



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, SECOND SESSION

Vol. 150

WASHINGTON, WEDNESDAY, JANUARY 28, 2004

No. 7

Senate

The Senate met at 11 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 Spirit, who has set our noisy years in the heart of Your eternity, under the shadow of Your wings, we find gladness and peace. Thank You for Your watchful care over body and soul alike.

Lord, You have kept our eyes from tears and brought us solace in seasons of grief. Thank You for keeping our feet from falling, or if we fell, you refused to forsake us. You have forgiven our sins and healed our diseases.

Today, give all who labor for liberty Your wisdom. Help us to embrace the right priorities. Remind us that a person's success and greatness cannot keep him or her from death. Teach us, therefore, to sacrifice for those things that will live beyond our years. Use us to tell others about Your greatness. And, Lord, bless our military people who are in harm's way.

We pray this in Your righteous 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 ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. McCONNELL. Mr. President, today the Senate will again resume de-

bate on H.R. 3108, the pension rate bill. Under the agreement reached yesterday, there will be 40 minutes of debate prior to disposing of the Kyl amendment No. 2236 regarding the general funding waiver. That amendment may not require a rollcall vote; therefore, we may be able to proceed to a vote on passage of the legislation prior to noon today.

In addition to completing the pension rate bill, the majority leader will be discussing with the Democratic leadership the possibility of a vote on a district judge nomination that has been available on the Executive Calendar. Therefore, additional votes may occur today and we will alert Members when that vote is confirmed.

For the remainder of the week, both sides of the aisle will be conducting retreats. Because of these important policy conferences, the Senate will be in pro forma session tomorrow, and we will be out of session on Friday. The leader will have more to say on next week's schedule at the close of business today.

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I hope we can complete our work on the pension bill today. We have been on it now for, I think, 6 days. We have been getting good cooperation on both sides of the aisle. I don't see any reason why before we conclude our work this afternoon we cannot finish this bill. I appreciate very much the report of the assistant majority leader this morning.

HONORING OUR ARMED FORCES

NATIONAL GUARDSMAN KENNETH HENDRICKSON

Mr. DASCHLE. Mr. President, over the weekend, east of Fallujah, Iraq, a roadside bomb exploded, taking the life

of SSG Kenneth Hendrickson, a member of the National Guard 957th Multi-Role Bridge Company.

SSG Hendrickson is from Bismarck, ND, where he lived with his wife and son and near his mother Adeline. His father, Lyle Hendrickson, is now a Pendleton County commissioner in South Dakota.

Staff Sergeant Hendrickson was only 4 weeks away from returning home. Shortly before the attack that would take his life, his parents were told not to send anymore letters or care packages because he would be heading home before any other mail could reach him in Iraq.

Staff Sergeant Hendrickson served his country with courage. Every American owes him and the entire Hendrickson family a debt of thanks for his service, as well as his sacrifice. His death reminds us that nearly 150,000 of our sons and daughters still face danger in Iraq and Afghanistan, and that fathers, mothers, husbands, wives, and children still wait anxiously for their loved ones' safe return.

It reminds us, too, that more than 500 American soldiers have been lost since the Iraqi war began and about 3,000 have been wounded.

The families of South Dakota have borne a particularly heavy toll during this war. South Dakota has a higher proportion of its citizens serving the Guard in Iraq than any other State in the country right now.

There is nothing we can do to fully repay the men and women for their service. But in thanks for their commitment to our protection, we must commit ourselves to their protection as well. Our first responsibility is to give them every tool and technological advantage available to help them do their jobs and return home safely.

Regrettably, we have received numerous reports that the Defense Department is not doing all it can with regard to protecting our troops. From the very first deployments, we were

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



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told members of the South Dakota Guard and Army Reserve were not equipped with the most effective body armor that should be standard issue. Soldiers from other States have suffered similar supply shortcomings.

We attempted to address this issue in the supplemental appropriations and the regular 2004 Defense appropriations bill with an extra \$420 million specifically to ensure that every soldier facing fire had the best body armor money can buy.

The DOD promised us the problem would be solved by the beginning of December. As it became clear they would miss this deadline, we were then told it would be solved this January. However, today, 10 months after the start of the conflict in Iraq, we continue to hear reports that Guard and Reserve personnel, as well as others, lack top-of-the-line body armor and other vital equipment.

In a few days, another 800 South Dakota Guard soldiers will be sent to Iraq to begin a year-long deployment. They have volunteered to face danger on our behalf. We owe them and the families they leave behind every effort to protect them from harm. Our obligation to stand by Guard members and Reservists cannot and should not end once they return home.

Increasingly, Guard members are facing the same bullets as full-time soldiers. We owe them the same commitment to their health and well-being. That means giving them access to the same health care that full-time soldiers currently enjoy.

Recent studies indicate now one-fifth of National Guard and Reserve members lack health care when they come home. Last year, thanks in part to a bipartisan coalition of Senators, we established a 1-year program to provide a significant number of our Reservists and their families access to TRICARE, the military health care system, when they are not on duty. Today, that same bipartisan coalition will introduce legislation to make that coverage permanent.

Our bill would improve the readiness of our force and enhance the ability of the military to recruit and retain a new generation of soldiers. This legislation is important because these troops are performing a greater share of the fighting than at any other time in decades.

By May, 40 percent of the more than 100,000 U.S. troops in Iraq will be Guard members or Reservists. Yet as we depend more heavily on their service, we are receiving troubling signs of discontent and instability.

A recent internal survey showed the rate of those Reservists who decide not to reenlist could double in just a few years. Just last week, LTG James R. Helmly, head of the Army Reserves, said:

This is the first extended-duration war our Nation has fought with an all-volunteer force. We must be sensitive to that, and we must apply proactive, preventive measures to prevent a recruiting-retention crisis.

Unless this recruiting/retention crisis is addressed, those losses could severely undermine unit readiness and erode America's national security.

Over the weekend, America lost another hero in Iraq with the death of SGT Kenneth Hendrickson. His death serves to remind us of the service and sacrifice of our men and women in uniform and what they do for their country. Their commitment to us is beyond question. It is time we demonstrated real commitment to them and their families as well.

Our Guard and Reserve members have not failed us. We must not fail them. We must support our troops, not really with words but with action.

Mr. REID. Mr. President, will the Senator yield for a question?

Mr. DASCHLE. I will be happy to yield for a question.

JUDICIAL NOMINATIONS

Mr. REID. I see on the announcement of the schedule for this afternoon that there is an agreement that we will vote on another Federal judge. It is my understanding this will be the 170th judge we have approved in the Senate, and with President Bush having given an interim appointment for 1 year to Judge Pickering, the numbers are now 170 approved by the Senate during the term of President Bush and only 4 who have not gotten approval.

Does the Senator agree that those are the numbers?

Mr. DASCHLE. Mr. President, the Senator from Nevada, the distinguish assistant Democratic leader, is right. That record exceeds the record of any predecessor in this period of time. Obviously, the Bush administration has 1 year left before the end of its term. So there is little doubt that they will probably continue to set records with regard to the confirmation of judges.

I might add, this is a time when the Democrats were, at least for a period of time, actually in the majority. They have had good cooperation. The four who have not been confirmed have not been confirmed for good reason. Again, we will address the issue of greater numbers and more cooperation this afternoon, as the Senator suggests, with the confirmation of yet another judge.

Mr. REID. If the Senator will yield for one final question, for those out there who are saying we are turning down President Bush's judicial nominations, the facts are that we have approved 170 who are now or shortly will be sitting as judges in the Federal system—they have been approved by the Senate—and we have turned down 4. The number then is 170 approved, 4 turned down. Those are pretty good numbers; does the Senator agree?

Mr. DASCHLE. The Senator is correct. That would be a pretty remarkable record if this were the sports world, the business world, or the academic world. I was just reminded that 100 of the 170 who were confirmed were confirmed under a Democratic-controlled Senate. So I think we can look back with great satisfaction.

I know there are some who argue we have not been tough enough, we have not been aggressive enough. But I think, as we have said on many occasions, where we agree with the President, we will support him. Where we disagree, we have no recourse but to continue to raise these reservations and objections, especially with regard to lifetime appointments to the Federal bench. I thank the Senator from Nevada for raising the issue.

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

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

PENSION FUNDING EQUITY ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 3108, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3108) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes.

Pending:

Grassley amendment No. 2233, of a perfecting nature.

Kyl amendment No. 2236 (to amendment No. 2233), to restrict an employer that elected an alternative deficit reduction contribution from applying for a funding waiver.

The PRESIDING OFFICER. Under the previous order, prior to a vote in relationship to amendment No. 2236, there will be 30 minutes equally divided between the chairman and ranking member or their designees, with the initial 10 minutes under the control of the Senator from Arizona, Mr. KYL.

The Senator from Minnesota.

Mr. COLEMAN. Mr. President, I yield myself 5 minutes of the manager's time on this bill.

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

Mr. COLEMAN. I thank the Chair.

Mr. President, Minnesota is home to Northwest Airlines as well as Ispat Inland Steel Mining Company. I rise today in support of the pension legislation before us and to urge my fellow colleagues to vote for this bill today.

Let me be clear. This legislation is about protecting American workers

and their pension benefits. We are discussing this today because of the long arm of September 11 that continues to swipe through the economic landscape and affect the hard-working people of this country.

On January 1, 2000, airline workers' pension plans were over 100 percent funded and business was good for their companies. This, of course, changed dramatically in the days following September 11, and the economy is now beginning to show signs of life again.

The airline industry, because of its cyclical nature, always reacts strongly to the economy. This, coupled with the rise in costs because of new security measures, a dropoff in passengers, and Eisenhower administration interest rates, has made it difficult, if not impossible, for airlines to keep their pensions fully funded.

With regard to steel, Ispat Inland Mining Company is a key component of one of the largest operating integrated steel manufacturers in the Nation and a highly productive mine in my State. Ispat Inland Mining Company and its parent company employ close to 7,000 people who have had the benefit of a defined pension plan since 1936. While funding of this plan has often exceeded 100 percent of the total obligations, funding levels have never fallen below 90 percent of the obligation until 2003. I think all my colleagues are aware of the impact that the economy and foreign imports have had on the steel industry in the last couple of years.

The problem for these companies is the deficit reduction contribution, DRC, which requires companies to close the underfunded gap on an accelerated basis. This results in materially higher pension contributions during periods of economic decline. So what sounds like tough medicine turns out to be poison—poison—for the airline and steel workers. A major risk is that the accelerated deficit reduction contributions could force the airlines and steel companies to seek chapter 11 protection, force them into bankruptcy. Companies, such as Northwest, that are coming back could be forced into bankruptcy by this required accelerated payment.

Unfortunately, I think many understand that in chapter 11 bankruptcy the most likely outcome is the termination of pension plans and the transfer of unfunded liabilities to the PBGC. In effect, we would be destroying the very pension plans that Congress is seeking to preserve.

We must take immediate action to ensure that pension plan termination is a phrase that never enters the corporate boardroom. People who have invested their lives in a company should not have to live in fear that they will be left out in the cold when they retire.

This legislation represents a commonsense approach to help solve the problem. We are providing temporary 2-year relief from some of the cashflow requirements of the DRC, and during this period it is important to under-

stand that companies are still going to make their normal required pension contributions. Pension benefits being accrued by active workers will continue to be funded during this temporary period and lessen any potential risk to the PBGC. I reiterate that the relief is for a portion of the deficit reduction contribution payment, not the regular pension payment. Pension payments are going to be made.

I am also extremely pleased that my amendment to include iron ore in the definition of steel was included in the managers' amendment. Minnesota is the largest producer of iron ore and taconite in the United States. These products are essential for integrated steel companies. Advances in technology have found a use for a lower grade iron ore called taconite. Taconite is crushed, processed into hard, marble-size pellets, and shipped to steel mills. The taconite pellets are melted in blast furnaces and then blown with oxygen to make steel. As a result, a healthy steel industry means a more viable taconite industry and more jobs for this economy.

The AFL-CIO, the Airline Pilots Association, and the International Association of Machine and Aerospace Workers support this legislation.

With this bill, we are not letting businesses off the hook but we are taking the appropriate steps to provide retirement security for constituents across this Nation.

Again, I urge my colleagues to support this bipartisan legislation that will help restore long-term health to American businesses and protect the retirement money for millions of American workers.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. Without objection, the Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I have sought recognition to comment about an amendment which I have offered on behalf of U.S. Airways. It is an amendment which provides that the pension plan would be reinstated. It had been required to fund it within a 5-year period. The amendment would allow up to 30 years. It would actually save the Pension Benefit Guaranty Corporation money.

The complexity had arisen as to whether this amendment was relevant. As the CONGRESSIONAL RECORD will show, I spoke about the amendment on Monday explaining what the amendment sought to do and detailing the history as to what had happened with a bill offered by Senator SANTORUM and myself last January 9, and in the hearing of the subcommittee which I chair on January 14.

I had a series of conversations with the Parliamentarian as to whether the amendment was relevant. I sought

unanimous consent on Monday to set aside the pending second-degree amendment and an objection was raised. Then a little after 4 yesterday afternoon, I consulted with the Parliamentarian, who had not yet reached a decision, and suggested that my staffer confer with the Deputy Parliamentarian, which was done yesterday afternoon.

I was surprised to find a unanimous consent agreement entered into which precluded the amendment. I have a call in to the chairman of the Finance Committee, Senator GRASSLEY. If possible, I ask if he would come to the floor so we can discuss this matter. The issue was also presented to Senator KENNEDY. If possible, I ask that he come to the floor. We are operating under a very tight time constraint with the agreement now calling for a vote on the pending amendment by about 11:40, and then votes sequencing to final passage.

As a matter of basic fairness, I think we are entitled to have a vote. I am not unaware of the fact that there will be a later pension bill, but this matter is of great importance to my constituents. The U.S. Airways pilots, under the revised plan, sought to have their pensions reduced to about 25 percent when it was not possible to reinstate the earlier plan with an extension of up to 30 years. I think they are entitled to a vote, and we will be back on this matter if we are not able to get a vote today.

When the Parliamentarian is under active consideration and the Senator from Pennsylvania, myself, is pursuing the matter, it seems to me as a matter of basic fairness we ought not to be foreclosed. So I intend to go to the Finance Committee now to talk to Senator GRASSLEY to see if we can get a resolution by the Finance Committee, but that is the essence of the situation.

To repeat, I think we are entitled to a vote. For the record, I know Senator REID is prepared to object, but I ask unanimous consent that I be permitted to offer this amendment with a 10-minute time agreement which will not delay the final passage of the bill.

The PRESIDING OFFICER. Is there objection? The Senator from Nevada.

Mr. REID. Reserving the right to object, we have objections from the majority and minority now on the Finance Committee and also from the majority on the HELP Committee. So based upon that, I object.

The PRESIDING OFFICER. The objection is heard.

Mr. SPECTER. I understand the reasons of the Senator from Nevada. As I said, I am going to be on my way to the Finance Committee to see if I can get a change of decision by the Finance Committee so we can offer this amendment.

The PRESIDING OFFICER. Who yields time?

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

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

AMENDMENT NO. 2263

Mr. SPECTER. Mr. President, there have been a series of discussions, and we have worked out an accommodation to permit me to introduce the amendment on behalf of US Airways pilots. We will handle the vote on a division vote so that there is at least a semblance of what has occurred.

At this point, I ask unanimous consent I be permitted to call up amendment No. 2263 and that there be a division vote and I be permitted to speak under this unanimous consent request for up to 8 minutes.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 2263.

Mr. SPECTER. Mr. President, 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:

(Purpose: To provide for the restoration of certain plans terminating in 2003)

At the appropriate place, insert:

SEC. __. RESTORATION OF CERTAIN PLANS TERMINATING IN 2003.

(a) IN GENERAL.—The provisions of subsection (b) shall apply to any defined benefit plan that was—

(1) maintained by a commercial passenger air carrier,

(2) maintained for the benefit of such carrier's employees pursuant to a collective bargaining agreement, and

(3) terminated during the calendar year 2003.

(b) RESTORATION OF PLAN.—The Pension Benefit Guaranty Corporation shall restore any plan described in subsection (a), pursuant to the terms described in subsection (g), and the control of the plan's assets and liabilities shall be transferred to the employer. The date of restoration shall be not later than 60 days after the date the terms of the plan are determined pursuant to subsection (g).

(c) EXCLUSION OF EXPECTED INCREASE IN CURRENT LIABILITY.—In applying section 412(1)(A)(i) of the Internal Revenue Code of 1986 and section 302(d)(1)(A)(i) of the Employee Retirement Income Security Act of 1974 with respect to a plan restored under subsection (b), any expected increase in current liability due to benefits accruing during each plan year as described in section 412(1)(2)(C) of such Code and section 302(d)(2)(C) of such Act shall be excluded.

(d) AMORTIZATION OF UNFUNDED AMOUNTS UNDER RESTORATION PAYMENT SCHEDULE.—

(1) POST-RESTORATION INITIAL UNFUNDED ACCRUED LIABILITY.—In the case of a plan restored under subsection (b)—

(A) the initial post-restoration valuation date for a plan described in subsection (a) shall be January 1 of the calendar year following the date of restoration,

(B) the initial restoration amortization base for a plan described in subsection (a) shall be an amount equal to the excess of—

(i) the accrued benefit liabilities returned by the Corporation, over

(ii) the market value of plan assets returned by the Corporation, and

(C) the initial restoration amortization base shall be amortized in level annual installments over a period determined pursuant to subsection (g) but not to exceed 30 years after the initial post-restoration valuation date, and the funding standard account of the plan under section 412 of such Code and section 302 of such Act shall be charged with such installments.

(2) UNFUNDED SECTION 412(1) RESTORATION LIABILITY.—For purposes of section 412 of such Code and section 302 of such Act, in the case of a plan restored under subsection (b)—

(A) the initial post-restoration valuation date for a plan described in subsection (a) shall be January 1 of the calendar year following the date of restoration,

(B) the unfunded section 412(1) restoration liability shall be an amount equal to the excess of—

(i) the current liability returned by the Corporation, over

(ii) the market value of plan assets returned by the Corporation, and

(C) the unfunded section 412(1) restoration liability amount shall be equal to the unfunded section 412(1) restoration liability amortized in level annual installments over a period determined pursuant to subsection (g) but not to exceed 30 years after the initial post-restoration valuation date.

(3) RULES OF SPECIAL APPLICATION.—In applying the 30-year amortization described in paragraph (1)(C) or (2)(C)—

(A) the assumed interest rate for purposes of paragraph (1)(C) shall be the valuation interest rate used to determine the accrued liability under section 412(c) of such Code and section 302(c) of such Act,

(B) the assumed interest rate for purposes of paragraph (2)(C) shall be the interest rate used to determine current liability as of the initial post-restoration valuation date under section 412(1) of such Code and section 302(d) of such Act,

(C) the actuarial value of assets as of the initial post-restoration valuation date shall be reset to the market value of assets with a 5-year phase-in of unexpected investment gains or losses on a prospective basis, and

(D) for plans using the frozen initial liability (FIL) funding method in accordance with section 412(c) of such Code and section 302(c) of such Act, the initial unfunded liability used to determine normal cost shall be reset to the initial restoration amortization base.

(e) QUARTERLY CONTRIBUTIONS.—The requirements of section 412(m) of such Code and section 302(e) of such Act shall not apply to a plan restored under subsection (b) until the plan year beginning on the initial post-restoration valuation date. The required annual payment for that year shall be the lesser of—

(1) the amount determined under section 412(m)(4)(B)(i) of such Code and section 302(e)(4)(B)(i) of such Act, or

(2) 100 percent of the amount required to be contributed under the plan for the plan year beginning January 1, 2003, and ending on the date of plan termination.

(f) RESETTING OF FUNDING STANDARD ACCOUNT BALANCES.—In the case of a plan restored under subsection (b), any accumulated funding deficiency or credit balance in the funding standard account under section 412 of such Code or section 302 of such Act shall be set equal to zero as of the initial post-restoration valuation date.

(g) TERMS OF RESTORED PLAN.—

(1) IN GENERAL.—The terms of a plan which is restored pursuant to subsection (b) shall be determined by mutual agreement of the employer and the collective bargaining rep-

resentative of employees covered by the plan. If such parties are unable to reach mutual agreement on such terms, then the terms of the restored plan will be determined by a neutral arbitrator. The neutral arbitrator will be selected by the parties within 7 days after the earlier of the date the parties reach an impasse or 60 days after the date of the enactment of this Act. The neutral arbitrator will be selected by the parties from a panel of neutrals provided by the National Mediation Board. The neutral arbitrator will render his or her determination not later than 120 days after the date of the enactment of this Act. Such determination shall be final and binding on the parties.

(2) SPECIFIC TERMS.—The terms of the restored plan are subject to the following:

(A) Benefits under the restored plan for any participant or group of participants may not be greater than, but may be less than, those under the plan prior to its termination, and forms of distribution under the restored plan for any participant or group of participants may exclude forms available under the plan prior to its termination, and any such reductions in benefits or forms of distribution shall be deemed to comply with section 411(d)(6) of such Code and section 204(g) of such Act.

(B) For any participant, benefits under the restored plan shall be offset by the value of contributions made on behalf of such participant to any defined contribution pension plan established by the parties in conjunction with the termination of the restored plan.

(C) The amortization periods for the initial restoration amortization base and the unfunded section 412(1) restoration liability shall not exceed 30 years.

(D) The minimum required cost of the restored plan shall not be less than the greater of—

(i) the projected cost of any defined contribution pension plan established in conjunction with the termination of the restored plan, or

(ii) the amount allowed as costs under the employer's original plan of reorganization for all of the employer's retirement plans minus the minimum required cost determined as of the plan restoration date of all of the employer's retirement plans excluding the restored plan.

(h) PBGC LIABILITY LIMITED.—In the case of any plan which is described in subsection (a), which is restored pursuant to subsection (b), and which subsequently terminates with a date of plan termination before the end of the fifth calendar year after the date of restoration, section 4022 of the Employee Retirement Income Security Act of 1974 shall be applied as if the plan had been amended to provide that participants would receive no credit for benefit accrual purposes under the plan for service on and after the first day of the plan year beginning after the date of the enactment of this Act.

(i) EFFECTIVE DATE.—This section shall apply to plan years beginning after December 31, 2002.

Mr. SPECTER. Mr. President, this amendment would do justice to the US Airways pilots who have been very unfairly treated by what has happened to the pension with US Airways.

The airline has had great problems, as have all the airlines, following 9/11. They have been in bankruptcy and have been restructuring their operation. There have been tremendous concessions made by employees of US Airways and the pilots pension was abrogated.

On January 9, 2003, Senator SANTORUM and I introduced S. 119, which would have allowed the US Airways pension plan to have up to 30 years to meet its obligations instead of the 5-year period. The requirement of the 5-year period made it impossible for the pension plan to be continued. My Subcommittee on Labor, Health and Human Services and Education held a hearing on January 14, 2003, and explored the options.

The PBGC declined to honor the request of the US Airways pilots. We have now offered an amendment, which is now pending, which would grant up to 30 years for the pension plan to be funded. We call for a reinstatement of the earlier plan. In the interim, US Airways has offered an additional benefit and we would agree to an offset of that against the amendment which we are now offering.

How much time do I have remaining?

The PRESIDING OFFICER. Five minutes.

Mr. SPECTER. I reserve the remainder of my time until I hear the arguments in opposition to the amendment.

The PRESIDING OFFICER. Who seeks recognition?

Mr. REID. Is the Senate in a quorum call?

The PRESIDING OFFICER. No.

Mr. REID. I suggest to my friend from Pennsylvania it appears as if there will be no one speaking in opposition of the argument. It has been argued several times before. We should move on. We have people who are calling both cloakrooms because of the prearranged vote 20 minutes ago. They have schedules—some downtown, some up here—and I wonder if the Senator could move forward on his final remarks.

Mr. SPECTER. Mr. President, I offer one additional argument; that is, if the amendment of the Senator from Iowa, Mr. GRASSLEY, had been adopted in a timely way, US Airways would have been able to meet its pension obligations. We intend to revisit this on the pension bill which will be coming up at a later time. I have no illusions about the likelihood of success today.

However, US Airways pilots have been unfairly treated. When the plan was changed, they got about 25 percent on the dollar. When US Airways would have an obligation to fund the plan, but for a 30-year period, it would save money for the Pension Benefit Guaranty Corporation and they would not have to make payments. So it would be a win-win situation at all times.

That concludes my argument. I am ready for the vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The Senator has requested a division vote. All those Senators in favor of the amendment will rise and stand until counted.

All those opposed will rise and stand until counted.

On a division, the amendment was rejected.

Mr. REID. 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.

AMENDMENT NO. 2236

Mr. REID. Mr. President, any time we have is yielded back.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

Mr. REID. Mr. President, if the Presiding Officer would yield, we have a unanimous consent request.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, as in executive session, I ask unanimous consent that following the vote on passage of the pension rate bill today, the Senate proceed to executive session to consider the following nomination on today's Executive Calendar: calendar No. 425, the nomination of Gary L. Sharpe to be a U.S. District Judge for the Northern District of New York.

I further ask unanimous consent that the Senate proceed to a vote on the confirmation of the nomination; further, that following the vote, the President be immediately notified of the Senate's action, and the Senate then return to legislative session. I further ask consent that there be 4 minutes equally divided between the chairman and ranking member before the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 2236

The PRESIDING OFFICER. The question is now on agreeing to the amendment of the Senator from Arizona.

The amendment (No. 2236) was rejected.

Mr. DURBIN. Mr. President, I rise in support of the Grassley-Baucus-Gregg-Kennedy amendment. I commend the Finance and HELP Committees for working together in a bipartisan effort to secure the pensions of almost 45 million workers.

This legislation is vital to preserving defined benefit pension plans, which provide retirees with a monthly benefit that is secured by the Pension Benefit Guaranty Corporation. Nearly 35 million workers and retirees are covered by single employer plans, and an additional 9.7 million are covered by multi-employer plans. In all, one in five workers participates in a defined benefit plan.

Unfortunately, these defined benefit pension plans are facing several challenges due to the following "perfect storm" of economic conditions: the downturn in the stock market was the longest since the Great Depression; the 30-year Treasury bond interest rates have been at historically low levels; and the weak economy has made it even more difficult for companies to

make payments and pay the excise taxes as currently required by law.

As a result of these circumstances, many pension plans are under-funded, and this legislation would help companies weather this storm. There are three main components of this legislation. The first is a 2-year replacement of the 30-year Treasury bond rate used to calculate employers' contributions to pension plans with a corporate bond rate. The second is partial, temporary relief from deficit reduction contributions. The third is relief for multiemployer plans, which often aid low-wage workers, as well as workers in short-term or seasonal employment.

I support all three of these provisions and would like to speak in particular about the need for deficit reduction contribution relief. This relief would aid companies that had well-funded pension plans as recently as 2000, but, due to the current economic storm, need assistance now. The assistance we are providing is temporary—only for 2 years—and partial. It would allow troubled industries, such as airlines and steel, to regain their financial footing by providing relief of up to 80 percent in 2004 and up to 60 percent in 2005.

I understand that there are concerns regarding liability to the PBGC. If a company we are providing relief to now is forced to terminate its pension later, PBGC would takeover the pension, and the liability would be increased by the amount of DRC relief that the company had received. However, this does not take into consideration that if we do not provide companies with DRC relief now, they may be unable to pay their DRC surcharges and therefore will be more likely to have their pensions involuntarily terminated in the first place.

Furthermore, the DRC provision in the Pension Funding Equity Act would ensure that no plan will lose ground. Companies that receive DRC relief would be required to contribute at least the amount necessary to fund the expected increase in current liability that results from benefits that have accrued during the year.

Finally, I know that several Cabinet Secretaries have expressed their opposition to DRC relief. However, the White House, in its Statement of Administration Policy, also has acknowledged that "The DRC is part of a flawed system of funding rules that should be reviewed and reformed." Although the White House would prefer to address DRC changes in the context of broader pension reform, we must provide aid to these companies and their workers now. For example, United Airlines, based in my home State of Illinois, would benefit from the DRC relief in this legislation, and as a result, the pensions of the almost 130,000 participants in United's pension plans, including over 22,000 participants in Illinois, would be more secure.

Overall, the Grassley-Baucus-Gregg-Kennedy amendment will provide necessary relief for the 45 million workers

who participate in our single and multi-employer pension plans. I urge my colleagues to join me in preserving the future of these defined benefit pension plans and supporting this important legislation.

AMENDMENT NO. 2233

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment (No. 2233), as amended, was agreed to.

MULTIEMPLOYER RELIEF

Mr. BAUCUS. This amendment provides short-term relief for multiemployer pension plans that are struggling to cope with unprecedented losses on their equity investments in the first few years of this decade. The temporary funding relief would help plans deal with the investment losses they suffered through 2002, by letting them postpone amortization of the portion of those losses that would otherwise be recognized for funding purposes in any two of the plan years beginning after June 30, 2002 and before July 1, 2006.

Mr. GREGG. That is correct. The proposed relief would permit a short-term postponement of the losses that count toward the required funding in any two of the plan years beginning after June 30, 2002 and before July 1, 2006. The relief may be taken for no more than 2 years.

Mr. KENNEDY. Yes. For funding purposes, most multiemployer plans recognize investment losses gradually over a period of years. So, part of a plan's investment losses incurred in 2000, for example, would first be recognized under the funding rules in the 2001 plan year. The portion of those losses that show up in the funding requirements during the relief period would be eligible for the relief.

Mr. GRASSLEY. As this discussion demonstrates, the focus of the relief is on the portion of the loss that would be recognized for any of the plan years for which the relief is available. That is what the language means when it refers to losses "for the plan year."

AMENDMENT NO. 2233

Mr. BAUCUS. This amendment specifically addresses the problems faced by the steel and airline industry. However, I also have concerns about other types of companies. Some of these companies should be allowed to access the DRC relief that is in this bill. I believe my colleagues share my concerns, and that is why we have included an application process in this amendment.

Mr. GREGG. That is correct. We have included the application process in this amendment so that other types of companies will also be allowed to access the DRC relief in this bill. This application process should allow other employers to receive relief, just like the steel and airline companies.

Mr. KENNEDY. This application process is a fundamental piece of the amendment. It would not be fair to exclude all other employers from the DRC relief. There are many companies

in other industries that really need this relief, and we have provided access through the application process.

Mr. GRASSLEY. We have all agreed on the importance of this piece of the amendment, and we all understand that it is not intended to be window dressing. We expect that Treasury will adhere to the legislative intent in crafting this proposal, and implement the application process in a way that allows other employers to receive real relief, much like the steel and industry industries will receive.

Ms. SNOWE. I share my colleagues' concern, particularly with respect to how this application process would apply to small businesses. It is very important that other companies have access to this relief. The application process must provide a means of bringing relief to small companies.

Mr. JEFFORDS. Mr. President, today, I am pleased to see that the Senate is taking action on the Pension Equity Act of 2003.

As many of my colleagues are aware, the pension discount rate relief initiative, enacted in 2001, expired last month. Passage of H.R. 3108 will provide a resolution to this very serious issue. This bill replaces the outdated 30-year Treasury bill rate with a rate based on a composite of investment grade long-term corporate bonds. Failure to act on this bill will cause the statutory rate that pension plans must use to calculate their assets and liabilities to return to the old 30-year rate. Companies with pension plans will shortly have to begin making large contributions to their plans in the year to come.

An amendment to H.R. 3108 will provide relief from the deficit reduction contribution, DRC, requirements that certain plans are now facing. Under the current pension funding rules, companies that offer defined benefit pension plans are required to make additional contributions to those plans when they are less than 90 percent funded. A pension plan's funding level is determined by comparing the plan's current assets to its promised benefits and then calculated as to whether the two will match up by the time the promised benefits are due.

The recent drop in the stock market, low interest rates, and generous pension benefits agreed to in better times have caused many defined benefit pension plans to fall well beneath the 90 percent threshold. As a result, many companies are being required to make substantial contributions at the time they can least afford them. The Finance Committee reported bill, which I support, included fair DRC relief.

While I support these provisions related to pensions, I am disappointed that this body has not worked to enact further reforms. Two months ago, I, along with Senators SNOWE and HATCH, introduced S. 1912, the Retirement Account Portability Act of 2003. In brief, this bill will make a number of improvements in the retirement savings

system to help families preserve retirement assets. It will, for example, enhance the portability of retirement savings by expanding rollover options in traditional IRAs, Roth IRAs, and SIMPLE Plans. The bill also clarifies that when employees are permitted to make after-tax contributions to retirement plans, those after-tax amounts may be rolled over into other retirement plans eligible to receive such rollovers. This clarification will make it easier for workers to move all elements of their 401(k) or 403(b) savings when they change jobs and move between the private sector and the tax-exempt sector.

In addition, the bill builds on defined contribution plan reforms enacted in 2001 by requiring a shortened vesting schedule for employer nonelective contributions, such as profit-sharing contributions, to defined contribution plans. As a result, employer contributions will become employee property more quickly, helping workers to build more meaningful retirement benefits. This new vesting schedule corresponds to rules for 401(k) matching contributions enacted in 2001.

The bill also helps preserve retirement savings by allowing plans to designate default IRAs or annuity contracts to which employee rollovers may be directed. Employers should be more willing to establish default IRA and annuity rollover options as a result, making it easier for employees to keep savings in the retirement system when they change jobs.

For workers who leave a job without claiming their retirement benefits, the bill improves on the automatic rollover provisions enacted in 2001, by allowing certain small distributions from retirement plans to be sent to the Pension Benefit Guaranty Corporation, PBGC, ensuring that participants are ultimately reunited with their earned benefits. The bill also expands the scope of the PBGC's successful Missing Participants Program that matches workers with lost pension benefits.

The Retirement Account Portability Act of 2003 will benefit employees of State and local governments, including teachers, through a number of this bill's technical corrections that will facilitate the purchase of service credits in public pension programs, allowing State and local employees to more easily attain a full pension in the jurisdiction where they conclude their career. The bill also contains provisions that will clarify eligibility rights of certain State and local employees who participate in a section 457 deferred compensation plan.

As this body moves to pass H.R. 3108 today, I thank Senators GRASSLEY and BAUCUS for their hard work on this legislation. I also thank Senators GREGG and KENNEDY for their contributions to this initiative. I look forward to working with my distinguished chairmen and ranking members of the HELP and Finance Committees in moving S. 1912 and other measures that will

proactively improve the mechanisms we use for pension and retirement plans.

Mrs. BOXER. Mr. President, we need to ensure that the retirement benefits Americans have been promised are secure. The bipartisan Pension Funding Equity Act of 2003 is a first step toward improving retirement security for Americans, and I support it.

As you know, the legislation will help stabilize the traditional pension plans known as defined benefit plans that cover almost 45 million Americans. These plans are in trouble because historically low interest rates and the last few years of decline in the stock market have combined to leave them underfunded.

To help stabilize these plans, the Pension Funding Equity Act provides temporary contribution relief for both single-employer plans and multi-employer plans. Of the 45 million working Americans participating in defined benefit pension plans, 35 million of them are covered by single-employer plans and 9.7 million are covered by multi-employer plans. Defined benefit plans promise workers a monthly retirement benefit that these 45 million workers are counting on. It would be tragic if these funds went bankrupt—or if employers gave them up.

Of the millions of workers participating in defined benefit pension plans, 40 percent are in construction, 30 percent are in retail and service industries, and 10 percent are in trucking services. These workers are the backbone of our labor force, and the first step toward ensuring their retirement security depends on passage of this legislation.

I urge my colleagues to support the Pension Funding Equity Act of 2003.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The bill having been read the third time, the question is, Shall the bill, as amended, pass?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Georgia (Mr. CHAMBLISS) is necessarily absent.

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS), 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 Massa-

chusetts (Mr. KERRY) would vote “yea.”

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

The result was announced—yeas 86, nays 9, as follows:

[Rollcall Vote No. 5 Leg.]
YEAS—86

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

NAYS—9

Chafee	Inhofe	Nickles
Ensign	Kyl	Sessions
Fitzgerald	McCain	Thomas

NOT VOTING—5

Baucus	Edwards	Lieberman
Chambliss	Kerry	

The bill (H.R. 3108), as amended, was passed, as follows:

H.R. 3108

Resolved, That the bill from the House of Representatives (H.R. 3108) entitled “An Act to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes.”, do pass with the following amendment:

Page 2, line 3, strike out all after “SECTION” and insert:

1. SHORT TITLE.

This Act may be cited as the “Pension Stability Act”.

SEC. 2. TEMPORARY REPLACEMENT OF INTEREST RATE ON 30-YEAR TREASURY SECURITIES WITH INTEREST RATE ON CONSERVATIVELY INVESTED LONG-TERM CORPORATE BONDS.

(a) INTERNAL REVENUE CODE OF 1986.—

(1) DETERMINATION OF PERMISSIBLE RANGE.—

(A) IN GENERAL.—Section 412(b)(5)(B)(ii) of the Internal Revenue Code of 1986 is amended—

(i) in subclause (I), by inserting “or (III)” after “subclause (II)”; and

(ii) by redesignating subclause (II) as subclause (III);

(iii) by inserting after subclause (I) the following new subclause:

“(II) SPECIAL RULE FOR 2004 AND 2005.—In the case of plan years beginning in 2004 or 2005, the term ‘permissible range’ means a rate of interest which is not above, and not more than 10 percent below, the weighted average of the conservative long-term corporate bond rates during the 4-year period ending on the last day before the beginning of the plan year. The Secretary shall, by regulation, prescribe a method for periodi-

cally determining conservative long-term bond rates for purposes of this paragraph. Such rates shall reflect the rates of interest on amounts invested conservatively in long-term corporate bonds and shall be based on the use of 2 or more indices that are in the top 2 quality levels available reflecting average maturities of 20 years or more.”; and

(iv) in subclause (III), as so redesignated—

(I) by inserting “or (II)” after “subclause (I)” the first place it appears; and

(II) by striking “subclause (I)” the second place it appears and inserting “such subclause”.

(2) DETERMINATION OF CURRENT LIABILITY.—Section 412(l)(7)(C)(i) of such Code is amended by adding at the end the following new subclause:

“(IV) SPECIAL RULE FOR 2004 AND 2005.—For plan years beginning in 2004 or 2005, notwithstanding subclause (I), the rate of interest used to determine current liability under this subsection shall be the rate of interest under subsection (b)(5).”.

(3) CONFORMING AMENDMENT.—Section 412(m)(7) of such Code is amended to read as follows:

“(7) SPECIAL RULE FOR 2002.—In any case in which the interest rate used to determine current liability is determined under subsection (l)(7)(C)(i)(III), for purposes of applying paragraphs (1) and (4)(B)(ii) for plan years beginning in 2002, the current liability of the plan for the preceding plan year shall be redetermined using 120 percent as the specified percentage determined under subsection (l)(7)(C)(i)(II).”.

(4) LIMITATION ON CERTAIN ASSUMPTIONS.—Section 415(b)(2)(E)(ii) of such Code is amended by inserting “, except that in the case of plan years beginning in 2004 or 2005, ‘5.5 percent’ shall be substituted for ‘5 percent’ in clause (i)” before the period at the end.

(5) ELECTION TO DISREGARD MODIFICATION FOR DEDUCTION PURPOSES.—Section 404(a)(1) of such Code is amended by adding at the end the following new subparagraph:

“(F) ELECTION TO DISREGARD MODIFIED INTEREST RATE.—An employer may elect to disregard subsections (b)(5)(B)(ii)(II) and (l)(7)(C)(i) of section 412 solely for purposes of determining the interest rate used in calculating the maximum amount of the deduction allowable under this section for contributions to a plan to which such subsections apply.”

(b) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) DETERMINATION OF PERMISSIBLE RANGE.—

(A) IN GENERAL.—Section 302(b)(5)(B)(ii) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(b)(5)(B)(ii)) is amended—

(i) in subclause (I), by inserting “or (III)” after “subclause (II)”; and

(ii) by redesignating subclause (II) as subclause (III);

(iii) by inserting after subclause (I) the following new subclause:

“(II) SPECIAL RULE FOR YEARS 2004 AND 2005.—In the case of plan years beginning in 2004 or 2005, the term ‘permissible range’ means a rate of interest which is not above, and not more than 10 percent below, the weighted average of the conservative long-term corporate bond rates (as determined under section 412(b)(5)(B)(ii)(II) of the Internal Revenue Code of 1986) during the 4-year period ending on the last day before the beginning of the plan year.”; and

(iv) in subclause (III), as so redesignated—

(I) by inserting “or (II)” after “subclause (I)” the first place it appears; and

(II) by striking “subclause (I)” the second place it appears and inserting “such subclause”.

(2) DETERMINATION OF CURRENT LIABILITY.—Section 302(d)(7)(C)(i) of such Act (29 U.S.C. 1082(d)(7)(C)(i)) is amended by adding at the end the following new subclause:

“(IV) SPECIAL RULE FOR 2004 AND 2005.—For plan years beginning in 2004 or 2005, notwithstanding subclause (I), the rate of interest used

to determine current liability under this subsection shall be the rate of interest under subsection (b)(5).”.

(3) CONFORMING AMENDMENT.—Section 302(e)(7) of such Act (29 U.S.C. 1082(e)(7)) is amended to read as follows:

“(7) SPECIAL RULE FOR 2002.—In any case in which the interest rate used to determine current liability is determined under subsection (d)(7)(C)(i)(II), for purposes of applying paragraphs (1) and (4)(B)(ii) for plan years beginning in 2002, the current liability of the plan for the preceding plan year shall be redetermined using 120 as the specified percentage determined under subsection (d)(7)(C)(i)(II).”.

(4) PBGC.—Section 4006(a)(3)(E)(iii) of such Act (29 U.S.C. 1306(a)(3)(E)(iii)) is amended by adding at the end the following new subclause:

“(V) In the case of plan years beginning in 2004 or 2005, the annual yield taken into account under subclause (II) shall be the annual yield computed by using the conservative long-term corporate bond rate (as determined under section 412(b)(5)(B)(ii)(II) of the Internal Revenue Code of 1986) for the month preceding the month in which the plan year begins.”

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning after December 31, 2003.

(2) LOOKBACK RULES.—For purposes of applying subsections (l)(9)(B)(ii) and (m)(1) of section 412 of the Internal Revenue Code of 1986, and subsections (d)(9)(B)(ii) and (e)(1) of section 302 of the Employee Retirement Income Security Act of 1974 to plan years beginning after December 31, 2003, the amendments made by this section may be applied as if such amendments had been in effect for all years beginning before such date.

(3) TRANSITION RULE FOR SECTION 415 LIMITATION.—In the case of any participant or beneficiary receiving a distribution after December 31, 2003 and before January 1, 2005, the amount payable under any form of benefit subject to section 417(b)(3) of the Internal Revenue Code of 1986 and subject to adjustment under section 415(b)(2)(B) of such Code shall not, solely by reason of the amendment made by subsection (a)(4), be less than the amount that would have been so payable had the amount payable been determined using the applicable interest rate in effect as of the last day of the last plan year beginning before January 1, 2004.

SEC. 3. ELECTION OF ALTERNATIVE DEFICIT REDUCTION CONTRIBUTION.

(a) AMENDMENT OF 1986 CODE.—Section 412(l) of the Internal Revenue Code of 1986 (relating to applicability of subsection) is amended by adding at the end the following new paragraph:

“(12) ALTERNATIVE INCREASE FOR CERTAIN PLANS MEETING REQUIREMENTS IN 2000.—

“(A) IN GENERAL.—In the case of a defined benefit plan established and maintained by an applicable employer, if this subsection did not apply to the plan for the plan year beginning in 2000 (determined without regard to paragraph (6)), then, at the election of the employer, the increased amount under paragraph (1) for any applicable plan year shall be the greater of—

“(i) 20 percent (40 percent in the case of an applicable plan year beginning after December 27, 2004) of the increased amount under paragraph (1) determined without regard to this paragraph, or

“(ii) the increased amount which would be determined under paragraph (1) if the deficit reduction contribution under paragraph (2) for the applicable plan year were determined without regard to subparagraphs (A), (B), and (D) of paragraph (2).

“(B) RESTRICTIONS ON BENEFIT INCREASES.—No amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable shall be adopted during any applicable plan year, unless—

“(i) the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be at least 75 percent,

“(ii) the amendment provides for an increase in benefits under a formula which is not based on a participant's compensation, but only if the rate of such increase is not in excess of the contemporaneous rate of increase in average wages of participants covered by the amendment,

“(iii) the amendment is required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph, or

“(iv) the amendment is otherwise described in subparagraph (A) or (C) of subsection (f)(2).

If a plan is amended during any applicable plan year in violation of the preceding sentence, any election under this paragraph shall not apply to any applicable plan year ending on or after the date on which such amendment is adopted.

“(C) APPLICABLE EMPLOYER.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘applicable employer’ means an employer which is—

“(I) a commercial passenger airline,

“(II) primarily engaged in the production or manufacture of a steel mill product, or the mining or processing of iron ore or beneficiated iron ore products, or

“(III) an organization described in section 501(c)(5) and which established the plan to which this paragraph applies on June 30, 1955.

“(ii) OTHER EMPLOYERS MAY APPLY FOR RELIEF.—

“(I) IN GENERAL.—Except as provided in subclause (II), an employer other than an employer described in clause (i) shall be treated as an applicable employer if the employer files an application (at such time and in such manner as the Secretary may prescribe) to be treated as an applicable employer for purposes of this paragraph.

“(II) EXCEPTION.—Subclause (I) shall not apply to an employer if, within 90 days of the filing of the application, the Secretary determines (taking into account the application of this paragraph) that there is a reasonable likelihood that the employer will be unable to make future required contributions to the plan in a timely manner.

“(D) APPLICABLE PLAN YEAR.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘applicable plan year’ means any plan year beginning after December 27, 2003, and before December 28, 2005, for which the employer elects the application of this paragraph.

“(ii) LIMITATION ON NUMBER OF YEARS WHICH MAY BE ELECTED.—An election may not be made under this paragraph with respect to more than 2 plan years.

“(E) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary may prescribe.”

(b) AMENDMENT OF ERISA.—Section 302(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(d)) is amended by adding at the end the following new paragraph:

“(12) ALTERNATIVE INCREASE FOR CERTAIN PLANS MEETING REQUIREMENTS IN 2000.—

“(A) IN GENERAL.—In the case of a defined benefit plan established and maintained by an applicable employer, if this subsection did not apply to the plan for the plan year beginning in 2000 (determined without regard to paragraph (6)), then, at the election of the employer, the increased amount under paragraph (1) for any applicable plan year shall be the greater of—

“(i) 20 percent (40 percent in the case of an applicable plan year beginning after December 27, 2004) of the increased amount under paragraph (1) determined without regard to this paragraph, or

“(ii) the increased amount which would be determined under paragraph (1) if the deficit reduction contribution under paragraph (2) for

the applicable plan year were determined without regard to subparagraphs (A), (B), and (D) of paragraph (2).

“(B) RESTRICTIONS ON BENEFIT INCREASES.—No amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall be adopted during any applicable plan year, unless—

“(i) the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be at least 75 percent,

“(ii) the amendment provides for an increase in benefits under a formula which is not based on a participant's compensation, but only if the rate of such increase is not in excess of the contemporaneous rate of increase in average wages of participants covered by the amendment,

“(iii) the amendment is required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph, or

“(iv) the amendment is otherwise described in subparagraph (A) or (C) of section 304(b)(2).

If a plan is amended during any applicable plan year in violation of the preceding sentence, any election under this paragraph shall not apply to any applicable plan year ending on or after the date on which such amendment is adopted.

“(C) APPLICABLE EMPLOYER.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘applicable employer’ means an employer which is—

“(I) a commercial passenger airline,

“(II) primarily engaged in the production or manufacture of a steel mill product, or the mining or processing of iron ore or beneficiated iron ore products, or

“(III) an organization described in section 501(c)(5) of the Internal Revenue Code of 1986 and which established the plan to which this paragraph applies on June 30, 1955.

“(ii) OTHER EMPLOYERS MAY APPLY FOR RELIEF.—

“(I) IN GENERAL.—Except as provided in subclause (II), an employer other than an employer described in clause (i) shall be treated as an applicable employer if the employer files an application (at such time and in such manner as the Secretary of the Treasury may prescribe) to be treated as an applicable employer for purposes of this paragraph.

“(II) EXCEPTION.—Subclause (I) shall not apply to an employer if, within 90 days of the filing of the application, the Secretary of the Treasury determines (taking into account the application of this paragraph) that there is a reasonable likelihood that the employer will be unable to make future required contributions to the plan in a timely manner.

“(D) APPLICABLE PLAN YEAR.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘applicable plan year’ means any plan year beginning after December 27, 2003, and before December 28, 2005, for which the employer elects the application of this paragraph.

“(ii) LIMITATION ON NUMBER OF YEARS WHICH MAY BE ELECTED.—An election may not be made under this paragraph with respect to more than 2 plan years.

“(E) NOTICE REQUIREMENTS FOR PLANS ELECTING ALTERNATIVE DEFICIT REDUCTION CONTRIBUTIONS.—

“(i) IN GENERAL.—If an employer elects an alternative deficit reduction contribution under this paragraph and section 412(l)(12) of the Internal Revenue Code of 1986 for any year, the employer shall provide, within 30 days (120 days in the case of an employer described in subparagraph (C)(ii)) of filing the election for such year, written notice of the election to participants and beneficiaries and to the Pension Benefit Guaranty Corporation.

“(ii) NOTICE TO PARTICIPANTS AND BENEFICIARIES.—The notice under clause (i) to participants and beneficiaries shall include with respect to any election—

“(I) the due date of the alternative deficit reduction contribution and the amount by which such contribution was reduced from the amount which would have been owed if the election were not made, and

“(II) a description of the benefits under the plan which are eligible to be guaranteed by the Pension Benefit Guaranty Corporation and an explanation of the limitations on the guarantee and the circumstances under which such limitations apply, including the maximum guaranteed monthly benefits which the Pension Benefit Guaranty Corporation would pay if the plan terminated while underfunded.

“(iii) NOTICE TO PBGC.—The notice under clause (i) to the Pension Benefit Guaranty Corporation shall include—

“(I) the information described in clause (ii)(I),

“(II) the number of years it will take to restore the plan to full funding if the employer only makes the required contributions, and

“(III) information as to how the amount by which the plan is underfunded compares with the capitalization of the employer making the election.

“(F) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury may prescribe.”

(c) EFFECT OF ELECTION.—An election under section 412(l)(12) of the Internal Revenue Code of 1986 or section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section) with respect to a plan shall not invalidate any obligation (pursuant to a collective bargaining agreement in effect on the date of the election) to provide benefits, to change the accrual of benefits, or to change the rate at which benefits become nonforfeitable under the plan.

(d) PENALTY FOR FAILING TO PROVIDE NOTICE.—Section 502(c)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)(3)) is amended by inserting “or who fails to meet the requirements of section 302(d)(12)(E) with respect to any participant or beneficiary” after “101(e)(2)”.

SEC. 4. MULTIEMPLOYER PLAN FUNDING NOTICES.

(a) IN GENERAL.—Section 104 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 104) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

“(d) MULTIEMPLOYER DEFINED BENEFIT PLAN FUNDING NOTICES.—

“(I) IN GENERAL.—The administrator of a defined benefit plan which is a multiemployer plan shall for each plan year provide a plan funding notice to each plan participant and beneficiary, to each labor organization representing such participants or beneficiaries, and to each employer that has an obligation to contribute under the plan.

“(2) INFORMATION CONTAINED IN NOTICES.—

“(A) IDENTIFYING INFORMATION.—Each notice required under paragraph (1) shall contain identifying information, including the name of the plan, the address and phone number of the plan administrator and the plan’s principal administrative officer, each plan sponsor’s employer identification number, and the plan number of the plan.

“(B) SPECIFIC INFORMATION.—A plan funding notice under paragraph (1) shall include—

“(i) a statement as to whether the plan’s funded current liability percentage (as defined in section 302(d)(8)(B)) for the plan year to which the notice relates is at least 100 percent (and, if not, the actual percentage);

“(ii) a statement of the value of the plan’s assets, the amount of benefit payments, and the ratio of the assets to the payments for the plan year to which the report relates;

“(iii) a summary of the rules governing insolvent multiemployer plans, including the limitations on benefit payments and any potential benefit reductions and suspensions (and the potential effects of such limitations, reductions, and suspensions on the plan); and

“(iv) a general description of the benefits under the plan which are eligible to be guaranteed by the Pension Benefit Guaranty Corporation, along with an explanation of the limitations on the guarantee and the circumstances under which such limitations apply.

“(C) OTHER INFORMATION.—Each notice under paragraph (1) shall include any additional information which the plan administrator elects to include to the extent not inconsistent with regulations prescribed by the Secretary.

“(3) TIME FOR PROVIDING NOTICE.—Any notice under paragraph (1) shall be provided no later than two months after the deadline (including extensions) for filing the annual report for the plan year to which the notice relates.

“(4) FORM AND MANNER.—Any notice under paragraph (1)—

“(A) shall be provided in a form and manner prescribed in regulations of the Secretary,

“(B) shall be written in a manner so as to be understood by the average plan participant, and

“(C) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to persons to whom the notice is required to be provided.”

(b) PENALTIES.—Section 502(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)(1)) is amended by striking “or section 101(e)(1)” and inserting “, section 101(e)(1), or section 104(d)”.

(c) REGULATIONS AND MODEL NOTICE.—The Secretary of Labor shall, not later than 1 year after the date of the enactment of this Act, issue regulations (including a model notice) necessary to implement the amendments made by this section.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2004.

SEC. 5. AMORTIZATION HIATUS FOR NET EXPERIENCE LOSSES IN MULTIEMPLOYER PLANS.

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Section 302(b)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(b)(7)) is amended by adding at the end the following new subparagraph:

“(F)(i) If a multiemployer plan has a net experience loss for any plan year beginning after June 30, 2002, and before July 1, 2006—

“(I) the plan may elect to have the 15-year amortization period under paragraph (2)(B)(iv) with respect to the loss begin in any plan year selected by the plan from among the 3 immediately succeeding plan years, and

“(II) if the plan makes an election under subclause (I) for any plan year, the net experience loss for the year shall, for purposes of determining any charge to the funding standard account, or interest, with respect to the loss, be treated in the same manner as if it were a net experience loss occurring in the year selected by the plan under subclause (I) (without regard to any net experience loss or gain otherwise determined for such year).

Notwithstanding the preceding sentence, a plan may elect to have this subparagraph apply to net experience losses for only 2 plan years beginning after June 30, 2002, and before July 1, 2006.

“(ii) An amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall not take effect for any plan year in the hiatus period, unless—

“(I) the funded current liability percentage (as defined in subsection (d)(8)(B)) as of the end

of the plan year is projected (taking into account the effect of the amendment) to be at least 75 percent,

“(II) the plan’s actuary certifies that, due to an increase in contribution rates, the normal cost attributable to the benefit increase or other change is expected to be fully funded in the year following the year the increase or other change takes effect, and any increase in the plan’s accrued liabilities attributable to the benefit increase or other change is expected to be fully funded by the end of the third plan year following the end of the last hiatus period of the plan, or

“(III) the plan amendment is otherwise described in subparagraph (A) or (C) of section 304(b)(2).

“(iii) Clause (ii) shall not apply to an increase in benefits for a group of participants resulting solely from a collectively bargained increase in the contributions made on their behalf.

“(iv) For purposes of this subparagraph, the term ‘hiatus period’ means any period during which the amortization of a net experience loss is suspended by reason of this subparagraph.

“(v) Interest accrued on any net experience loss during a hiatus period shall be charged to a reconciliation account and not to the funding standard account.

“(vi) If a plan elects an amortization hiatus under this subparagraph and section 412(b)(7)(F) of the Internal Revenue Code of 1986 for any plan year, the plan administrator shall provide, within 30 days of filing the election for such year, written notice of the election to participants and beneficiaries, to each labor organization representing such participants or beneficiaries, and to each employer that has an obligation to contribute under the plan. Such notice shall include with respect to any election the amount of the net experience loss to be deferred and the period of the deferral. Such notice shall also include the maximum guaranteed monthly benefits which the Pension Benefit Guaranty Corporation would pay if the plan terminated while underfunded.

“(vii) An election under this subparagraph shall be made at such time and in such manner as the Secretary, after consultation with the Secretary of the Treasury, may prescribe.”

(2) PENALTY.—Section 502(c)(4) of such Act (29 U.S.C. 1132(c)(4)) is amended to read as follows:

“(4) The Secretary may assess a civil penalty of not more than \$1,000 a day for each violation by any person of section 302(b)(7)(F)(vi).”

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Section 412(b)(7) of the Internal Revenue Code of 1986 (relating to special rules for multiemployer plans) is amended by adding at the end the following new subparagraph:

“(F) AMORTIZATION HIATUS.—

“(i) IN GENERAL.—If a multiemployer plan has a net experience loss for any plan year beginning after June 30, 2002, and before July 1, 2006—

“(I) the plan may elect to have the 15-year amortization period under paragraph (2)(B)(iv) with respect to the loss begin in any plan year selected by the plan from among the 3 immediately succeeding plan years, and

“(II) if the plan makes an election under subclause (I) for any plan year, the net experience loss for the year shall, for purposes of determining any charge to the funding standard account, or interest, with respect to the loss, be treated in the same manner as if it were a net experience loss occurring in the year selected by the plan under subclause (I) (without regard to any net experience loss or gain otherwise determined for such year).

Notwithstanding the preceding sentence, a plan may elect to have this subparagraph apply to net experience losses for only 2 plan years beginning after June 30, 2002, and before July 1, 2006.

“(ii) **RESTRICTIONS ON BENEFIT INCREASES.**—An amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall not take effect for any plan year in the hiatus period, unless—

“(I) the funded current liability percentage (as defined in subsection (l)(8)(B)) as of the end of the plan year is projected (taking into account the effect of the amendment) to be at least 75 percent,

“(II) the plan’s actuary certifies that, due to an increase in contribution rates, the normal cost attributable to the benefit increase or other change is expected to be fully funded in the year following the year in which the increase or other change takes effect, and any increase in the plan’s accrued liabilities attributable to the benefit increase or other change is expected to be fully funded by the end of the third plan year following the end of the last hiatus period of the plan, or

“(III) the plan amendment is otherwise described in subparagraph (A) or (C) of subsection (f)(2).

“(iii) **COLLECTIVELY BARGAINED INCREASES IN CONTRIBUTIONS.**—Clause (ii) shall not apply to an increase in benefits for a group of participants resulting solely from a collectively bargained increase in the contributions made on their behalf.

“(iv) **HIATUS PERIOD DEFINED.**—For purposes of this subparagraph, the term ‘hiatus period’ means any period during which the amortization of a net experience loss is suspended by reason of this subparagraph.

“(v) **INTEREST ACCRUED DURING HIATUS.**—Interest accrued on any net experience loss during a hiatus period shall be charged to a reconciliation account and not to the funding standard account.

“(vi) **ELECTION.**—An election under this subparagraph shall be made at such time and in such manner as the Secretary of Labor, after consultation with the Secretary, may prescribe.”

(2) **QUALIFICATION REQUIREMENT.**—Section 401(a) of such Code is amended by inserting after paragraph (34) the following new paragraph:

“(35) **BENEFIT INCREASES IN CERTAIN MULTIEMPLOYER PLANS.**—A trust which is part of a plan shall not constitute a qualified trust under this section if the plan adopts an amendment during a hiatus period (within the meaning of section 412(b)(7)(F)(iv)) which the plan is prohibited from adopting by reason of section 412(b)(7)(F)(ii).”

SEC. 6. 2-YEAR EXTENSION OF TRANSITION RULE TO PENSION FUNDING REQUIREMENTS.

(a) **IN GENERAL.**—Section 769(c) of the Retirement Protection Act of 1994, as added by section 1508 of the Taxpayer Relief Act of 1997, is amended—

(1) by inserting “except as provided in paragraph (3),” before “the transition rules”, and

(2) by adding at the end the following:

“(3) **SPECIAL RULES.**—In the case of plan years beginning in 2004 and 2005, the following transition rules shall apply in lieu of the transition rules described in paragraph (2):

“(A) For purposes of section 412(l)(9)(A) of the Internal Revenue Code of 1986 and section 302(d)(9)(A) of the Employee Retirement Income Security Act of 1974, the funded current liability percentage for any plan year shall be treated as not less than 90 percent.

“(B) For purposes of section 412(m) of the Internal Revenue Code of 1986 and section 302(e) of the Employee Retirement Income Security Act of 1974, the funded current liability percentage for any plan year shall be treated as not less than 100 percent.

“(C) For purposes of determining unfunded vested benefits under section 4006(a)(3)(E)(iii) of the Employee Retirement Income Security Act of

1974, the mortality table shall be the mortality table used by the plan.”

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to plan years beginning after December 31, 2003.

SEC. 7. PROCEDURES APPLICABLE TO DISPUTES INVOLVING PENSION PLAN WITHDRAWAL LIABILITY.

(a) **IN GENERAL.**—Section 4221 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1401) is amended by adding at the end the following new subsection:

“(f) **PROCEDURES APPLICABLE TO CERTAIN DISPUTES.**—

“(1) **IN GENERAL.**—If—

“(A) a plan sponsor of a plan determines that—

“(i) a complete or partial withdrawal of an employer has occurred, or

“(ii) an employer is liable for withdrawal liability payments with respect to the complete or partial withdrawal of an employer from the plan,

“(B) such determination is based in whole or in part on a finding by the plan sponsor under section 4212(c) that a principal purpose of a transaction that occurred before January 1, 1999, was to evade or avoid withdrawal liability under this subtitle, and

“(C) such transaction occurred at least 5 years before the date of the complete or partial withdrawal,

then the special rules under paragraph (2) shall be used in applying subsections (a) and (d) of this section and section 4219(c) to the employer.

“(2) **SPECIAL RULES.**—

“(A) **DETERMINATION.**—Notwithstanding subsection (a)(3)—

“(i) a determination by the plan sponsor under paragraph (1)(B) shall not be presumed to be correct, and

“(ii) the plan sponsor shall have the burden to establish, by a preponderance of the evidence, the elements of the claim under section 4212(c) that a principal purpose of the transaction was to evade or avoid withdrawal liability under this subtitle.

Nothing in this subparagraph shall affect the burden of establishing any other element of a claim for withdrawal liability under this subtitle.

“(B) **PROCEDURE.**—Notwithstanding subsection (d) and section 4219(c), if an employer contests the plan sponsor’s determination under paragraph (1) through an arbitration proceeding pursuant to subsection (a), or through a claim brought in a court of competent jurisdiction, the employer shall not be obligated to make any withdrawal liability payments until a final decision in the arbitration proceeding, or in court, upholds the plan sponsor’s determination.”

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to any employer that receives a notification under section 4219(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1399(b)(1)) after October 31, 2003.

SEC. 8. SENSE OF THE SENATE ON STATUS OF PRIVATE PENSION PLANS.

(a) **FINDINGS.**—Congress makes the following findings:—

(1) The private pension system is integral to the retirement security of Americans, along with individual savings and Social Security.

(2) The Pension Benefit Guaranty Corporation (PBGC) is responsible for insuring the nation’s private pension system, and currently insures the pensions of 34,500,000 participants in 29,500 single-employer plans, and 9,700,000 participants in more than 1,600 multiemployer plans.

(3) The PBGC announced on January 15, 2004, that it suffered a net loss in fiscal year 2003 of \$7,600,000,000 for single-employer pension plans, bringing the PBGC’s deficit to \$11,200,000,000. This deficit is the PBGC’s worst on record, three

times larger than the \$3,600,000,000 deficit experienced in fiscal year 2002.

(4) The PBGC also announced that the separate insurance program for multiemployer pension plans sustained a net loss of \$419,000,000 in fiscal year 2003, resulting in a fiscal year-end deficit of \$261,000,000. The 2003 multiemployer plan deficit is the first deficit in more than 20 years and is the largest deficit on record.

(5) The PBGC estimates that the total underfunding in multiemployer pension plans is roughly \$100,000,000,000 and in single-employer plans is approximately \$400,000,000,000. This underfunding is due in part to the recent decline in the stock market and low interest rates, but is also due to demographic changes. For example, in 1980, there were four active workers for every one retiree in a multiemployer plan, but in 2002, there was only one active worker for every one retiree.

(6) This pension plan underfunding is concentrated in mature and often-declining industries, where plan liabilities will come due sooner.

(7) Neither the Senate Committee on Finance nor the Senate Committee on Health, Education, Labor and Pensions (HELP), the committees of jurisdiction over pension matters, has held hearings this Congress nor reported legislation addressing the funding of multiemployer pension plans;

(8) The Senate is concerned about the current funding status of the private pension system, both single and multi-employer plans;

(9) The Senate is concerned about the potential liabilities facing the PBGC and, as a result, the potential burdens facing healthy pension plans and taxpayers;

(b) **SENSE OF THE SENATE.**—It is the sense of the Senate that the Committee on Finance and the Committee on Health, Education, Labor and Pensions should conduct hearings on the status of the multiemployer pension plans, and should work in consultation with the Departments of Labor and Treasury on permanent measures to strengthen the integrity of the private pension system in order to protect the benefits of current and future pension plan beneficiaries.

SEC. 9. EXTENSION OF TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) **AMENDMENT OF INTERNAL REVENUE CODE OF 1986.**—Paragraph (5) of section 420(b) of the Internal Revenue Code of 1986 (relating to expiration) is amended by striking “December 31, 2005” and inserting “December 31, 2013”.

(b) **AMENDMENTS OF ERISA.**—

(1) Section 101(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)(3)) is amended by striking “Tax Relief Extension Act of 1999” and inserting “Pension Stability Act”.

(2) Section 403(c)(1) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking “Tax Relief Extension Act of 1999” and inserting “Pension Stability Act”.

(3) Paragraph (13) of section 408(b) of such Act (29 U.S.C. 1108(b)(3)) is amended—

(A) by striking “January 1, 2006” and inserting “January 1, 2014”, and

(B) by striking “Tax Relief Extension Act of 1999” and inserting “Pension Stability Act”.

SEC. 10. CLARIFICATION OF EXEMPTION FROM TAX FOR SMALL PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) **IN GENERAL.**—Section 501(c)(15)(A) of the Internal Revenue Code of 1986 is amended to read as follows:

“(A) Insurance companies (as defined in section 816(a)) other than life (including inter-insurers and reciprocal underwriters) if—

“(i) the gross receipts for the taxable year do not exceed \$600,000, and

“(ii) more than 50 percent of such gross receipts consist of premiums.”

(b) **CONTROLLED GROUP RULE.**—Section 501(c)(15)(C) of the Internal Revenue Code of 1986 is amended by inserting “, except that in applying section 1563 for purposes of section

831(b)(2)(B)(ii), subparagraphs (B) and (C) of section 1563(b)(2) shall be disregarded" before the period at the end.

(c) **CONFORMING AMENDMENT.**—Clause (i) of section 831(b)(2)(A) of the Internal Revenue Code of 1986 is amended by striking "exceed \$350,000 but".

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 11. DEFINITION OF INSURANCE COMPANY FOR SECTION 831.

(a) **IN GENERAL.**—Section 831 of the Internal Revenue Code of 1986 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) **INSURANCE COMPANY DEFINED.**—For purposes of this section, the term 'insurance company' has the meaning given to such term by section 816(a)."

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 12. FUNDS FOR REBUILDING FISH STOCKS.

Section 105 of the Miscellaneous Appropriations and Offsets Act, 2004 (division H of the Consolidated appropriations Act, 2004) is repealed.

Mr. LEVIN. I move to reconsider the vote.

Mr. NELSON of Florida. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Madam President, before we proceed to the next vote, I do want to make a couple quick comments regarding the schedule.

First, I am very pleased with the bipartisan vote on the passage of the pension bill. I congratulate the managers.

At this point, the regular order would be for the Senate to request a conference with the House to reconcile the differences in the Senate bill and the House bill. I understand from the Democratic leadership that they have an objection to appointing conferees at this time. I hope we can work this out. This is an important piece of legislation that we need to address and clearly need to conference this matter with the House.

Having said that, I will continue to talk with the Democratic leader in an effort to proceed with the regular order on appointing conferees.

For the schedule, the next vote, which will occur shortly, will be the last vote of the week. On Monday, we will proceed to consideration of the highway bill. We will have a vote on Monday, and I expect that vote to be in relation to a judicial nomination. We will be announcing later in the day the timing of that vote.

Mr. KENNEDY. Mr. President, as we conclude our debate on this bill, I thank all of my colleagues for the fruitful debate we have had on these issues, which are vitally important to America's workers and their families.

I thank Senator FRIST and Senator DASCHLE for their leadership in ensuring that this bill was passed quickly. I also thank my colleagues, Senator GRASSLEY, Senator BAUCUS, and Sen-

ator GREGG for working with me to develop this moderate, bipartisan measure to protect our Nation's pension plans. And I thank the following staff members for all of the work they have done on this bill: Rohit Kumar, counsel and policy adviser to Majority Leader FRIST; Chuck Marr, economic policy adviser to Minority Leader DASCHLE; David Thompson, labor and pensions policy director for Senator GREGG; Diann Howland, pension policy adviser to Senator GRASSLEY; and Judy Miller, professional staff member for Senator BAUCUS. I particularly thank my own staff—Holly Fechner, chief labor counsel; Portia Wu, labor and pensions counsel; and Kathleen Wildman, labor policy office staff assistant—for all of their hard work on this issue.

Defined benefit pension plans provide certainty and security for workers and retirees. I believe that we can—and we must—do more to protect the security of America's workers and retirees. Americans who have worked hard and played by the rules deserve to enjoy their old age, to retire without having to worry whether they have enough money to pay for their prescription drugs, to pay for electricity, or even to pay for food.

There are many challenges facing our pension system. Our Nation's pension participation rate is the lowest it has been in over a decade. Part-time and low-wage workers continue to lag behind other workers in pension coverage.

We must improve our pension system so that all workers can have a pension. We must increase pension portability for workers—who may have many jobs over a lifetime—without sacrificing security. We must ensure that companies adequately fund their pension plans. We must encourage companies to put more money into their pension plans when times are good, instead of only penalizing them when times are bad.

By passing this bipartisan legislation, we are taking a much-needed first step to stabilize our pension plans.

This legislation has three critical components to help defined benefit pension plans. First, it temporarily replaces the 30-year Treasury bond rate used to calculate employers' required contributions to pension plans with a corporate bond rate. This will stabilize our Nation's defined benefit pension plans and enable them to continue to provide the benefits they have promised.

Second, it provides for additional deficit reduction contribution relief to companies that had well-funded pension plans in the past and need extra assistance now. This relief will help protect the pensions and jobs of workers in these industries.

Finally, the bill includes important relief for multiemployer plans, which fill major needs in our pension system. Multiemployer plans provide pensions to many low-wage workers, as well as short-term and seasonal workers who might not otherwise be able to earn a pension.

I thank all of my colleagues for the support they have given to this bill. This is an important first step, but it is only a first step. I hope my colleagues will join with me in the future to improve and expand our defined benefit system, so that we can ensure that all Americans receive the secure retirement they deserve.

Mr. ROCKEFELLER. Mr. President, I am very pleased that the Senate has just passed the Pension Stability Act by an overwhelming margin. I spoke yesterday on behalf of the legislation, because I understand how important these changes are to the employers who offer defined benefit pension plans and to the employees who are counting on those pension benefits. I would like to just add a few words today to encourage the House of Representatives to quickly approve the bill, as amended by the Senate, and get this legislation to President Bush at the earliest possible date.

The pension reforms provided in this bill are urgently needed. Many large companies have contacted me to stress how important it is that Congress act to update the interest rate used in calculating pension liabilities. Continuing to require employers to use the outdated 30-year Treasury rate would jeopardize pension plans for millions of workers. I have also met with several executives from our Nation's airlines. The temporary relief from deficit reduction contributions provided by this bill is critically important to our struggling airline industry.

As a result of both September 11 and the slow economy during the last few years, our Nation's airlines have dealt with extremely difficult business conditions. The industry has already laid off more than 200,000 people, and many airlines are struggling either to emerge from bankruptcy or to avoid having to file for bankruptcy. By providing airlines some breathing room when it comes to pension payments, we can protect workers' benefits that might otherwise be cancelled and protect workers' jobs that might otherwise be cut. Ultimately, this bill is an effort to do what we can to take care of workers who have already seen involuntary furloughs, seen their wages reduced, and seen their pensions cut. In my judgment, preserving the benefits and rights of workers who make our industries strong is crucial to strengthening our economy.

This bill will help employers to honor their commitments to their employees, many of whom have already sacrificed so much for their companies. I am very pleased that by a vote of 86 to 9, my Senate colleagues approved this bill. I hope that the House will listen to the clear message that we sent today. For the sake of employers and their employees, Congress and the President must enact these pension reforms now.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

● Mr. KERRY. Mr. President, today the Senate passed critical pension funding

reform legislation that will protect millions of American workers from losing their defined benefit pension plans. Although only a temporary solution, the Pension Funding Equity Act is essential to prevent companies from having to freeze or terminate their defined benefit pension plans because of outdated rules that determine how their pension plan liabilities are calculated.

Defined benefit pension plans are an essential component of retirement security for over half of America's working men and women. Unfortunately, trends show a decline in the use of defined benefit pension plans, with only one quarter as many companies providing defined benefit plans today as did 20 years ago. Since 2003, 3.3 million Americans having lost their pension coverage. The volatility in the stock market in the last few years—in which Americans lost billions in retirement assets—leaves little doubt that we must do more to reverse the decline in the use of defined benefit pension plans and expand the retirement security of defined benefit pension plans to more Americans. The Pension Funding Equity Act is an important step towards addressing this challenge.

In the last 3 years, companies that provide defined benefit pension plans to their employees have come under extreme financial stress due to the sluggish economy and changes in the interest rate that determines their pension plan liability. The Pension Funding Equity Act of 2003 provides much needed relief to help these companies maintain retirement benefits for their employees as the country works towards economic recovery. This legislation provides a temporary 2-year period of funding relief by updating the interest rate that companies must use when calculating the liabilities of their pension plans. A more accurate mix of long-term corporate bond rates will replace the now defunct 30-year Treasury rate in the calculation of pension plan liabilities.

In addition to protecting the defined benefit plans of American workers, the Pension Funding Equity Act is expected to provide \$16 billion in additional savings to companies, which will facilitate job creation by freeing up funds for additional wages and hiring.

I applaud the passage of the Pension Funding Equity Act and look forward to working with my colleagues in crafting a long-term solution to improve and expand our pension system.●

EXECUTIVE SESSION

NOMINATION OF GARY L. SHARPE TO BE UNITED STATES DISTRICT JUDGE

THE PRESIDING OFFICER. Under the previous order, the Senate will go into executive session to consider the nomination of Gary L. Sharpe to be United States District Judge. The clerk will state the nomination.

The legislative clerk read the nomination of Gary L. Sharpe, of New York,

to be United States District Judge for the Northern District of New York.

THE PRESIDING OFFICER. Who yields time?

The Senator from Utah.

Mr. HATCH. Madam President, I rise today in support of our nominee to the U.S. District Court of the Northern District of New York, Gary L. Sharpe.

Judge Sharpe graduated magna cum laude from Buffalo University in 1971 where he was a member of Phi Beta Kappa. Three years later, he graduated from Cornell Law School.

Judge Sharpe had a distinguished legal career prior to his appointment as a Federal magistrate judge for the Northern District of New York in 1997. He had been an Assistant Broome County District Attorney in Binghamton, a special assistant New York Attorney General in Syracuse, a supervisory Assistant U.S. Attorney, and the interim U.S. Attorney for the Northern District of New York.

Judge Sharpe is also a Vietnam veteran, having served our country in both the U.S. Army and Navy.

Judge Sharpe has a wealth of experience that will serve him well on the Federal bench. I am very confident that he will make an excellent Federal judge. I commend President Bush for nominating him, and I urge my colleagues to join me in supporting his nomination.

Thank you, Mr. President. I yield the floor.

THE PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, last week I shared with the Senate several disappointing developments regarding judicial nominations: the Pickering recess appointment, the renomination of Claude Allen, and the pilfering of Democratic offices' computer files by Republican staff. In spite of all those affronts, Senate Democrats today cooperate in the confirmation of another nominee. We do so without the kinds of delays and obstruction that Republicans employed when President Clinton's judicial nominees were being obstructed and Republican Senators complained about his recess appointments as an affront to the Constitution and the Senate.

The first nominations issue I would like to discuss is the recess appointment of Judge Pickering. Just a few days ago on January 16, President Bush made his most cynical and divisive appointment to date when he bypassed the Senate and unilaterally installed Charles Pickering to the U.S. Court of Appeals for the Fifth Circuit. That appointment is without the consent of the Senate and is a particular affront to the many individuals and membership organizations representing African Americans in the Fifth Circuit who have strongly opposed this nomination.

With respect to his extreme judicial nominations, President George W. Bush is the most divisive President in American history. Through these nominees, President Bush is dividing

the American people and undermining the fairness and independence of the Federal judiciary on which all Americans depend.

After fair hearings and open debate, the Senate Judiciary Committee rejected the Pickering nomination in 2002. Originally nominated in 2001 by President Bush, this nominee's record underwent a thorough examination by the Senate Judiciary Committee and was found lacking. Judge Pickering's nomination was rejected for this promotion by the Committee in 2002 because of his poor record as a judge and the ethical problems raised by his handling of his duties in specific instances. Nonetheless, the President sent back his nomination to the Senate last year, the first in our history to reject the judgment of the Judiciary Committee on a judicial nominee. This is the only President who has renominated someone rejected on a vote by the Judiciary Committee for a judicial appointment.

The renomination of Charles Pickering lay dormant for most of last year while Republicans reportedly planned further hearings. Judge Pickering himself said that several hearings on his nomination were scheduled and cancelled over the last year by Republicans. Then, without any additional information or hearings, Republicans decided to forego any pretense at proceeding in regular order. Instead, they placed the name of Judge Pickering on the committee's markup agenda and pushed his nomination through with their one-vote majority. The committee had been told since last January that a new hearing would be held before a vote on this nomination, but that turned out to be an empty promise.

Why was the Pickering nomination moved ahead of other well-qualified candidates late last fall? Why was the Senate required to expend valuable time rehashing arguments about a controversial nomination that has already been rejected? The timing was arranged by Republicans to coincide with the gubernatorial election in Mississippi. Like so much about this President's actions with respect to the federal courts, partisan Republican politics seemed to be the governing consideration. Indeed, as the President's own former Secretary of the Treasury points out from personal experience, politics governs more than just Federal judicial nominations in the Bush administration.

Charles Pickering was a nominee rejected by the Judiciary Committee on the merits—a nominee who has a record that does not qualify him for this promotion, who injects his personal views into judicial opinions, and who has made highly questionable ethical judgments. The nominee's supporters, including some Republican Senators, have chosen to imply that Democrats opposed the nominee because of his religion or region. That is untrue and offensive. These smears have been as ugly as they are wrong.

Yet the political calculation has been made to ignore the facts, to seek to pin unflattering characterizations on Democrats for partisan purposes and to count on cynicism and misinformation to rule the day. With elections coming up this fall, partisan Republicans are apparently returning to that page of their partisan political playbook.

Never before had a judicial nomination rejected by the Judiciary Committee after a vote been resubmitted to the Senate, but this President took that unprecedented step last year. Never before has a judicial nomination debated at such length by the Senate, and to which the Senate has withheld its consent, been the subject of a presidential appointment to the federal bench.

In an editorial following the recess appointment, *The Washington Post* had it right when it summarized Judge Pickering's record as a Federal trial judge as "undistinguished and downright disturbing." As the paper noted: "The right path is to build consensus that nonpartisanship and excellence are the appropriate criteria for judicial selection." Instead we see another dangerous step down the Republican's chosen path to erode judicial independence for the sake of partisanship and their ideological court-packing efforts. The *New York Times* also editorialized on this subject and it, too, was correct when it pointed out that this end-run around the advice and consent authority of the Senate is "absolutely the wrong choice for one of the nation's most sensitive courts."

Civil rights supporters who so strenuously opposed this nominee were understandably offended that the President chose this action the day after his controversial visit to the grave of Dr. Martin Luther King Jr. As the Nation was entering the weekend set aside to honor Dr. King and all for which he strived, this President made one of the most insensitive and divisive appointments of his Administration.

So many civil rights groups and individuals committed to supporting civil rights in this country have spoken out in opposition to the elevation of Judge Pickering that their views should have been respected by the President. Contrary to the false assertion made by *The Wall Street Journal* editorial page, the NAACP of Mississippi did not support Judge Pickering's nomination. Instead, every single branch of the Mississippi State Chapter of the NAACP voted to oppose this nomination—not just once, but three times. When Mr. PICKERING was nominated to the District Court in 1990, the NAACP of Mississippi opposed him, and when he was nominated to the Fifth Circuit in 2001 and, again, in 2003, the NAACP of Mississippi opposed him. They have written letter after letter expressing their opposition. That opposition was shared by the NAACP, the Southern Christian Leadership Conference, the Magnolia Bar Association, the Mississippi Legislative Black Caucus, the Mississippi

Black Caucus of Local Elected Officials, Representative Bennie G. Thompson and many others. Perhaps *The Wall Street Journal* confused the Mississippi NAACP with the Mississippi Association of Trial Lawyers, which is an organization that did support the Pickering nomination.

This is an administration that promised to unite the American people but that has chosen time and again to act with respect to judicial nominations in a way that divides us. This is an administration that squandered the goodwill and good faith that Democrats showed in the aftermath of September 11, 2001. This is an administration that refused to acknowledge the strides we made in filling 100 judicial vacancies under Democratic Senate leadership in 2001 and 2002 while overcoming anthrax attacks and in spite of Republican mistreatment of scores of qualified, moderate judicial nominees of President Clinton.

The second disappointing development is the renomination of Claude Allen as a nominee to the Fourth Circuit. Last week, the President sent the nomination of Claude Allen back to the Senate. From the time this nomination was originally made to the time it was returned to the President last year, the Maryland Senators have made their position crystal clear. This Fourth Circuit vacancy is a Maryland seat and ought to be filled by an experienced, qualified Marylander. Over the Senate recess, the White House had ample time to find such a nominee, someone of the caliber of sitting U.S. District Court Judges Andre Davis or Roger Titus, two Maryland lawyers whose involvement in the State's legal system and devotion to their local community is clear. This refusal to compromise is just another example of the White House engaging in partisan politics to the detriment of an independent judiciary.

The additional disappointment we face is the ongoing fallout from the cyber theft of confidential memoranda from Democratic Senate staff. This invasion was perpetrated by Republican employees both on and off the committee. As revealed by the chairman, computer security was compromised and, simply put, members of the Republican staff took things that did not belong to them and passed them around and on to people outside the Senate. This is no small mistake. It is a serious breach of trust, morals, the standards that govern Senate conduct, and possible criminal laws. We do not yet know the full extent of these violations. But we need to repair the loss of trust brought on by this breach of confidentiality and privacy if we are ever to recover and be able to resume our work in a spirit of cooperation and mutual respect that is so necessary to make progress.

Democratic cooperation with the President's slate of judicial nominees has been remarkable in these circumstances. One way to measure that

cooperation and the progress we have made possible is to examine the Chief Justice's annual report on the Federal judiciary. Over the last couple of years, Justice Rehnquist has been "pleased to report" our progress on filling judicial vacancies. This is in sharp contrast to the criticism he justifiably made of the shadowy and unprincipled Republican obstruction of consideration of President Clinton's nominees. In 1996, the final year of President Clinton's first term, the Republican-led Senate confirmed only 17 judicial nominees all year and not a single nominee to the circuit courts. At the end of 1996, the Republican Senate majority returned to the President almost twice as many nominations as were confirmed.

By contrast, with the overall cooperation of Senate Democrats, which partisan Republicans are loath to concede, this President has achieved record numbers of judicial confirmations. Despite the attacks of September 11 and their aftermath, the Senate has already confirmed 169 of President Bush's nominees to the Federal bench. This is more judges than were confirmed during President Reagan's entire first 4-year term. Thus, President Bush's 3-year totals rival those achieved by other Presidents in 4 years. That is also true with respect to the nearly four years it took for President Clinton to achieve these results following the Republicans' taking majority control of the Senate in 1995.

The 69 judges confirmed last year exceeds the number of judges confirmed during any of the 6 years from 1995 to 2000 that Republicans controlled the Senate during the Clinton Presidency years in which there were far more vacant Federal judgeships than exist today. Among those 69 judges confirmed in 2003 were 13 circuit court judges. That exceeds the number of circuit court judges confirmed during all of 1995, 1996, 1997, 1999, and 2000, when a Democrat was President.

The Senate has already confirmed 30 circuit court judges nominated by President Bush. This is a greater number than were confirmed at this point in the presidencies of his father, President Clinton, or the first term of President Reagan. Vacancies on the federal judiciary have been reduced to the lowest point in two decades and are lower than Republicans allowed at any time during the Clinton presidency. In addition, there are more Federal judges serving on the bench today than at any time in American history.

I congratulate the Democratic Senators on the committee for showing a spirit of cooperation and restraint in the face of a White House that so often has refused to consult, compromise or conciliate. I regret that our efforts have not been fairly acknowledged by partisan Republicans and that this Administration continues down the path of confrontation. While there have been difficult and controversial nominees whom we have opposed as we exercise our constitutional duty of advice and

consent to lifetime appointments on the Federal bench, we have done so openly and on the merits.

For the last 3 years, I have urged the President to work with us. It is with deep sadness that I see that this administration still refuses to accept the Senate's shared responsibility under the Constitution and refuses to appreciate our level of cooperation and achievement.

Today, the chairman held another hearing on another circuit court nominee. That hearing is another demonstration of how untrue the rhetoric is that is so often bandied about by Republican partisans that Democrats are obstructing the confirmations of this President's judicial nominees. The reality is that we have cooperated to an extraordinary extent, especially when contrasted with Republican treatment of President Clinton's judicial nominees.

Today's hearing was the second in the last 2 weeks for circuit court nominees. Traditionally, the number of nominees who have received hearings and who are considered in a presidential election year has been lower than in other years. In 1996, only four circuit court nominees by President Clinton received a hearing from the Republican Senate majority. In 2000, only five circuit court nominees by President Clinton received a hearing from the Republican Senate majority. Of course, two of those outstanding and well-qualified nominees in 2000 were never allowed to be considered by the committee or the Senate. By contrast, here we are, before the end of the first month of 2004, and we have already held hearings for two circuit court nominees. By the standard Republicans set in 1996 and 2000, we would be half done for the entire year.

Moreover, that we are proceeding to confirm Judge Sharpe today is another example of Democratic cooperation in the wake of the President's recess appointment of Charles Pickering. This temporary appointment can be distinguished from President Clinton's recess appointment of Judge Roger Gregory to the Fourth Circuit in December 2000 in many ways, including from the manner in which Republican Senators reacted to President Clinton's recess appointments by shutting down the confirmation process.

Roger Gregory had been denied a Judiciary Committee hearing even though he had the bipartisan support of both of his home State Senators—Democratic Senator Chuck Robb and Republican Senator John Warner. By contrast, Judge Pickering participated in hearings and an extensive record was developed on which his nomination was opposed in the Judiciary Committee and in the Senate on the merits on the basis of his record as a district court judge. Roger Gregory's nomination was never allowed to be considered by the Judiciary Committee. By contrast, Judge Pickering's nomination was fully and fairly debated in 2002 and

rejected by the Judiciary Committee. Indeed, Judge Pickering's renomination was the first time a President had resented a judicial nomination to the Senate after the Judiciary Committee had voted on and rejected that judicial nomination. Likewise, Judge Pickering's temporary appointment is the first after rejection by the Judiciary Committee and after the Senate has debated a judicial nomination and withheld its consent.

Moreover, Roger Gregory's recess appointment fit squarely in the tradition of Presidents exercising such authority in order to expand civil rights and to bring diversity to the courts. Four of the five first African American appellate judges were recess-appointed to their first article III position, including Judge William Hastie in 1949, Judge Thurgood Marshall in 1961, Judge Spottswood Robinson in 1961, and Judge Leon Higginbottom in 1964. Unlike these nominees and the public purposes served, Judge Pickering was opposed by civil rights groups, including all chapters of the Mississippi NAACP, the Southern Christian Leadership Conference, and by the Magnolia Bar Association. Rather than bring people together and move the country forward, this President's recess appointment is another source of division.

The Senate reaction to the recess appointments of President Clinton and President Bush has also differed dramatically. When President Clinton used his recess appointment power to appoint James Hormel Ambassador to Luxembourg, Senator INHOFE responded by saying that President Clinton had "shown contempt for Congress and the Constitution" and declared that he would place "holds on every single Presidential nomination," which Republicans did in obstruction of President Clinton's nominees. Republicans continued to block nominations until President Clinton agreed to make recess appointments only after Congress was notified in advance. On November 10, 1999, 17 Republican Senators sent a letter to President Clinton telling him that if he violated the agreement, they would "put holds for the remaining of the term of your Presidency on all of the judicial nominees."

In November 1999, President Clinton sent a list of 13 positions to the Senate that he planned to fill through recess appointments. In response, Senator INHOFE spoke out on the Senate floor denouncing five of the 13 civilian nominees with a threat that if they went forward, he would personally place a hold on every one of President Clinton's judicial nominees for the remainder of the administration. That led to more delays and to the need for a vote on a motion to proceed to override the Republican objections.

When President Clinton appointed Judge Gregory, Senator INHOFE called it "outrageously inappropriate for any president to fill a federal judgeship through a recess appointment in a deliberate way to bypass the Senate."

Judge Gregory was eventually confirmed after his renomination in 2001 with near unanimity. There was only one negative vote. Senator LOTT cast that vote and his spokesman said his opposition was done to underscore his stance that "any appointment of federal judges during a recess should be opposed." Ironically, Senator LOTT is now one of Judge Pickering's strongest supporters.

As far as I know, no Senate Democrats were consulted by this President before he made his divisive appointment of Judge Pickering. It was only after President Bush appointed Charles Pickering to the bench that I learned about the appointment. Despite that, Senate Democrats are today participating in making sure the process of judicial appointments moves forward. Democrats have not obstructed the confirmation process for judicial and executive branch nominations as Republicans did when President Clinton made recess appointments. In fact, already this week, less than 2 weeks after President Bush appointed Judge Pickering and a number of other executive branch officials, we have joined in confirming 18 Presidential nominees by unanimous consent. Today we proceed to confirm a judicial nominee in spite of the President's recent actions and those of Senate Republicans.

The nomination of Judge Gary Sharpe has the support of both his home State Senators, both of whom are Democratic Senators. The Democratic Senators who serve on the Judiciary Committee all supported this nomination when it was reported favorably to the Senate in October last year. Had the Republican leadership wanted to proceed on it, this nomination could easily have been confirmed in October, November or December last year before the Senate adjourned. Instead, partisans chose to devote 40 hours to a talkathon on the President's most controversial and divisive nominees rather than proceed to vote on those judicial nominees with the support of the Senate. The delay in considering this nomination is the responsibility of the Republican leadership.

I congratulate Judge Sharpe and his family on his confirmation. He is the 170th judge confirmed by the Senate and will be the 171st appointed by President Bush.

I yield to the senior Senator from New York and his colleague so they can have the remainder of my time.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Madam President, I will speak for 1 minute and then I will yield 1 minute to my colleague, Senator CLINTON.

Mr. SCHUMER. Madam President, I am pleased to rise today in support of Gary Sharpe's nomination to be a judge in the Northern District of New York.

Before I discuss Judge Sharpe's impressive qualifications, I wish to make one point to my colleagues."

If my math is right, when Judge Sharpe is confirmed today—and I expect he will be confirmed unanimously because, as my colleagues will see, he is an example of the nominees we get when the process works right—he will be the 170th judicial nominee of President Bush's we will have confirmed.

I note that at the outset because to hear the hue and cry from some on the other side, one would think that we were roadblocking every nominee who comes before us. With this confirmation, the numbers stand at 170 to 5.

That's a record for which the Buffalo Bills and Buffalo Sabres would kill. When you win over 97 percent of the time, you are doing pretty darn well.

I won't belabor the point, but it's important to note that this process can work and that it frequently does. The process works when we work together to choose nominees who are excellent, moderate, and diverse—the three criteria I use when evaluating judicial nominees. And Judge Sharpe easily clears that bar.

For the past 6 years, Judge Sharpe has served with distinction as a United States Magistrate Judge for the Northern District of New York. Before taking the bench, he spent his professional career working as one of the best prosecutors Northern New York has ever seen. He spent nearly a decade in state court as a prosecutor from Broome County.

He then went over to Federal court where he was an assistant United States attorney before becoming the U.S. attorney for the Northern District.

Judge Sharpe is a graduate of two fine New York schools, the University of Buffalo which he graduated magna cum laude and Phi Beta Kappa—and Cornell Law. After graduating college, but before heading to law school, Judge Sharpe served in the U.S. Armed Forces as a member of the Naval Reserve. He is also a Vietnam veteran, having served there in the Army from 1966 to 1968.

We have talked to lawyers in the Northern District and they simply rave about Judge Sharpe. One judge upstate said, "He's the best lawyer I've ever known." That's pretty high praise.

I congratulate Judge Sharpe and his wife, Lorraine, on this tremendous honor and achievement. I know Chief Judge Scullin is anxious to have him and that Judge Sharpe is going to be a great addition to the Northern District bench.

Again, Madam President, overall, we are at 170 nominees to 5. We have blocked 5. That is not too many, and those are the most egregious ones.

Second, in New York, we have worked this out. When the administration wants to play ball with Senators, they can fill the bench. In New York, we will have no more vacancies because we have agreed. They have chosen nominees who are conservative but not out of the mainstream, and we have gone along.

Third, Judge Sharpe clearly is an excellent nominee. He is not just average; he is not just above average; he is at the very top. We talked with lawyers in the Northern District. They say: He is the best lawyer I have ever known.

He is moderate. He deserves to be on the bench. I fully support his nomination and urge my colleagues to do as well.

The PRESIDING OFFICER. The junior Senator from New York.

Mrs. CLINTON. Madam President, I rise in very strong support of the nomination of Magistrate Judge Gary Lawrence Sharpe who has been nominated to the United States District Court for the Northern District of New York.

Judge Sharpe has more than 20 years of experience as a prosecutor. From 1974 to 1981, he served as an assistant district attorney and senior assistant district attorney for Broome County. After serving for a year as a special assistant New York attorney general, in 1982 he became an assistant U.S. attorney for the Northern District of New York. He served in that office until 1997, when he was appointed a U.S. magistrate judge for the Northern District of New York.

Even with all of his prior prosecutorial responsibilities, Judge Sharpe made time to serve as a member of the Broome County Prisoner Rehabilitation Board, PROBE, the Onondaga County Substance Abuse Commission, and the Onondaga County Youth Court. More recently, he worked with the Department of Probation to develop the High Impact Incarceration Program, HIIP, a program for defendants who have substance abuse problems and who might be candidates for release.

Judge Sharpe's years of service as a magistrate judge have provided him with even more experience, which will serve him well as a U.S. district court judge. Without question, Judge Sharpe has the intellect, judicial demeanor, and commitment to justice to serve the Northern District of New York as a district court judge with distinction.

I ask all of my colleagues to support this nomination.

I commend my colleague, Senator SCHUMER, for the important role he has played on the Judiciary Committee. I second his comment that in New York we have worked together with the administration to nominate and confirm judges who will be a real credit, not only to the bench but to this administration and to our country. Magistrate Judge Gary Lawrence Sharpe is at the top of that list.

In addition to all of his qualifications, he has also found time as a prosecutor to serve in capacities to assist with prisoner rehabilitation, to work with youth, and to work with people who are in the grips of substance abuse to try to bring down the impact of incarceration.

I think he will not only serve with distinction in New York but demonstrate clearly that this is the kind of conservative Republican nominee

whom we could be unanimously confirming. I commend him to the Senate. I thank the Chair.

The PRESIDING OFFICER. All time has expired. The question is, Will the Senate advise and consent to the nomination of Gary L. Sharpe, of New York, to be United States District Judge for the Northern District of New York?

Mr. HATCH. 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. MCCONNELL. I announce that the Senator from Georgia (Mr. CHAMBLISS) is necessarily absent.

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS), 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 (Mr. HAGEL). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 6 Ex.]

YEAS—95

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

NOT VOTING—5

Baucus	Edwards	Lieberman
Chambliss	Kerry	

The nomination was confirmed.

The PRESIDING OFFICER. The President will be immediately notified of the confirmation of the nomination.

LEGISLATIVE SESSION

The PRESIDING OFFICER (Mr. HAGEL). Under the previous order, the Senate will return to legislative session.

MORNING BUSINESS

Mr. COLEMAN. Mr. President, I ask unanimous consent there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

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

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

 UNANIMOUS CONSENT REQUEST—
S. 1691

Mr. FEINGOLD. Mr. President, I want to speak today about S. 1691, the Wartime Treatment Study Act. During World War II, the United States fought a courageous battle against the spread of Nazism and fascism. Nazi Germany was engaged in the horrific persecution and genocide of Jews. By the end of the war, 6 million Jews had perished at the hands of Nazi Germany.

The Allied victory in the Second World War was an American triumph, a triumph for freedom, justice, and human rights. The courage displayed by so many Americans, of all ethnic origins, should be a source of great pride for all Americans. But we should not let that justifiable pride in our Nation's triumph blind us to the treatment of some Americans by their own government.

Sadly, as so many brave Americans fought against enemies in Europe and the Pacific, the U.S. Government was in some cases curtailing the freedom of some of its own people here, at home. While, it is, of course, the right of every Nation to protect itself during wartime, the U.S. Government can and should respect the basic freedoms that so many Americans have given their lives to defend. Of course, war tests our principles and our values. And as our Nation's recent experience has shown, it is during times of war and conflict, when our fears are high and our principles are tested most, that we must be even more vigilant to guard against violations of the Constitution.

Many Americans are aware of the fact that, during World War II, under the authority of Executive Order 9066, our Government forced more than 100,000 ethnic Japanese from their homes into internment camps. Japanese Americans were forced to leave their homes, their livelihoods, and their communities. They were held behind barbed wire and military guard by their own government.

Through the work of the Commission on Wartime Relocation and Internment of Civilians created by Congress in 1980, this unfortunate episode in our history

finally received the official acknowledgment and condemnation it deserved. Under the Civil Liberties Act of 1988, people of Japanese ancestry who were subjected to relocation or internment later received an apology and reparations on behalf of the people of the United States.

While I commend Congress and our Nation for finally recognizing and apologizing for the mistreatment of Japanese Americans during World War II, our work in this area is not done. We should also acknowledge the mistreatment experienced by many German Americans, Italian Americans, and European Latin Americans, as well as Jewish refugees.

Most Americans are probably unaware that during World War II, the U.S. Government designated more than 600,000 Italian-born and 300,000 German-born U.S. resident aliens and their families as "enemy aliens."

Approximately 11,000 ethnic Germans, 3,200 ethnic Italians, and scores of Bulgarians, Hungarians, Romanians or other European Americans living in America were taken from their homes and placed in internment camps. Some even remained interned for up to 3 years after the war ended. Unknown numbers of German Americans, Italian Americans, and other Europeans Americans had their property confiscated or their travel restricted, or lived under curfews.

S. 1691 would not grant reparations to victims. It would simply create a commission to review the facts and circumstances of the U.S. Government's treatment of German Americans, Italian Americans and other European Americans during World War II.

A second commission created by this bill would review the treatment by the U.S. Government of Jewish refugees who were fleeing Nazi persecution and genocide. German and Austrian Jews applied for visas, but the United States severely limited their entry due to strict immigration policies, policies that many believe were motivated by fear that our enemies would send spies under the guise of refugees and by the unfortunate anti-foreigner and anti-Semitic attitudes that were, sadly, all too common at that time.

It is time for the country to review the facts and determine how our restrictive immigration policies failed to provide adequate safe harbor to Jewish refugees fleeing the persecution of Nazi Germany. The United States turned away thousands of refugees, delivering many to their deaths at the hands of the Nazi regime.

As I mentioned earlier, there has been a measure of justice for Japanese Americans who were denied their liberty and property. It is now time for the U.S. Government to complete an accounting of this period in our Nation's history.

Let me repeat that the bill I have introduced, along with Senator GRASSLEY, does not call for reparations. All it does is ensure that the public has a

full accounting of what happened. I believe that is the right and, yes, the patriotic thing to do. It is patriotic to ensure that the Government owns up to its mistakes. We should be very proud of our victory over Nazism, as I certainly am. But we should not let that pride cause us to overlook what happened to some Americans and refugees during World War II. I urge my colleagues to join me in supporting the Wartime Treatment Study Act.

The Judiciary Committee has reported this bill favorably. It has been cleared by my Democratic colleagues. Unfortunately, someone on the other side of the aisle has placed a hold on the bill. This anonymous person or persons are unwilling to identify themselves or to explain the reasons for the hold. I think some Republican colleagues have been trying to figure out for me what the problems is. Frankly, I find it hard to imagine why someone would object to a fairly straight-forward, non-controversial bill such as this. So, Mr. President, I will try again.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 309, S. 1691, a bill to establish commission, to review the facts and circumstances surrounding injustices suffered by European Americans, European Latin Americans, and Jewish Refugees during World War II, that the bill be read the third time, passed, and the motion to reconsider be laid upon the table; that the title amendment be agreed, with the above occurring without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. GRAHAM of South Carolina. Mr. President, reserving the right to object, I have been informed that our leadership is working on a method for this proposal to move forward. I admire what the Senator is doing on a personal basis. With that understanding, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FEINGOLD. Mr. President, I know the Senator from South Carolina was a supporter of this legislation in committee, and he is doing what he must do in representing that side of the aisle.

I am disappointed that there is an objection to moving this bill. The Judiciary Committee has now reported this bill favorably to the floor on two occasions—last Congress and again this Congress. I would like to know what their concerns are. So far, we have never heard a substantive objection. There is a secret hold being used here. That is unfortunate. This bill is long overdue. It is not controversial. In fact, I specifically was promised by the chairman of the Judiciary Committee late in the 106th Congress, when I was hoping the issue of German Americans would be linked to a bill going through Congress on Italian Americans. I was assured this was not controversial and

this would be taken care of. Nonetheless, this has occurred. There is no reason the Senate should not take up and consider this bill without further delay.

Again, had the representative of the majority stayed, I would have asked whether there was a time when they would expect to be ready for action. I will find other ways to ask the other side to work with me to pass the bill. I took the comments of the Senator from South Carolina in good faith that he has spoken to the leadership and that they are willing to work with us. I hope we can sit down and work this out as soon as possible to ensure that the U.S. Government accounts for what happened so many years ago.

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.

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

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

The Senator from North Carolina.

THE CAROLINA PANTHERS

Mrs. DOLE. Mr. President, when Jerry Richardson founded the Carolina Panthers 9 years ago, he said his goal was to be in a Super Bowl within 10 years. After upsetting the Philadelphia Eagles recently, this dream has become a reality. But the dream is not over, of course. There is one more hurdle the Panthers must clear.

Today I salute Jerry, Coach John Fox, and the Panthers players for giving North Carolinians a season with a fairy tale ending. When Coach Fox arrived in 2002, the Carolina Panthers were 1 and 15. This turnaround has been nothing short of miraculous, and it is not just the fact that the Panthers have made it to the Super Bowl but how they got to Houston.

The Panthers are called the "Cardiac Cats" because 10 of their victories have been achieved by 6 points or less, and they have won 4 of their 5 overtime games this season.

All over the State, "Go Panthers" signs adorn buses, mailboxes, and cars, and those black and blue jerseys have become the fashion craze of the day. Even Coach Fox had to comment on the groundswell of fan support after about 10,000 of them—10,000, Mr. President—showed up on a blustery day as the team left for Houston. "It makes you proud," he said.

Charlotte Observer columnist Danny Romine Powell wrote recently:

A team has transformed a city into Mount Olympus. We're eating ambrosia with the gods.

How true, indeed. I want the Panthers to know that this Senator is coming to Houston, and I can't wait to watch the "Cardiac Cats" shock the world with a victory. In fact, I have

challenged my friend and colleague, Senator TED KENNEDY, to a friendly wager. I am putting up our famous North Carolina barbecue against his New England clam chowder.

I love something that Coach Fox tells his team each week. He says:

We will define ourselves. No one else is going to do that for us.

It is a motto that stands true for all of North Carolina. Earlier this week, late night host David Letterman cracked:

Who knew Carolina had a team.

I daresay that after Sunday the world will know.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

AMERICA'S INTELLIGENCE-GATHERING APPARATUS

Mr. DORGAN. Mr. President, this morning and part of this afternoon Mr. David Kay who was the top U.S. weapons inspector in Iraq until he resigned last week testified before the Armed Services Committee.

Mr. Kay has been interviewed extensively on media programs, including the "Today" show, and interviewed by Reuters, and others, so I have read a substantial amount of what he has said. And I listened today to his testimony, at least in part, before the Senate Armed Services Committee.

The debate that has gone on, and I suspect the debate that will ensue from his testimony today, will perhaps be a debate about whether the right decision was made when this country decided to embark on this mission in Iraq with United States troops, which has resulted in the elimination and removal of Saddam Hussein as President of that country. In many ways, I think that is not the most relevant debate to have at this moment. I think the debate to have at this moment is on what the implications of what Mr. Kay has said to us are for the safety and the security of this country, and what its implications are for the ability of this country to understand where dangers exist around the rest of the world, and where our national security is at stake.

Let me see if I can paraphrase some of what Mr. Kay has said. He told the Armed Services Committee that the failure to turn up weapons of mass destruction in Iraq has exposed weaknesses in America's intelligence-gathering apparatus.

Is there a time in which our intelligence-gathering apparatus has been more important to this country than this particular time?

In the shadow of 9/11/2001, with the prospect of terrorists wanting again to commit an act of terror in this country, we are required to accept the judg-

ment of our intelligence community: the best intelligence we have available to us that this is a threat or that is a threat. Now Mr. Kay says that what we believed about Iraq's weapons was almost all wrong. And I certainly include myself here. And he says the intelligence community has failed, quote, unquote, the President.

Well, look, if the intelligence community has failed—and it seems clearly to have failed in a significant way—then it has failed not only the President of the United States, it has failed this Senate, and it has failed the people of the United States.

I, and all of my colleagues, have sat in the Intelligence Committee room here in the Senate. That very special room, which is designed for top secret briefings, is a room in which all of us have had top secret briefing after top secret briefing from CIA, from Condoleezza Rice, the National Security Adviser, and from others. In that room, eyeball to eyeball with our intelligence community, we have been told certain things that they believe to be true with respect to a threat—the threat from Iraq, the threat of weapons of mass destruction, and others.

If, in fact, there is a failure—and it appears to me that there is a failure; the top weapons inspector says there is a failure—if that failure exists—and it does—then it is a failure not just for the President of the United States, it is a failure for this country and for this Senate.

All of us, then, had been told, face to face by our intelligence community, what they expected to be the case in Iraq, and it turns out not to be the case.

Now, do people have a right to be wrong? Yes, they do. But we spend billions and billions and billions of dollars on intelligence, and if this country—in the aftermath of the terrorist attacks of 9/11, and confronting the prospect of future terrorist attacks—does not have an intelligence community that gives us great confidence, then we are in trouble.

I would think the President, and certainly this Congress, should demand to know what happened. We ought to seek answers. There has to be accountability. Where does the buck stop?

If, in fact, we have had a failure of our intelligence community—again, not my words, the words of Mr. David Kay, the top weapons inspector; words he uttered today before the Armed Services Committee, words he uttered in interview after interview—if there is, in fact, a failure, then we ought to demand immediately to understand: What was the failure? How did it occur? Whose responsibility was it? And, most importantly, how do we fix it on an urgent basis?

Let me read some of the quotes. I will not read the quotes from today's hearing because I do not have them all, although I was able to listen to much of the hearing.

But this is from Mr. Kay's appearance on the "Today" show, which I

watched with great interest. He was asked on the "Today" show about the presentation before the United Nations of Secretary of State Colin Powell. As you know, we received top secret briefings, and then we received briefings in other venues from the Vice President, from Condoleezza Rice, and others in the administration. Following those briefings, the Secretary of State made a lengthy presentation to the United Nations, and he set out chapter and verse, including pictures and charts, of the threat that existed.

I want to read to you the question that was asked:

Almost a year ago Secretary of State Colin Powell addressed the United Nations. Here's what he had to say.

Then they showed a tape of Secretary Powell at the U.N. saying, "[Our] conservative estimate [is] that Iraq today has a stockpile of between 100 and 500 tons of chemical weapons agents." The interviewer then asked Mr. Kay: "Is that conservative or is it just plain wrong?"

Mr. Kay responds: No, I think that was the estimate based on information and intelligence before the war. It turns out to be wrong, just wrong.

Next question: So what was the problem with the intelligence? Why were we so wrong?

Mr. Kay said: Well, don't forget, Iraq is not the only place we have been wrong recently. We have been wrong about Iran. We have been wrong about Libya's program. We clearly need a renovation of our ability to collect intelligence.

The question was asked: Here is what you said to Tom Brokaw: "Clearly the intelligence we went to war on was inaccurate, wrong. We need to understand why that was. If anyone was abused by the intelligence, it was the President of the United States rather than the other way around."

My point is simple: If anyone was abused in this country by bad intelligence, by inaccurate intelligence, it is not just the President, it is Members of the Senate who sat eyeball to eyeball with our intelligence officers and with those who run our intelligence community who told us what they believed to be the case, which turns out now not to be accurate. The American people were failed. The Senate was failed. To use another word Mr. Kay used, the President was failed.

So why is it the case that we don't see someone standing on the tallest stump saying: There is something wrong here. We need to get to the bottom of it, and now. This country's security depends on it.

Today somewhere someone is assessing intelligence picked up over telephone lines or computer transmittals or any number of ways to evaluate what is happening with terrorist cells. Where might they be planning to attack us. What might the attack be when they attempt to enter this country once again and kill Americans. Well, that same intelligence commu-

nity that has been so wrong, according to Mr. Kay—and I think now according to most Members of the Senate who would assess that—are they the ones still analyzing this?

My question is where is the accountability? I think the President and the Congress ought to join together in a common bond and common interest to demand how this happened. There isn't any question that we ought to have a completely independent commission evaluating and studying and investigating this right now. There ought to be an independent investigation right now. I hope finally the Congress will do that.

Second, I believe next week, Mr. Tenet, Condoleezza Rice ought to be invited to the intelligence room and all 100 Senators ought to hear their response to this proposition that the intelligence community has failed us. This isn't a politician speaking. This is a top weapons inspector who just came from Iraq. This is Mr. Kay.

I remember when Mr. Kay was appointed with great fanfare. This is a straight shooter, a tough guy, no nonsense. He went to Iraq. He came back, and he finally quit. He said there weren't weapons of mass destruction. The intelligence was bad. The intelligence community failed this President. He forgot to say, failed this Congress and failed the American people.

I am telling you, whether it is tomorrow or next week or next month, this country's security and safety rest on good intelligence. If we have questions about an intelligence community that Mr. Kay says has failed us and if we don't, with great urgency, rush to find out what happened with an independent evaluation, shame on us.

This isn't about politics. It is about the safety of America. It is about being effective in the fight against terrorism. It is about having an intelligence community that works, that gets it right, and that doesn't fail this President or this Congress or this country.

I hope Senator FRIST and Democratic leader DASCHLE will ask Mr. Tenet to come to room 407 and address all 100 Senators and answer all of the questions of the Senators that stem from this testimony of the top weapons inspector who has said our intelligence community failed us. We ought to do that, and we ought to do it now. Days, weeks, or months should not go by without us having answers to this question. It is easy to be critical. It is much more difficult to be constructive. It is not being critical for Mr. Kay, the top weapons inspector appointed by President George W. Bush, to come to this Congress and tell the truth. When he tells the truth, we have a responsibility to follow that truth wherever it leads.

There are some here who don't want to do that. They are worried about politics. It doesn't matter who is President. We have an intelligence community on which we spend a great deal of money. In fact, the amount is classified

information. The American people should trust me when I say we spend a substantial amount of money on intelligence. The security and safety of this country and the American people rests on our ability to make sure that money is spent wisely in an intelligence community that gets it right and provides good information to this country. We cannot any longer decide this is business as usual, one more hearing, one more set of questions that remains unanswered.

Saddam Hussein is gone, and the world is better for it. Saddam Hussein was a bad guy. We opened up football-field-sized graves in Iraq with tens of thousands of skeletons of people murdered by this regime. That is a fact. Saddam Hussein crawled into a rat hole. That says a lot about him. He is now in jail, soon to be on trial, perhaps soon to meet with the ultimate penalty. This is not about Saddam Hussein. This discussion is about whether this country is able to protect itself from a terrorist attack a month from now or a year from now. Do we have an intelligence community that gets it right? Mr. Kay seems to say no. That community has failed us. He says they have not just failed in Iraq, they have gotten it wrong in Libya and Iran. We need a renovation of our ability to collect intelligence.

Incidentally, Mr. Kay, former top weapons inspector of this President, said this morning he favors an independent commission to take a look at and investigate the failure of the intelligence community. I hope we will move with great haste to embrace that recommendation. It is not just his recommendation. Senator DASCHLE and others have made that same recommendation in the Senate.

We need to move with great urgency. This is about the safety and security of our country.

My colleague from Florida is on the floor and wishes to speak to an issue. Time is short. We have an urgent requirement to pursue this issue. I call on Senator FRIST next week to give all of us here in the Senate the opportunity to hear and question Mr. Tenet, head of the CIA, as well as Condoleezza Rice, National Security Adviser. We should have that opportunity because they, in top secret briefings, gave us information. They represented the intelligence, the community of intelligence and the assessment of the intelligence community prior to going to war in Iraq.

That assessment is what Mr. Kay refers to when he says there was a failure. The assessment that apparently was accepted—perhaps embraced, certainly embraced—by the Secretary of State when he went to New York and made his presentation to the United Nations was a failure of intelligence. I think the Secretary of State would want these answers. The President certainly needs these answers. He should demand it this afternoon. The Senate deserves these answers next week at the very latest.

I call on Senator FRIST to convene a meeting next week of the 100 Senators in our Intelligence Committee room so we can question and hear from the head of the CIA and the head of the National Security Council, Mr. Tenet and Ms. Rice. Mr. Tenet and Ms. Rice ought to present themselves, and we should begin this process of finding out what happened. Why did it happen. Who is accountable, and where does the buck stop.

I yield the floor.

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

NEW INFORMATION ON IRAQ'S POSSESSION OF WEAPONS OF MASS DESTRUCTION

Mr. NELSON of Florida. Mr. President, I express my appreciation to the Senator from North Dakota for the case that he has made, which has been very disturbing to us as two Senators, because the information we have received over the last several days causes us not only to scratch our heads but to shake our heads—that the intelligence we received in the secure rooms of this Capitol complex was either so faulty that we are in a considerable degree of vulnerability, that we are not getting accurate information upon which to defend this country, or that the information that was presented to us was faulty not because of the sources of that information and the analysis but there was some suggestion of coloring that information to reach a certain conclusion.

I think this is far beyond Republicans and Democrats. This is about defense of the homeland. This is about America. Just because this has come up in January of an election year, with Dr. Kay coming forth and telling us today in the Armed Services Committee that he concluded this last November, then it is sure time for us to get some answers for the protection of this country and its people.

I want to take this occasion to inform the Senate of specific information that I was given, which turns out not to be true. I was one of 77 Senators who voted for the resolution in October of 2002 to authorize the expenditure of funds for the President to engage in an attack on Iraq. I voted for it. I want to tell you some specific information that I received that had a great deal of bearing on my conclusion to vote for that resolution. There were other factors, but this information was very convincing to me that there was an imminent peril to the interests of the United States.

I, along with nearly every Senator in this Chamber, in that secure room of this Capitol complex, was not only told there were weapons of mass destruction—specifically chemical and biological—but I was looked at straight in the face and told that Saddam Hussein had the means of delivering those biological and chemical weapons of mass de-

struction by unmanned drones, called UAVs, unmanned aerial vehicles. Further, I was looked at straight in the face and told that UAVs could be launched from ships off the Atlantic coast to attack eastern seaboard cities of the United States.

Is it any wonder that I concluded there was an imminent peril to the United States? The first public disclosure of that information occurred perhaps a couple of weeks later, when the information was told to us. It was prior to the vote on the resolution and it was in a highly classified setting in a secure room. But the first public disclosure of that information was when the President addressed the Nation on TV. He said that Saddam Hussein possessed UAVs.

Later, the Secretary of State, Colin Powell, in his presentation to the United Nations, in a very dramatic and effective presentation, expanded that and suggested the possibility that UAVs could be launched against the homeland, having been transported out of Iraq. The information was made public, but it was made public after we had already voted on the resolution, and at the time there was nothing to contradict that.

We now know, after the fact and on the basis of Dr. Kay's testimony today in the Senate Armed Services Committee, that the information was false; and not only that there were not weapons of mass destruction—chemical and biological—but there was no fleet of UAVs, unmanned aerial vehicles, nor was there any capability of putting UAVs on ships and transporting them to the Atlantic coast and launching them at U.S. cities on the eastern seaboard.

I am upset that the degree of specificity I was given a year and a half ago, prior to my vote, was not only inaccurate; it was patently false. I want some further explanations.

Now, what I have found after the fact—and I presented this to Dr. Kay this morning in the Senate Armed Services Committee—is there was a vigorous dispute within the intelligence community as to what the CIA had concluded was accurate about those UAVs and about their ability to be used elsewhere outside of Iraq. Not only was it in vigorous dispute, there was an outright denial that the information was accurate. That was all within the intelligence community.

But I didn't find that out before my vote. I wasn't told that. I wasn't told that there was a vigorous debate going on as to whether or not that was accurate information. I was given that information as if it were fact, and any reasonable person then would logically conclude that the interests of the United States and its people were in immediate jeopardy and peril. That has turned out not to be true.

We need some answers, and I saw the ranking member of the Armed Services Committee ask the chairman for a further investigation into this matter. I

heard the chairman say: I will take it under consideration.

I hope that is a positive sign and not a negative sign. We need to get to the bottom of this for the protection of our country. It is too bad this is coming up in the year 2004, which happens to coincide with the Presidential election, because people are going to immediately say this is partisan politics.

The fact is, this is the politics of the protection of our country, and we need some answers. I don't want to be voting on war resolutions in the future based on information that is patently false when everybody is telling me, looking me eyeball to eyeball, that it is true.

I am hoping, as the Senator from North Dakota has suggested, that we have a convening of the appropriate intelligence officials in the secure room and that members of the intelligence community, as well as members of the administration, will come and explain, in addition to what Dr. Kay has explained on the public record—which is revealing enough in itself—what, in fact, happened and how we are going to correct the process and the analysis of information so that we never have this kind of miscalculation and misinformation again.

Either the intelligence community's self-examination, its analysis was hugely faulty, or there were the hints at taking information and coloring it, called stacking the news and coming out with a conclusion that was wanted. I think we have to find out what happened.

It is not a question of whether or not Saddam Hussein ought to be gone. Thank goodness he is gone. That probably had a very salutary effect on the United States in that part of the world, that the United States will back up its intentions with force. But when the United States makes decisions about a preemptive war, a war now that has claimed the lives of over 500 American men and women, then we have to have a much higher standard of accuracy of the information upon which we make the judgments to send America's finest on to the battlefield.

I can tell you about all the soldiers from Florida who are now laid to rest. There are plenty of reasons I am raising these questions, but if for no other reason than to raise the questions for the mamas and the daddies and the spouses and the children of those soldiers. That is plenty justification enough. But the justification is much greater, and that is the justification of making sure we can protect ourselves in the future.

In a war against terrorists, our defense is only going to be as good as the information we receive to stop the terrorists. We had a colossal failure of intelligence on September 11, 2 years ago. We can't afford that kind of failure again. Yet we have just found out that when we were given the reasons for going to war, that was faulty intelligence. America can't afford too many more of these, for the protection of ourselves and our loved ones.

This is something of considerable concern to me personally. I know it is of considerable concern to the rest of the Senate. I hope the majority leader of this Senate, Senator FRIST, is going to listen to those of us in this Chamber who say that this request has nothing to do with politics. Let's get to the bottom of what is the truth and how we make sure that information in the future is true.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

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

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

IMMIGRATION POLICY

Mr. CORNYN. Mr. President, I rise to say a few words about our Nation's immigration policy.

Early this month, I applauded President Bush by talking about his principles which he believes ought to be embodied in comprehensive immigration reform. The President spoke courageously and forthrightly, and I urge Congress to heed the President's call.

We must acknowledge the truth. We need to be honest. The fact is, we have done far too little to repair a system that calls out—indeed, a system that cries out—for reform. Our homeland security demands an accounting of the identities of an estimated 8 to 10 million individuals currently living illegally in the United States, including their reason for being here and allowing an informed judgment on whether they pose a danger to us. For those who are deportable criminals, that judgment must be swift and sure.

The truth is the vast majority of undocumented immigrants in this country are not here as drug dealers, violent criminals, or terrorists. Rather, they are here doing the best they can to work hard so they can provide for their families. We can no longer deny the sheer number of undocumented individuals or the extent of our economy's dependence on the labor that they provide, nor can we ignore the horrible costs that many of these individuals pay when it comes to human smuggling.

In the wake of 9/11, much of the increased enforcement effort that we have made in terms of our border security has succeeded in blocking off the easiest transit points along our border, but that only means they resort to more remote and dangerous areas to cross, and sometimes with deadly results.

These individuals are also relying more on human smugglers, known as coyotes. Hundreds of undocumented individuals have died in the past 2 years. An immigration policy that ignores the reality of human suffering and death

cannot be tolerated in a humane society.

For too long, the political extremists have dominated the debate about immigration. There are those who say they want to build a wall around our country, and others, on the other end of the spectrum, who cry for unconditional, complete amnesty. But both of these extremist proposals are unrealistic, and they leave many problems unanswered. What America needs instead is a comprehensive and fundamentally strong immigration system that bridges the gap between our economic and security needs. I believe a comprehensive, commonsense guest worker program is a critical first step toward fixing our immigration policies and adapting to modern realities. That is why last summer I introduced the Border Security and Immigration Reform Act of 2003. I urge my colleagues to educate themselves about the contents of this bill and to recognize that we must act to bring our broken immigration system into the 21st century.

Here are the key elements of my proposal. We need immigration reform. I believe we need an immigration system that will put homeland security first. Any reform of our immigration laws must be able to distinguish between the benign and the dangerous. Our law enforcement resources, limited as they are, must be able to be focused and dedicated to hunting down the real threats to our Nation, whether they are the smugglers, the drug dealers, or the terrorists, not simply those who are merely looking for a better life for themselves and their loved ones.

Currently, the whereabouts of 80,000 criminal alien absconders, aliens who have been convicted of a felony and ordered deported, is simply unknown to our Government. They vanished and we don't know where they are. They are running free within our borders.

In addition, we don't know the whereabouts of hundreds of thousands of other undocumented aliens who are under final orders of deportation. They simply have no other appeal, they are under final orders to leave, and they simply, again, melted into America.

This must change. Our immigration authorities must be given not only adequate funding and resources but adequate priorities as well. They must be allowed to spend more time on those who are a threat to us and not just those who come here to perform work that Americans by and large will not perform. Ignoring the problem—something we have done for some time now—won't solve any of our border security or immigration problems, and it will not make our Nation any more secure. Identifying, detaining, and deporting real threats to our Nation and our families will.

Second, my bill will help bring millions of current undocumented immigrants out of the shadows and under the rule of law and onto the tax rolls. Under my proposal, guest workers will no longer fear the authorities but,

rather, will come to see the law as an ally and not as an enemy. This, in turn, will help protect immigrants from exploitation and violence and help end the death dealing of human smugglers. We must bring these workers out into the open, out of the shadows, out of the cash economy, and onto the tax rolls, which I believe will ultimately help restore respect for the rule of law.

Third, our immigration system must give a real incentive for undocumented workers who come to this country to work on a temporary basis. It must give them a real incentive to ultimately return to their home country. I believe my proposal is unique in this respect—something we call "work and return." My proposal gives undocumented immigrants a real reason to come out of the shadows, to work within the law, to be accounted for, and then to return to their homes and their families in their home country, with the pay and the skills they acquire as guest workers in the United States.

In my recent visit with government leaders in Mexico City, I was repeatedly told that Mexico wants, indeed Mexico needs for its young, energetic risk takers and hard workers ultimately to come back home, and particularly to come back home with the capital and savings and the skills that they acquire when they work in the United States. They need these people to come back to their home country and to buy a house, to start a business, so that these small business owners, these potential entrepreneurs, can help strengthen the middle class in countries like Mexico. But our current immigration policy fails to give undocumented immigrants any real incentive to make a return to their home country.

Of course, I have mentioned Mexico, but this would hold true for many other countries that would also be covered by this program.

The fact is, there will be no end to illegal immigration across our southern border without economic recovery south of the border. Those of us in America cannot afford for our southern border to remain a one-way street.

Guest workers should, yes, be allowed to come out of the shadows and register for a program that will allow them to transit back and forth across the border in a way that they do not have to turn their lives and their fortunes over to coyotes and human smugglers. But ultimately real reform would make sure that these guest workers, after working here temporarily in the United States, must return to their country of origin.

President Bush called us to this task in his State of the Union speech just a couple of weeks ago now. I believe we in Congress have a duty to confront this challenge. We should hide our head in the sand no longer. We cannot, in my view, simply ignore the fact that there are literally hundreds of thousands of people under final orders of deportation. There are 80,000 criminal

alien absconders currently loose in this country, and our law enforcement authorities simply don't know where they are. But as for those who are not a threat, those who want nothing more than the opportunity to work temporarily and return to their homes with the savings and the skills they need in order to have a better life in their home country, I believe we must move these temporary workers out of the shadows. We must at the same time ensure the security of our borders. We must restore respect for our law, and we must bring our broken immigration system into the 21st century.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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.

In 1999, a 37-year-old man was the target of a brutal anti-gay attack on a cruise ship off the California coast. The victim was assaulted in a hallway of the ship by two other passengers who called him a "faggot" several times. He sustained injuries including a broken nose, three skull fractures around his eyes, chipped teeth and multiple contusions.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

ENFORCING U.S. IMMIGRATION LAWS

Mr. LEAHY. Mr. President, we all agree that among the things we learned from the September 11 attacks was that we need to do a much better job of enforcing our immigration laws. While no system is foolproof, we should at least make it as difficult as possible to evade our border controls and enter this country illegally.

In doing so we must also be sure that we protect the rights and dignity of innocent travelers, to ensure that those who have every right to come to this country are able to do so with a minimum of delay and difficulty. We must

also ensure that we do not betray our historic commitment to asylum, a dedication to provide refuge to those who flee oppression.

Since September 11, we have thwarted some illegal immigrants, although we do not know how many of them, if any, sought to come here to commit acts of terrorism. But we have also read about instances where innocent people were swept up by our border patrol agencies, and subjected to unnecessary and humiliating treatment.

These abuses not only damage the individual, but they damage our image around the world. As a result, people who would otherwise travel to the United States, as tourists, students, or for business, are deciding against coming out of fear that because of their race, or ethnicity, or nationality, or just because of the chance of a mistake, they might be mistreated or imprisoned.

Today I want to call attention to two cases. The first case involves Ms. Antje Croton, a German citizen married to an American school teacher from Brooklyn, whose ordeal was described in the January 21, 2004 edition of the *New York Times*.

Ms. Croton encountered a nightmarish immigration fiasco as she and her infant daughter tried to re-enter the United States after spending the holidays in Germany. The *New York Times* called Ms. Croton's ordeal "Kafkaesque." There is no better word for it.

Concerned that her travel permit had expired in July, Ms. Croton visited a Department of Homeland Security, DHS, office in New York City before leaving the country for Germany on December 9, 2003. After talking to officials there, she was assured that her permit was valid through April 2004. Believing her documents were in order, Ms. Croton left for Germany.

Upon her return, Ms. Croton was told by an immigration official at the airport in New York that her travel permit had expired, and that she could not enter the country. With her infant daughter, Ms. Croton was interrogated until 2 a.m. and told she was to be put on the next plane back to Germany, all without informing her husband, who was waiting in the terminal.

At one point, Ms. Croton and her daughter were taken to a room where a dozen individuals, including some who were suspected of transporting drugs and illegal firearms, were being held. After several more hours of back and forth, immigration officials finally gave Ms. Croton the option of leaving the airport if she bought a return ticket that left for Germany within 30 days.

Ms. Croton and her husband spent the next 30 days negotiating layers of byzantine immigration rules and regulations in an effort to resolve her case before she was forced to depart. Even with the help of elected officials and immigration lawyers, the couple was getting nowhere. It was only after an

inquiry from a *New York Times* reporter that the DHS began to pay attention.

The second case involves Sonam, a 30-year-old Buddhist nun whose plight was recounted in the January 27, 2004 edition of the *Washington Post*. Sonam, who goes by only one name, was detained at Dulles International Airport last August after arriving from Nepal.

After her father was arrested and tortured, Sonam fled from her native Tibet, controlled by China, to Nepal 3 years ago. She reached Nepal by walking for 8 days across mountainous territory. She then fled Nepal last summer, after the government there began returning Tibetan refugees to China, where they face prison and torture.

Sonam was granted asylum by a United States immigration judge last November, but the DHS immediately appealed the ruling and refused to release Sonam from custody during the pendency of the appeal. As a result, she may spend years in a local jail outside Richmond where she has been detained. In this jail, she is housed among common criminals and is unable to communicate with anyone because she does not know English.

The DHS defends its punitive policies toward asylum seekers on the grounds that it is concerned that terrorists may manipulate the asylum process. It strains belief to imagine that the DHS believes that a nun from Tibet with no knowledge of English or history of violence, whom a U.S. Government official has found deserving of asylum, is a potential terrorist.

Even Asa Hutchinson, the DHS Undersecretary for Border and Transportation Security, told the *Post* that "[e]ven a well-balanced policy can get out of kilter on an individual case because someone has exercised poor judgment." It is clearly the case here that someone at DHS is exercising poor judgment, and Secretary Ridge or Undersecretary Hutchinson should do something to rectify this injustice.

There is no question that securing our borders from international terrorists, criminals, and illegal immigrants is one of the most important responsibilities of the Federal Government. We are more aware of this today than ever before.

But this does not give DHS a license to act in a bureaucratic and heavy-handed manner, which is precisely how it appears they behaved in these cases.

Border security involves striking a balance. Instead of wasting time and resources scaring and harassing a German woman and her baby or a Tibetan nun, who pose no threat to the security of the United States, DHS should be focused on stopping real terrorists and criminals. Moreover, in the Croton case, an immigration official told Ms. Croton that her paperwork was in order before she left the United States.

Thanks to the *New York Times* and others, the Croton case may be headed for a happy ending. But this is an instance where the victim spoke English,

is married to an American, and is a citizen of a nation that is a close ally of the United States.

What if this had involved someone who spoke little or no English? What if the person in question were not married to an American citizen? What if the media and elected officials had not been aware of it, and had not gotten involved? I suspect the individual would have been deported, even though their only offense was listening to the advice of an immigration official.

Meanwhile, the outcome of the Sonam case remains unclear, and unless the DHS acts, she can expect to spend most if not all of 2004 behind bars.

There are probably dozens, if not hundreds of other cases, of would-be immigrants and asylum seekers that do not have happy endings that we do not know about. Even one case like this is too many. Immigrants are responsible for the diversity of cultures, ideas, and practices that make up our society. We have an important responsibility to help those attempting to come to this Nation legally.

Equally important, we have an interest in treating immigrants fairly and with respect. Poor treatment of legal immigrants squanders goodwill that the United States spends billions of dollars each year—through foreign aid, international exchanges, and public diplomacy programs—to cultivate.

To be sure, we want our DHS officials to do their jobs effectively. We have to make sure that people entering this Nation are doing so legally, and are not a threat to the United States. But, we also have to make sure that DHS officials act in a fair and professional manner.

I hope that the DHS is reviewing what went wrong in these cases, and taking whatever steps are necessary to prevent it from happening again. I ask unanimous consent that the New York Times and Washington Post articles be printed in the RECORD.

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

[From the New York Times, Jan. 21, 2004]

TRIP HOME FROM EUROPE BECOMES
KAFKAESQUE ORDEAL
(By Nina Bernstein)

A German woman married to a Brooklyn schoolteacher had been told that she had all her papers in order when she took a quick trip to show off her infant daughter to her parents in Germany.

But her return home in late December turned surreal and terrifying when Homeland Security officials at Kennedy Airport rejected her travel documents, confiscated her passport, then detained her and the 3-month-old overnight in a room with shackled drug suspects. They let her go only after ordering her to leave the country no later than tomorrow.

After a month of desperate efforts by her American husband, their lawyers and legislators, late yesterday a spokeswoman for the Homeland Security Department said that the woman, Antje Croton, 36, would be granted a last-minute reprieve. But Mrs. Croton said she had received no written notification.

"I'm in a nightmare," she said as she packed yesterday afternoon, having abandoned hope of straightening out the problem. "I feel like I'm in the wrong movie."

Her husband, Christopher Croton, said the couple was not convinced their ordeal was over. "The experience has been like trying to open a door to a room that does not exist," Mr. Croton said. "That's the irony here. My German-born wife has to come here to experience this wall of, just The State."

He pointed out that other foreigners with fewer resources have been caught in the same kind of bureaucratic confusion ever since the Immigration and Naturalization Service was absorbed by the Department of Homeland Security last year.

Mrs. Croton has lived in Park Slope for five years, and her application for a green card has been pending for nearly two. When her sister urged her to visit Germany, she wanted to take no chances. So in October, she said, she asked immigration officials at 26 Federal Plaza about getting a new travel permit.

According to her account, an immigration official, C.E. Hernandez, insisted that her old permit was still valid, though it had a July expiration date, because it bore a stamp saying "April 2004." Reassured, Mrs. Croton departed on Dec. 9. "I did everything by the rules," Mrs. Croton said.

But on Dec. 22, when she returned to Kennedy Airport at 9 p.m., exhausted after a 10-hour trip alone with her baby daughter, Clara, front-line border security officers barred her way. They said the immigration official had been wrong: the July 2003 expiration, not the April 2004 stamp, applied, and she could not enter the United States.

They interrogated her until 2 a.m., she said, as she wept, tried to nurse her baby and pleaded with officials to call her husband, who was waiting without word in the terminal.

Mrs. Croton, who has worked for an ad agency in Hamburg and as a journalist in New York, and who recently started her own Internet business as a handbag designer, said she was astonished that the official questioning her had to struggle to enter her replies in an archaic computer, hunting and pecking and calling for help to save the document file.

"Then this man says, 'We are going to put you on the next plane going back home.'"

"I said, 'This is my home,'" recalled Mrs. Croton, who has lived in the same apartment with her husband since before they were married in 2001.

She was then taken from the airport's terminal 1 to terminal 4, she said, to a fluorescent-lit room where a dozen detainees included a man who had been carrying an illegal gun and several suspected drug couriers in shackles.

"I couldn't even spell my name anymore," Mrs. Croton said. "Nobody who hasn't had a little infant and traveled on a long-distance flight can understand. I said, 'I need to lie down. I'm shivering, I'm exhausted, I'm nursing.'" But she said an officer retorted: "Stop crying. There were other people here with kids, and it's not going to get you anywhere."

The most humane response, Mrs. Croton added, came from the low-level worker who had driven her from one terminal to the other. Learning that the mother had no diapers left for her baby, the driver returned with three toddler-sized disposable diapers, the only ones she could find.

In the morning, a supervisor told Mrs. Croton that she had to board a plane to Germany, but she refused, fearing for her health and the baby's. She was then offered another option: to buy a ticket for a flight to Germany leaving within 30 days, with no guarantee she could ever return.

The couple hoped to straighten out the mess before her forced departure, but the red tape seemed impervious. Two weeks ago, the couple went back to see Ms. Hernandez at Federal Plaza, and she again told Mrs. Croton that her travel document was still valid until April.

When told what had happened at the airport, other officials said that without Mrs. Croton's confiscated passport and file, their hands were tied. They were at an impasse until an inquiry by a reporter for The New York Times to Janet Rapaport, a spokeswoman for the Border Security section of Homeland Security.

That resulted in a flurry of activity. Ms. Rapaport said yesterday that a decision had been reached by Susan T. Mitchell, director of New York field operations for Customs Enforcement and Border Security, based on a review of Mrs. Croton's file. Mrs. Croton would be allowed to stay and pursue her green card application. "I guess for humanitarian reasons," Ms. Rapaport said.

"I want to believe it," Mrs. Croton said. "But they tell me I can stay, and then I stay, and then what if they tell me I'm a real lawbreaker?"

[From Washingtonpost.com, Jan. 27, 2004]

GRANTED ASYLUM, NUN HELD IN VA. JAIL
TIBETAN ENTANGLED IN POST-9/11 CAUTION
(By David Cho)

HOPEWELL, VA.—Sonam always feared her devotion to Buddhism would land her behind bars in her native China. As it turns out, she is serving a long term in jail—not in East Asia but in central Virginia.

The 30-year-old Buddhist nun, who grew up in a Tibetan village near the foot of Mount Everest, fled to the United States in August after family members had been tortured and friends jailed for their faith, she said. But when she arrived at Dulles International Airport and requested asylum, federal immigration officials detained her and placed her in the local jail in this small city outside Richmond.

Sonam, who is known by that one name, has been here ever since except for a brief visit in November to a court room in Arlington where a federal immigration judge granted her asylum. But even as she was hugging her attorney in celebration, the lawyer from the Department of Homeland Security announced that she was appealing the case.

Sonam was then shackled and returned to her cell, where she waits for their next court date, which is likely to be in the fall at the earliest, her attorney said.

Sonam is among thousands of asylum seekers who have fled persecution in their homelands only to be jailed in the United States, a new report by the New York-based Lawyers Committee for Human Rights shows.

By law, the Department of Homeland Security detains all asylum seekers who arrive without proper documents. But since the Sept. 11, 2001, terrorist attacks, federal immigration officials have also been denying parole to those immigrants and appealing rulings in their favor, a practice that can keep them locked up for years, according to the report, which monitored the department's activities for a year and details scores of cases, including Sonam's.

Homeland Security officials deny they are trying to keep asylum seekers behind bars, although they acknowledge that long incarcerations occur. They say they are reviewing their practices in responses to the report and are tallying statistics on how many asylum seekers have been detained, refused parole or seen their cases appealed.

"Even a well-balanced policy can get out of kilter on an individual case because someone

has exercised poor judgment," said Asa Hutchinson, the Homeland Security Department's undersecretary for border and transportation security.

At the same time, he and others say their is concern that a terrorist could slip into the country under the guise of an asylum request.

"People who come here may have no legitimate [reason]. They are here for economic reasons or for criminal reasons and have been trained to assert asylum," Hutchinson said.

"That requires us to be careful and . . . sometimes it makes people more skeptical of asylum cases than they should be."

Last week, during an interview at the Riverside Regional Jail, Sonam spoke of her journey to the United States that began with a desperate, eight-day walk to Nepal across snow-capped mountains and ended with her first ride on an airplane, which frightened her so much she couldn't look out the window.

Sonam Singeri, a Tibetan working for Radio Free Asia who has befriended Sonam, was at the interview to translate. As soon as Sonam walked into the visitors' room and saw Singeri, she collapsed into her arms and sobbed uncontrollably.

"It's so lonely. It's so hard. Why is this happening?" she cried out, Singeri said.

Sonam told a story of flight and fear. She said her father has been jailed in Tibet and tortured with electric shock. She described hiding from police patrols as she made her way across the Himalaya Mountains to Nepal, where she lived for three years.

But even there, she said, she worried about her safety. In May, the Nepalese government began to round up Tibetan refugees and send them back to China, where they were sure to face prison and torture, she said.

Even after asylum seekers such as Sonam have convinced immigration judges that they are bona fide and pose no threat, Homeland Security lawyers continue to press appeals in many cases, the Lawyers Committee for Human Rights report says.

"They are indefinitely detaining asylum seekers who have already been granted relief, who present no risk, who have often been tortured in their home countries," said Archi Pyati, who works in the lawyers committee's asylum program.

"We are sending a message that in the United States . . . we don't hope that asylum seekers find their way here because if they do they will find themselves in a very difficult situation and in prolonged detention."

Immigrants seeking asylum in this country must prove not only their identities but also that they are in danger in their native countries.

Sonam's case was appealed because she did not have enough documentation to back up her story, according to a brief filed by Homeland Security attorney Deborah Todd. The fact that Sonam lived in Nepal for three years indicated that she could have safely stayed there and did not need to come to the United States, Todd argued in her appeal.

Asked to comment, a spokesman for Homeland Security said the department does not talk about ongoing cases.

Sonam said she had no way to get identity documents in Nepal because the government does not recognize refugees from China. She feared that she would be deported to China along with other Tibetans who were being sent back at the time. So she sought a way to get to the United States.

Using the money she had made as a seamstress before she joined her monastery in Nepal, Sonam booked a flight through Calcutta to Dulles.

After she was jailed in Virginia, her attorney, who has taken the case pro bono, twice

asked the Department of Homeland Security to release her from detention, arguing that Sonam poses no danger. But immigration officials denied both requests without much explanation, according to Sonam's attorney.

The hardest part of Sonam's life these days is that she cannot speak or understand the language of the inmates or guards. (She is also illiterate in her native Tibetan tongue.) She has not been able to have a conversation with anyone since her hearing in November and wept as she recounted her seemingly endless days of silence and isolation in jail. "I live in a prison but always in my mind, I hold onto a picture of His Holiness [the Dalai Lama] in my heart," she said. "This prison has become my monastery."

An hour into the interview, a guard tapped the window of the visitors' room. It was time to go.

Sonam shed a few more tears. It might be months before her next conversation. She hugged Singeri again and then followed the guard back to her part of the jail where she does not speak, cannot understand anyone and where she waits in her prison within a prison.

DAVID KAY INTERVIEW

Mr. VOINOVICH. Mr. President, during the past several days, there has been a great deal of discussion regarding comments made by David Kay, who until just recently led our search for weapons of mass destruction in Iraq.

There are some who have said that statements made by Mr. Kay indicate that there was no reason to take military action to address the threat posed by Saddam Hussein. I believe this is, at best, a misunderstanding of his statements. Mr. Kay clearly believes that removing Saddam Hussein from power was the right thing to do.

It is in this context that I would like to take this opportunity to share with my colleagues an interview that Mr. Kay gave yesterday morning, in which he outlines his thoughts on the dangers presented by Saddam Hussein.

When asked whether it was prudent to go to war, Mr. Kay responded:

I think it was absolutely prudent. In fact, I think at the end of the inspection process we'll paint a picture of Iraq that was far more dangerous than even we thought it was before the war. It was of a system collapsing. It was a country that had the capability in weapons of mass destruction areas and in which terrorists, like ants to honey, were going after it.

I believe it is helpful to review his comments in their entirety, and as such, I ask unanimous consent that the following interview be printed in the RECORD.

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

[From the NBC Today Show, Jan. 27, 2004]

Anchor: Matt Lauer

David Kay, former head of Iraq survey group, discusses searching for weapons of mass destruction in Iraq.

MATT LAUER, co-host. The Bush administration now says it needs more to determine if Iraq had weapons of mass destruction; this after retired U.S. weapons inspector David Kay concluded that Saddam Hussein had no such weapons.

David Kay, good morning. Good to have you here.

Mr. DAVID KAY (Former Head Of Iraq Survey Group). Good morning, Matt.

LAUER. There are some people who say you spent eight months scouring the country of Iraq for stockpiles of weapons of mass destruction, chemical, biological, nuclear, and because you didn't find them, they make a blanket statement. And that is there US administration misled the American people building a case for war. Is that a fair statement?

Mr. KAY. I think it's not fair, and it also trivializes what we did find and the problem we face. The problem we face is that before the war not only the US administration and US intelligence, but the French, British, Germans, the UN, all thought Saddam had weapons of mass destruction. Not discovering them tells us we've got a more fundamental problem.

LAUER. But if you didn't find stockpiles of chemical, biological or nuclear weapons, does that mean they never existed, or does it mean they may have been moved out of Iraq prior to the war?

Mr. KAY. Well, we've certainly dealt with the possibility of moving, and we did that by trying to look to see if there was any signs of their actual production in the period after '98. And we really haven't found that. I think they were—there's a little evidence that large weapon stockpiles were moved. A lot of other stuff may well have been moved.

LAUER. So when you heard reports leading up to the war, and it's a—unclear where the—where the source of these reports came from, but that Iraqi troops had been given chemical and biological weapons. And they were prepared to use them against advancing US forces. And they could deploy them within 45 minutes, untrue in your opinion?

Mr. KAY. There's no evidence that they are true at this point in time.

LAUER. Let me play you a clip from the president's State of the Union address a year ago.

President George W. Bush (from file footage): "Year after year, Saddam Hussein has gone to elaborate lengths, spent enormous sums, taken great risks to build and keep weapons of mass destruction."

LAUER. In technical terms, was that an inaccurate statement?

Mr. KAY. Inaccurate in terms of the reality we found on the ground now. I think it was an accurate statement, given the intelligence the president and others were begin given then.

LAUER. But also accurate in your opinion because in truth Saddam Hussein did spend enormous amounts of money to develop chemical and biological weapons, but according to your report he just didn't get what he paid for.

Mr. KAY. Well, that was in part the—true. There are a tremendous amount of con—corruption there and lying that went on there. Saddam spent huge efforts at these weapons programs, no doubt about that.

LAUER. So when you say lying, his scientists, or people were coming to him saying, "I can develop chemical and biological weapons for you for the right amount of money." They were taking the money, in your opinion, and not delivering?

Mr. KAY. And not delivering, and reporting back successes that they were not having. That was quite common down there.

LAUER. So when you spoke to Iraqi scientists, what did they tell you about the active weapons program in the year leading up to the war?

Mr. KAY. They describe from 1998 on a Iraq that was descending into the utter inability to do anything organized. Corruption was there. They couldn't get the equipment. Money was wasted. People weren't really concerned about working, they were concerned about money.

LAUER. But the intent was there?

Mr. KAY. Absolutely. And the intent at the top, of Saddam to acquire those weapons and to continue to attempt to acquire those was absolutely there.

LAUER. Almost a year ago Secretary of State Colin Powell addressed the United Nations. Here's what he had to say.

Secretary of State Colin Powell (from file footage): "Conservative estimate is that Iraq today has a stockpile of between 100 and 500 tons of chemical weapons agent."

LAUER. Conservative, or just plain wrong?

Mr. KAY. No, I think that was the estimate based on information and intelligence before the war. It turns out to be wrong.

LAUER. So what—what was the problem with the intelligence? Why were we so wrong?

Mr. KAY. Well, Matt, I think that is the challenge now. And I think the tendency to say, "Well, it must have been pressure from the White House is absolutely wrong." In some ways I wish it had been pressure. It would be easier to solve the problem. We now have to look—and people forget, Iraq is not the only place we've been wrong recently. We've been wrong about Iran, and we've been wrong about Libya's program there. We clearly need a renovation of our ability to collect intelligence.

LAUER. Here's what you said to Tom Brokaw. "Clearly the intelligence that we went to war on was inaccurate, wrong. We need to understand why that was." But you went on to say, "I think if anyone was abused by the intelligence, it was the president of the United States, rather than the other way around."

Mr. KAY. That's abso—absolutely my belief. I think, in fact, the president and all of us were reacting on the basis of an intelligence product that painted a picture of Iraq that turned out not to be accurate once we got on the ground.

LAUER. You find—you found that in—in 2000 and 2001 Saddam Hussein did actively try to develop and start a nuclear program?

Mr. KAY. He was putting more money into his nuclear program. He was pushing ahead his long-range missile program as hard as he could. Look, the man had the intent to acquire these weapons. He invested huge amounts of money in them. The fact is, he wasn't successful.

LAUER. In terms of the missile program alone, you feel that it's obvious and—and undisputable that he violated UN resolutions by developing weapons, missiles, that had a range outside of those UN resolutions?

Mr. KAY. Absolutely, Matt. We—we have collected dozens of examples of where he lied to the UN, violated Resolution 1441, and was in material breach.

LAUER. So based on the information that you have, David, not what we had prior to the war, but you have, in your opinion, was it prudent to go to war? Was there an imminent threat?

Mr. KAY. I think it was absolutely prudent. In fact, I think at the end of the inspection process we'll paint a picture of Iraq that was far more dangerous than even we thought it was before the war. It was of a system collapsing. It was a country that had the capability in weapons of mass destruction areas and in which terrorists, like ants to honey, were going after it.

LAUER. Do—do you feel that—you know, you've come out and started saying these things in the last couple of days, do you feel your words are being misused and misinterpreted in the political atmosphere that exists today?

Mr. KAY. I think there is a tendency, at this time to say, "Got you!" and try to do politics. It think this is national security, and far more important than momentary po-

litical gain. I hope that's now what's happening.

LAUER. If you spend eight months looking and didn't find anything, Dick Cheney says, "In time we could probably find it." You still think we should continue to search?

Mr. KAY. Absolutely. I think the inspection should continue because among things we don't know enough about are the foreign countries that helped the Iraqis throughout this period to acquire the missiles, to develop the nukes, to develop the chemical and biological. We need that for no other reason. And sure, we should keep looking.

LAUER. And as we move forward and we look at countries like Iran, which you brought up, and North Korea, how well suited do you think we are by our intelligence in those areas at this date?

Mr. KAY. I think based on the evidence we have now, we are not as suited as well as we need to be. And I think that is the challenge, not the political 'Gotcha!' contest.

LAUER. David Kay.

David, good to have you here.

Mr. KAY. Good to be here.

SUSAN BOARDMAN RUSS

Mr. LEAHY. Mr. President, I often come to this floor to thank various staff for their long, tireless and often anonymous work on behalf of the U.S. Senate and the 100 Senators who serve here. But it is not often that I come down here to acknowledge a public servant who has made such an incredible contribution to this institution and our shared State of Vermont.

Today, I would like to honor the 25 years of service of Susan Boardman Russ, who has served Senator JEFFORDS and the people of Vermont with extraordinary distinction.

Vermont is a small place. I have known Susan most of her life. Her father delivered two of my three children.

Over the years, I have watched her grow with a mixture of awe and admiration. Susan is brilliant, articulate, and has always kept her eyes focused on what is best for Vermont.

Senator JEFFORDS is to be commended for recognizing her talent early on and for keeping her in the fold this long. While Susan has moved with her husband and beautiful daughter to Houston, TX, I know she will always be a Vermonter at heart.

Recently, one of Vermont's finest journalists, Christopher Graff, wrote a beautiful tribute to Susan. I ask unanimous consent that it be printed in the RECORD.

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

SUSAN RUSS STEPS DOWN AS JEFFORDS' CHIEF OF STAFF

(By Christopher Graff)

MONTPELIER, VT. (AP)—Susan Boardman Russ was 14 years old, handing out campaign literature at the old Seaway Shopping Center in South Burlington for her Uncle Bob Boardman, who was running for the state Senate from Chittenden County.

The year was 1968.

Her school friend, Kathleen McGreevy, was handing out flyers for her uncle, Jim Jeffords, who was running for attorney general.

"My uncle was Democrat and hers was a Republican, but that did not matter much to two 14-year-olds," says Russ.

"Soon, we were efficiently sharing the load. To everyone I handed a Democratic Bob Boardman flyer I also handed a Republican Jim Jeffords flyer and she did the same."

Both Boardman and Jeffords were winners that year, their two nieces began a lifelong friendship and Russ' life became intertwined with Jeffords' political career.

In 1972 she worked during the summer on Jeffords' unsuccessful bid for governor and on "the night of his primary defeat I swore I would NEVER participate in another election," she says. "I was 18 and heartbroken."

That loss, though, was a minor setback for Jeffords, who went on to win the state's lone seat in the U.S. House in 1974 and moved to the U.S. Senate in 1988. Every step of the way Susan Russ has been there, starting as his front office manager in 1978, then four years later as his administrative assistant in the House office and finally as chief of staff of his Senate office.

Now, 35 years after she handed out her first Jeffords' flyer and 25 years after she went to work in Washington, Russ is leaving.

"It's been a perfect relationship," says Jeffords, adding that the two of them were a "great combination."

"Her ability to understand me, her common sense and her instincts to keep us out of trouble have been remarkable," he says.

The accolades come from all corners: Sen. Patrick Leahy, D-Vt., calls Russ "a Vermont treasure. For 25 years she has devoted her life to working for Senator Jeffords to make the lives of Vermonters better." In the small world department, Leahy noted that Russ' father delivered two of Leahy's children.

Sen. Harry Reid, D-Nev., the No. 2 Senate Democratic leader, also has high praise for Russ, whom he first met through Russ' husband, Jack, who served as sergeant at arms in the House when Reid and Jeffords served there. Reid says Susan Russ was especially "politically savvy" in a job that required it.

"Chief of staff is a unique position because you need to have that political savvy, plus you have to a good manager of people, you have to recognize talent, and you can't be afraid to tell the senator when you think he or she is wrong," says Reid.

"I believe I have been blessed with having the best job imaginable and the most interesting job tolerable," says Russ. "I have had a front row seat to some of the most challenging moments in Washington for the past two and a half decades."

When Jeffords first went to Washington he was a little-known congressman from a tiny state who was a member of the minority party. Today he is one of the best-known senators in the world, achieving celebrity status with his decision in 2001 to abandon the GOP and become an independent, a decision prompted by opposition to the policies of President George W. Bush.

Russ says at the time she opposed Jeffords' decision although she knew that "Jim was clearly miserable.

"It was not because of any long held political or philosophical beliefs that I resisted Jim switching," she says, but that Jeffords had a long history with the Republican members and leadership. "We knew the GOP family—who to trust—who not to trust.

"It is my nature to try to keep things smooth, no rocking the boat. This would surely rock the boat.

"With nearly three years since the decision behind me, I do realize that for Jim, it was the only decision he could have made."

Asked to pick her favorite legislative experiences, she says there have been too many to do so, but mentions the 1985 Farm Bill with its whole herd buyout from among the

House experiences and the several victories with the dairy compact from among the Senate years.

"Each time, no one really believed it was possible but Jim refused to throw in the towel," she says.

Luke Albee, Leahy's chief of staff, gives Russ credit for extension of the compact. "She was focused and tenacious and she said to us every day when we were exhausted and dispirited, 'This is going to happen because it has to happen.'"

Russ has no hesitation in what she treasures the most from her decades in Washington: How Jeffords stood by her and her husband when Jack Russ, then the House sergeant at arms, was swept up in a federal probe into how congressmen misused the House bank.

"It would have been understandable for Jim the politician to try and distance himself from the House Bank Scandal," she says. "By 1994, when Jim was facing a difficult reelection race, Jack had come to represent the 'scandal' in a very public way. Jim never hesitated in his support." Russ says the tone of Washington and the intensity of the battle have changed dramatically since 1978.

"Members of different parties used to have intense battles over issues on the floor of the House or Senate and when it was over go out and have dinner together. They never went into each other's districts to help challengers. There was a general sense of camaraderie that does not exist anymore between members of the two parties."

Russ is moving to Texas to be closer to her husband's family. She has formed her own firm to advise businesses and non profits on the ways of government. She hopes the move will allow her to keep a hand in government but allow her more time to spend with her family.

Russ leaves Washington painfully aware that "politics is not a game for the meek," but more importantly, "I learned when all is said and done, you have to live with yourself and your decisions, so you better do what you think is right and let the chips fall where they may."

SAUDI ACCOUNTABILITY ACT

Mr. FEINGOLD. Mr. President, I rise to comment on S. 1888, the Saudi Arabia Accountability Act of 2003, introduced by Senator SPECTER. I commend my colleague for his leadership on this issue. Combating terrorism is our highest national security priority at this time, and I have long had concerns regarding Saudi support for terrorist groups. While the administration has stated that the Government of Saudi Arabia has recently increased its cooperation with the United States, and while I do believe that last week's joint U.S.-Saudi announcement regarding Al-Haramain branches in Pakistan, Indonesia, Kenya and Tanzania is a positive step, it remains evident that the Saudi Government has often turned a blind eye to many activities that foster terrorism and, in some cases, Saudi leadership appears to have supported terrorism directly. This bill serves to exert pressure on Saudi Arabia to increase its counterterrorism efforts or to face limited sanctions. Cutting the links between terrorist organizations and their sponsoring governments is one of the most crucial tasks in the fight against terrorism, and I support the goals of this legislation.

However, the legislation raises other concerns that must be carefully considered by Congress. I am concerned that the legislation demonstrates the degree to which we, as policymakers, wear blinders in our relationship with Saudi Arabia. The legislation expresses dissatisfaction with the Government of Saudi Arabia solely for their lack of cooperation on the global war on terrorism. But Congress must not fail to mention the government's repression of women, grand-scale corruption, widescale detentions, and restrictions on freedom of expression and assembly. I fear that these omissions risk sending the wrong message about U.S. foreign policy priorities to the Middle East and other areas of the world. U.S. foreign policy objectives of promoting human rights and democracy must not be neglected while combating terrorism. These do not have to be contradictory goals. Even as we urge the Saudi Government to act more decisively and consistently against terrorism, we must ensure that the U.S. does not inadvertently encourage repression of desperately needed reforms in Saudi Arabia. Only by addressing both sets of issues can we achieve a future in which the U.S. relationship with Saudi Arabia stands on a firm footing.

The national security implications of failing to speak out bluntly about Saudi support for terrorism prompted me to cosponsor S. 1888. However, I hope that the Senate Foreign Relations Committee will take the opportunity to address some of these issues I have raised.

THE INTERNATIONAL FUND FOR IRELAND

Mr. LEAHY. Mr. President, I see the Senator from Maryland on the floor, an important member of the Foreign Operations Subcommittee, and I am under the impression that she would like to discuss an issue concerning the International Fund for Ireland, IFI, with Senator MCCONNELL and myself.

Ms. MIKULSKI. I thank the Senator, who, like me, is a strong supporter of the International Fund for Ireland. As the Senator from Vermont knows, peace and reconciliation efforts in Northern Ireland, under the Good Friday Agreement, will be assisted by efforts to build community institutions that promote tolerance and cooperation at the local level. I very much appreciate IFI's investment in these types of programs in Northern Ireland and the border counties of Ireland. I want to particularly commend IFI for the grant awarded to the Community Foundation for Northern Ireland, formerly the Northern Ireland Voluntary Trust. I would urge IFI, where appropriate, to increase its investment in these community-building efforts, as they are an important complement to IFI's economic development efforts.

Mr. LEAHY. I thank the Senator from Maryland. I also believe that IFI should consider increasing its support for these types of programs.

Mr. MCCONNELL. I agree with what the Senators from Maryland and Vermont have said concerning IFI and the Community Foundation for Northern Ireland.

RECOGNIZING PAUL M. IGASAKI, FORMER VICE CHAIR, U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Mr. DURBIN. Mr. President, I recognize Paul Igasaki, a Chicago native, for his contributions to the important work of advancing our civil rights. Mr. Igasaki has dedicated his entire professional career to ensuring justice for the powerless in our society who are often neglected and ignored.

In his most recent years of public service as a commissioner, vice chair, and acting chair of the U.S. Equal Employment Opportunity Commission, EEOC, Mr. Igasaki not only enforced laws that helped prevent employment discrimination practices, he himself broke the glass ceiling as the first Asian American appointed to the high office.

Mr. Igasaki was successful in reducing overwhelming case backlog that was impairing the effective functioning of the agency. His recommendations led to the development of the National Enforcement Plan and the Priority Charge Handling Program, which have reduced the EEOC case inventory by over 70 percent. These structural changes have allowed the agency to focus on more serious cases where the EEOC's involvement can make a difference to the lives of American workers.

Similarly, Mr. Igasaki cochaired an EEOC task force that recommended focused litigation strategy, placement of attorneys in area offices, and greater cooperation between attorneys and investigators in agency, which have led to increased law enforcement effectiveness of the agency.

One of his most notable accomplishments during his term on the EEOC was his role in guiding the settlement of the Mitsubishi Motors of America case—the largest case involving sexual harassment at the workplace. His success with this case was influential in moving the Japanese government to implement gender discrimination and sexual harassment enforcement laws for their own country.

In the aftermath of the September 11th terrorist attacks, Mr. Igasaki brought valuable perspectives from his personal experiences as a Japanese American to the EEOC's efforts to combat unfair backlash and scapegoating of Arab Americans, South Asian Americans, Muslim or Sikh Americans and others who were wrongly targeted by hate and discrimination.

Mr. Igasaki mother's family owned a small truck farm near San Diego. Like thousands of other Japanese Americans, Mr. Igasaki's grandparents had been in the United States for almost a half century, and like most immigrants

they were proud and loyal Americans. Yet, following the devastating attacks at Pearl Harbor, Mr. Igasaki's family was subject to harassment around town and at school. One day, the FBI showed up at their home, and without warning, warrant or explanation, they took his grandfather into custody. His family would not know where he was, what his condition was or why he had been taken for several months. They relied on community rumor, knowing that other Japanese Americans had been arrested for no apparent reason.

When our government issued the relocation orders for Japanese Americans, Mr. Igasaki's family had two weeks to give up the farm and nearly all of their property. Only in the horse stall that the family shared in the relocation center at Santa Anita Race-track did they find out that Mr. Igasaki's grandfather was arrested because he was the secretary of the local Celery Growers Association and because he had taken some notes of their meetings in Japanese. Their family eventually reunited when they were sent to a more permanent camp in Arizona where they were held for the duration of World War II.

Having experienced the pain and injustice of such treatment based on no reason other than their ethnic ancestry, Mr. Igasaki's became a passionate voice of conscience in the months following the September 11th attacks. His voice comforted all Americans who faced discrimination at the workplace because of their ancestry or appearance, and the work of the EEOC was that much more important because of Mr. Igasaki's presence.

His voice has also been an important one in the development of the national Asian American civil rights movement. Mr. Igasaki has served as the Washington, DC, representative of the Japanese American Citizens League, executive director of the Asian Law Caucus, and executive director of the City of Chicago's Commission on Asian American Affairs.

A more detailed list of Mr. Igasaki's accomplishments is described in a resolution that the national board of the Japanese American Citizens League recently adopted. I ask unanimous consent that this resolution be printed in the RECORD.

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

RESOLUTION IN APPRECIATION OF AND COMMENDING PAUL M. IGASAKI FOR HIS SERVICE ON THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Whereas, Paul M. Igasaki served our nation on the Equal Employment Opportunity Commission (EEOC) with distinction for eight years from 1994 to 2002;

Whereas, Mr. Igasaki was initially nominated by President Clinton and confirmed by the United States Senate in 1994, served as Acting Chairman from January to October 1998 and was confirmed for a second term as Vice Chair on October 21, 1998;

Whereas, Mr. Igasaki was the first Asian Pacific American to serve in these positions at the EEOC;

Whereas, Mr. Igasaki was the architect of the EEOC's strategy for handling job discrimination charges more efficiently which resulted in the prosecution of egregious cases of discrimination and a reduction in charge inventory by more than 50%;

Whereas, Mr. Igasaki sought support for and the approval of the EEOC's historic FY 1999 budget increase for this important but under-funded agency;

Whereas, Mr. Igasaki endeavored to ensure equal employment opportunities through his work as a Commissioner at the EEOC as well as by promoting diversity in hiring at all levels of the agency—in the Washington, DC headquarters and in the regional offices;

Whereas, Mr. Igasaki's outreach to historically underserved communities and his understanding of the harm of ethnic profiling made him an invaluable resource at the EEOC, promoting an environment which allowed those affected by employment discrimination in the aftermath of the horrific attacks on 9/11 to report their cases;

Whereas, Mr. Igasaki was recommended for another term at the EEOC by Senate Democratic Leader Tom Daschle in May 2002;

Whereas, despite Mr. Igasaki's notable achievements and years of dedicated service as a committed and competent public servant at the EEOC, the White House declined to nominate him for another term;

Whereas, failing to be renominated, Mr. Igasaki's term expired, and he left the EEOC at the end of 2002;

Whereas, Mr. Igasaki has a long and distinguished track-record of working on important civil rights issues through such organizations as the Asian Law Caucus, the City of Chicago's Human Relations Commission, the Chicago Commission on Asian American Affairs and the American Bar Association;

Whereas, Mr. Igasaki has also been a long-time member of the JACL, having served as the President of the Chicago chapter and as the Washington, DC Representative where he worked on the Civil Rights Act, immigration reform and was a crucial voice in implementing the Civil Liberties Act of 1988 and the Office of Redress Administration;

Whereas, Mr. Igasaki has always maintained a staunch commitment to and involvement in the Asian Pacific American community and the issues facing our community;

Whereas, Mr. Igasaki has received numerous professional and personal accolades for his achievements;

Therefore be it resolved that the National Board of the Japanese American Citizens League (JACL) on behalf of the entire organization highly commends Paul M. Igasaki for his years of dedicated service at the Equal Employment Opportunity Commission and extends our deepest gratitude to him for his work on behalf of all Americans to combat discrimination in the workplace;

Be it further resolved that the Japanese American Citizens League recognizes and appreciates the considerable contributions made by Paul M. Igasaki as an advocate for civil rights and role model for the Asian Pacific American community;

Be it further resolved that the Japanese American Citizens League thanks Paul M. Igasaki for his tireless efforts to promote and defend civil rights, civil liberties and equality before the law.

Mr. DURBIN. I urge my colleagues to join me in recognizing the important achievements of Mr. Paul Igasaki, and wishing him well in his future efforts to advance civil rights of all Americans.

ADDITIONAL STATEMENTS

HAROLD "TUBBY" RAYMOND'S INDUCTION INTO COLLEGE FOOTBALL HALL OF FAME

● Mr. CARPER. Mr. President, I rise today in recognition of Harold Raymond upon his induction into the College Football Hall of Fame. After 36 seasons as the University of Delaware's head football coach and 48 years in the Blue Hen program, he has earned a reputation for talent, dedication, and loyalty. Known to friends and colleagues as "Tubby," he is a man with a kind heart, diverse interests and great abilities. Tubby embodies the best of the State of Delaware, the University of Delaware, and the institution of coaching.

In a coaching career that has spanned 10 United States presidencies, Tubby led the Blue Hens to three national championships, 16 NCAA play-offs and 14 Lambert Cups. He is one of nine college football athletes to win 300 games and one of just four who accomplished that feat at one institution. He also led his team to three national championships. In his charge, the Blue Hens won more than 50 percent of Delaware's 575 all-time victories in 100 seasons of intercollegiate competition. He retired with a breathtaking record of 300-118-3.

Raymond, a native of Flint, MI, was a quarterback and linebacker at the University of Michigan. It was there, playing for Coach Fritz Crisler, that Raymond learned the Wing-T offense, which he later implemented at Delaware. He has written five books on the subject, as well as producing several instructional videos.

Tubby began coaching in 1949 as an assistant football coach at University High in Ann Arbor, MI. In 1950, he earned a degree in education from the University of Michigan and became head coach at University High.

In 1954, Tubby arrived in the First State, serving as both football backfield coach and head baseball coach for the University of Delaware. In 1966, he took the reins from Dave Nelson as UD's head football coach. Since then, his teams have produced 32 winning seasons.

Over the years, Raymond had offers to coach at Syracuse, Maryland, Arizona, Iowa and Army. Marv Levy twice tried to hire him, once when Levy was coaching at the University of California and again when he was with the Kansas City Chiefs. But Raymond was content to stay with what he calls his "family" at Delaware.

On August 29, 2002, his "family" paid tribute to him when they celebrated Tubby Raymond Day. Completing the eventful night game in style, the Fightin' Blue Hens, under the direction of new head coach K.C. Keeler, defeated NCAA Division I-AA powerhouse Georgia Southern 22-19 before an electrified crowd of over 19,000. At halftime in the game, with the Hens holding a 14-6

lead, the Delaware Stadium playing field was formally named Tubby Raymond Field. Less than 16 months later, the Blue Hen team that Tubby helped to recruit and then turned over to his successor K.C. Keeler went on to defeat Colgate 40-0 in the finals of the NCAA's Division I-AA football playoffs, making the Blue Hens national champions for 2003.

Tubby epitomizes the University's emphasis on developing student-athletes, too. Throughout his tenure, he encouraged his players to succeed in the classroom as well as on the football field. He will tell you that he is as fiercely proud of those who succeed in careers off the gridiron as he is in those who succeed in the NFL.

Tubby's legacy will never be forgotten by those he touched, the players he coached, and the students he inspired. On behalf of all of them and those of us who call Delaware home, I want to thank him for his leadership, congratulate him on a remarkable coaching career and wish him and his family only the very best in all that lies ahead for him and for them.●

TRIBUTE TO JIM WOLFE

● Mr. BIDEN. Mr. President, I rise today to honor a true business leader and long-time friend in my State of Delaware, Jim Wolfe. Many of us in public office talk about creating good-paying jobs and fighting for the middle class, Jim Wolfe has lived those goals throughout his professional career.

For the past 11 years, Jim Wolfe has led the Chrysler, now the DaimlerChrysler Automobile Assembly Plant in Newark, DE. Tomorrow, he is hanging up his hat as plant manager to take the helm as president and CEO of the 2,800-member Delaware State Chamber of Commerce.

As plant manager of Delaware's DaimlerChrysler plant, which is home to the popular, award-winning Dodge Durango, Jim orchestrated a dozen overhauls of the facility to retool it for new car models. More significantly, he oversaw the re-training of thousands of workers to upgrade their skills.

The DaimlerChrysler plant in Delaware is one of only a few U.S. auto facilities remaining on the East Coast. It is an economic engine in Delaware, employing more than 2,300 people and contributing \$363 million annually to our State's economy. The financial domino effect goes even further: one auto worker creates another 1.6 jobs in other industries, such as transportation, retail services, and labor.

Jim Wolfe is no stranger to the Delaware State Chamber of Commerce. For the past year he has served as Chairman of the Chamber's independent Board of Directors. He is a long-time member of the Chamber's Board of Directors and Executive Committee, as well as serving as Chairman of the Delaware Manufacturing Association.

On a personal note, Jim has been a great and trusted friend and advisor to

me for many years. I have visited with him and his workers at the Newark DaimlerChrysler Plant more times than I can count, and he always gave it to me straight. When the facility was in jeopardy of closing in the early 1990s, he counseled me on how to help save this manufacturing gem for our State, which we accomplished.

Jim is a 40-year employee of Chrysler. We stole him from his native Michigan, but he and his wife Laura are now part of the Delaware family.

Jim's stature in the business community has been earned and is well-deserved. He will bring a hands-on knowledge of the business world to his new position directing the Chamber's many affiliates, including the Manufacturing Association, the Delaware Retail Council, The Public Policy Institute, and the Small Business Alliance.

DaimlerChrysler's loss is truly the Delaware State Chamber of Commerce's gain. But we all win because we'll continue to benefit from Jim's affable personality, skilled business acumen and foresight as a community leader in Delaware.●

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

REPORT OF PRESIDENTIAL DETERMINATION 2003-39 RELATIVE TO CLASSIFIED INFORMATION CONCERNING THE AIR FORCE'S OPERATING LOCATION NEAR GROOM LAKE, NEVADA—PM 60

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Environment and Public Works:

To the Congress of the United States:

Consistent with section 6001(a) of the Resource Conservation and Recovery Act (RCRA) (the "Act"), as amended, 42 U.S.C. 6961(a) notification is hereby given that on September 16, 2003, I issued Presidential Determination 2003-39 (copy enclosed) and thereby exercised the authority to grant certain exemptions under section 6001(a) of the Act.

Presidential Determination 2003-39 exempted the United States Air Force's operating location near Groom Lake, Nevada, from any Federal, State, inter-

state, or local hazardous or solid waste laws that might require the disclosure of classified information concerning that operating location to unauthorized persons. Information concerning activities at the operating location near Groom Lake has been properly determined to be classified, and its disclosure would be harmful to national security. Continued protection of this information is, therefore, in the paramount interest of the United States.

The determination was not intended to imply that, in the absence of a Presidential exemption, RCRA or any other provision of law permits or requires the disclosure of classified information to unauthorized persons. The determination also was not intended to limit the applicability or enforcement of any requirement of law applicable to the Air Force's operating location near Groom Lake except those provisions, if any, that might require the disclosure of classified information.

GEORGE W. BUSH.
THE WHITE HOUSE, January 28, 2004.

STATEMENT OF JUSTIFICATION RELATIVE TO THE AUSTRALIA GROUP CHEMICAL AND BIOLOGICAL WEAPONS NONPROLIFERATION REGIME—PM 61

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

Consistent with the resolution of advice and consent to ratification of the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction, adopted by the Senate of the United States on April 24, 1997, I hereby certify pursuant to Condition 7(C)(i), Effectiveness of the Australia Group, that:

Australia Group members continue to maintain equally effective or more comprehensive controls over the export of: toxic chemicals and their precursors; dual-use processing equipment; human, animal, and plant pathogens and toxins with potential biological weapons applications; and dual-use biological equipment, as that afforded by the Australia Group as of April 25, 1997; and

The Australia Group remains a viable mechanism for limiting the spread of chemical and biological weapons-related materials and technology, and the effectiveness of the Australia Group has not been undermined by changes in membership, lack of compliance with common export controls and nonproliferation measures, or the weakening of common controls and nonproliferation measures, in force as of April 25, 1997.

The factors underlying this certification are described in the enclosed statement of justification.

GEORGE W. BUSH.
THE WHITE HOUSE, January 28, 2004.

MESSAGE FROM THE HOUSE

At 12:45 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1385. An act to extend the provision of title 39, United States Code, under which the United States Postal Service is authorized to issued a special postage stamp to benefit breast cancer research.

H.R. 3493. An act to amend the Federal Food, Drug, and Cosmetic Act to make technical corrections relating to the amendments made by the Medical Device User Fee and Modernization Act of 2002, and for other purposes.

The message also announced that the House has passed the following bill, without amendment:

S. 610. An act to amend the provision of title 5, United States Code, to provide for workforce flexibilities and certain Federal personnel provisions relating to the National Aeronautics and Space Administration, and for other purposes.

The message further announced that pursuant to section 1238(b)(3) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (22 U.S.C. 7002), amended by Division P of the Consolidated Appropriations Resolution, 2003, and the order of the House of December 8, 2003, the Speaker reappoints the following Member on the part of the House of Representatives to the United States-China Economic and Security Review Commission: Ms. June Teufel Dreyer of Coral Gables, Florida, for a term to expire December 31, 2005.

MEASURES REFERRED

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

H.R. 1385. An act to extend the provision of title 39, United States Code, under which the United States Postal Service is authorized to issue a special postage stamp to benefit breast cancer research; to the Committee on Governmental Affairs.

H.R. 3493. An act to amend the Federal Food, Drug, and Cosmetic Act to make technical corrections relating to the amendments made by the Medical Device User Fee and Modernization Act of 2002, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

Air Force nominations beginning Brigadier General Roger P. Lempke and ending Colonel James P. Toscano, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 20, 2003.

Air Force nomination of Col. James E. Hearon.

Air Force nomination of Maj. Gen. Thomas L. Baptiste.

Air Force nomination of Maj. Gen. Donald J. Wetekam.

Navy nomination of Capt. Ann D. Gilbride.

Navy nominations beginning Capt. Jon W. Byless, Jr. and ending Capt. William H.

Payne, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 27, 2003.

Navy nomination of Rear Adm. (1h) Fenton F. Priest III.

Navy nomination of Rear Adm. (1h) Paul E. Sullivan.

Mr. WARNER. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

Air Force nominations beginning Paul V. Bennett and ending Victoria G. Zamarripa, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 26, 2003.

Air Force nominations beginning Nelson * Arroyo and ending Paul D. * Sutter, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 4, 2003.

Air Force nominations beginning James J. * Baldock IV and ending Brian K. * Wyrick, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 4, 2003.

Air Force nominations beginning Kimberly L. * Arnao and ending James M. Winner, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 4, 2003.

Air Force nominations beginning David H. * Adams, Jr. and ending James A. * Young, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 4, 2003.

Air Force nominations beginning Laurie A. Abney and ending Deedra L. * Zabokrtsky, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 4, 2003.

Air Force nominations beginning John T. Aalborg, Jr. and ending William A. Zutt, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 4, 2003.

Army nominations beginning Stephen G. Beardsley III and ending Patrick O. Wilson, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 17, 2003.

Army nominations beginning John R. Angelloz, Jr. and ending Michael C. McDaniel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 20, 2003.

Army nomination of James R. Ward.

Army nomination of Michael K. Vaughan.

Army nominations beginning David S. Feigin and ending John E. Hartmann, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 25, 2003.

Army nominations beginning Joseph L. Craver and ending William Hann, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 25, 2003.

Army nomination of Carol Ann Mitchell.

Army nominations beginning Carol A. Bossone and ending Curtis M. Klages, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 25, 2003.

Army nominations beginning Daniel G. Rendeiro and ending Diane K. Patterson, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 25, 2003.

Army nominations beginning Michael T. Endres and ending James A. Chervoni, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 25, 2003.

Navy nominations beginning Tab E Austin and ending Sabrina M Stedman, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 20, 2003.

Navy nominations beginning Albert A. Alarcon and ending Jeffrey W. Winters, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 21, 2003.

Navy nominations beginning Craig L. Abraham and ending Sarah L. Wright, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 25, 2003.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. HUTCHISON (for herself and Mr. CORNYN):

S. 2034. To establish 3 memorials to the Space Shuttle Columbia in the State of Texas; to the Committee on Energy and Natural Resources.

By Mr. GRAHAM of South Carolina

(for himself, Mr. DASCHLE, Mr. LEAHY, Mr. DEWINE, Mrs. CLINTON, Ms. MURKOWSKI, Mr. ALLEN, Mr. SMITH, Ms. LANDRIEU, Mr. REID, Mr. LAUTENBERG, Mr. PRYOR, Mr. KERRY, Ms. CANTWELL, Mrs. LINCOLN, Mr. AKAKA, Mr. LIEBERMAN, Mr. SCHUMER, Mrs. BOXER, Mrs. MURRAY, Mr. DORGAN, Mr. JOHNSON, Mr. BINGAMAN, Mr. DAYTON, Mr. KENNEDY, Ms. MIKULSKI, and Mr. NELSON of Nebraska):

S. 2035. A bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service; to expand certain authorities to provide health care benefits for Reserves and their families, and for other purposes; to the Committee on Armed Services.

By Mrs. FEINSTEIN:

S. 2036. A bill for the relief of Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda; to the Committee on the Judiciary.

By Mr. VOINOVICH (for himself and Mr. DEWINE):

S. 2037. A bill to transfer administrative jurisdiction of a parcel of real property comprising a portion of the Defense Supply Center in Columbus, Ohio, and for other purposes; to the Committee on Armed Services.

By Mr. BAYH (for himself, Mr. CRAIG, Ms. LANDRIEU, and Mr. DURBIN):

S. 2038. A bill to amend the Public Health Service Act to provide for influenza vaccine awareness campaign, ensure a sufficient influenza vaccine supply, and prepare for an influenza pandemic or epidemic, to amend the Internal Revenue Code of 1986 to encourage vaccine production capacity, and for other purposes; to the Committee on Finance.

By Mr. WYDEN (for himself and Mr. SMITH):

S. 2039. A bill to waive time limitations specified by law in order to allow the Medal of Honor to be awarded posthumously to Rex T. Barber of Terrebonne, Oregon, for acts of

valor during World War II in attacking and shooting down the enemy aircraft transporting Japanese Admiral Isoroku Yamamoto; to the Committee on Armed Services.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FEINGOLD (for himself, Mr. KOHL, Mr. CRAIG, Ms. STABENOW, Mr. SCHUMER, Mr. JEFFORDS, Mr. SPECTER, Mrs. CLINTON, Mrs. BOXER, Ms. COLLINS, Mr. CRAPO, Mr. DAYTON, Ms. SNOWE, Mr. DOMENICI, Mr. COLEMAN, Mr. LEAHY, and Mrs. FEINSTEIN):

S. Res. 293. A resolution expressing the sense of the Senate that the President and United States Trade Representative should ensure that any future free trade agreements do not harm the dairy industry of the United States; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. MCCAIN, Mr. ALLEN, Mr. AKAKA, Mr. PRYOR, Mr. KERRY, Mr. NELSON of Nebraska, Mr. DODD, Mr. DAYTON, Ms. MIKULSKI, Mr. GRASSLEY, and Mr. COCHRAN):

S. Res. 294. A resolution designating January 2004 as "National Mentoring Month"; to the Committee on the Judiciary.

By Mr. SMITH (for himself, Mr. BIDEN, and Mr. ALLEN):

S. Con. Res. 87. A concurrent resolution welcoming the Prime Minister of Turkey to the United States; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 68

At the request of Mr. INOUE, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 68, a bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes.

S. 700

At the request of Mr. CAMPBELL, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 700, a bill to provide for the promotion of democracy, human rights, and rule of law in the Republic of Belarus and for the consolidation and strengthening of Belarus sovereignty and independence.

S. 1092

At the request of Mr. CAMPBELL, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1092, a bill to authorize the establishment of a national database for purposes of identifying, locating, and cataloging the many memorials and permanent tributes to America's veterans.

S. 1108

At the request of Mrs. CLINTON, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1108, a bill to establish within the National Park Service the 225th Anniversary of the American Revolution Commemorative Program, and for other purposes.

S. 1143

At the request of Mrs. HUTCHISON, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1143, a bill to amend the Public Health Service Act to direct the Secretary of Health and Human Services to establish, promote, and support a comprehensive prevention, research, and medical management referral program for hepatitis C virus infection.

S. 1189

At the request of Mr. DURBIN, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 1189, a bill to ensure an appropriate balance between resources and accountability under the No Child Left Behind Act of 2001.

S. 1335

At the request of Mr. GRAHAM of Florida, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1335, a bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs.

S. 1345

At the request of Mrs. MURRAY, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1345, a bill to extend the authorization for the ferry boat discretionary program, and for other purposes.

S. 1431

At the request of Mr. LAUTENBERG, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1431, a bill to reauthorize the assault weapons ban, and for other purposes.

S. 1484

At the request of Mr. WYDEN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1484, a bill to require a report on Federal Government use of commercial and other databases for national security, intelligence, and law enforcement purposes, and for other purposes.

S. 1588

At the request of Ms. LANDRIEU, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1588, a bill to authorize the National Institute of Environmental Health Sciences to develop multidisciplinary research centers regarding women's health and disease prevention and conduct and coordinate a research program on hormone disruption, and for other purposes.

S. 1700

At the request of Mr. LEAHY, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1700, a bill to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local

crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes.

S. 1813

At the request of Mr. LEAHY, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 1813, a bill to prohibit profiteering and fraud relating to military action, relief, and reconstruction efforts in Iraq, and for other purposes.

S. 2006

At the request of Mr. KENNEDY, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 2006, a bill to extend and expand the Temporary Extended Unemployment Compensation Act of 2003, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. HUTCHISON (for herself and Mr. CORNYN):

S. 2034. To establish 3 memorials to the Space Shuttle Columbia in the State of Texas; to the Committee on Energy and Natural Resources.

Mrs. HUTCHISON. Mr. President, today in honor of the memory and sacrifice of seven astronauts whose lives were tragically cut short one year ago in the destruction of the Space Shuttle Columbia, I bring to the floor a bill to authorize the construction of several memorials in communities that were severely effected by the event.

This bill authorizes \$5 million to be used in communities along the Space Shuttle Columbia Recovery Corridor: specifically, Lufkin, Hemphill, and Nacogdoches, TX. Each of these communities have started work with NASA to memorialize the disaster and the indomitable spirit of adventure and courage, the spirit that defies complacency and accepts challenge, the spirit that each of these astronauts, and each of these communities showed.

This spirit of adventure turned space travel from dreams to a reality. It is this spirit of challenge which fueled the courage and ambition of seven men and women into the sky on January 6, 2003. It is also this same spirit that drives these communities to permanently commemorate the high price we sometimes pay for reaching new horizons.

Hemphill, TX, where the nose cone of the Shuttle was found, is also where the remains of the crew were recovered. The VFW post in Hemphill fed thousands of volunteers for weeks without so much as a complaint or a dime. The men and women of Hemphill did not take their task lightly, but rather with a solemn grace and dignity.

The greatest amount of debris came down in the populated areas of Nacogdoches, TX. Backyards and streets were littered with debris, permanently altering the community. The citizens of Nacogdoches pulled together and focused on the recovery, working day and night with NASA until the job was complete. A spirit of courage overran the community of Nacogdoches and their sacrifice should never be forgotten.

The population of Lufkin, TX doubled overnight as the retrieval effort started. The people of Lufkin opened their doors and hearts to thousands and made their civic center NASA's Columbia retrieval command center. From combing the streets and fields for debris to making home cooked meals for the recovery workers, the people of Lufkin mustered around the Columbia tragedy.

In recent years, America has borne too much tragedy and experienced too much grief, but our collective loss still sears our souls and the pain is never easy to bear. Today, just one year after they vanished into the deep blue skies of Texas, we pause to remember and honor Rick Husband, Kalpana Chawla, Laurel Clark, Ilan Roman, William McCool, David Brown, and Michael Anderson.

And though the families' losses cannot be diminished, their pain and grief is shared around the world and our prayers are with them. This bill will memorialize their sacrifice and will honor the courageous spirit of the communities effected. Their sacrifices will never be forgotten.

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. 2034

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 "Columbia Space Shuttle Memorials Act of 2004".

SEC. 2. DEFINITIONS.

In this Act:

(1) MEMORIAL.—The term "memorial" means each of the memorials to the Space Shuttle Columbia established by section 3(a).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the National Park Service.

SEC. 3. MEMORIALS TO THE SPACE SHUTTLE COLUMBIA.

(a) ESTABLISHMENT.—There are established as units of the National Park System 3 memorials to the Space Shuttle Columbia to be located on the 3 parcels of land in the State described in subsection (b) on which large debris from the Space Shuttle Columbia was recovered.

(b) DESCRIPTION OF LAND.—The parcels of land referred to in subsection (a) are—

(1) the parcel of land owned by the Fredonia Corporation, located at the southeast corner of the intersection of E. Hospital Street and N. Fredonia Street, Nacogdoches, Texas;

(2) the parcel of land owned by Temple Inland Inc., located 10 acres of a 61-acre tract

bounded by State Highway 83 and Bayou Bend Road, Hemphill, Texas; and

(3) the parcel of land owned by the city of Lufkin, Texas, located at City Hall Park, 301 Charlton Street, Lufkin, Texas.

(c) ADMINISTRATION.—The memorials shall be administered by the Secretary.

(d) ADDITIONAL SITES.—The Secretary may recommend to Congress additional sites in the State of Texas related to the Space Shuttle Columbia for establishment as memorials to the Space Shuttle Columbia.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act \$5,000,000 for fiscal year 2004, to remain available until expended.

By Mr. GRAHAM of South Carolina (for himself, Mr. DASCHLE, Mr. LEAHY, Mr. DEWINE, Mrs. CLINTON, Ms. MURKOWSKI, Mr. ALLEN, Mr. SMITH, Ms. LANDRIEU, Mr. REID, Mr. LAUTENBERG, Mr. PRYOR, Mr. KERRY, Ms. CANTWELL, Mrs. LINCOLN, Mr. AKAKA, Mr. LIEBERMAN, Mr. SCHUMER, Mrs. BOXER, Mrs. MURRAY, Mr. DORGAN, Mr. JOHNSON, Mr. BINGAMAN, Mr. DAYTON, Mr. KENNEDY, Ms. MIKULSKI, and Mr. NELSON of Nebraska):

S. 2035. A bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service; to expand certain authorities to provide health care benefits for Reserves and their families, and for other purposes; to the Committee on Armed Services.

Mr. SMITH. Mr. President, I rise today to join my colleagues in cosponsoring the National Guard and Reserves Reform Act for the 21st Century.

I am proud of Oregon's citizen-soldiers, and I firmly believe we need the Guard and Reserves more today than we have in decades. Forces of the United States National Guard and Reserves make essential and effective contributions to Operation Iraqi Freedom and other ongoing military operations. Oregon units have been on the vanguard of these operations.

While our dependence on the reserves has increased, their basic pay and benefits structure remained largely unchanged until last year. Through a strong bipartisan effort Congress passed a bill to extend TRICARE benefits to National Guard and Reservists. We need to assure our military that as we continue to support their readiness capabilities, we remember the personal well-being of Oregonians in uniform as well as that of their families.

This bill will improve the medical readiness of our Reserve and Guard forces, increase recruiting and retention, and offer faster and less cumbersome mobilizations. Healthier citizen-soldiers make our military more effective. As we continue the war on terror, we need a healthy and motivated fighting force. This legislation will work toward that end.

The Guard and Reserves in my State have selflessly responded to the call of our country, and we cannot forget that

part-time soldiers have full-time health needs. In order to ensure our citizen-soldiers are healthy when they are needed, I urge my Congressional colleagues to pass this bill to continue health care coverage to our Reservists and Guardsmen.

By Mrs. FEINSTEIN:

S. 2036. A bill for the relief of Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise today to offer legislation to provide lawful permanent residence status to Jose Buendia Balderas, Alicia Aranda De Buendia and Ana Laura Buendia Aranda, Mexican nationals who live in the Fresno area of California.

I have decided to introduce legislation on their behalf because I believe this family is deserving of an exception.

Firstly, an immigration judge has granted the family relief, only to have that decision overturned by the Board of Immigration Appeals. Immigration Judge Polly A. Webber heard that Jose Buendia and his wife, Alicia Aranda de Buendia, should be granted cancellations of removal under the Immigration and Nationality Act. In her decision, Immigration Judge Webber stated that she felt that the Buendias 9-year-old son would face exceptional and extremely unusual hardship if the family was deported from the United States.

The immigration judge's decision was based on testimony taken from Jose and Alicia Buendia, as well as Alicia Buendia's sister, who is a lawful permanent resident. The immigration judge found that if the Buendia's son "wanted to go to school in Mexico past sixth grade, he would have major obstacles in being able to do so, which the Court can only take as extreme hardship in terms of 2-hour transportation that may or may not be available, separation from parents, perhaps having to live in a strange environment with strange people, moving away from his relatives in the United States . . . being subjected to substandard health care, economic instability, and poor living conditions."

Unfortunately, the Board of Immigration Appeals overturned the immigration judge's decision. In a one paragraph decision the Board of Immigration Appeals concluded "that the respondent failed to establish the required hardship to his United States citizen son, who was age 9 at the time of the hearing." That one sentence was the basis for overturning an immigration judge's decision.

Secondly, Mr. Buendia attempted to legalize his immigration status but was not successful due to an unscrupulous lawyer and a misinterpretation by the Immigration and Naturalization Service concerning applicants eligibility to apply for legalization under the 1987 amnesty law.

Because Mr. Buendia has been in this country for so long, he qualified for legalization pursuant to the Immigration and Reform Control Act of 1986. Unfortunately his legalization application was never acted upon.

One reason it was not acted upon is because his attorney, Jose Velez, was convicted of fraudulently submitting legalization and Special Agricultural Worker applications. Because of the criminal conviction, all of Mr. Velez's applications were suspect. Although Mr. Buendia's application under the legalization program was found not to contain any fraudulent documentation associated, here began his problems.

Mr. Buendia's legalization application was flagged under Operation Desert Deception, a large-scale investigation which targeted providers of fraudulent applicants and documentation under the legalization and Special Agricultural Workers program. Dozens of people, including INS officers, were convicted of legalization fraud, bribery or tax evasion. At the time of filing Mr. Buendia's application with the Immigration and Naturalization Service the attorney, Jose Velez, was under investigation.

Although Mr. Buendia qualified for legalization because he arrived in the United States prior to January 1, 1982 he was not able to attend his interview in 1990 due to the investigation into his attorney.

Thirdly, it took the Immigration and Naturalization Service nearly 7 years to make a finding concerning his case. He was originally scheduled to be interviewed in June of 1990 on his application for legalization. The official Memo to File by the Immigration and Naturalization Service determining Mr. Buendia's application contained no fraudulent information was not posted until January 1997.

Fourthly, in the intervening years another problem arose. An interpretation by the Immigration and Naturalization Service as to the application of the law to legalization cases such as Mr. Buendia's. Because Mr. Buendia departed the United States in 1987 to marry his wife in Mexico, the Immigration and Naturalization Service stated he was no longer eligible for legalization when it again reviewed his application in 1997. This issue was litigated in *CSS v. Meese* and Mr. Buendia was a class member in this lawsuit. Unfortunately this lawsuit provide unhelpful to Mr. Buendia because the end result of the litigation was a much more limited class of eligible applicants.

Finally, and of substantial importance, this family has been here for 17 years and built a life here. The Buendias own property, are hard workers, are community minded and have two children in school—one of whom is a U.S. citizen.

Mr. Buendia is a valued employee of Bone Construction. He has been employed by this cement company for the past 5 years. He has proven himself, rising to become a lead foreman. His

employer, Timothy Bone, says Mr. Buendia is a "reliable, hardworking and conscientious" employee.

Mr. Buendia has an exemplary work history. From 1981 to 1989 he worked for Ascension Hernandez as a landscaper in League City, TX. Thereafter he moved to Las Vegas, NV where he continued to work in landscaping. In 1990 he and his family settled in Reedley, CA where he began working in construction. Knowing nothing about construction, having a background in landscaping, Mr. Buendia was disciplined and persistent in his training and is now a lead foreman for a cement construction company. Mr. Buendia is such a hard worker that he even has his own cement company, which he works on weekends.

Alicia Buendia, Jose Buendia's wife, works as a seasonal fruit packer. Cliff Peters, the owner of Wildwood Orchards where Alicia Buendia worked during the 2003 season, says she is "a hard worker, dependable, and consistently did a good job." He added that work would be available to her on an ongoing seasonal basis. Mrs. Buendia has worked as a seasonal fruit packer for several years.

Their daughter, Ana Laura, is in the 10th grade at Reedley High School where she has earned a 4.0 GPA which shows she is a highly motivated student. An important consideration in this case is that Ana Laura was brought to the United States by her parents when she was only 2 years old. Ana Laura, who will be 16 years old this year, has known no other country than the United States. She believes she is an American. But now she is told she must return to Mexico, a country she has never lived in.

The Buendia's son, Jose, who was born in the United States, is in 8th grade. Like his sister, this is the only country he knows.

Ana Laura and Jose's elementary school principal speaks highly of not only the children but the Buendias. This even though the children are now in high school. Mary Ann Carouso, principal, says in an e-mail to my office, "I can tell you that I have rarely met 2 more active, concerned, supportive parents than Alicia [sic] and Jose Buendia! . . . I don't think they ever missed a parent club meeting." Principal Carouso also says that "Both Jose and Alicia continued to help at our school for several years after their youngest child had graduated . . . Jose, Sr. frequently hauled chairs across a dark parking lot at 9:00 p.m. at night following a parent club meeting . . . He often talked about what parents should be doing to help the school out so that excess money didn't have to be spent on simple construction projects. Alicia is a mom who just never says no to requests for help." With that type of endorsement it seems to me we should be thankful to have such involved parents in our communities.

This family has embraced the American dream, and I believe they should

be allowed to continue to live in this country. If this legislation is approved, the Buendias will be able to continue to make significant contributions to their community and the United States. It is my hope that Congress passes this private legislation.

I ask unanimous consent numerous letters of support our office has received from members of the Reedley community be printed in the RECORD.

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

BONE CONSTRUCTION, INC.,
Fresno, CA, December 16, 2003.

Senator DIANNE FEINSTEIN,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

Thank you for responding to Jose and Alicia Buendia's tragic story. Simply, in my judgment the Immigration and Naturalization Service has run amok in regards to Jose's persistent effort to properly be granted citizenship. And, consequently, he and Alicia are being treated outrageously unjust and ordered to be deported from Bakersfield on December 31, 2003 for no legitimate reason, leaving behind their two children without parental guidance and financial support. Personally, I am embarrassed by "the system's" total disregard for the Buendia family and failure to recognize their "rights" and exemplary citizenship. The Buendia's story is a tragedy and someone should be held responsible.

Jose has been employed with Bone Construction Inc., for the past four years. He is a gentleman and model employee who has earned the position of lead foreman. He and his family enjoy our benefit package of health insurance and a retirement plan. He possesses a valid social security number, work visa and driver's license. And he has requested the appropriate withholding taxes. Simply, he is self directed and a leader in our organization with a very promising future.

Your response is urgently being anticipated. Jose has turned to me for counsel. He is obviously terrified by the order of deportation and does not know what to do in regards to compliance. For sure, he does not want to be a fugitive. We are working feverishly to find a compassionate ear and immediate assistance. We are praying for a Christmas miracle.

Respectfully,

TIMOTHY F. BONE.

WILDWOOD ORCHARDS,
January 9, 2004.

Re Alicia A. Buendia.

To Whom It May Concern: Alicia Buendia worked in the Wildwood Orchards packing shed during the 2003 season. She earned approximately \$10.00 per hour packing fresh fruit on a piecemeal basis.

She was a hard worker, dependable, and consistently did a good job. Work would be available to her on an ongoing seasonal basis.

Sincerely,

CLIFF PETERS,
Owner.

From: Mary Ann Carouso <carouso-m@kingscanyon.usd.k12.ca.us>
To: <shelly_abajian@feinstein.senate.gov>
Date: Tuesday, January 6, 2004
Subject: Jose & Alicia Buendia
Good morning, Shelly.

First, here is the information you wanted on the children.

(1) Ana "Laura" Buendia, Grade 10, Reedley High School (John Campbell, principal).

Biology with Tony Rocella
 Drama 2 with Erin Bray
 French 2 with Gail Hutchinson
 PE with Pablo Saenz
 Tutorial with Pablo Saenz
 Video Prod. with Noe Camacho
 English with Jennifer Moore
 Geometry with James Rudometkin
 Jose "Alex" Buendia, Grade 8, Grant Middle School, (Bill Wachtel, principal).
 Homeroom with Lynn Mann
 Science with Eric Thiessen
 Algebra with Lee Bull
 Reading/Writing with Jean Crawford
 PE with Rick Furlong
 Computer with Kristie Bartlett
 Academic Skills with Monica Benner

Secondly, I promised to give you some notes on the conversation we had last night. Both Laura and Alex attended elementary school here at Jefferson School, where I am the principal. I can tell you that I have rarely met 2 more active, concerned, supportive parents than Alicia and Jose Buendia! As a new principal, I appreciated the eagerness that Jose and Alicia demonstrated in stepping up to any matter of parental involvement! Neither of them let the language barrier stand in the way of their VERY ACTIVE involvement at our school. I don't think they ever missed a parent club meeting. Alicia was at school several days a week volunteering for whatever project I needed help on. She attended district level meetings as our parent representative for several years. Both Jose and Alicia continued to help at our school for several years after their youngest child had graduated. (I used to tease them about having more children so I could keep them at Jefferson forever!) Jose, Sr. frequently hauled chairs across a dark parking lot at 9:00 p.m. at night following a parent club meeting that had to be held at our neighboring school. He often talked about what parents should be doing to help the school out so that excess money didn't have to be spent on simple construction projects. Alicia is a mom who just never says no to requests for her help. Both Ana (Laura) and Jose, Jr. (Alex) were good students at Jefferson, whose teachers were always delighted to see their names on their rosters at the beginning of the year. I can't help but feel that, if anything, these 2 extraordinary parents are being punished for simply being too honest. I want VERY MUCH to help them. I have appreciated TREMENDOUSLY the work of Senator Feinstein's office in assisting these great folks. My letter of support is included in the Buendia packet. Please let me know how I can rally support for these amazing people. I owe them that at the very least, for their extraordinary friendship to Jefferson Elementary School.

Sincerely,

MARY ANN CAROUSSO.

S. 2036

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT RESIDENT STATUS FOR JOSE BUENDIA BALDERAS, ALICIA ARANDA DE BUENDIA, AND ANA LAURA BUENDIA ARANDA.

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act, Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda shall each be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of that Act or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda enter the United States before the filing deadline specified in subsection (c), Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda shall be considered to have entered and remained lawfully and shall be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees within 2 years after the date of enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon the granting of an immigrant visa or permanent residence to Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda, the Secretary of State shall instruct the proper officer to reduce by 3, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of birth of Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas that are made available to natives of the country of birth of Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda under section 202(e) of that Act.

By Mr. VOINOVICH (for himself and Mr. DEWINE):

S. 2037. A bill to transfer administrative jurisdiction of a parcel of real property comprising a portion of the Defense Supply Center in Columbus, Ohio, and for other purposes; to the Committee on Armed Services.

Mr. VOINOVICH. 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. 2037

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER OF ADMINISTRATIVE JURISDICTION, DEFENSE SUPPLY CENTER, COLUMBUS, OHIO.

(a) TRANSFER REQUIRED.—As soon as practicable after the date of the enactment of this Act, the Secretary of the Army shall transfer, without reimbursement, to the administrative jurisdiction of the Secretary of Veterans Affairs a parcel of real property consisting of approximately 20 acres and comprising a portion of the Defense Supply Center in Columbus, Ohio.

(b) USE OF THE REAL PROPERTY.—The Secretary of Veterans Affairs shall use the real property as the site for the construction of a new outpatient clinic for the provision of medical services to veterans.

(c) ENVIRONMENTAL ASSESSMENT OF REAL PROPERTY.—

(1) ASSESSMENT.—Prior to the transfer of the real property under subsection (a), the Secretary of the Army shall conduct an environmental assessment of such property to document all reasonably ascertainable information that exists on the environmental condition of such property.

(2) COSTS.—Any costs incurred in conducting the assessment under paragraph (1), including any costs associated with any ac-

tions undertaken to bring such property into compliance with any Federal, State, or local environmental laws or regulations, shall be borne by the Secretary of the Army.

(d) DESCRIPTION OF REAL PROPERTY.—

(1) SURVEY REQUIRED.—The exact acreage and legal description of the real property to be transferred under subsection (a) shall be determined by a survey satisfactory to the Secretary of the Army.

(2) COST.—The cost of the survey carried out under paragraph (1) shall be borne by the Secretary of Veterans Affairs.

By Mr. WYDEN (for himself and Mr. SMITH):

S. 2039. A bill to waive time limitations specified by law in order to allow the Medal of Honor to be awarded posthumously to Rex T. Barber of Terrebonne, Oregon, for acts of valor during World War II in attacking and shooting down the enemy aircraft transporting Japanese Admiral Isoroku Yamamoto; to the Committee on Armed Services.

Mr. WYDEN. Mr. President, I am pleased to be joined by Senator SMITH in introducing a bill to waive all statutory time limitations so that Colonel Rex T. Barber, of Terrebonne, OR may be posthumously awarded a Medal of Honor.

Colonel Rex T. Barber was a World War II fighter pilot who risked his life to shoot down Admiral Isoroku Yamamoto, the Commander in Chief of the Combined Japanese Fleet and architect of the attack on Pearl Harbor.

Our bill not only waives the statutory time limitations applying to the Medal of Honor, but also requests that the President posthumously award the medal to this deserving man.

On April 18, 1943, Barber, then a first lieutenant in the 399th Fighter Squadron of the South Pacific Air Forces, Army Air Corps, undertook a top secret mission to shoot down Yamamoto. Barber successfully attacked a bomber transporting Yamamoto despite heavy counterattacks by Japanese fighters escorting the admiral. Upon return to base, Barber found more than 100 holes in his aircraft. Admiral Yamamoto's plane crashed in flames, killing Yamamoto and his crew.

This brave exploit of Colonel Barber is well-documented, and I look forward to working with my colleagues in the Oregon delegation, the Congress, and ultimately the President, to see that his bravery is formally recognized.

I ask unanimous consent that the text to the bill be printed in the RECORD.

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

S. 2039

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY FOR AWARD OF THE MEDAL OF HONOR TO REX T. BARBER FOR VALOR DURING WORLD WAR II.

(a) WAIVER OF TIME LIMITATIONS.—Notwithstanding the time limitations in section 3744 of title 10, United States Code, or any other time limitation applicable with respect to the awarding of certain medals to

persons who served in the Air Force, the President is authorized and requested to award the Medal of Honor posthumously under section 3741 of that title to Colonel (retired) Rex T. Barber, United States Air Force, of Terrebonne, Oregon, for the acts of valor referred to in subsection (b).

(b) ACTION DESCRIBED.—The acts of valor referred to in subsection (a) are the conspicuous acts of gallantry and intrepidity of Rex T. Barber at the risk of his life and beyond the call of duty on April 18, 1943, while serving as a first lieutenant in the 339th Fighter Squadron of the South Pacific Air Forces, Army Air Corps, in successfully attacking and shooting down the enemy bomber aircraft transporting Admiral Isoroku Yamamoto, the Commander in Chief of the Combined Japanese Fleet and architect of Japan's attack on Pearl Harbor.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 293—EX-PRESSING THE SENSE OF THE SENATE THAT THE PRESIDENT AND UNITED STATES TRADE REPRESENTATIVE SHOULD ENSURE THAT ANY FUTURE FREE TRADE AGREEMENTS DO NOT HARM THE DAIRY INDUSTRY OF THE UNITED STATES

Mr. FEINGOLD (for himself, Mr. KOHL, Mr. CRAIG, Ms. STABENOW, Mr. SCHUMER, Mr. JEFFORDS, Mr. SPECTER, Mrs. CLINTON, Mrs. BOXER, Ms. COLLINS, Mr. CRAPO, Mr. DAYTON, Ms. SNOWE, Mr. DOMENICI, Mr. COLEMAN, Mr. LEAHY, and Mrs. FEINSTEIN) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 293

Whereas the United States is home to thousands of dairy producers, with dairy farmers in every State;

Whereas, as of the date of this resolution, the United States and the Australia are negotiating the development of a free trade agreement;

Whereas these negotiations could have dire consequences for several of the agricultural industries of the United States, including the dairy industry;

Whereas improper treatment of dairy in the United States-Australia Free Trade Agreement could concentrate the exporting focus of Australia largely on the United States; and

Whereas significantly increasing access to the dairy markets of the United States for Australian imports would greatly undermine milk prices, thwarting Federal efforts to support dairy producers and their families: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President and the United States Trade Representative should exercise great caution in negotiating and drafting the trading terms that would apply to the dairy industry under the proposed United States-Australia Free Trade Agreement.

Mr. FEINGOLD. Mr. President, as many of my colleagues know, Wisconsin's dairy industry is one of the largest industries in the State, generating billions of dollars for the State's economy. With an estimated impact of \$18.5 billion, milk sustains over 16,000 farm families and nearly 200,000 jobs in the

State. With thousands of dairy farms and hundreds of dairy processors, the industry is vital to creating and sustaining good jobs in Wisconsin. These numbers do not capture the full import of the dairy industry, however. In Wisconsin, dairy is more than an issue of dollars and cents—it is part of our heritage that every Wisconsinite takes pride in.

America's Dairyland is already threatened by bad trade agreements, but one of the worst for dairy farmers is currently in the works. U.S. negotiators are trying to wrap up a trade agreement with Australia, which is expected to include new terms of trade for agricultural commodities. Any agreement with Australia, and any subsequent agreement with New Zealand, could have a very negative impact on Wisconsin's dairy industry.

The administration has contemplated changes to our trade laws that would lay open our markets to dairy and other farm products from Australia and possibly New Zealand. Australian and New Zealand milk producers are among the many who have been using a trade loophole on milk protein concentrates to undercut our domestic dairy prices, a loophole that I am working to close. Further imports from Australia can only push U.S. milk prices lower.

This proposal comes at a time when dairy farmers are just beginning to think about a recovery from the low milk prices of the past few years. The impact of this agreement on the Nation's dairy industry, and Wisconsin in particular, will be significant. According to the National Milk Producers Federation, the flood of imports from Australia that would follow from a trade agreement could cost this country nearly one-quarter of our dairy farms. Wisconsin has been losing dairy farms at an alarming rate, and we certainly cannot afford a trade agreement that hastens that change.

I have opposed the efforts of the U.S. Trade Representative to pursue this agreement given its negative consequences for Wisconsin. I have clearly stated my position, and the position reiterated to me by dairy farmers across the State, to Ambassador Zoellick. Joined by 30 of my State colleagues, I have called upon President Bush to respond to the concerns of Americans regarding the negotiations on a free trade agreement with Australia. Today, along with several of my of my colleagues—Senators KOHL, CRAIG, STABENOW, SCHUMER, JEFFORDS, SPECTER, CLINTON, BOXER, COLLINS, DAYTON, CRAPO, DOMENICI, and SNOWE. I am submitting a resolution reiterating the fact that we must ensure that our dairy industry, especially dairy producers, will not suffer undue hardships if this agreement is put in place.

If the U.S. gives Australia significantly increased access to our dairy market, this will greatly undermine milk prices, thwarting federal efforts to support dairy producers and their

families. Estimates suggest that an agreement with Australia would cost this country more than 150,000 jobs that depend on a healthy U.S. dairy sector. Wisconsin's communities are at great risk, and I call on all my colleagues to join me in working to protect the country's dairy industry from an unfair trade agreement with Australia.

Mr. KOHL. Mr. President, I join my colleague from Wisconsin in support of this resolution. I remain deeply concerned about the direction the President's negotiators are headed in the U.S.-Australia Free Trade negotiations.

I know there are lots of moving parts to this or any trade negotiation. But if recent reports are correct the U.S./Australia negotiations seem to be boiling down to a handful of critical issues—among them are dairy and drugs. Australia is angling for more access to our dairy markets. The Bush Administration, on behalf of pharmaceutical manufacturers, is pushing for greater access to Australia's Pharmaceutical Benefits Scheme.

I suspect I know who wins if the Bush administration has to make a trade-off between the interests of dairy farmers and huge pharmaceutical corporations. The Bush administration demonstrated remarkable loyalty to pharmaceutical manufacturers during debate on the Medicare bill. I suspect those loyalties are alive and well and fear they may trump the interests of thousands of dairy producers and processors across the country.

Out of an abundance of caution, I will reserve judgment on the final package until we have something more concrete to review. But the President's negotiators should be on notice that we will be closely following these negotiations to assure that dairymen's concerns are given every consideration.

SENATE RESOLUTION 294—DESIGNATING JANUARY 2004 AS "NATIONAL MENTORING MONTH"

Mr. KENNEDY (for himself, Mr. MCCAIN, Mr. ALLEN, Mr. AKAKA, Mr. PRYOR, Mr. KERRY, Mr. NELSON of Nebraska, Mr. DODD, Mr. DAYTON, Ms. MIKULSKI, Mr. GRASSLEY, and Mr. COCHRAN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 294

Whereas mentoring is a strategy for motivating and helping young people succeed in life, by bringing them together in structured and trusting relationships with caring adults who provide guidance, support, and encouragement;

Whereas mentoring offers a supportive environment in which young people can grow, expand their vision, learn necessary skills, and achieve a future that the young people never thought possible;

Whereas a growing body of research shows that mentoring benefits young people in numerous ways, through improvements in

school performance and attendance, self-confidence, attitudes and relationships with adults, and motivation to reach their potential;

Whereas mentoring is an adaptable, flexible approach that can be tailored to focus on helping young people with academics, social skills, career preparation, or leadership development;

Whereas over 15,000,000 young people in this Nation still need mentors, falling into a "mentoring gap";

Whereas mentoring relies principally on volunteer mentors, so mentoring programs must recruit even more volunteers in order to expand their program to help more young people;

Whereas, in an effort to begin closing the mentoring gap, this year Congress has significantly increased Federal grant funding for local mentoring organizations to \$100,000,000;

Whereas the recipients of these grants and other entities carrying out mentoring programs all across the country will need an influx of volunteers to meet the growing demand for mentoring;

Whereas nonprofit groups and leading media companies have joined together to designate January 2004 as National Mentoring Month to recruit more mentors for young people; and

Whereas the month-long celebration of mentoring will encourage more adults to volunteer their time as mentors for young people and enlist the involvement of nonprofit organizations, schools, businesses, faith communities, and government agencies in the mentoring movement: Now, therefore, be it

Resolved, That the Senate—

(1)(A) designates the month of January 2004 as "National Mentoring Month"; and

(B) requests that the President issue a proclamation calling on the people of the United States and interested groups to observe the month with appropriate ceremonies and activities that promote awareness of and volunteer involvement with mentoring;

(2) praises individuals who are already giving their time to mentor young people; and

(3) supports efforts to recruit more adults as mentors, in an effort to close the Nation's mentoring gap.

Mr. MCCAIN. Mr. President, I am pleased to join with Senator KENNEDY in introducing a resolution designating January 2004 as "National Mentoring Month."

We all agree that young people need a supportive environment based on structured and trusting relationships with adults. Mentors play a significant role in many young peoples' lives by sharing their experiences and providing the support and encouragement that children need in order to grow into responsible, caring adults. Mentors often are the key to helping a young person achieve the type of future they might never have thought possible.

A growing body of research has shown the tremendous benefits of mentoring. Children with mentors are shown to improve in school performance and attendance; they are more self-confident; they have good social skills; and above all else, they're motivated to reach their full potential. Mentoring works. Unfortunately, a severe shortage of volunteers has left over 15 million young people without mentors.

National Mentoring Month highlights the needs and goals of mentoring

in this country. This month, non-profit organizations, schools, businesses, faith communities, and government agencies will join together to encourage adults to serve as mentors for our young people. Programs must be expanded to recruit more volunteers to help fill the mentoring gap. Mentoring has successfully helped many children in this country and we must work together to expand such valuable programs.

SENATE CONCURRENT RESOLUTION 87—WELCOMING THE PRIME MINISTER OF TURKEY TO THE UNITED STATES

Mr. SMITH (for himself, Mr. BIDEN, and Mr. ALLEN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 87

Whereas for more than 50 years a strategic partnership has existed between the United States and Turkey that has been of enormous political, economic, cultural, and strategic benefit to both countries;

Whereas the United States and Turkey share common ideals and a clear vision for the 21st century, where freedom and democracy are the foundations for peace, prosperity, and progress;

Whereas the Government of Turkey has demonstrated its unequivocal support for the war against terrorism throughout the world, and has called for the international community to unite against this threat;

Whereas Turkey commanded the International Security Assistance Force (ISAF) in Afghanistan from June 2002 to February 2003 and provided humanitarian and medical assistance in Afghanistan and in Iraq;

Whereas in October 2003 Turkey became the first predominantly Muslim state to authorize sending peacekeepers to Iraq when the Turkish Parliament voted to approve a deployment of 10,000 troops;

Whereas the people of Turkey also have been victims of international attacks on November 15, 2003, and November 20, 2003;

Whereas the Government of Turkey immediately condemned the terrorist attacks in the strongest possible terms, detained the perpetrators, and quickly brought them to justice.

Whereas the terrorist attacks in Turkey brought the United States and Turkey closer together, in spite of the terrorists' motive of driving the two countries apart;

Whereas the Government of Turkey has made its bases in Incirlik available as a transit point for United States troops returning to the United States from Iraq;

Whereas Prime Minister Erdoğan supports a renewed effort by the United Nations to reunify the divided country of Cyprus;

Whereas the United States supports Turkey's bid for membership in the European Union;

Whereas Turkey and Israel, the only democracies in the Middle East, established diplomatic relations in 1949, and have a multi-faceted and thriving relationship; and

Whereas Turkish Prime Minister Erdoğan brings a strong message from the Turkish people that Turkey will continue to support the United States campaign against international terrorism as well as United States efforts to rebuild and bring democracy and stability to Afghanistan and Iraq: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) offers its warmest welcome to Prime Minister Recep Tayyip Erdoğan upon his visit to the United States from January 26 through 31, 2004;

(2) asks Prime Minister Erdoğan to communicate the continuing support of Congress and of the people of the United States to the people of Turkey;

(3) recognizes that the visit of Prime Minister Erdoğan to the United States is a significant step toward broadening and deepening the strategic partnership, friendship and cooperation between the United States and Turkey;

(4) acknowledges Prime Minister Erdoğan's support for renewed negotiations in Cyprus; and

(5) thanks Prime Minister Erdoğan and the people and government of Turkey for—

(A) assuming command of the International Security Assistance Force in Kabul, Afghanistan from June 2002 to February 2003;

(B) providing humanitarian and medical assistance in Afghanistan and in Iraq; and

(C) their willingness to contribute to international peace, stability, and prosperity, especially in the greater Middle East region.

Mr. SMITH. Mr. President, I rise today to submit a resolution welcoming the Turkish Prime Minister Recep Tayyip Erdoğan to the United States. Prime Minister Erdoğan is visiting this week for important meetings with President Bush and other senior Administration officials to discuss significant issues that affect both of our countries. I am pleased that my colleagues Senator BIDEN and Senator ALLEN have joined me in offering this resolution at this time.

Prime Minister Erdoğan represents a country of great importance to the United States, one with whom we have a shared history of fighting Soviet aggression as partners in NATO, and one with whom we are joined in fighting terrorism today. Turkey has shown its willingness to support American objectives in Afghanistan—where it commanded the International Security Assistance Force for seven months, and where its soldiers continue to serve side-by-side with American troops—and in post-war Iraq, where it has authorized sending peacekeeping troops and has contributed humanitarian supplies for the Iraqi people.

Furthermore, Turkey shares our democratic values and love of freedom. These ideals have brought enormous benefits to its people and serve as an excellent example for its neighbors that secular Islam and democracy can coexist peacefully and constructively.

I am confident that the visit of Prime Minister Erdoğan will further cement the strategic partnership between Turkey and the United States. I welcome him to the United States.

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources.

The hearing will be held on Wednesday, February 4, at 2:30 p.m. in room SAD-366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the following bills: S. 1354, to resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation, and for other purposes; S. 1575 and H.R. 1092, to direct the Secretary of Agriculture to sell certain parcels of Federal land in Carson City and Douglas County, Nevada; S. 1778, to authorize a land conveyance between the United States and the City of Craig, Alaska, and for other purposes; and S. 1819 and H.R. 272, to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries.

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 should send two copies of their testimony to the Committee of Energy and Natural Resources, United States Senate, Washington, D.C. 20510-6150.

For further information, please contact Frank Gladics at 202-224-2878.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on January 28, 2004, at 11:00 a.m., in open session to receive testimony on efforts to determine the status of Iraqi weapons of mass destruction and related programs.

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

COMMITTEE ON ARMED SERVICES

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on January 28, 2004, at 4:00 p.m., in open session to consider the following Nominations: Francis J. Harvey to be Assistant Secretary of Defense for Networks and Information Integration; Lawrence, T. Drita to be Assistant Secretary of Defense for Public Affairs; and William A. Chatfield to be Director of Selective Service.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CORNYN. Mr. President: I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, January 28, 2004, at 9:30 am on NASA'S Future Space Mission, in SR. 253.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, January 28, 2003 at 10:30 a.m. to hold a hearing on Pakistan & India: Steps Toward Rapprochement.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on What's Driving Health Care Costs and the Uninsured? during the session of the Senate on Wednesday, January 28, 2004 at 10:30 a.m. in SD-430.

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

COMMITTEE ON THE JUDICIARY

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Wednesday, January 28, 2004, at 10:00 a.m. on "Judicial Nominations," in the Dirksen Senate Office Building Room 226.

Witness List

Panel I: Senators.

Panel II: Franklin S. Van Antwerpen to be United States Circuit Judge for the Third Circuit.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 536 through 543, and all nominations on the Secretary's desk.

For the information of Members, these are military promotions reported today by the Armed Services Committee.

I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

AIR FORCE

The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Brigadier General Roger P Lempke, 0000

Brigadier General Albert P Richards, Jr, 0000
Brigadier General Albert H Wilkening, 0000

To be brigadier general

Colonel Terry L Butler, 0000
Colonel John A Caputo, 0000
Colonel Richard H Clevenger, 0000
Colonel Michael D Dubie, 0000
Colonel Jerald L Engelman, 0000
Colonel William H Etter, 0000
Colonel Edward R Flora, 0000
Colonel Rufus L Forrest, Jr, 0000
Colonel Richard M Green, 0000
Colonel Terry P Heggemeier, 0000
Colonel Vergel L Lattimore, 0000
Colonel Duane J Lodrige, 0000
Colonel Maria A Morgan, 0000
Colonel James K Robinson, 0000
Colonel Michael J Shira, 0000
Colonel James P Toscano, 0000

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. James E. Hearon, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Thomas L. Baptiste, 0000

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Donald J. Wetekam, 0000

NAVY

The following named officer for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral (lower half)

Capt. Ann D. Gilbride, 0000

The following named officers for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral (lower half)

Capt. Jon W. Bayless, Jr., 0000
Capt. Jay A. Deloach, 0000
Capt. Edward NMN Masso, 0000
Capt. William H. Payne, 0000

The following named officer for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral

Rear Adm. (lh) Fenton F. Priest, III, 0000

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) Paul E. Sullivan, 0000

NOMINATIONS PLACED ON THE SECRETARY'S DESK

AIR FORCE

PN460 Air Force nominations (13) beginning Paul V. Bennett, and ending Victoria G. Zamarripa, which nominations were received by the Senate and appeared in the Congressional Record of March 26, 2003.

PN906 Air Force nominations (17) beginning Nelson * Arroyo, and ending Paul D. * Sutter, which nominations were received by the Senate and appeared in the Congressional Record of September 4, 2003.

PN907 Air Force nominations (38) beginning James J. * Baldock, IV, and ending Brian K. * Wyrick, which nominations were

received by the Senate and appeared in the Congressional Record of September 4, 2003.

PN908 Air Force nominations (75) beginning Kimberly L. * Arnao, and ending James M. Winner, which nominations were received by the Senate and appeared in the Congressional Record of September 4, 2003.

PN909 Air Force nominations (118) beginning David H. * Adams, Jr., and ending James A. * Young, which nominations were received by the Senate and appeared in the Congressional Record of September 4, 2003.

PN910 Air Force nominations (92) beginning Laurie A. Abney, and ending Deedra L. * Zabokrtsky, which nominations were received by the Senate and appeared in the Congressional Record of September 4, 2003.

PN911 Air Force nominations (1875) beginning John T. Aalborg, Jr., and ending William A. Zutt, which nominations were received by the Senate and appeared in the Congressional Record of September 4, 2003.

ARMY

PN1128 Army nominations (30) beginning Stephen G. Beardsley, III, and ending Patrick O. Wilson, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2003.

PN1149 Army nominations (2) beginning John R. Angeloz, Jr., and ending Michael C. McDaniel, which nominations were received by the Senate and appeared in the Congressional Record of November 20, 2003.

PN1150 Army nominations of James R. Ward, which was received by the Senate and appeared in the Congressional Record of November 20, 2003.

PN1165 Army nomination of Michael K. Vaughan, which was received by the Senate and appeared in the Congressional Record of November 21, 2003.

PN1177 Army nominations (11) beginning David S. Feigin, and ending John E. Hartmann, which nominations were received by the Senate and appeared in the Congressional Record of November 25, 2003.

PN1178 Army nominations (2) beginning Joseph L. Craver, and ending William Hann, which nominations were received by the Senate and appeared in the Congressional Record of November 25, 2003.

PN1179 Army nomination of Carol Ann Mitchell, which was received by the Senate and appeared in the Congressional Record of November 25, 2003.

PN1180 Army nominations (4) beginning Carol A. Bossone, and ending Curtis M. Klages, which nominations were received by the Senate and appeared in the Congressional Record of November 25, 2003.

PN1182 Army nominations (23) beginning Daniel G. Rendeiro, and ending Diane K. Patterson, which nominations were received by the Senate and appeared in the Congressional Record of November 25, 2003.

PN1183 Army nominations (11) beginning Michael T. Endres, and ending James A. Chervoni, which nominations were received by the Senate and appeared in the Congressional Record of November 25, 2003.

NAVY

PN1151 Navy nominations (2299) beginning Tab E. Austin, and ending Sabrina M. Stedman, which nominations were received by the Senate and appeared in the Congressional Record of November 20, 2003.

PN1167 Navy nominations (29) beginning Albert A. Alarcon, and ending Jeffrey W. Winters, which nominations were received by the Senate and appeared in the Congressional Record of November 21, 2003.

PN1184 Navy nominations (92) beginning Craig I. Abraham, and ending Sarah L. Wright, which nominations were received by the Senate and appeared in the Congressional Record of November 25, 2003.

LEGISLATIVE SESSION

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

UNANIMOUS CONSENT REQUEST— S. 1072

Mr. FRIST. Mr. President, I have been in discussions with a number of Senators regarding next week's schedule. We had previously stated that it would be our intention to begin consideration of the highway bill on Monday.

I had hoped we could start with opening statements on the bill on Monday and limit Monday to debate only to allow the Finance Committee to complete their work on their section of the highway bill. Unfortunately, we were unable to reach a consent to begin; therefore, it will be necessary that I file cloture on a motion to proceed.

Having said that, I now ask unanimous consent that at 2 p.m. on Monday, February 2, the Senate proceed to the consideration of Calendar No. 426, S. 1072, the highway bill.

Mr. REID. Mr. President, on behalf of Senator GRAHAM of Florida, I object.

The PRESIDING OFFICER. The objection is heard.

SAFE TRANSPORTATION EQUITY ACT OF 2003—MOTION TO PROCEED

CLOTURE MOTION

Mr. FRIST. With that objection, I now move to proceed to the consideration of S. 1072, and I send a cloture motion to the desk on the motion to proceed.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 426, S. 1072, a bill to authorize funds for Federal-aid highways, highway safety programs, transit programs, and for other purposes:

Bill Frist, James M. Inhofe, John Cornyn, Susan Collins, Craig Thomas, Pat Roberts, Conrad Burns, Thad Cochran, Norm Coleman, Richard Shelby, Mike Crapo, Robert F. Bennett, George V. Voinovich, Ted Stevens, Lamar Alexander, Lindsey O. Graham.

Mr. FRIST. I now ask consent that the mandatory quorum be waived and that the vote on the motion to invoke cloture occur at 5:45 on Monday, February 2.

Mr. REID. Mr. President, reserving the right to object, let me just say that I am disappointed we are not going to move forward on the bill Monday. That is very valuable time. We are not going to have a lot of time to finish this bill. This is a bipartisan bill. This is my fourth highway bill, third or fourth

highway bill, and this is a most fair bill. We have every State that will get at least 95 percent of the money they pay in. Every State gets an increase of what they have gotten in the last bill. It is fair.

In the past, some States did extremely well and some States did poorly. Take the States of California and Texas, for example. At the end of this bill they will get 95 percent of the money they pay in. That is very costly. Therefore, that being the case, and it certainly seems fair to me that they should get 95 percent of what they pay in, their 5 percent that they are not getting pays for a lot of the States that do not have many people. These are bridge States. They still have the interstate going through them and there is a lot for maintenance.

The bill is far from perfect. We have done the best we can to try to make it a better bill than those in the past. We need to get to it. This is an extremely important bill. This is not a bill for the Democrats or a bill for the Republicans. It is a bill that will allow the construction to go forward on highways and transit for the next 5 or 6 years.

The reason that is important, we can come back and do a 1-year bill like we did last year. But there is no way—and the Presiding Officer was a Governor of a very large and important State—there is no ability to plan with a 1-year program.

I hope we can get this done. It is important to every State in the Union. I know some people are not happy with what is in the bill. We have done the best we can; if everyone wants their dollars back, we cannot. We will find a lot of States that will not be very happy. If we want everyone to get the average, there is no average.

We are happy to work with every State and are doing better than we had done in the bill. But the allocation will not be changed. It was done with a computer. The information was fed into the computer. It would be extremely difficult to start all over again and come up with a new allocation, especially in a timeframe when we will have to work on this bill.

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

Mr. FRIST. Mr. President, I very much appreciate the comments by the assistant Democratic leader. It is absolutely critical we get to this bill. I suspect this cloture vote on Monday will be overwhelming, probably 95 to 5 or 98 to 2 or 99 to 1. Maybe everybody will vote for it. But what it does, from a scheduling standpoint, on a bill that deserves debate, as good a bill as it is—and it is the most fair bill it could possibly be, as we have just heard it described—there is going to be debate. I think both the assistant Democratic leader and myself, and the leadership on both sides of the aisle, have agreed to bring this bill to the floor at the earliest possible date.

I am disappointed because I literally said 3 months ago we were going to go

to the highway bill on Monday, and that we were going to spend the appropriate amount of time on it, that people would be able to debate and amend it as necessary. A few people, for whatever reason—maybe some good reasons—are going to set us back. It sets the overall agenda of the Senate back. And what, in effect, it does is it causes us to lose a day when we were going to have debate only. We were not going to have amendments on Monday but, in effect, we lose the opportunity to start on a very important bill.

I mention that now because it is early in the second session of this Congress, and we have to have cooperation. I plead with our Members to have cooperation so we can do what this body does best, and that is to debate, bring bills to the floor and debate them, and vote them up, vote them down, defeat them, pass them. It is inevitable we will get there.

People are going to watch what the vote is going to be Monday night. It will be overwhelming. And I am not pointing just my finger at the person who objected because he is really speaking for, probably, a couple other people as well, but we have to proceed with this bill. It is an important bill.

Leadership on both sides of the aisle has said that we are going to spend an appropriate amount of time on this bill. So people have some idea, it could be a week, and it could be as long as 2 weeks, but we have to get to the bill. Then we can bring amendments up and debate them.

Mr. REID. Will the distinguished leader yield?

Mr. FRIST. I am happy to yield.

Mr. REID. I will make a suggestion. After the vote is completed, it will be approximately—let's see, what time are we going to vote?

Mr. FRIST. At 5:45.

Mr. REID. So starting at 6:15 on Monday maybe the two subcommittee leaders and the two full committee leaders could begin their statements, and then we could go right to the meat of the bill on Tuesday. I would certainly recommend we try to get Senators INHOFE, JEFFORDS, BOND, and REID to get their statements out of the way Monday night, and then go to the bill Tuesday. That way we will not have lost any time except a little time of the staff.

Mr. FRIST. Mr. President, I think we should encourage that proposal. Again, the whole purpose is to get the bill to the floor, and to debate it and appropriately amend it and do what we all want to do to support appropriately the infrastructure that is very much the foundation upon which our economy works day in and day out.

ORDERS FOR THURSDAY, JANUARY 29, 2004 AND MONDAY, FEBRUARY 2, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 11 a.m., Thursday, January

29, for a pro forma session only; provided that the Senate then immediately stand in adjournment until 1 p.m., Monday, February 2. I further ask consent that on Monday, following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business with the time until 2 p.m. equally divided between the two leaders or their designees, with Senator GRAHAM of Florida controlling the minority time; provided that at 2 p.m. the Senate resume consideration of the motion to proceed to the consideration of S. 1072, the highway bill.

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

PROGRAM

Mr. FRIST. Tomorrow morning, the Senate will convene a pro forma session. No business will be transacted during Thursday's session. The Senate will then reconvene on Monday, February 2 at 1 p.m. At 2 p.m. we will resume debate on the motion to proceed. Under the order, the Senate will vote on invoking cloture on the motion to proceed to the highway bill at 5:45 p.m. Monday. If cloture is invoked, we will stay on that motion until it is disposed of. I encourage Members to come to the floor on Monday to begin their opening statements on the highway legislation.

ADJOURNMENT UNTIL THURSDAY, JANUARY 29, 2004, AT 11 A.M.

Mr. FRIST. 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 6:42 p.m., adjourned until Thursday, January 29, 2004, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate January 28, 2004:

EXPORT-IMPORT BANK OF THE UNITED STATES

LINDA MYSLIWI CONLIN, OF NEW JERSEY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 2007, VICE APRIL H. FOLEY.

DEPARTMENT OF EDUCATION

EUGENE HICKOK, OF PENNSYLVANIA, TO BE DEPUTY SECRETARY OF EDUCATION, VICE WILLIAM D. HANSEN, RESIGNED.

DEPARTMENT OF VETERANS AFFAIRS

PAMELA M. IOVINO, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (CONGRESSIONAL AFFAIRS), VICE GORDON H. MANSFIELD.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

MATTHEW T. ASHE JR., 0000
MARIAELENA AUGUSTIN, 0000
ROBERT A. BALLARD, 0000
BRADLEY A. BARKER, 0000
PAMELA G. BARNES, 0000

MARK L. BATCHELOR, 0000
ROSS P. BERTUCCI, 0000
WILLIAM M. BLACK JR., 0000
STEVEN L. BOGGS, 0000
CALVIN F. BOLES IV, 0000
MARK J. BOURDON, 0000
MARK A. BOWEN, 0000
DAVID E. BRASUELL, 0000
TIMOTHY M. BRUTON, 0000
SHELIA F. BRYANTTUCKER, 0000
AYDIN D. BUDAK, 0000
MILES A. BURDINE, 0000
FREDERICK C. BURK, 0000
PAUL V. BURKE, 0000
DOUGLAS D. BURPEE, 0000
MICHAEL M. BUSH, 0000
JEFFREY S. BUTTER, 0000
PERRY L. BUZO, 0000
JUSTIN P. CARLITTI, 0000
RAYMOND A. CELESTE JR., 0000
PETER F. CIESLA, 0000
DAVID J. CLEMENT, 0000
JOSEPH M. CODEGA, 0000
FRANS J. COETZEE, 0000
JAMES T. COLE, 0000
FRANK J. CORTE JR., 0000
PHILIP M. CROSSWATT, 0000
EDWARD D. DANIEL, 0000
BRIAN E. DELAHAUT, 0000
THOMAS F. DIETRICH, 0000
ANSELM J. DYER, 0000
ANTHONY FERNANDEZ III, 0000
WILLIAM A. FOX III, 0000
VAL T. FRANKLIN, 0000
JEFFREY W. FREEMAN, 0000
TIMOTHY G. FROEBE, 0000
NANCY R. GADZALA, 0000
JAMES C. GARMAN, 0000
TIMOTHY R. GAUGHRAN, 0000
WILLIAM P. GOGGINS JR., 0000
ERIK GRABOWSKY, 0000
MARK C. GRAHAM, 0000
OLIVER M. GRANT, 0000
SUZANNE M. HANNI, 0000
DONALD J. HARD, 0000
JAMES S. HARTSELL, 0000
WILLIAM E. HATTON, 0000
JINCY L. HAYES, 0000
MARCELINO HERNANDEZ, 0000
LOUIS HERRERA JR., 0000
TODD J. HIXSON, 0000
JEFFREY M. HIRIGAN, 0000
NEIL J. HORNUNG, 0000
JOHN D. HORRES, 0000
FRANK W. IRELAND, 0000
ALLEN D. JOHNSON, 0000
MICHAEL JOHNSON, 0000
RICHARD T. JOHNSON, 0000
WADE M. JOHNSON, 0000
WILLIAM KANE, 0000
WILLIAM E. KAUFER JR., 0000
PATRICK C. KELLEY, 0000
WARREN C. KELLIS, 0000
ROBERT A. KNIEF, 0000
KAVIN G. KOWIS, 0000
CARL R. LAMMERS, 0000
MICHAEL D. LENTZ, 0000
DOUGLAS C. LINDEN, 0000
BRIAN J. LOUF, 0000
KARL E. LUNDBERG, 0000
ROGER R. MACHUT, 0000
MARK M. MANCINI II, 0000
PETER MARTINO, 0000
ERNEST A. MATA-COTTA, 0000
CHARLES J. MAY II, 0000
JOHN F. MCCABE IV, 0000
KEVIN J. MCCARTHY, 0000
MICHAEL F. MCCARTHY, 0000
LINDA L. MCGOWAN, 0000
DAVID M. MC MILLER, 0000
STEVEN L. MERRILL, 0000
CLARK W. METZ, 0000
JOSE A. MICHEL, 0000
BRUCE A. MILTON, 0000
ROBERT A. MONTGOMERY, 0000
JEFFREY J. MORSCH, 0000
ALVIN S. MOSHER, 0000
EDWARD V. NAKAS, 0000
BORISFRANK A. NAZAROFF, 0000
CHARLES R. NICHOLS, 0000
MARK A. OLSON, 0000
JAMES A. PAVLIK, 0000
RICHARD P. PERKINS, 0000
LORIE M. PESONEN, 0000
JAMES L. PILLLOW, 0000
ANTHONY E. POLETTI, 0000
JEFFREY A. PORTER, 0000
DAVID W. PRAFKA, 0000
GREGORY J. RASSEL, 0000
SCOTT E. RESKE, 0000
RONALD H. RIVES, 0000
WILLIAM L. ROEHLERS, 0000
DAVID C. ROSSBERG, 0000
STEVEN M. RUBIN, 0000
RAYMOND E. RUIHLMANN III, 0000
RANDOL F. RULE, 0000
DAVID R. SAHM, 0000
MARK W. SAMOLINE, 0000
DONALD W. SAMPSON, 0000
MARK A. SCHULTE, 0000
WARD E. SCOTT, 0000
GLEN R. SMITH, 0000
LUTHER B. SMITH III, 0000
GARY M. SPRULL, 0000
JAMES R. SWENEY II, 0000
MARK T. TABERT, 0000
PHILLIP E. TAGGART, 0000

WILLIAM E. UNDERWOOD IV, 0000
 MICHAEL D. VISCONAGE, 0000
 JEFFREY D. VOLD, 0000
 RONALD J. WALRATH, 0000
 PETER L. WANG, 0000
 STEPHEN P. WARD, 0000
 PHILIP G. WASIELEWSKI, 0000
 WILLIAM R. WATSON, 0000
 DAVID T. WATTERS, 0000
 ALAN E. WILL, 0000
 SHERYL G. WILLIAMS, 0000
 DONALD C. WILSON, 0000
 CLAYTON T. WRIGHT, 0000
 EDDIE D. YOUNG, 0000
 JASON D. YOUNG, 0000

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER OF THE UNITED STATES COAST GUARD TO BE A MEMBER OF THE PERMANENT COMMISSIONED TEACHING STAFF OF THE COAST GUARD ACADEMY IN THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 188:

To be lieutenant commander

GLENN M. SULMASY, 0000

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. DOUGLAS M. PIERCE, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

LINDSEY O. GRAHAM, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

DONALD L. BUEGE, 0000
 JOHN A. CAPARISOS, 0000
 RANDY M. CUEVAS, 0000
 TYLER S. GUY, 0000
 ISAMU MATSUMOTO, 0000
 KENNETH G. TOWNSEND, 0000
 SAMUEL R. WEINSTEIN, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

ALAN C. DICKERSON, 0000
 ROBERT F. FERREK, 0000
 VINCENT P. FLORYSHAK, 0000
 CATHERINE KEY, 0000
 JEFFREY G. LIGHT, 0000
 ELEANORE PAUNOVICH, 0000
 CAMILLE PHILLIPS, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

WALTER F. BURGHARDT JR., 0000
 ALBERTA E. BURLEIGH, 0000
 DEBBIE L. DOBSON, 0000
 JOSEPH F. GRASSO, 0000
 JEFFREY P. HILOVSKY, 0000
 JOSEPH F. LONGOFONO, 0000
 WILLIAM B. MARTIN, 0000
 RICKY K. MARTINEZ, 0000
 WILLIAM H. MCALISTER, 0000
 CHRISTOPHER L. TAYLOR, 0000
 RICHARD M. WALTERS, 0000
 PHILLIP Y. YOSHIMURA, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

MONICA M. ALLISONCERUTI, 0000
 WENDY E. BRYANT, 0000
 JAMES T. FORREST, 0000
 RAYMOND J. HARDY JR., 0000
 JOHN R. HART, 0000
 THOMAS M. HAYES III, 0000
 ALISA W. JAMES, 0000
 PATRICIA A. KERN, 0000
 STEVEN D. LINDSEY, 0000
 MICHAEL R. LUND, 0000
 CHARLES R. MANNIX JR., 0000
 GEORGE F. MAY, 0000
 LISA T. MILLER, 0000
 ANN M. MITTERMAYER, 0000
 DIXIE A. MORROW, 0000
 SAMUEL C. MULLIN III, 0000
 THERESA A. NEGRON, 0000
 MARTIN C. OBRLEN, 0000
 GREGORY G. PARROTT, 0000
 DANIEL V. PETERSON, 0000
 JAMES R. THOMAS JR., 0000
 MARK J. YOST, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

PATRICIA S. ANGELLILAMB, 0000
 LINDA K. ARNSDORF, 0000
 CHRISTINE E. BADER, 0000
 CHRISTINE M. BUCHER, 0000
 MARY M. CAPPARELLI, 0000
 TERRELL A. CUNNINGHAM, 0000
 DEBORAH A. DANNEMEYER, 0000
 DEBORAH J. DODSON, 0000
 EDWINA DORSEY, 0000
 MARGARET A. DRAGANAC, 0000
 SANDRA L. FINNESSY, 0000
 CHRISTINE A. GRYGLIK, 0000
 SUSAN H. KADECHKA, 0000
 NANCY K. KERSH, 0000
 SUSAN M. KNOX, 0000
 LYNN A. MCDANIELS, 0000
 KENNETH L. MCNEELY, 0000
 CONNIE S. MILLER, 0000
 KAREN A. NAGAFUCHI, 0000
 THERESA A. OSBURN, 0000
 DONNA A. RAJOTTE, 0000
 MARYGENE RYAN, 0000
 SHARON J. THOMAS, 0000
 SUSAN K. WALTON, 0000
 KATHLEEN L. ZYGOWICZ, 0000

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

EDWARD M. WILLIS, 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

ANDREW T. FINK, 0000
 PAUL K. FLETCHER, 0000
 JEFFREY P. HOLDER, 0000
 THOMAS D. JAGUSCH, 0000
 DAVID W. LANDERSMAN, 0000
 RONALD L. MASON, 0000
 PATRICK J. MCCARTHY, 0000
 JOHN A. NICHOLSON, 0000
 OLLEN R. RICHEY, 0000
 JASON C. SEAL, 0000
 GUY A. STRATTON, 0000
 NICK TRUJILLO, 0000

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

MICHAEL A. ALDAY, 0000
 GNANAMANI ARUL, 0000
 JOEL S. BOGNER, 0000
 JOSEPH L. DAVIS, 0000
 SANDRA D. DICKERSON, 0000
 PAUL S. DWAN, 0000
 JOHN A. ELLIS, 0000
 JAMES W. GUYER, 0000
 AIMEE L. HAWLEY, 0000
 MARK D. HOPKINS, 0000
 MICHAEL F. KELLEY, 0000
 RAY L. KUNDEL, 0000
 JOHN P. LENIHAN JR., 0000
 JAMES M. MCGREEVY, 0000
 JAMES E. MILLER, 0000
 SUSAN E. NORTHRUP, 0000
 VIANMAR G. PASCUAL, 0000
 DANIEL Z. PECK, 0000
 DANGTUAN PHAM, 0000
 ROBERT L. SAUNDERS JR., 0000
 DAVID J. SNELL, 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

CURTIS S. AMES, 0000
 WILLIAM M. ANDERSON, 0000
 ANTHONY ARDOVINO, 0000
 CHESTER A. ARNOLD, 0000
 JORGE ASCUNCE, 0000
 ERIC D. BARTCH, 0000
 BRIAN D. BEAUDREAU, 0000
 JEFFERY A. BOWDEN, 0000
 JAMES J. BUCKLEY, 0000
 JOHN W. BULLARD JR., 0000
 ROBERT S. BURAN, 0000
 JOHN M. BURT, 0000
 MICHAEL P. CAMPBELL, 0000
 HERMAN S. CLARDY III, 0000
 ROBERT E. CLAY, 0000
 ROBERT E. CLAYPOOL, 0000
 DAVID L. CLOSE, 0000
 TIMOTHY L. CLUBB, 0000
 THOMAS J. CONNALLY, 0000
 VINCE E. CRUZ, 0000
 SCOTT A. DALKE, 0000
 PAUL L. DAMREN, 0000
 GARY M. DENNING, 0000

THEODORE E. DEVLIN, 0000
 JAMES M. DOCHERTY, 0000
 DEREK J. DONOVAN, 0000
 CHARLES S. DUNSTON, 0000
 KENNETH D. ENZOR, 0000
 JOHN R. EWERS JR., 0000
 WILLIAM M. FAULKNER, 0000
 JOHN J. FITZGERALD JR., 0000
 RICHARD P. FLATAU JR., 0000
 CLYDE FRAZIER JR., 0000
 LARRY FULWILER, 0000
 THOMAS M. GASKILL, 0000
 WILLIAM GILLESPIE, 0000
 JAMES D. GRACE, 0000
 PAUL E. GREENWOOD, 0000
 MURRAY T. GUPTILL JR., 0000
 JOHN W. GUTHRIE, 0000
 EDWARD G. HACKETT, 0000
 DANIEL C. HAHNE, 0000
 NICHOLAS J. HALL, 0000
 WADE C. HALL, 0000
 BEN D. HANCOCK, 0000
 STEVEN M. HANSCOM, 0000
 STUART C. HARRIS, 0000
 ROBERT F. HEDELUND, 0000
 ROBERT S. HELLMAN, 0000
 STEPHEN K. HEYWOOD, 0000
 CHRISTOPHER E. HOLZWORTH, 0000
 JAMES D. HOOKS, 0000
 JONATHAN P. HULL, 0000
 ALVAH E. INGERSOLL III, 0000
 CHESTER E. JOLLEY, 0000
 JOSEPH JUDGE, 0000
 JOHN C. KENNEDY, 0000
 SCOTT E. KERCHNER, 0000
 JOHN A. KOENIG, 0000
 ROBERT W. LANHAM, 0000
 GEORGE A. LEMBRICK, 0000
 CLARKE R. LETHIN, 0000
 GROVER C. LEWIS III, 0000
 WILLIAM K. LIETZAU, 0000
 KENNETH X. LISSNER, 0000
 KEVIN T. MCCUTCHEON, 0000
 JOHN E. MITCHELL JR., 0000
 WILLIAM P. MIZERAK, 0000
 ROYAL P. MORTENSON, 0000
 PAUL J. OLEARY JR., 0000
 CHRISTOPHER S. OWENS, 0000
 CARL T. PARKER, 0000
 PATRICK S. PENN, 0000
 JEFFERY M. PETERSON, 0000
 LOUIS J. PULEO, 0000
 LEE B. RAGLAND, 0000
 JOHN T. RAHM, 0000
 EDDIE S. RAY, 0000
 JAMES E. REILLY III, 0000
 SHAGNESSY A. REYNOLDS, 0000
 ROBERT D. RICE, 0000
 MICHAEL A. ROCCO, 0000
 RITCHIE L. RODEBAUGH, 0000
 ERIC L. ROLAF, 0000
 JOHN RUPP, 0000
 PAUL K. RUPP, 0000
 LAURA J. SAMPSEL, 0000
 RODMAN D. SANSONE, 0000
 JEFFERY A. SATTERFIELD, 0000
 PAUL K. SCHREIBER, 0000
 JAMES B. SEATON III, 0000
 RICHARD L. SIMCOCK II, 0000
 JOHN W. SIMMONS, 0000
 STEVEN S. SIMPSON, 0000
 ROBERT O. SINCLAIR, 0000
 DAVID A. SMITH, 0000
 EDWARD J. SMITH, 0000
 GERALD L. SMITH, 0000
 KEVIN L. SMITH, 0000
 PHILIP E. SMITH, 0000
 JAMES H. SORG JR., 0000
 DAVID L. SPASOJEVICH, 0000
 KEVIN P. SPILLERS, 0000
 PAUL J. STENGER, 0000
 JOHN E. STONE, 0000
 GREGG A. STURDEVANT, 0000
 RORY E. TALKINGTON, 0000
 DARELL L. THACKER JR., 0000
 JAMES P. VANETTEN JR., 0000
 PETER M. WARKER, 0000
 WILLIAM E. WETZELBERGER, 0000
 JOSEPH H. WHEELER III, 0000
 BRUCE A. WHITE, 0000
 DAVID H. WILKINSON, 0000
 CLYDE M. WOLTMAN JR., 0000
 EDWARD YARNELL, 0000
 GUY A. YEAGER, 0000
 GEORGE L. YOUNG III, 0000
 STEVEN M. ZOTTI, 0000

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ALPHONSO R. JACKSON, OF TEXAS, TO BE SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE MELQUIADES RAFAEL MARTINEZ, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate January 28, 2004:

THE JUDICIARY

GARY L. SHARPE, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF NEW YORK.

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIGADIER GENERAL ROGER P LEMPKE
BRIGADIER GENERAL ALBERT P RICHARDS, JR.
BRIGADIER GENERAL ALBERT H WILKENING

To be brigadier general

COLONEL TERRY L BUTLER
COLONEL JOHN A CAPUTO
COLONEL RICHARD H CLEVINGER
COLONEL MICHAEL D DUBIE
COLONEL JERALD L ENGELMAN
COLONEL WILLIAM H ETTER
COLONEL EDWARD R FLORA
COLONEL RUFUS L FORREST, JR.
COLONEL RICHARD M GREEN
COLONEL TERRY P HEGGEMEIER
COLONEL VERGEL L LATTIMORE
COLONEL DUANE J LODRIGE
COLONEL MARIA A MORGAN
COLONEL JAMES K ROBINSON
COLONEL MICHAEL J SHIRA
COLONEL JAMES P TOSCANO

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. JAMES E. HEARON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. THOMAS L. BAPTISTE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. DONALD J. WETEKAM

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. ANN D. GILBRIDE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. JON W. BAYLESS, JR.
CAPT. JAY A. DELOACH
CAPT. EDWARD NMN MASSO
CAPT. WILLIAM H. PAYNE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) FENTON F. PRIEST III

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) PAUL E. SULLIVAN

AIR FORCE NOMINATIONS BEGINNING PAUL V. BENNETT AND ENDING VICTORIA G. ZAMARRIPA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 26, 2003.

AIR FORCE NOMINATIONS BEGINNING NELSON * ARROYO AND ENDING PAUL D. * SUTTER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 4, 2003.

AIR FORCE NOMINATIONS BEGINNING JAMES J. * BALDOCK IV AND ENDING BRIAN K. * WYRICK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 4, 2003.

AIR FORCE NOMINATIONS BEGINNING KIMBERLY L. * ARNAO AND ENDING JAMES M. WINNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 4, 2003.

AIR FORCE NOMINATIONS BEGINNING DAVID H. * ADAMS, JR. AND ENDING JAMES A. * YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 4, 2003.

AIR FORCE NOMINATIONS BEGINNING LAURIE A. ABNEY AND ENDING DEEDRA L. * ZABOKRTSKY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 4, 2003.

AIR FORCE NOMINATIONS BEGINNING JOHN T. AALBORG, JR. AND ENDING WILLIAM A. ZUTT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 4, 2003.

ARMY NOMINATIONS BEGINNING STEPHEN G. BEARDSLEY III AND ENDING PATRICK O. WILSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2003.

ARMY NOMINATIONS BEGINNING JOHN R. ANGELLOZ, JR. AND ENDING MICHAEL C. MCDANIEL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 20, 2003.

ARMY NOMINATION OF JAMES R. WARD.

ARMY NOMINATION OF MICHAEL K. VAUGHAN.

ARMY NOMINATIONS BEGINNING DAVID S. FEIGIN AND ENDING JOHN E. HARTMANN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 25, 2003.

ARMY NOMINATIONS BEGINNING JOSEPH L. CRAVER AND ENDING WILLIAM HANN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 25, 2003.

ARMY NOMINATION OF CAROL ANN MITCHELL.

ARMY NOMINATIONS BEGINNING CAROL A. BOSSONE AND ENDING CURTIS M. KLAGES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 25, 2003.

ARMY NOMINATIONS BEGINNING DANIEL G. RENDEIRO AND ENDING DIANE K. PATTERSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 25, 2003.

ARMY NOMINATIONS BEGINNING MICHAEL T. ENDRES AND ENDING JAMES A. CHERVONI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 25, 2003.

NAVY NOMINATIONS BEGINNING TAB E. AUSTIN AND ENDING SABRINA M. STEDMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 20, 2003.

NAVY NOMINATIONS BEGINNING ALBERT A. ALARCON AND ENDING JEFFREY W. WINTERS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 21, 2003.

NAVY NOMINATIONS BEGINNING CRAIG L. ABRAHAM AND ENDING SARAH L. WRIGHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 25, 2003.