise public awareness about the prevalence of chronic obstructive pulmonary disease and the serious problems associated with the disease: Now, therefore, be it

Resolved, That the Senate supports the goals and ideals of Chronic Obstructive Pulmonary Disease Awareness Month.

EXPRESSING THE CONDOLENCES OF THE SENATE UPON THE DEATH OF GENERAL RAYMOND G. DAVIS, UNITED STATES MARINE CORPS, RETIRED

Mr. BURNS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 232, submitted earlier today by Senators MILLER, BURNS, CHAMBLISS, and CORZINE.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 232) expressing the condolences of the Senate upon the death on September 3, 2003, of the late General Raymond G. Davis (United States Marine Corps, retired) and expressing the appreciation and admiration of the Senate for the unwavering commitment demonstrated by General Davis to his family, the Marine Corps, and the Nation.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BURNS. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc, and the motion to reconsider be laid upon the table; and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

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

The resolution (S. Res. 232) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 232

Whereas General Raymond Gilbert Davis (United States Marine Corps, retired) of Stockbridge, Georgia, an American hero who represented the supreme ideals of an American and a Marine, died on Wednesday, September 3, 2003, at the age of 88;

Whereas Raymond Gilbert Davis, born on January 13, 1915, in Fitzgerald, Georgia, was commissioned as a second lieutenant in the United States Marine Corps in 1938 following graduation from the Georgia School of Technology;

Whereas during World War II, he participated in the Guadalcanal Tulagi landings, the capture and defense of Guadalcanal, the Eastern New Guinea and Cape Gloucester campaigns, and the Peleliu operation;

Whereas during the fighting on Peleliu, although wounded during the first hour of the landing, he refused evacuation to remain with his men and, on one occasion, when heavy Marine casualties and the enemy's point-blank cannon fire had enabled the Japanese to break through, he personally rallied and led his men in fighting to reestablish defense positions;

Whereas his actions while commanding the 1st Battalion of the 1st Marines at Peleliu in September 1944 earned him the Navy Cross and the Purple Heart and a promotion to lieutenant colonel;

Whereas returning to the United States in November 1944, Lieutenant Colonel Davis was assigned to the Quantico Marine Barracks, Quantico, Virginia, as Tactical Inspector, Marine Corps Schools, and was named chief of the Infantry Section, Marine Air-Infantry School, Quantico, in May 1945, and served in that post for two years before returning to the Pacific area in July 1947 to serve with the 1st Provisional Marine Brigade on Guam;

Whereas following other peace-time duties, in August 1950 he embarked for Korea to command the 1st Battalion, 7th Marines, 1st Marine Division, in the Korean conflict and, in that capacity, heroically enabled the historic breakout of the 1st Marine Division from an entrapment by overwhelming numbers of Chinese soldiers at the Chosin Reservoir in North Korea;

Whereas on the night before the breakout then Lieutenant Colonel Davis led his battalion in an epic across-country fight against vastly superior numbers of entrenched enemy soldiers, across ice- and snow-covered terrain, in subzero temperatures to save a beleaguered rifle company and seize a critical mountain pass that enabled the escape of two Marine regiments, arriving three days later at the port of Hagaru-ri with every one of his wounded Marines;

Whereas as a result of his actions in Korea, Lieutenant Colonel Davis was awarded the Medal of Honor for his actions in the Chosin Reservoir, twice earned the Silver Star Medal by exposing himself to heavy enemy fire while leading and encouraging his men in the face of strong enemy opposition, received the Legion of Merit with Combat ''V'' for exceptionally meritorious conduct and professional skill in welding the 1st Battalion into a highly effective combat team, and earned the Bronze Star Medal with Combat ''V'' for his part in rebuilding the regiment after the Chosin Reservoir campaign;

Whereas following service in the Korean conflict, Lieutenant Colonel Davis served in a series of increasingly responsible staff and training positions, while being promoted to colonel in October 1953 and brigadier general in July 1963;

Whereas his first assignment as a general officer was in the Far East where he served as Assistant Division Commander, 3d Marine Division, on Okinawa, from October 1963 to November 1964;

Whereas he was assigned to Headquarters, Marine Corps, from December 1964 until March 1968 and during that service was awarded a second Legion of Merit and was promoted to major general;

Whereas when ordered to the Republic of Vietnam in March 1968, Major General Davis served briefly as Deputy Commanding General, Provisional Corps, and then became Commanding General, 3d Marine Division where he was awarded the Distinguished Service Medal and three personal decorations by the Vietnamese Government for

service in the latter capacity from May 2, 1968 until April 14, 1969;

Whereas upon his return to the United States in May 1969, he was assigned duty as Deputy for Education with additional duty as Director, Education Center, Marine Corps Development and Education Command, Quantico, Virginia, and upon his promotion to lieutenant general on July 1, 1970, he was assigned as Commanding General, Marine Corps Development and Education Command;

Whereas on February 23, 1971, President Nixon nominated General Davis for appointment to the grade of general and assignment to the position of Assistant Commandant of the Marine Corps and, after confirmation by the Senate for service in that position, he received his fourth star upon assuming those duties on March 12, 1971;

Whereas upon his retirement on March 31, 1972, after more than 33 years of active commissioned service, he ended his military career as Assistant Commandant of the Marine Corps, the second highest ranking Marine;

Whereas General Davis' decorations include the Medal of Honor, the Navy Cross, the Distinguished Service Medal with Gold Star in lieu of a second award, the Silver Star Medal with Gold Star in lieu of a second award, the Legion of Merit with Combat ''V'' and Gold Star in lieu of a second award, the Bronze Star Medal with Combat ''V'', the Purple Heart, the Presidential Unit Citation with four bronze stars indicative of second through fifth awards, the Navy Unit Commendation, numerous campaign and service medals, and numerous foreign decorations;

Whereas following retirement from his beloved Corps, General Davis directed the Georgia Chamber of Commerce for several years and later took on the challenge of design, funding, and dedication of the Korean War Veterans Memorial in Washington, DC;

Whereas General Davis continued to work in support of issues concerning the national interest, including a visit to North Korea in an effort to persuade that government to allow more travel and to become more active in identifying missing American soldiers; and

Whereas General Raymond G. Davis is survived by his wife of 61 years, Knox Heafner Davis, two sons Raymond Gil Davis Jr. of Covington, Georgia, and Gordon Miles Davis of Seminole, Alabama, a daughter Willa Kerr of Stockbridge, Georgia, seven grandchildren, and two great-grandchildren: Now, therefore, be it

Resolved,

SECTION 1. CONDOLENCES AND RECOGNITION.

The Senate—

(1) has learned with profound sorrow of the death of General Raymond G. Davis (United States Marine Corps, retired) on September 3, 2003, and extends its condolences to his family; and

(2) recognizes and expresses its appreciation and admiration for the unwavering commitment demonstrated by General Davis to his family, the Marine Corps, and the Nation.

SEC. 2. TRANSMITTAL OF RESOLUTION.

The Secretary of the Senate shall transmit an enrolled copy of this resolution to the family of General Raymond G. Davis.

COMMENDING ROCHESTER MINNESOTA A's

Mr. BURNS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 233 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 233) commending the Rochester, Minnesota A's American Legion baseball team for winning the 2003 National American Legion World Series.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BURNS. 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 this matter be printed in the RECORD.

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

The resolution (S. Res. 233) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 233

Whereas on Wednesday, August 27, 2003, the Rochester, Minnesota A's won the National American Legion World Series by defeating Cherry Hill, North Carolina 5 to 2 in Bartlesville, Oklahoma;

Whereas the American Legion Baseball League is the oldest and most prestigious baseball league in the United States with over 5,200 teams competing nationwide, nearly 50 percent of major league baseball players having played American Legion baseball as teenagers, and nearly 70 percent of all college players having played American Legion baseball as teenagers;

Whereas the A's became only the fourth team from Minnesota to ever win the National American Legion World Series in the 77-year history of the Series;

Whereas the A's finished a stellar season with a record of 52 wins and 5 losses;

Whereas the A's displayed determination and resolve by battling back from a 2 to 0 deficit in the championship game to prove themselves the best high school age baseball team in the Nation;

Whereas the American Legions of America, including Rochester American Legion Post 92, should be commended for their service to the youth of the United States and to the entire Nation;

Whereas the players and coaches of the A's represented Rochester and the State of Minnesota in outstanding fashion with their masterful play, competitive spirit, and good sportsmanship on and off the field, despite 100 degree-plus heat; and

Whereas the players, coaches, managers, and their families exemplified the heart of Minnesota during a special season that has made all of Minnesota proud: Now, therefore, be it

Resolved, That the Senate—

(1) commends the Rochester, Minnesota A's for winning the 2003 National American Legion World Series;

(2) recognizes the achievements of all the players, coaches, and support staff of the team; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to—

(A) the Rochester American Legion Post 92 for appropriate display; and

(B) each coach and member of the 2003 National American Legion World Series championship team.

UNANIMOUS CONSENT AGREEMENT—S. 150

Mr. BURNS. Mr. President, I ask unanimous consent that when the Senate Commerce Committee reports out S. 150, the Internet Tax Nondiscrimination Act of 2003, the bill be referred to the Committee on Finance for up to 30 calendar days, and if the Committee on Finance does not report out the bill within that time, it will be discharged and placed on the Legislative Calendar.

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

ORDERS FOR WEDNESDAY, SEPTEMBER 24, 2004

Mr. BURNS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Wednesday, September 24. I further ask 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 then begin a period of morning business for 1 hour, with the first 30 minutes under the control of Senator HUTCHISON or her designee and the remaining 30 minutes under the control of the minority leader or his designee; provided that following morning business, the Senate proceed to consideration of Calendar No. 278, H.R. 2765, the District of Columbia appropriations bill.

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

PROGRAM

Mr. BURNS. For the information of all Senators, tomorrow following morning business, the Senate will begin consideration of H.R. 2165, the DC appropriations bill. The two bill managers will be here tomorrow morning to begin working through the amendments on the bill. Rollcall votes should be expected throughout the day as the Senate attempts to finish action on the DC appropriations bill. Members will be notified when the first vote is scheduled.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. BURNS. 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 8:14 p.m., adjourned until Wednesday, September 24, 2003, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 23, 2003:

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

CYNTHIA BOICH, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR

NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2007, VICE THOMAS EHRLICH, TERM EXPIRED.

HENRY LOZANO, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2008, VICE CHRISTOPHER C. GALLAGHER, TERM EXPIRING.

LEGAL SERVICES CORPORATION

BERNICE PHILLIPS, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 2005, VICE MARIA LUISA MERCADO, TERM EXPIRED.

DEPARTMENT OF JUSTICE

JUDITH C. HERRERA, OF NEW MEXICO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW MEXICO, VICE JAMES A. PARKER, RETIRED.

LOUIS GUIROLA, JR., OF MISSISSIPPI, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF MISSISSIPPI, VICE WALTER J. GEX III, RETIRING.

DAVID L. HUBER, OF KENTUCKY, TO BE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF KENTUCKY FOR THE TERM OF FOUR YEARS, VICE STEPHEN BEVILLE PENCE, RESIGNED.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

DOROTHY A. JOHNSON, OF MICHIGAN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2007. (REAPPOINTMENT)

CONFIRMATION

Executive nomination confirmed by the Senate September 23, 2003:

THE JUDICIARY

KIM R. GIBSON, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA.