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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, April 20, 2004, at 2 p.m.

Senate

THURSDAY, APRIL 8, 2004

The Senate met at 10:01 a.m. and was called to order by the Honorable WAYNE ALLARD, a Senator from the State of Colorado.

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, Rev. William Vanderbloemen, from Houston, TX.

PRAYER

The guest Chaplain offered the following prayer:

Shall we pray.

Gracious God, we begin another day in this great country, and we seek You for help. We look for You to fulfill Your promises, for You have promised to be our guide. You promised that we will know Your voice, and that we will listen to it. So lead us to decisions that would make this Nation an even greater one. We pray for ears to hear that mighty voice, and the courage to follow the path to which it leads.

You promised to be our protector. You have said that You are a shield about us, the One who goes before us, and our rear guard. Guard us on every side and at every border. Be our protection. Watch over our troops in battle, our colleagues in the House, in the courts, our President, and the people of this great country. Defend them from every enemy, and grant the peace that only You can grant. At a word, You calmed the storms that raged on the sea. Use that same power, O God, to still the storms that rage throughout this world. May we be a beacon of that peace today.

Lord, You have promised to be our inspiration. You have said that You are like a morning dew that brings new life to the buds of spring. On this spring day, rain down Your renewal on us. Stoke the flames of courage, vision, and life in us as leaders and in the hearts of our country men and women today. Be for us that higher power, that mystical calling, the Voice that moves us to become more than we currently are and more than we ever dreamed we could be.

When we think of the great task to which You have called us, all we can do is humbly ask for Your help. And we know that You will grant it because You are the God who keeps all of Your promises. Be who You have said You will be. Fulfill Your promises. Hear us in Your great Name we pray. Amen.

PLEDGE OF ALLEGIANCE

The Honorable WAYNE ALLARD 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.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 8, 2004.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WAYNE ALLARD, a Senator from the State of Colorado, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. ALLARD thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will be in a period of morning business for up to 60 minutes, with the first half under Republican control and the second half under Democratic control. Following morning business, at approximately 11 a.m., the Senate will begin consideration of the conference report to accompany H.R. 3108, the pension reform bill. Under an agreement reached last night, there will be up to 4 hours of debate on the conference report prior to a vote on its adoption. If all time is used, that vote will occur at approximately 3 p.m. today. The vote on the conference report will be the first vote of the day.

Following the disposition of the pension reform conference report, the Senate will resume consideration of the JOBS bill, the FSC/ETI bill. We have been working with the Democratic leadership to lock in a final list of amendments to the bill. We will be continuing that effort over the course of this morning.

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

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I have related repeatedly on the floor of the Senate the importance of this bill, the importance of finishing this bill. I do hope Members on both sides of the aisle will show restraint as we put together a number of amendments to be considered on the FSC/ETI bill.

I yield the floor.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for up to 60 minutes, with the first 30 minutes under the control of the majority leader or his designee, and the second 30 minutes under the control of the Democratic leader or his designee.

Who seeks recognition?

The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I believe I have time reserved under the majority leader's time to speak this morning in morning business.

The ACTING PRESIDENT pro tempore. The Senator is recognized.

Mr. REID. If the Senator will withhold, Senator DASCHLE wishes to give a speech. He has said to go ahead.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Kansas is recognized.

Mr. BROWNBACK. Madam President, I thank the Senator from Nevada for the thoughts he put forward.

MARRIAGE

Mr. BROWNBACK. Madam President, what I wish to talk about this morning is the overall issue of marriage, and I will go through some charts, factual information, and some data. It is a current topic. It is one of great interest in the country. What I want to do is back up and say, Why is this institution even significant to us as a country? Why would a governing body be interested in marriage at all? Isn't this just simply a private matter?

What I want to do is go through, on a factual basis, and outline and make clear why marriage is so important to a government. At the end of the day, it comes back to raising children in a society to be productive, good, strong, healthy citizens, and the best setting to do that in is between two married biological parents, if at all possible, male and female. That is what all the statistical studies show. That is what the sociological studies show. I want to go through that because it lays the groundwork for why we are interested in marriage in a governmental body.

It turns out that if you have strong families, at the end of the day you are going to need less government infrastructure and support for them. If you have a very weakened family structure, you are going to need a lot more governmental structure to surround that child to make up for the lack of two dedicated male-female biological parents.

This is not to say people cannot raise good children outside of that setting, because people do, and they struggle sometimes heroically to get it done, and they get it done. I want to recognize and honor them as well.

I want to talk about the macropicture as a broad society. As a society of millions of people, why are we interested in it? The reason is that, by and large, it produces stronger, more capable citizenry.

In the wake of all the recent debates about defending marriage from some of the new and unique challenges it faces and promoting marriage as an essential component in addressing some of our more intractable social problems in this country, I think it is important we come back to some fundamental questions: What is marriage? Why is it important to the health and continuance of our society? Why is the Government interested in marriage at all?

The answers to these fundamental questions are no longer so obvious or self-evident, as is apparent from the fact that many today question our civilization's traditional understandings of the institution of marriage, its purpose, its necessity for society, and its role in preventing social breakdown.

Before we can argue fruitfully about what marriage is not, we have to have a good understanding of what it is, why it is valuable, and why it must be defended as an essential bulwark of this great Nation of ours. The stronger the marriages we have between a man and woman in this country, bonded together for life, the stronger the country is going to be.

Marriage has been central to the understanding of family in Western culture from the beginning, and central to our historical concept of marriage has been the rearing of and orientation toward children. It is in this setting that children have the most likelihood of coming out successfully. This traditional understanding is a far cry from a postmodern deconstruction of marriage by a large number of sociologists and academics today, many of whom hold that the unique character of marriage is simply ''public approval and recognition.'' In other words, marriage is whatever controlling public authority says it is, whatever current public opinion is.

Our civilization's historical understanding of marriage and the consequent recognition by the State of the unique nature of this one relationship reflect the fact that the public recognition of the institution of marriage is not primarily about the granting of rights and liberties but about the imposition of burdens.

Under the law, marriage limits rather than increases individual freedom. As family scholar Allan Carlson points out, marriage laws commonly mandate the sharing of earnings and debts, compelling obligations of mutual support, and limit rights to terminate the relationship. These are all limitations on the two people involved.

Why is it that governments leave all other relationship between individuals free but continue to register and in a sense burden these heterosexual unions? The answer—and I will go through this in a number of charts and statistics—is children, beings at once highly vulnerable and essential for the future of every community. Strong and stable marriages receive public approbation because it is a source of citizens able to practice ordered liberty. So children are the key to the puzzle about the unique treatment of heterosexual unions and traditional marriage.

As author Maggie Gallagher has written:

> Marriage is the place where having children is not only tolerated but welcomed and encouraged, because it gives children mothers and fathers.

That should seem very basic. This is not to say that marriage is not important to society for a host of other reasons as well. Traditional marriage is a boon to society in a variety of ways, and Government has a vital interest in encouraging and providing the conditions to maintain as many traditional marriages as possible.

Marriage has economic benefits, not only for the spouses but for the economy at large. Even in advanced industrial societies such as ours, economists tell us that the uncounted but real value of home activities, such as childcare, home carpentry, and food preparation, is still at least as large as that of the official economy. Not least of the reasons marriage is a positive social good is the fact that in the married state, adults of both sexes are vastly healthier, happier, safer, wealthier, and live longer.

Here is an instance where social science, viewed honestly, confirms what common wisdom has always told us: Traditional marriage between a man and a woman is a good thing. It is not only good for the spouses, it is absolutely vital for the children.

Now again, we know from study after study that the children of intact traditional marriages are also much healthier in body, spirit, and mind, more successful in school and life, and much less likely to use illegal drugs, abuse alcohol, or engage in crime. That is not to say people cannot raise healthy children in other settings. They can and they do, and they struggle mightily to get it done. This is the best setting.

As a result, though, one can always confidently conclude that traditional marriage is also a social good because it dramatically reduces the social costs associated with dysfunctional behavior. Supporting and strengthening marriage significantly diminishes public

expenditures on welfare, raises Government revenues, and produces a more engaged responsible citizenry.

On the other hand, as seen today, most dramatically in modern societies such as ours, where the institution of marriage has been threatened and under attack for decades, with high rates of divorce and cohabitation, combined with low birthrates, there is a real question about the vibrancy of future societies that do not uphold traditional marriage. It is ironic, then, that the very governments that benefit from intact traditional unions have in recent years seemed determined to follow policies that have the effect of weakening marriage.

There is a clear consensus about the benefits of stable marriages to children, and that consensus is growing. Child Trends, a mainstream child welfare organization, has noted that:

> Research clearly demonstrates that family structure matters for children, and the family structure that helps the most is a family headed by two biological parents in a low-conflict marriage. Children in single-parent families, children born to unmarried mothers, and children in stepfamilies or cohabiting relationships face higher risks of poor outcomes. . . .

Not that they do not have in many cases very good outcomes, but they face higher risk of poor outcomes.

> There is thus value for children in promoting strong, stable marriages between biological parents.

It is not just any relationship between any two adults that provides children with the stability and nurture they need to thrive; it is a strong, stable marriage between biological parents. Again, social science seems to confirm what our common sense tells us: Children need a mom and a dad.

We cannot lose sight of the importance of fathers in this discussion of marriage. While it has become fashionable to champion a wide variety of alternative family forums, it is abundantly clear that children are much less likely to thrive in the absence of their biological father. Children who grow up without their fathers are two to three times more likely to fail at school and two to three times more likely to suffer from an emotional or behavioral problem. They are five times more likely to be poor. Nearly 80 percent of all children suffering long-term poverty come from broken or never-married families.

This is the first chart I wanted to show about developmental problems are less common in two-parent families, the red chart being single-parent families and the second one being two-parent families. Virtually half the level, the lower half of class academically, developmental delay, emotional or behavioral problems—all of those problems are nearly cut in half in a two-parent family.

I want to show next, on the child poverty issue, nearly 80 percent of all children suffering long-term poverty come from broken or never-married families. This is the number of children, total population, that are in the situation of poverty. Twenty-two percent are children of intact married couples, and the rest in the various other areas are children born in marriage subsequently divorced; children born out of wedlock, mother subsequently marries; children of never-married mothers. Virtually 80 percent are those involved in poverty.

The crisis of child poverty in this country is, in large degree, a crisis of marriage. That is why in the welfare reform bill there has been so much push on the issue of marriage, because with marriage comes a much better chance that this child is not going to be in a situation of poverty. It is not saying that is going to be in all circumstances; it is not. But the odds get much improved. The percentage of children of intact families living in poverty is very small compared to those in families where the father is not present.

Marriage has the effect of lifting families and children out of poverty. After the birth of a child out of wedlock, only 17 percent of poor mothers and children remain poor if the mother marries the child's father. More than half of those mothers and children remain poor if the mother remains single.

I am saying this, and some people may be uneasy about what the facts say, but this is what the situation is. We have had this vast social experiment of fathers being removed from families or leaving families in an increasing amount over the past number of decades and we have the data now. It is important for governments that we have a two-biological-parents traditional family.

This chart indicates the impact of marriage on poverty based on the nonmarried father's actual earnings, percentage of mothers and children who are poor. If the mother remains single, it is 55 percent; if the mother marries the child's father, it is 17 percent. Divorce, on the other hand, impoverishes families and children. It has been estimated the average income of families with children declines by 42 percent after divorce. Divorce has hit my family. It has hit many families—most families across this country. I know the impact of it, in siblings in my family.

Children who grow up fatherless are also at a much increased risk of serious child abuse. A child whose mother cohabits with a man who is not the child's father is 33 times more likely to suffer abuse than a child living with both biological parents in an intact marriage. What a tough situation for that child.

Married mothers are also half as likely to be victims of domestic violence than mothers who have never been married. As teenagers, fatherless children are more likely to commit crime, engage in early and promiscuous sexual activity, and to commit suicides.

It is clear both children and societies as a whole pay an enormous price for fatherless homes. The American people realize this. There is a Gallup poll from several years ago that showed almost 80 percent of the public agrees with the proposition that ''the most significant family or social problem facing America is the physical absence of the father from the home.''

It is a problem that requires urgent attention in our country. Nearly 25 million children today reside in a home where the father is absent—25 million children. Half of these children have never stepped foot in their father's home—12.5 million have never stepped foot in their father's home.

Less than half of all teenagers currently live with their married biological mothers and fathers. On this chart, that is the point I just made: Less than half of all teenagers live with their married biological mothers and fathers.

This year, approximately 1 million children will endure the divorce of their parents and an additional 1.2 million will be born out of wedlock. Altogether the proportion of children entering broken families has more than quadrupled since 1950.

This is a crisis for both our children and our country, the fact that so many children are growing up without dads. It has been exacerbated by the decline of the institution of marriage.

In the year 2000, the proportion of never-married women between the ages of 25 to 29 reached 39 percent; in 1965 it was less than 10 percent. Among men, the proportion who have never married from that age group went from 18 percent to 44 percent in the same time period. According to the Census Bureau, the number of cohabiting couples has increased from half a million to almost 5 million in the last 30 years. The number of households with neither marriage nor children present has gone from about 7 million in 1960 to just under 41 million in 2000. While married-couple families were 76 percent of all households in 1960, they constitute barely 50 percent today. Divorce rates have doubled every decade between 1960 and 1990, and while now they appear to have leveled off, they are still at historically high levels.

This is the percentage of adults in the population that is married compared to the percentage of the population that is divorced. You can see what it was in 1970: married 72 percent, divorced 3 percent; in 2002, 59 percent married, 10 percent divorced.

Public policy must focus on reinforcing the institution of marriage if we are to make progress in addressing many of the most difficult problems we face as a society. While welfare reform, for instance, has been an undeniable success in cutting half the caseloads, it is clear the next step must include addressing what is the core issue, the decline of marriage and the absence of fathers from families. We certainly cannot mandate the involvement of biological fathers with their families, but we can do everything possible to support the most proven and effective

pathway to responsible parental engagement, and that is marriage. We must continue to work to change the policies that in effect punish the decision to marry, such as welfare rules that make it more difficult for married couples with children to qualify in comparison to single-parent families.

We must work to address the decline of traditional marriage. Unless we provide, as a society, cultural reinforcement for the often difficult path of loyal, committed, monogamous, heterosexual unions, we should not expect to see the institution of marriage thrive.

If society says the family structure does not matter, what is the incentive to get or to stay married when the road gets rough, which it often does? As one marriage expert has said, ''If marriage is just a way of publicly celebrating private love, then there is no need to encourage couples to stick it out for the sake of children. If family structure does not matter, why have marriage laws at all? Do adults or do they not have a basic obligation to control their desires so that children can have mothers and fathers?''

That, my colleagues, is the real question in the marriage debate. That is why we have a vital interest in defending the institution of traditional marriage from attempts to define it out of existence.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, I ask unanimous consent the period for morning business be extended by 10 minutes on each side.

Mr. REID. Madam President, reserving the right to object, the Democratic leader wanted to speak. He yielded to the Senator from Kansas. If the Senator from Texas will withhold for a minute, he should be coming here.

Mr. CORNYN. I am sorry, Madam President, is there objection?

Mr. REID. Yes, there is, until the Democratic leader gets here.

The PRESIDING OFFICER. Objection is heard. The Senator from Texas has the floor.

Mr. REID. How much time is remaining on——

The PRESIDING OFFICER. There are 7 minutes, 15 seconds that remain.

Mr. REID. I would say, Madam President, we have no objection.

The PRESIDING OFFICER. Does the Senator from Texas yield?

Mr. CORNYN. For a question? May I ask how much time we have remaining?

The PRESIDING OFFICER. There are 7 minutes remaining.

Mr. CORNYN. There was an objection to the request for extension on each side for morning business?

The PRESIDING OFFICER. Yes, that objection was heard.

Mr. CORNYN. There was objection.

The PRESIDING OFFICER. Yes.

RICHARD CLARKE ALLEGATIONS

Mr. CORNYN. Madam President, I want to say a few words regarding some of the accusations we have seen in recent times coming out of the 9/11 hearing and the Richard Clarke allegations in his book. I think it is important, through all the clutter, for the American people to understand one point, if they understand anything, about all the debate and the politics and the political rhetoric and posturing that is going on surrounding this issue. That is a question that was asked during the course of the Commission hearing by Commissioner Gorton.

I think it is absolutely critical for the American people to understand both this question and this answer by Mr. Clarke. The question is from Commissioner Gorton of the 9/11 Commission, inquiring into the causes and circumstances giving rise to 9/11:

> . . . Assuming that the recommendations that you made on January 25th of 2001 . . . which had been an agenda item at this point for 2½ years without any action . . . assuming that that had all been adopted say on January 26th, [when President Bush came to office] year 2001, is there the remotest chance that it would have prevented 9/11?

Mr. Clarke answered, ''No.''

I believe the American people need to understand that Mr. Clarke is not assigning blame to President Bush or his administration for what happened on 9/11, nor could he. As a matter of fact, we had seen, during the preceding years of the Clinton administration when Mr. Clarke held the role of counterterrorism chief, a number of attacks against the United States of America and against our soil.

In 1993, Osama bin Laden directed al-Qaida's first successful terrorist attack on U.S. soil, blowing up a car bomb in the basement garage of the World Trade Center in New York City killing 6 and wounding 1,000. In 1996, there was another attack on the U.S. Air Force's Khobar Towers barracks in Saudi Arabia killing 19 Americans and wounding 515 Americans and Saudis. In 1998, U.S. embassies in Kenya and Tanzania were attacked by al-Qaida suicide bombers who killed 234 people and wounded more than 5,000. In 2000, al-Qaida attacked the USS *Cole* killing 17 American sailors and wounding 39.

So it is clear that during the preceding 8 years that Osama bin Laden had been terrorizing America and taking American lives in the process.

It is simply unfair for Mr. Clarke, or anyone else for that matter, to suggest that during the 8 months President Bush was in office that he should have or could have somehow done anything more than was done to try to prevent the events of 9/11. And, indeed, Mr. Clarke in a flash of candor through all of the attempts he has made to try to promote his new book—and, by the way, he has been very successful; I see on Amazon.Com his book is the No. 1 or No. 2 most ordered book. He has been very successful in promoting his book—but in a flash of amazing candor, we see that he now admits there is nothing the Bush administration could have done in 8 months that the Clinton administration had not done in 8 years to prevent the tragic events of 9/11.

Some in Washington, DC, I guess we have all come to learn, are world-class second guessers. Now armed with the benefit of hindsight, there are those who want to pick through the rubble, through e-mails, and through memos to try to assign blame.

But we ought to be clear about this: The blame for what happened on 9/11 lies squarely with Osama bin Laden and al-Qaida—not on the American people, not on President Clinton and his administration, and not on the President or his administration. These are good, patriotic Americans who I am confident were doing everything they knew of that they could possibly do to prevent the terrible tragedy this Nation suffered on 9/11.

It is insulting that anyone would suggest this administration or the previous administration, now with the benefit of 20–20 hindsight, might have done something to stop this unfathomable horror.

It is important to place responsibility where it lies; and that is with al-Qaida and Osama bin Laden.

We also find ourselves in a strange new dimension where on the one hand President Bush is criticized for acting too decisively to take out al-Qaida, to take down the Taliban government in Afghanistan and then remove a bloodthirsty tyrant in Saddam Hussein, and now, on the other hand, these same critics want to complain that he should have done more.

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

Mr. REID. Madam President, I was told that the Senator from Texas didn't understand what I said. What I said earlier was that Senator DASCHLE wanted to speak and that is why I objected. I ask unanimous consent that the time on both sides be extended for an additional 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CORNYN. Madam President, I thank the Senator from Nevada.

We ought to be very clear about where the blame lies for the events of September 11.

But I point out one thing: President Bush has acted as decisively as any leader could have possibly acted in removing the Taliban from Afghanistan, by disrupting the training camps of al-Qaida in that country and then acting decisively against Saddam Hussein. The United Nations issued 14 different resolutions threatening him with the use of force if he did not comply with those resolutions, which he had never complied with during the entire course of the post-gulf-war period from 1991.

I think most Americans would be a little surprised to learn we never had a peace treaty after 1991, because Saddam Hussein continued to defy the

United Nations and the free world by his continued acts of avoiding United Nations inspections. He played a game of cat and mouse. Just when he thought we were developing the courage—the United Nations and others—to take him to task, he would relent temporarily only to kick the inspectors out and continue to defy the United Nations inspections.

My final point is there are some, including the Senator from Massachusetts, who have called the war in Iraq ''another Vietnam.'' The Senator from Arizona, Mr. MCCAIN, I think did as good a job as possibly could have been done—certainly a person who has enormous credibility on that issue, having served so ably in Vietnam and, unfortunately, having been a prisoner of war there for a time—I think he did a very good job of refuting that and really showing the truth about that sort of scurrilous accusation. It is the kind of speech I worry has the possibility of a tremendously negative effect on our war on terror.

Our enemies should not be confused about our commitment to follow through, win the war on terror and crush our enemies in the process.

I grew up during the course of the Vietnam war. I remember what it was like in this country when our men and women in the field returned to this country only to find the American people did not support them as they should have and where America lost its resolve and strength of will. We should never let that happen again. It was a terrible American tragedy. For anyone to suggest that America is going to suffer loss of will or resolve in winning this war on terror is simply wrong.

I think we should not be fooled into thinking when Senators or any government official or anyone stands up and equates what is happening in Iraq and what is happening in Afghanistan and what is happening generally in the war on terror with Vietnam—they are providing fodder for our enemies. They are encouraging our enemies to think that perhaps we will lose our resolve and give rise to, I think, increased attacks against our troops on the ground and undermining our war effort generally.

I certainly don't suppose anyone is doing that intentionally. But I think we need to be careful about the words we use.

I know a short time remains in our morning business. I see the distinguished majority whip on the floor.

I would say in closing that words are important. Words have meaning. The words that are said today won't be remembered just in the context of election year and partisan politics; they will stand in history for future generations to read and study with a critical eye. In the end, we must focus on the battle with our common foe and not on each other.

I yield the floor.

ORDER OF PROCEDURE

Mr. REID. Madam President, on our side we have 40 minutes, with the first 15 minutes yielded to the Senator from Connecticut and the second 15 minutes to the Senator from Vermont, Mr. JEFFORDS. My counterpart is in the Chamber and wishes to speak. The Republicans have the first division of time this morning. Thank you for yielding.

Mr. MCCONNELL. How much time remains on this side?

The PRESIDING OFFICER. Five minutes eleven seconds on the Republican side.

Mr. MCCONNELL. Madam President, I am not certain I can finish in 5 minutes. I wonder if it would be all right with the other side to have 10 minutes instead of 5.

Mr. REID. No objection. That would be yielded on both sides.

The PRESIDING OFFICER. The Senator from Kentucky.

TERRORISM

Mr. MCCONNELL. Madam President, there is no question the terrorists are at war with us. Unfortunately, it is becoming increasingly apparent in Washington we are at war with each other.

The September 11 Commission is holding hearings right now. It has an admirable goal of investigating the reasons that our immigration, intelligence, law enforcement, military, and legal systems failed to prevent 19 Islamic radicals from hijacking planes and using them as weapons of terror so we can prevent such lapses in the future.

Already the Bush administration and Congress have acted to reform numerous agencies and procedures to deter and to prevent future terrorist attacks on our country. What have we done? We have responded to terrorism vigorously by attacking the terrorists where they live and confronting the regimes that support them, rather than by lobbing a few cruise missiles at an empty desert tent.

We created the Department of Homeland Security to put all domestic security agencies under one roof. We overwhelmingly passed the USA PATRIOT Act which provides law enforcement agencies the tools they need to monitor, apprehend, and convict terrorists. We have cracked down on terrorists' financing at home and abroad by shuttering sham charities that fund terror and by freezing terrorists' assets. We have streamlined and reformed the intelligence agencies and are working to improve coordination among the many agencies responsible for protecting America.

Hopefully, the Commission will identify additional methods to improve U.S. security, but forgive me for not being terribly optimistic. I fear the Commission has lost sight of its goal and has become a political casualty of the electoral hunting season.

Sadly, the Commission's public hearings have allowed those with political axes to grind, such as Richard Clarke, to play shamelessly to the partisan gallery of liberal special interests seeking to bring down the President. These special interest groups have undeniably exploited the Commission for political gain. Moveon.org, for example, the ultra liberal organization that opposed America's liberation of both Iraq and Afghanistan—Moveon.org opposed the liberation of Afghanistan as well as Iraq—is funding TV ads that use Clarke's voice to accuse President Bush of not doing enough to stop terrorism. Moveon.org will launch a $200,000 ad campaign that restates this claim during CNN's coverage of Dr. Rice's testimony before the Commission this morning.

Clarke himself, publicly and under oath, has said he believes that even had the President implemented every single one of the suggestions he made to the President when he came into office, we would still not have been able to prevent the September 11 attacks. Let's take a look at that again. Mr. Clarke himself has said that even if President Bush had done everything he recommended to the President, we could not have prevented the September 11 attacks.

Before deciding to profit from his revisionist history, Clarke argues persuasively that President Bush's policy to combat terrorism was more aggressive than that of his predecessor. Clarke noted that President Bush expressed frustration with the previous policy of ''swatting at flies'' and that the President authorized a fivefold increase for covert operations against terrorists in Afghanistan.

The Washington blame game has distracted us from the important task at hand: Winning the war against the terrorists. The only entity responsible for September 11 was al-Qaida. We need a real debate in America about how to prosecute the war against terrorism because there are two fundamentally different schools of thought about how to win this war, two fundamentally different philosophies about how to win this war.

On the one hand, there are the President's critics who define terrorism so narrowly as to include only the terrorists directly responsible for September 11, and not the many other terrorist groups currently plotting attacks against America and her allies. They believe this war can be fought under the auspices of the U.N., if only America would yield to the French or the Russians or the Chinese. They are unwilling to act alone when others refuse to confront by force those who choose death over life and violence over peace.

On the other hand, there are those who believe that al-Qaida is merely one head of the hydra and that to kill the beast of terrorism you must drain the swamp in which the beast lives and the terrorists thrive. We have done that in Afghanistan, we are doing that in Iraq, and we must do it everywhere terrorism thrives.

Some critics, such as the junior Senator from Massachusetts, have argued that the war in Iraq is a distraction and that the global war on terrorism has actually been set back as a result of draining the swamp in Iraq. Senator KERRY's reversal on Iraq was wrong and his refusal to support $87 billion for U.S. troops for reconstruction in Iraq and Afghanistan stands as a stark rebuttal to President John F. Kennedy's call to ''pay any price, bear any burden, meet any hardship, support any friend, oppose any foe, in order to assure the survival and success of liberty.''

This war is not an isolated fight against al-Qaida but a global competition with a shadowy evil that lurks on every continent. It is a fight against the very enemies of freedom. We must never ever shrink from that fight. Terrorists do not reside in Afghanistan alone. It would be dangerously irresponsible to focus single-mindedly on al-Qaida while neglecting the other real threats facing our Nation. There is no doubt that terrorists reside in Iraq. We see evidence of this fact every single day on television.

Those who claim that Iraq is a distraction in the war against terrorism have very short memories, conveniently short memories. They have already forgotten that the Clinton administration State Department listed Iraq as a state sponsor of terrorism—that is the Clinton administration: Iraq as a state sponsor of terrorism—and that Saddam Hussein provided safe haven to international terrorists. We all know he made cash payments to families of suicide bombers among Palestinians.

Now the terrorists are currently making a desperate stand to prevent the establishment of an oasis of freedom in the heart of the Middle East. If we fail to eradicate the terrorists in Iraq, we will fail to defeat terrorism anywhere.

Waffling on our commitment to Iraq would convince the terrorists that America is little more than a paper tiger, and it would undermine our global efforts to deter other rogue states, such as Iraq and North Korea, from supporting terrorism.

We must not allow Iraq to become another Somalia. Going home early is the surest way to embolden the terrorists and to ensure the failure of our efforts to bring peace and security to the Middle East.

It was said the other day that Iraq is Bush's Vietnam. Nothing could be further from the truth. It may be Japan or Germany or Korea, but it is not Vietnam. We face lingering threats and challenges in those conflicts, but by staying the course we heralded in decades of freedom and prosperity in places such as Japan, Germany, and Korea. That is what will be done in Iraq.

Victory in Iraq is now central to our war against terrorism, and not only because it is preferable to fighting terrorists in Iraq rather than in New York. A free Iraq represents a mortal blow to the terrorists' goal of a radicalized Middle East.

Until you change the politics of the Middle East, Islamic fundamentalists are going to keep trying to kill Americans, and not even the best defenses will be able to prevent every conceivable attack against us here at home.

Establishing a democratic and economic beachhead in the backyard of radical Islam is itself a major success in the war against terrorism. Indeed, that is precisely why foreign terrorists are so committed to preventing the Iraqis from building a democracy in the heart of the Middle East.

The war against terrorism must be fought outside of Afghanistan, and it must continue after bin Laden is dead or behind bars; otherwise, we will find ourselves as vulnerable as we were on September 10. We cannot keep America safe by distinguishing between terrorists who have attacked us and terrorists who want to attack us.

In conclusion, I close with a quote from Michael Kelly, who died a year ago in Iraq while covering the war from the tip of the spear as an embedded journalist with the Third Infantry Division. He wrote in February before our liberation of Iraq about our cause in Iraq and the challenges we would face. Here is what Michael Kelly had to say:

> There is risk; and if things go terribly wrong it is a risk that could result in terrible suffering. But that is an equation that is present in any just war, and in this case any rational expectation has to consider the probable cost to humanity to be low and the probable benefit to be tremendous. To choose perpetuation of tyranny over rescue from tyranny, where rescue may be achieved, is immoral.

Madam President, I yield the floor.

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

The Senator from Nevada.

IRAQ

Mr. REID. Madam President, I would say I agree with my friend that the situation in Iraq is not a Vietnam. But it is Iraq. I would hope the comparisons made to Korea and Japan and Germany do not apply. We, of course, in Korea lost 55,000 troops there who died, with hundreds of thousands wounded and in Japan and Germany there were over half a million dead.

I agree with my friend from Kentucky that we have to do what we can to come out of the situation we have in Iraq. We certainly are there. We have to give our troops everything they need. They are under tremendous pressure. The situation there in the past week has been very difficult. We have to, as a Congress, do everything we can to let them know we support everything they are doing, and to make sure they have all the equipment and supplies they need to do the very best they are trained to do.

JOBS ACT

Mr. REID. Madam President, we have worked very hard on this side of the aisle to pass S. 1637, which is the bill to amend the Internal Revenue Code to comply with World Trade Organization rulings, the so-called FSC bill. I want everyone to understand on our side of the aisle and on the other side of the aisle that Senator DASCHLE made to the majority leader, last night, I think, a proposal that should have been accepted last night; that is, from the 75 amendments that have been proposed on our side, that has been reduced to approximately 20 amendments, with very short time agreements on the 20, nothing more than 30 minutes, and one amendment is for as little as 5 minutes.

I also suggest that if we look at what has happened with this piece of legislation, there has been nothing on our side that has been dilatory. We have wanted to move forward on this bill, but in the entire time we have worked on this bill we have voted once. If you go back to years past, when a tax bill comes before the Senate, it is not unusual to have more than 100 amendments offered and disposed of here in the Senate.

I think the good-faith offer made by the Democratic leader to the Republican leader is something that should be accepted. This is a proposal that would be good for the country, and it is in keeping with what we have tried to do on this piece of legislation—let the Senate act in accordance with the traditions of the Senate. It is a far cry from what we should have been doing this past 2 weeks. We could have worked our way through all of these amendments, but that has not been done.

I would suggest it would be in the best interests of the country that the offer made by the Democratic leader to the Republican leader be accepted at the earliest possible date.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

(The remarks of Mr. LIEBERMAN pertaining to the introduction of S. 2305 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Vermont is recognized for 15 minutes.

THE ENVIRONMENT

Mr. JEFFORDS. Madam President, in 2 weeks, this Nation will celebrate Earth Day. The first Earth Day was in 1970, 34 years ago. For three and a half decades, people from all walks of life have gathered on April 22 to celebrate the environment.

Since the first Earth Day, our Nation has had seven Presidents, including our current leader, President Bush. Four of the six former Presidents were Republicans: President Nixon, President

Ford, President Reagan, and former President Bush.

Each of these former Presidents has left their mark on our Nation's environment. For the next 10 minutes, I want to review the major policy and legislative accomplishments—and there were many—of these former Presidents.

At the same time, I will point out what the administration—the current Bush administration—is doing to that legacy left by four former Presidents.

That contrast is stark. Many of you would be surprised to learn that President Nixon's lasting policy legacy may well be on the environment. President Nixon signed into law some of the most comprehensive and sweeping environmental laws. Here is a list on this chart: National Environmental Protection Act, which was the basis for a lot of these situations; the Clean Air Act; the Clean Water Act; Endangered Species Act; Marine Mammal Protection Act; and the Safe Drinking Water Act.

We would all agree this is an impressive list. For the sake of time, I will not read the list for each of the subsequent three Republican Presidents. But the list is, in some cases, equally impressive.

Let's look at President Ford. The chart shows his greatest environmental accomplishment may be the Resource Conservation and Recovery Act. The bill helped reduce our Nation's solid waste output and has increased reuse and recycling.

Now let's go to President Reagan's list on this chart. This is amazing to some of us who didn't think we necessarily were doing much. The list includes: the Endangered Species Act; Safe Drinking Water Act; Clean Water Act reintroduced; Hazardous and Solid Waste Act, amending RCRA; Safe Drink Water Act amended; Superfund Amendments and Reauthorization Act; Nuclear Waste Policy Act; Water Resources Development Act, and the Lacy Act amended.

They all built great environmental records that make all of us proud. I was Republican at the time, and we were proud of the environmental record these Presidents produced.

Now I want to go back to President Bush, senior, for a moment. His list was fairly solid. His greatest environmental achievement may have been the Clean Air Act. Being on that committee at the time, I was involved in negotiating these changes. It wasn't easy. Sometimes we all have to give a little to get a lot. But there were results from his efforts.

Now we come to the current President Bush. Remember, we are simply looking at Republican Presidents and their significant environmental records. We are not going to the Democratic Presidents. Let's look at his chart. There it is. There is nothing there. It is blank. There is not one legislative accomplishment of importance on the environmental issue. None.

I bet you would like to know what they have been doing for the last 4 years on environmental policy. Or maybe you would not. I will tell you anyway.

The Bush administration has been at war with the Clean Air Act. The Bush administration has proposed to gut the Clean Water Act. The Bush administration has bankrupted Superfund, ending the cleanup of toxic waste sites. The Bush administration has slashed funding for drinking water and wastewater. The Bush administration has slowed and almost shut down environmental enforcement.

The next chart—need I continue?

Here is President Bush's record. What are these on the chart? These are environmental rollbacks. If we can take a look at this chart, it says: Weakening the new source review section of the Clean Air Act; no Federal oversight on the cleanup of nearly 300,000 miles of rivers and 5 million acres of lakes; delays in requiring national pollutant discharge elimination system permits; opens more public land for toxic waste dumps; loosens regulations on mercury emissions; exempts Pentagon from the ESA and MMPA rules; exemptions from Montreal Protocol for the pesticide methylbromide; withdrew the TMLL rule set to take effect under the Clean Water Act; increased fuel efficiency standards by a mere 1.5 miles per gallon over 3 years; capped wilderness designation at 22.8 million acres nationwide, no more; Clear Skies plan curbs mercury emissions to only 2 to 14 tons reduction by 2010; does not pursue legal investigations of polluting facilities accused of violating Clean Air Act and water standards; also, they have underfunded Superfund.

The administration has a growing credibility gap, maybe even a credibility chasm on air pollution policy and environmental policy in general. I believe the President has lost the trust of the American people when it comes to the environment.

There are opportunities for him to rebuild this trust, but I doubt that any of the suggestions that have been given will be taken seriously.

When this President came into office, I had the greatest hopes that we could all work together to solve the problems facing the American public. But to put it mildly, I have been greatly disappointed.

The former Presidents I mentioned earlier built a legacy of environmental progress. This legacy is being dismantled. We can only hope that a future President will look back and work to rebuild our environmental protections to make sure this Nation can go on to a better and a healthier future.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, what is the parliamentary situation?

The PRESIDING OFFICER. The minority controls just under 11 minutes in morning business.

Mr. LEAHY. I thank the distinguished Presiding Officer. As always, it is good to see her, a longtime friend of our family, and I appreciate her service to this body.

THE FAIRNESS IN ASBESTOS INJURY RESOLUTION ACT OF 2004

Mr. LEAHY. Madam President, we have had months of bipartisan negotiations on legislation to enact a national trust fund for victims of asbestos-related diseases. I am concerned that our distinguished majority leader and Senator HATCH have now introduced a partisan asbestos bill. We all agreed over the past couple of years of hard work on this issue that only a bipartisan bill will pass.

I held the first hearing on the problem of asbestos litigation a couple years ago. We worked closely with Republicans and Democrats, and I had hoped the bipartisan dialog over the past year would yield a fair and efficient compensation system that we could, in good conscience, offer to those suffering today from asbestos-related diseases and also to victims yet to come. But I am afraid the Senate majority has decided to walk away from those negotiations and to report to unilateralism by introducing a partisan bill.

I have offered, as has Senator DASCHLE, to work very hard on this issue. When I heard one was going to be introduced yesterday, I actually tried very hard to see if I could get a copy of it. Hours after it was introduced, we were finally given one.

We have all learned a great deal about the harms wreaked by asbestos exposure since that first Judiciary Committee hearing I talked about that I convened in September of 2002.

Asbestos is the most lethal substance ever widely used in the workplace. Between 1940 and 1980, more than 27.5 million workers in this country were exposed to asbestos on the job. Nearly 19 million of them had high levels of exposure over long periods of time. Even with all that, unbelievably, asbestos is still used today.

What we face is an asbestos-induced disease crisis—hundreds of thousands of workers and their families have suffered debilitating disease and death due to asbestos exposure. These are the real victims of the asbestos nightmare, and they must be the first and foremost focus of our concern and effort in this body. These are people who, by simply showing up for work, now must endure lives of extreme pain and suffering and often early death.

Not only do the victims of asbestos exposure continue to suffer, and their numbers to grow, but the businesses involved in the litigation, along with their employees and retirees, are suffering from the economic uncertainty created by this legislation.

More than 60 companies have filed for bankruptcy, and their bankruptcies have a devastating human and economic effect. Those victims who deserve fair compensation, of course, cannot get it from a bankrupt company.

I worked with Senators DASCHLE, DODD, FRIST, HATCH, and SPECTER. We asked representatives from organized labor, from the trial bar, from industry to help us reach a consensus on our national trust fund to fairly compensate asbestos victims and to provide financial certainty for asbestos defendants and their insurers.

A successful trust fund—one that will give fair and adequate compensation, would bring reasonable financial certainty to defendant companies and insurers—includes four essential components: appropriate medical criteria, fair award values, adequate funding, and an efficient expedited system for processing claims.

During the markup session of the first FAIR Act, we unanimously adopted the Leahy-Hatch amendment on medical criteria. During the mediation process established by Senator SPECTER and Judge Edward Becker, the interested stakeholders focused on crafting a streamlined administrative process and both Judge Becker and Senator SPECTER deserve credit for the enormous amount of work they put in on this. But we have not reached consensus on two other essential components: fair award values and adequate funding.

Although the changes made to a few award values by Senator FRIST moved in the right direction, the bill introduced last night does not move far enough. In fact, seriously ill victims will receive less compensation, on average, under the current version of the FAIR Act than they would in the tort system.

Actually, the FAIR Act, as I say on this chart, is not fair. Victims with asbestos-related lung cancer with at least 15 weighted years of asbestos exposure could receive only $25,000 in compensation, basically a crude joke of the victims, especially given most lung cancer victims are going to die within 2 years. It is a cruel joke also on their families.

Not only that, we find they may have their awards reduced or even eliminated to repay insurance companies. That is so contrary to most existing compensation programs. For example, the Radiation Exposure Compensation Act, the Energy Employees Occupational Illness Compensation Program Act, and the Ricky Ray Hemophiliac Relief Fund Act all contain strong antisubrogation language to protect awards to victims under these compensation programs.

Our bipartisan medical criteria have already eliminated what businesses contended were the most troublesome claims. We all say we need to compensate the truly sick, but fair compensation is not free compensation.

Our bipartisan agreement on medical criteria is going to be meaningless if the majority, in effect, rewrites the categories by failing fairly to compensate those who fall within them. We need a balanced solution. We need one that can be supported by all Members in this body.

Even with consensus on medical criteria, if the award values are unfair, the bill will be unfair and unworthy of our support, which sadly is the case with this partisan bill.

Since the first hearing on this issue, I have emphasized one bedrock principle: The solution we reach must be a balanced solution. I cannot support a bill that gives inadequate compensation to victims. I will not adjust fair award values into some discounted amount to make the final tally come within a predetermined, artificial limit. That is not fair.

We have been told, however, the majority will support a bill that contains funding with a goal of raising $109 billion over 24 years. But it is clear from projections of future claims this funding is inadequate to pay fair award values to present and future asbestos victims. Indeed, it is a cut of more than $40 billion from the total funding approved in the Judiciary Committee under contingency funding amendments by Senators FEINSTEIN and KOHL. It is not fair. All reflections show it is not enough.

The partisan emphasis in this bill on the interests of the industrial and insurance companies involved, to the detriment of the victims, has predictably produced an imbalanced bill. This bill is a reflection of the priorities that went into it. For us to succeed in reaching the consensus solution we have sought for so long, a workable bill should fairly reflect, and not discount, the significant benefits a fair solution indisputably would confer on the companies involved. A trust fund solution would offer these firms reasonable financial security. Even a casual glance at the way the stock values of these firms have closely tracked the Senate's work on this issue is enough to make this fact crystal clear.

Given all of these serious problems, I believe forcing this new asbestos bill through the Senate in its present form would prove counterproductive, even fatal, to the legislative effort. The near party-line vote within the committee on the earlier bill is more of a setback than a step forward even after all of our work. Proceeding further without consensus would be another mistake.

Instead, we should go back to work, build on those areas where we have bipartisan consensus, and then produce a bill that will help the asbestos victims in this country, will bring certainty to the companies that are laboring under possible liability, and will let the country go on with its business.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Madam President, I will use my leader time under the order of the day, and I would make a note I will designate Senator KENNEDY to control the time once we move to the pension conference report.

The PRESIDING OFFICER. The leader has that right.

Mr. DASCHLE. Madam President, I compliment the distinguished Senator from Vermont for his statement on asbestos. I do not know of anybody in our caucus, perhaps in the Senate itself, who has done more and has been more engaged on this issue for a longer period of time than has Senator LEAHY. We would do well to listen to his sage advice and his critique of the asbestos legislation that is now working its way on to the Senate calendar.

As our Nation continues to grapple with the terrible consequences wrought by the use and distribution of asbestos, Senators from both sides of the aisle have been working diligently to negotiate a compromise. With each passing day, more victims face serious illness and even death, and more workers and companies face the threat of bankruptcy.

Approximately 1.3 million Americans are still exposed to asbestos at work. Ten thousand Americans die from asbestos-related illnesses each year. That is more than from drownings and fires combined.

In my home State of South Dakota, asbestos liability has been a major issue for businesses and individuals. In the cities of Aberdeen and Brookings, I have talked with the leadership team at 3M to discuss the impact this issue is having on their business.

3M employs 1,300 workers whose livelihoods are tied to the company's financial stability and strength. The corporation's management has told me how asbestos lawsuits have begun to overwhelm 3M, as over 300,000 suits have already been filed against their company, even though they were not in the business of producing or manufacturing asbestos.

At the same time, there are many South Dakotans who have become sick or died because of their exposure to asbestos. For instance, Jack Archer from Sioux Falls was a career electrician for 47 years working on dams along the Missouri River, and in aluminum plants and paper mills. After a long day of work, he would often come home covered in asbestos, and would shake off the dust and change clothes away from his house so his children and wife, Maurine, would not be exposed. In January 2000 he was diagnosed with mesothelioma.

Jack had seen many of his co-workers and friends die from the disease, and knew the illness that awaited him. Once diagnosed, Jack's body deteriorated rapidly, and each day brought more pain than the last. He died in July 2002. His wife now tries to remember his vitality and zest for life, rather than the years when cancer got the better of him.

Asbestos has created havoc all across the country, in homes and neighborhoods, mines and manufacturing plants, financial markets and board rooms. One study states that 300 companies were sued in the 1980s, while approximately 8,400 companies have been sued as of 2002. In addition, at least 70 companies have sought bankruptcy protection due to asbestos litigation.

Clearly, a solution is needed. For years, I have expressed my strong desire and commitment to find one. As I have said repeatedly, there is a way for us to craft legislation that could enjoy the overwhelming support of the Senate, if we put partisan differences aside and develop a true compromise that adequately compensates victims and provides financial certainty to companies and insurers.

Creating a national asbestos trust fund is an extraordinarily complex undertaking. There are a number of issues that all sides agree must be addressed: The creation of a no-fault administrative system; the equitable allocation of contributions; the establishment of reasonable medical standards; the resolution of pending claims and settlements; the creation of fair compensation values; and ensuring transparency of the system for both victims and corporate stakeholders.

Last July, the Judiciary Committee narrowly reported out a bill that was opposed by the American Insurance Association and the AFL–CIO. Since that time, there has been much work invested to try to develop a compromise and bridge the differences between the stakeholders. However, while much progress has been made, there are still several vital issues that have yet to be resolved.

During the committee markup, a compromise was reached on one of the major issues, medical criteria. Then, in the past few weeks, a compromise was reached on creation of the administrative structure within the Department of Labor. Yesterday, a new asbestos bill was introduced. This legislation incorporated some of the agreed upon compromises, and included some improvements.

However, it also takes a step backward in other areas. The new legislation dramatically altered or dropped altogether several of the key committee-adopted amendments. For example, the new bill restricts the amendment that would have restored current legal rights to victims if the fund runs out of money, adding new obstacles to access to the courts.

In addition, the new legislation failed to improve provisions that could limit recovery to only $25,000 for lung cancer patients who were exposed to asbestos at work for at least 15 years. That is in the bill. The so-called FAIR bill actually has a provision that says victims with asbestos-related lung cancer and 15 weighted years of asbestos exposure would receive only $25,000 in compensation. I literally cannot imagine how anybody could support legislation that says that is all they are entitled to. Fifteen years of weighted asbestos exposure, you have cancer, there is a connection, and your award under this bill is $25,000?

Finally, it puts the overall funding at $109 billion. Some Republicans argue investment income would boost that up to $114 billion, but this is far from certain. Even $114 billion is grossly inadequate.

Clearly, there are several fundamental areas that have not been resolved. These issues are not new. In fact, before, during, and after the committee markup, Democrats have raised some of these same concerns. For over 6 months we have been clear that $114 billion is insufficient. While we recognize that Republicans are reluctant to accept the committee-supported bill of $154 billion, we have expressed our willingness to work out a compromise.

Time is short. The majority leader has stated his interest to bring the bill to the floor immediately following the April recess. We can and should develop a solution.

But let me be clear: Securing a bipartisan compromise on asbestos is one of our top priorities. I stand ready and willing to work with my colleagues to address this important issue. But we will not support and we will do all we can to avoid passing legislation that is not fair, that does not address the problem, that will only compound the problems of those who are victims today.

I continue to believe that if we work together, we can develop effective reform legislation to provide appropriate compensation to the victims of asbestos, while providing a measure of certainty and security to American industry.

If, however, the Senate proceeds with legislation that does not reflect the middle ground, as I have said, we will have missed an opportunity to address this vital issue. I think we could all agree the stakes are too high to let it slip away.

Madam President, how much of my leader time remains?

The PRESIDING OFFICER. The Senator has used 9 minutes.

Mr. DASCHLE. Madam President, I have another matter I would like to address in the time I have remaining of my leader time, if I could.

NATIONAL PUBLIC HEALTH WEEK

Mr. DASCHLE. Madam President, I recently learned the story of a young Indian girl from South Dakota. Last year, when she began to lose weight and feel stomach pains, she traveled to a nearby Indian Health Service clinic. She was diagnosed with heartburn, and since IHS clinics often don't have the resources to treat patients unless their lives are at immediate risk, she was told to go home.

Over the course of the next several months, as her condition worsened, she returned to the clinic several times only to be turned away each time. Because she was never given a full checkup, the clinic failed to discover that her symptoms were not caused by heartburn but by stomach cancer. By the time her condition became critical, it was too late. Her cancer had spread, and there was nothing any doctor could do. Not long afterward, she died.

Perhaps the saddest aspect of this story is that it is another example of what happens each and every day. For Native Americans and other minority communities across the country, the miracles of modern medicine—and sometimes even the most basic primary care—are beyond their reach. The disparities within our health care system have reached a crisis point, and the consequences for America's minority communities are staggering.

The death rate for African American cancer patients is 30 percent higher than for whites. African Americans are also one-and-a-half times more likely to have coverage for an emergency room visit denied. Hispanic Americans are more than twice as likely as whites to die from diabetes. American Indiana are 670 percent more likely to die from alcoholism and 650 percent more likely to die from tuberculosis.

This sad litany of statistics goes on and on and it tells a story of a health care system that, for a significant and growing portion of our Nation, is simply broken.

This week is National Public Health Week. Appropriately, the American Public Health Association has chosen to focus the Nation's attention this week on the disparities in our health care system and how we can fix them.

I am grateful for its efforts. America faces few more important or complex challenges than building a world-class health care system for everyone, regardless of race, income, or geography. There are no quick fixes. The factors that have led to this two-tiered health system are complex and interrelated.

Minorities are far less likely to have health insurance or a family doctor, making regular preventive visits less likely. And many of those who do have insurance report having little or no choice in where they seek care. Minority communities are more frequently exposed to environmental risks, such as polluted industrial areas, cheap older housing with lead paint, or asbestos-laden water pipes.

For Hispanics, Native Americans, and others who do not speak English as a first language, the lack of translators and bilingual doctors makes it more difficult to communicate with doctors and nurses. The American Indian community has been forced to cope with a system suffering from decades of neglect and underfunding of the Indian Health Service.

The IHS has consistently grown at a far slower rate than the rest of the HHS budget, and at only a fraction of health care inflation. As a result, sick people are turned away every day from IHS hospitals and clinics in this country unless they are in immediate danger of losing their life or a limb.

Life or limb isn't a figure of speech at IHS clinics. It's an actual standard of care. IHS's funding crisis is not just in clinical services. Prevention efforts, facilities, personnel, mental health care, substance abuse programs, and contract support costs are all drastically underfunded, too.

I have said this on the floor many times. Our country spends an average

of $5,100 for every man, woman, and child in America. In every Federal prison, we spend an average of $3,800 for every prisoner. On every Indian reservation, we will spend $1,900 total for every man, woman, and child, one half of what we spend for Federal prisoners. So it is no wonder that people die at a rate hundreds of times greater on the reservation than they do anywhere else.

America is obligated, by law and by treaty, to provide free health care for American Indians—a commitment the U.S. Government made to the Indian people in exchange for their lands. America is not honoring that commitment.

The White House's budget this year included only $2.1 billion for IHS clinical services. That is more than 60 percent below the bare minimum needed to provide basic health care for people already in the IHS system.

The problems run still deeper. Even when both groups have roughly the same insurance coverage, the same income, the same age and the same health conditions, minorities receive less aggressive and less effective care than white Americans.

The racial and ethnic disparities in our health care system are not merely a minority issue or a health care issue. The high incidence of diabetes, asthma and other diseases among minorities as a result of this health care gap costs our Nation billions of dollars every year.

But most importantly it is a moral issue. A health care system that provides lesser treatment for minorities offends every American principle of justice and equality. We have been promised that we would address these issues at some point in the future, but we have seen no action whatsoever. We have attempted to pass the Healthcare Equality and Accountability Act of 2003, and no action has yet been taken.

This legislation would reduce health disparities and improve the quality of care for racial and ethnic minorities. The bill would expand health coverage by expanding eligibility and streamlining enrollment in Medicaid and the State Children's Health Insurance Program; it would remove language and cultural barriers by providing additional funding for cultural and language services; it would offer incentives to improve health workforce diversity; it would offer new funding to State, local, and tribal initiatives that take innovative approaches to reducing the disparities; and it would increase minority health research and data collection.

The bill would also strengthen and hold accountable the government institutions responsible for ensuring health care equity. And finally, the bill would provide adequate funding for the Indian Health Service—so that we can finally reach some adequate funding level and stop the shameful underfunding of Indian health needs.

This legislation would represent a strong first step, moving us closer to the goal of ensuring equal access to quality health care.

Last year, the majority leader said:

> Inequity is a cancer that can no longer be allowed to fester in health care.

I agree completely. We know what happens when cancer is allowed to spread.

Too many Americans in minority communities have lost their lives because they are subjected to a two-tiered health care system that keeps them from getting the care they need. We cannot afford to wait any longer to confront the minority health gap in our country. Americans are asking for our leadership on a challenge that is quickly becoming a national emergency. We have an obligation to answer their call.

I yield the floor.

MEDICAL MALPRACTICE CLOTURE VOTE

Mr. BYRD. Mr. President, yesterday, for the third time in this Congress, the Senate failed to invoke cloture on the motion to proceed to a one-sided, take-it-or-leave-it medical malpractice bill.

Last year, the majority leader tried to bring up a comprehensive bill. The Senate did not invoke cloture. Rather than sit down with the other side to craft a reasonable bill that could be brought up, debated, and amended, the majority leader took the same flawed bill, applied it to only one sector of the health industry, and attempted to bring it up again, just a few weeks ago.

At that time, I voted for cloture, not because I agreed with the underlying legislation, but because I had hoped for a legitimate debate, a serious look at the issues that are part of the growing medical malpractice crisis. I recognize that there are serious problems with medical malpractice in this country, and specifically with the availability of OB/GYN services in my home State of West Virginia. I voted to end debate on the motion to proceed to that bill. But, again, cloture was not invoked.

After two unsuccessful cloture votes, one would think that, if they truly wanted to pass legislation on this important issue, the Republican leadership would sit down with their Democratic colleagues and negotiate a bill that was less partisan. But there has been no such effort. Instead, the majority continues to add physician groups here and there, trying to rack up more political points. This is not a serious effort to address a real challenge. This series of votes is not designed to advance legislation. Instead, this is choreographed political theater, played for the benefit of core supporters of the Republican party. This is not a successful strategy for advancing legislation, or for solving serious problems facing our Nation, and I can not lend my support to this charade.

I do hope that the Senate can reach a consensus on this issue. Doctors and, most importantly, patients need stability in this system and the peace of mind that comes with a reliable, high-quality health care system.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. CHAMBLISS). Morning business is now closed.

PENSION FUNDING EQUITY ACT OF 2004—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of the conference report to accompany H.R. 3108, which the clerk will report.

The legislative clerk read as follows:

> The Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the 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, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the proceedings of the House of the RECORD of April 1, 2004.)

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. It is my understanding there are 4 hours equally divided; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. GREGG. This is an important piece of legislation which deals with the solvency of a large number of companies and benefits that are paid to those companies' employees. The core, the essence of this bill is the fact that traditionally, companies have been required to fund their defined benefit plans in relationship to the rate of return that is accounted for on a 30-year Treasury bond. That affects how much money they must pay into these plans.

Unfortunately, for companies that have such plans, the 30-year bond no longer exists as a viable benchmark. That is because we as a government are not issuing 30-year bonds. Therefore, when people value a 30-year bond, it has become, in the last few years, an understated value. It is not reflecting what the true interest is, the true rate of return is, in the marketplace any longer.

If we continue to use the 30-year bond as a benchmark, an inflated payment is required by those companies which come under this rule.

The effect of that is a large amount of money—it is estimated to be $80 billion—would flow inaccurately or inappropriately as a result of the fact that the decision as to that payment is

based on the 30-year bond which no longer exists and is understated. It understates returns.

That $80 billion, if it is artificially moved around, becomes a problem because it means companies actually have to come up with the money. When they do, they are taking money away from investments which create jobs. If a company is planning to create a new plant or buy new equipment to create new efficiencies or simply to pay its people more—the people who work with that business with that activity—find they can't do that. As a result, the jobs which would be created through that $80 billion infusion of money will not be created. And it will have a fairly significant chilling effect on the economy generally, if we do not make this change in the calculation of the interest rates.

This bill replaces the 30-year bond with a market basket of high-grade corporate bonds as a reflection of what the appropriate interest rate should be. I think there is general consensus on that part of the bill, and it is the most important part of the bill.

The bill also has a series of rifleshot changes for some single-employer plans and for a small number of multiemployer plans.

That is where the contest over the bill occurs most intently because those single-shot changes affect a few industries, a few airlines, a couple of steel companies, and a large multiemployer plan in the Midwest.

But that was not my reason for aggressively pursuing this piece of legislation. I wanted to fix the 30-year bond rate. I have been trying to do that now for almost 9 months. I feel very strongly if we don't do it we will end up losing jobs in America. We will end up making ourselves less competitive. We will end up with less investment, and we will end up with fewer people in our country working for businesses which are efficient and, therefore, can compete internationally.

I think it is critical that we pass this piece of legislation.

These other items which are part of this legislation are obviously important to those employees who participate in those different areas—the airlines, the steel companies, and the multiemployer plans that are impacted.

But for me, the core of this bill is fixing the 30-year bond rate and the problem it has in artificially affecting the playing field as to where investment flows in America.

It is very critical in a market economy that you allow dollars to be invested where they can be most efficiently used. When you have a system which creates an artificially inaccurate benchmark or how these various funds must be funded by using the 30-year bond, you undermine the ability of the marketplace to adequately discipline through market forces the investment of dollars. The practical effect of that is to produce inefficiency, less capital investment, and less jobs.

This is a very important bill. In fact, it is the ultimate jobs bill. Eighty-billion dollars of investment is a lot of investment which is going to create lots of jobs. There are important jobs bills, but amongst the jobs bills we are taking up in Congress, this is certainly one of the most important. It is subject to some significant time restraints. If we don't do this by April 15, then some of this miscalculation of resources begins to occur, and we end up losing the investment in jobs we need.

That is the essence of this bill.

As I understand it, Senator KENNEDY, who is the senior Democrat on the Health, Education, Labor and Pensions Committee, intends to speak on the bill. A number of other folks also wish to make points on the bill.

At this point, I yield the floor and reserve the remainder of our time and hope we can get to a vote fairly promptly.

The PRESIDING OFFICER. Who seeks time? The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I would welcome the opportunity to yield such time as our friend and colleague from Louisiana would care to use.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I understand we have about 2 hours on the Democrat side to debate this important bill. I appreciate the Senator from Massachusetts giving me such time as I might use. It will probably be 15 or 20 minutes, perhaps longer but hopefully not.

I want to start by asking my colleague from New Hampshire—I appreciate his work on this important piece of legislation. I actually agree with him. The people who are covered in this bill need relief in the pension provisions which we govern through our laws covering ERISA as well as in our Tax Code. I don't disagree with him that we have provided much needed and extremely important relief. But I want to ask, before I start my remarks, if he could comment on the approximately 9.5 million Americans who seem to be left out of this act and are working in the construction industry. If we seek to create jobs in America, that is one of the sectors we have the potential—as the economy begins, hopefully, to recover—where we could see some people actually going back to work.

I was wondering if maybe the Senator could comment about the multiemployers. I think there are about 9.5 million. Would he care to comment about why they have been left out?

The PRESIDING OFFICER. The Senator does not have a right to propound questions to other Senators who do not have the floor.

Ms. LANDRIEU. Mr. President, I will leave the question out there. I appreciate the clarification.

As we debate for the next 4 hours, I hope someone might come to the floor who is arguing that this bill is as good as it can get. I happen to believe this bill was pretty good when it left the Senate, and it has come back fairly effective. I would like to leave that question open to any of my colleagues who would care to come to the floor and explain in front of the cameras and for all to review why when it left here everyone was covered—all of the single employers and multiemployers—and as it has come back, why they have only received partial relief.

I have a reason, but I am not sure my reason is correct. I am going to leave that question out there and hopefully my good friend from Massachusetts and I can get an answer to that question before this debate concludes in 4 hours.

I am going to begin by refreshing our collective memory about what the President said. When President George Bush was elected in one of the closest elections ever in our Nation, he said it was time to rise above a house divided and to move together to create economic opportunity and economic hope.

When this bill had as its core very good purposes, when it left the Senate we were united. It had 86 votes, a majority of both the Democrat and Republican caucuses to give relief to every pension. Times have been tough. There were certain rules that were in place that prevented some of these multiemployer pension plans from stashing away money in the good times. They were prevented from doing that by our laws, rules, and regulations. When the market turned down and they started losing some of their investments, they had to kick in extra contributions, which caused them to take money away from employment and put it into their pension plans.

They asked for relief. Our Senate Republicans and Democrats said that large corporations as well as multiemployer pension systems deserve that relief. It left here with 86 votes a couple of months ago. It has come back, however, with only one group included and the other group left out.

I am concerned and worried. I am not confused. The answer is not pretty. I am told by the experts there is no economic justification for this. There is no cost to the Treasury to have those plans included. Although their plans are not run the same way, they deserve the same help and same relief because they are invested in the same stock market. I don't think there are two separate stock markets, one where the large corporations are invested and then another for everyone else. They have suffered the same up-and-down swings of the market.

However, I have to believe, unless my question is answered, the only reason they did not get help is simply because the White House did not want to help them. It would not cost the Treasury anything to give help to these plans. It would not cost the Treasury a nickel. It is a change in the law that buys them additional time that the actuaries and the experts believe would be

responsible and safe, that would still make sure the pensions are safe and the money is there.

The bill left the Senate, with Democrats and Republicans working together. It went to what is seeming to be every day the most politically driven White House, where they were simply eliminated from the bill.

I ask, during the four hours we are discussing this, if any Member would be willing to come to the Senate and state why this has happened to 9.5 million workers, many of whom are union workers but not all, and some businesses that are affected, that are employing people, not minimum-wage workers?

These are workers who wake up early before the sun comes up, construction workers. Even when the temperatures go below freezing, they put their gloves on and an extra jacket and they go out and work. These are the workers we see on tops of buildings. These are the workers we see digging deep holes under the ground, driving electric lines, making sure the infrastructure in this country is what it should be, making sure when buses go over a bridge, the bridge does not collapse.

I ask anyone in the Senate to tell me why these workers have been left out. The only reason I am given is it is a political directive from the White House. These are evidently Americans who the President either does not like, does not want to help, does not think they deserve it, does not think they need help. If this is the kind of administration we are a part of, then I don't want to be a part of this kind of administration. I want to be part of an administration that helps everyone when everyone can be helped unless there is some real good reason not to.

I can understand we cannot afford to give everybody the same kind of tax cuts when there is money coming out of the Treasury. I understand about making priorities. It is my understanding that does not cost the Treasury a penny. It is my understanding, having served as State treasurer of my State for 8 years and served on my pension boards, and having some knowledge of the way pensions are made and the estimates and assumptions actuaries make in terms of pensions that control how much contributions are put in and taken out of a pension plan, it is my understanding the experts agree everyone could use some help.

One plan is helped, which is included in this bill, making a temporary adjustment to the rate of return to give them some relief. Another group said, We do not operate exactly that way, but we could use some help just stretching out our payments for 3 years so we could create more construction jobs. This White House, for some reason, said no to 9.5 million Americans.

Maybe we are getting to a point—I hope my colleagues will come down here and correct me—maybe we are getting to some ridiculous point in this Capitol where before you can get relief you have to show your voter registration card. When Democrats are in control, if you are a Republican, if you do not show a Democratic card, you do not get relief. Most of the people who were left out were union members. Not all of them, but most of them were union members. Again, there are businesses that were affected.

If it was the White House's intention to punish this group of people because they are not overwhelmingly supportive of administration policies, this is not an administration I want to be a part of. I would not for 1 minute walk to the Senate and say some of the corporations that are getting help in this business, because they are not overwhelmingly supportive of Democrats, do not deserve a fair shake by this body. They got a fair shake when it left the Senate.

We had Democrats and Republicans come to the Senate and say, yes, these large corporations that have suffered terrible losses in the stock market—and we all did; whether you were a little or big investor, everyone took a big loss—yes, we want to create jobs. Yes, they deserve relief. Democrats came down. Senator BAUCUS from Montana argued passionately for this bill and 87 Members voted for it. It comes back with 9 million people missing, and they just happen to be part of multiemployer pension plans, most of whom are union but not all, and some small businesses have been cut out with no explanation.

It is a very ugly way to do the people's business and it flies in the face of what this administration promised: to unite us and not divide us, to give help to everyone who needed it when it was in our power to do so, whether they were a little fry or a big fry, whether they were a little fish or a big fish, whether they were a union company or not.

I don't know how others feel, but people in my State, whether they are for or against unions, are for jobs. We have lost almost 3 million jobs since this administration took office. I remind my colleagues that people want good jobs. They do not want jobs that pay $5.15 an hour. You cannot feed your children, pay rent, and put gasoline in your car for $5.15 an hour.

We want to create construction jobs. My construction workers make good money. They usually build darn good buildings and they build them for little towns and big cities in Louisiana. They came up here asking for help—not a lot of help. It does not cost a dime. Not a dime. They are turned away because they might be Democrats? They might be union members?

I have been to the Senate before on a number of other issues in my disappointment with this administration. Across the hall in some other building, Condoleeza Rice is testifying. We have marines being killed in Iraq. If the President were leading in the right direction, I think he would use every opportunity, even small ones such as this. This is not a huge deal, but it is a big deal to the 9.5 million workers who have been left out.

I would think he would be using every opportunity to unite this country, to create jobs at home, to create goodwill so we can get through maybe one of the toughest times in recent history. But, oh, no, the bill leaves the Senate with 87 votes—of Republicans and Democrats—and comes back with Republican-only fingerprints all over it, taking 9.5 million workers out because they dared to ask for help in times of tough economic downturn.

I have to hear the rhetoric coming out of the White House: They are trying to create jobs. Well, let me tell you, here is a good chance to create jobs, to help save those pension plans people have contributed to, to give them a little help that does not cost anything—and they were sent away emptyhanded.

So I am going to sit here for 4 hours. I may have to leave for a few minutes, but I want my colleague from Massachusetts to know I am going to sit on this floor until I get an answer to my question: Why were 9.5 million workers left out, when it does not cost us a red penny to help them? If it was not done for political retribution reasons, I would like a good explanation as to why it was done. If I can get a good explanation, then I will change these remarks and I will acknowledge perhaps I was mistaken about the reason.

But I know the way pension funds work. I know what they asked for was not much to ask. I know it would not cost us any money to do it. I know the experts said we could help them, if we had the will to. But we just willed a different way. We made other choices.

Finally, I am going to tell you, these choices—we all make these choices. Choices have consequences. The choices the White House made to leave these 9.5 million workers out—and the businesses that employ them—are going to cost us jobs. They are going to make people more cynical. They are going to raise the anger level in this country, when we need to be pulling people together and not tearing people apart. For the little it would have cost to keep them in, I think there is going to be a big price to pay for taking them out.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Who yields time?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Ms. LANDRIEU. Mr. President, until some other Members come to the floor, I want to add for the RECORD that, for

Louisiana, there are 56 electrical contracting companies that participate in the National Electrical Workers Plan that will receive no relief in this bill. There are 18 Louisiana sheet metal contracting companies that have joined the Sheet Metal National Plan that will have their pensions in jeopardy, perhaps. But whether their plans are in good shape, they came here to ask for relief that would not have cost a penny, and they were turned away.

There are 1,200 Louisiana workers who belong to the grocery store workers plan. They perhaps need to start worrying about when they will be able to retire because they were left out of this plan.

Mr. President, 32,000 construction workers in Louisiana who have multiemployer pension plans have been excluded.

Let me repeat, all of these workers—the thousands—the 18 Louisiana sheet metal contracting companies that employ thousands of people; the 32,000 construction workers; the 1,200 grocery store workers; and the 56 electrical contracting companies, which probably together employ, I am going to estimate, at least over 5,000 workers—all of those workers were included, along with these multinational corporations and large businesses. They were all included because they all need help. They all have legitimate requests that could be given by the Senate. When we debated this in the Senate, they were all included. And 87 of us—Republicans and Democrats—voted to keep them in.

So I am going to be on the floor. If someone would come to tell me why these thousands of workers in Louisiana have been left out, I would be happy to know the answer.

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.

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

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

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the quorum call be charged to both sides.

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

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

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

Mr. KENNEDY. Mr. President, I yield myself 30 minutes.

The issue, as my friend and colleague, the Senator from Louisiana, and the Senator from New Hampshire, pointed out, is the issue of pensions that are facing a very challenging time due to the economic challenges we are facing now in this particular time, and the efforts of Congress to try to give these pension programs some time to be able to recover. As the Senator from Louisiana pointed out, that is a very worthwhile goal we should embrace.

As she pointed out in an excellent presentation, we had passed bipartisan legislation to help all those at risk, those workers who were going to be in single-employer plans and those who were going to be in the multiemployer plans. We passed legislation 86 to 9. Rarely does the Senate, particularly in the present climate, come together and recognize there is an immediate problem and then begin to face up to it.

As we were listening to the Senators from Louisiana and New Hampshire, and thinking about points to be made regarding this legislation, I am once again reminded Senators' pensions are not at issue. All our pensions are adequately funded. I dare say, if the issue arose where we were going to leave over 20 percent of the Members of the Senate out, as this bill does for workers, there would be more Members in this Chamber right now than there are.

The American people understand the pensions the Members have here are adequately funded. What we are talking about is a proposal that has been advanced, with the support of the White House, that is going to take care of about 80 percent of those who are in trouble and leave over 20 percent out.

The Senate, in a bipartisan way, included everyone. This proposal excludes over 20 percent. This doesn't mean we are not for the remedies that are available to the other 80 percent. We are. We are strongly in favor of those. But we do think fairness demands we also include the other 20 percent. We understand if we were able to defeat this particular proposal today, it would take about 5 minutes to remedy this in a way that would provide fairness and equity for all those who are vulnerable. The House of Representatives would take that so fast, people's heads would turn. It would be on the way down to the White House as well.

That is the question, whether we believe we ought to have a solution that takes care of not only workers in the Fortune 500, but workers who are in the fortune 10,000. That is the issue. The issue is fairness. The issue is workers.

I will mention very briefly, to set the stage, what the challenges are with regard to pensions nationally at the present time. The troubled economy is jeopardizing workers' retirement. There are 3.3 million Americans who have lost pension coverage since the year 2000. Only 53.5 percent of the Nation's workers are participating in a retirement program, the lowest level in over a decade. The declining quality of jobs in our country also means declining benefits for American workers. Part-time and low-wage workers are far less likely to have a pension than full-time workers. This is what is happening in the real world.

We don't have enough pensions to cover all workers, and many of the workers who are covered are losing it. The pension system is in crisis. Rather than addressing the whole problem, our Republican friends say: We are not going to do that; we are only going to take care of some.

We believe everyone who is part of a pension system ought to get fair and equal treatment.

This chart points out the issue. We have 35 million Americans who are covered by single-employer defined benefit programs. These workers will be protected. The Senator from Louisiana and I are for giving that kind of protection. But we don't understand why, if we are going to give the protection to 35 million Americans, we leave out the 9.7 million Americans who are covered by multiemployer defined benefit pension programs.

The Senator from Louisiana asked exactly the right question. Why are we taking care of 35 million and leaving out effectively 10 million. There is absolutely no other answer than the White House decided it was going to be punitive and pulled the strings on the conference—of which I was a member, and I will go through that shortly—and said: We are not going to do it because so many of these are union members and we don't like unions.

That is telling us something new in the Senate, when we know what has been happening recently?

Before I get into that, this chart shows what has been happening with regard to general benefit pensions. We have what you call a perfect storm of factors hurting pension plan funding levels: The prolonged downturn of the stock market during the Bush administration, the longest since the Great Depression; extremely low 30-year Treasury bond interest rates; weak economic conditions which mean companies cannot afford to make the additional payments and pay excise taxes imposed by pension laws.

These factors have affected the single-employer and the multiemployer the same. That is why the Senate decided to deal with both single and multiemployer plans. But not the conference committee. Although we made real progress, the fact is, we are facing an administration that at best is indifferent and at worst hostile to working families.

I don't make that statement lightly. But you cannot look at the record of this administration with regard to working families and not come to that conclusion. If you look at what has happened with the creation of jobs, we have an administration that said, yes, we are going to create 5.2 million jobs. They made that statement in 2001. But we have seen the loss of 2 million jobs because of their economic policies.

This chart shows there are 2.4 million more unemployed workers now in 2004 than there were in 2001. Workers are

losing their jobs, and there are 10 million workers who are in the multiemployer plans who are going to get shortchanged as well. They are losing their jobs. If we look at the job growth over the last 3 years, as compared to other economic recoveries, from 1991, this shows the expansion of jobs, the recovery from 1991 to 1993. This chart indicates the current recovery is virtually flat.

How are workers reacting to this? American workers are working longer and harder than ever before. Look at this chart that shows what is happening for workers in industrial nations. These bars represent different countries. These are mostly the European countries: Denmark, France, Ireland, United States, Italy, and Germany. Look at the United States, about 400 hours more per year than any other industrial nation. Workers are working longer. They are working harder. More and more of them are losing their jobs. Of the new jobs that are being created, they are paying 21 percent less than the jobs that were replaced.

The average wage in 2001 was $44,000 a year. Now it is $35,000, a 21-percent loss. Workers working longer, harder. And if they lose their job and come back into the market, look what happens to them. They are suffering under this administration's economic policies.

We ask, I wonder why that is happening?

Well, Mr. President, the answer is it is very easy to see why it is happening. If you look at the recoveries from the early nineties and before, when you had an expansion of the economy and coming out of the recession, what you had with the new investments, 60 percent went to workers' wages and 39 percent went to corporate profits. In today's recovery, you have 86 percent going to corporate profit and 13 percent going to workers' wages.

This system is stacked against workers. We have an administration that has the opportunity to help American workers in with multiemployer pensions—they won't do it, again. This is what is happening. Corporations are doing very well. Under this bill, they are going to do very well, too. But not the smaller companies. We have seen this—if you look at what has happened, we have gone through this on unemployment compensation. Under President Clinton, even at a time when we were coming out of the recession of the early nineties, they kept in the unemployment compensation until we had seen the growth of 3 million new jobs.

We have seen now the early loss of over 2 million jobs and this administration cuts off the unemployment compensation. What is the effect of that to those workers? The effect of that is there are 90,000 Americans a week losing their unemployment compensation. That is 2½ times the capacity of Fenway Park in Boston. And they say that this administration is concerned about workers, concerned about the expansion of jobs, concerned about the unemployment compensation. They are opposed to the increases in the minimum wage. We have had that battle. When you look over the value of the increase in the minimum wage, the administration says thumbs down; we are not going to go for the increase in the minimum wage. If we don't have an increase in the minimum wage, the minimum wage will be at almost its lowest purchasing power ever in the history of the minimum wage. When we offered that amendment, the current Republican leadership pulled the bill rather than having a vote on an increase in the minimum wage.

No increase in the minimum wage, no unemployment compensation, proposals to eliminate overtime, which is going to affect the firefighters and policemen and nurses in this country. That is their record. These are the groups that are going to be affected with the proposal under the administration to eliminate overtime.

I make this point because what we are facing today is a continuum of the administration's indifference and opposition and hostility to workers, and primarily union workers, who are affected by this.

Let me point out what is happening across this country. We are finding out as a result of these conditions, there are real people and families who are hurting. More than half of the unemployed adults have had to postpone medical treatment, 57 percent; or cut back on spending for food, 56 percent; 1 in 4 has had to move to other housing or move in with friends or relatives; 38 percent have lost telephone service or are worried they will lose their phone; more than one-third—36 percent—have had trouble paying their gas or electric bills. That isn't even the beginning.

I want to take a minute or two to talk about what is happening out in the countryside in terms of hunger. I don't know how many saw this. This is last week's Parade Magazine. ''How can we help end childhood hunger?'' Imagine that in the United States of America, childhood hunger. How can we avoid that? The Agriculture Department reported 300,000 more families are hungry today than when President Bush first took office. That is going to increase. Let me read some of this article. This is from the Parade Magazine:

> Last year, according to the Department of Agriculture, 34.9 million Americans . . . were ''food insecure,'' the Government's term for those who must survive on a diet not nutritious enough to keep a child healthy. More than 13 million of those people were children. The U.S. Conference of Mayors expects that requests for emergency food for families with children will increase to 91 percent of the Nation's cities this year. They also document that emergency food outlets in 56 percent of the Nation's cities turned away hungry families last year because they ran out of resources. The safety net that most Americans presume is there to catch children before they sink too far is torn in too many places, leaving too many in free fall. ''Food is a basic right for every American child,'' says Bill Schorr, executive director of Share Our Strength, the anti-hunger organization that works with Parade and other partners to sponsor the Great America Bake Sale. ''This is the wealthiest Nation on Earth. We have the resources to wipe out child hunger in our time. All it takes is the political will to make the welfare of children one of the Nation's top priorities. The first step is coming to terms with the shattering effect the unstable economy has had on the families.''
>
> ''Despite a recent report that the economy has rebounded, our pantry soup kitchens are trying to serve a surging number of families,'' says Robert Forner, CEO of America's Second Harvest, a network of more than 200 regional food banks. Second Harvest distributed nearly 2 million pounds of food last year to 23 million hungry Americans, 9 million children. ''Millions of people have used up their unemployment insurance benefits, spent their savings, sold off their assets, and come to us because they have no way to feed their families.''

This is happening, Mr. President. So we have a thumbs down on minimum wage, thumbs down on unemployment compensation, overtime, and now an undermining of the pension system.

I want to mention who is being affected by the decision to exclude the multiemployer pension programs. By cutting the multiemployer relief plan, President Bush—I will review the bidding. We went to the conference and we had 5 days of hearings. We basically had agreed we could not do 100 percent because the House didn't do it, so we were going to do 20 percent. That was reported in the newspapers. They all show we had an agreement. The conferees understood that, until the White House said, no, no, we are not going to do that. They said you are going to take 3 or 4 percent. We said that is not a bargain, that is an insult. They said you can take it, and effectively they wrote the conference report, submitted it to the conference, and then during the final conference, Senator GRASSLEY, to his credit, tried to find common ground. He said, OK, we won't take the 20 percent, but let's go to 8, or 10, or 9 percent on this. Many of us supported that. It was not a great proposal, but it was at least targeted on the neediest multiemployer programs. That was rejected under the orders of the White House—not the conferees. We worked it out at 20 percent. Now we have the proposal, according to the Wall Street Journal today, that effectively eliminates all—except perhaps 2 percent of the multiemployer programs.

Let's find out what this is all about. The 9½ million people—who are they? Millions of workers could find themselves in the same situation as 500 retired ironworkers in Buffalo, NY, whose plan is on the verge of collapse because of stock market losses, economic downturn. These retirees could lose half of their pensions if their plan fails. Four hundred workers from Rockford, IL, whose employers have drastically increased contributions, cannot guarantee future benefits, so workers are paying for a pension they may never receive. A thousand workers in Connecticut, who have 50 employers

who contribute to their pension fund—these employers are facing collapse if the pension fund fails. Workers across the country, from cement masons in Missouri, to sheet metal workers, to carpenters in Wisconsin, and electrical workers in Alaska are seeing their benefits cut as they and their employers are trying to save their plans. The problem is growing too rapidly. They are seeing the collapse of the pensions under the multiemployer system, and we are putting a death knell to them with this proposal before us.

Low-wage workers are also being hurt. Hundreds of thousands of grocery store workers across the country are seeing the rate at which they earn their pensions slashed, sometimes cut in half. Many of these workers' only pension is a few hundred dollars a month. They are earning only half of that, so they will never have enough to retire. We are talking about grocery store clerks and cashiers around the country who are facing a threat to their pension.

These workers earn from $10 to $15 an hour. Their average pension is only $500 a month. They cannot afford to see those pensions cut. Mr. President, 30,000 grocery store clerks and cashiers in the Seattle area have pension funds that are hitting a funding deficiency, where their employers owe excise taxes that drastically reduce the contributions, putting that whole program at risk. Workers agreed to cut their future pensions in half to save the plan. They are still facing a crisis in their plans.

They did not need to face this crisis. All we need is to give consideration to the multiemployer plans, as we did to the single-employer plans, and at what risk to the Pension Guaranty Corporation? Virtually zero, as the Senator from Louisiana pointed out. Virtually zero risk. All they need is time. But, no, because these are workers and many of them belong to unions.

In southern California, 70,000 workers have had the rate at which they earn pensions slashed. They are facing an imminent funding crisis. In the Southeast, 40,000 workers at Kroger and Bruno grocery stores in Georgia and neighboring States have had their pensions cut by a third. In Portland, OR, 20,000 workers had the rate at which they earn pensions cut in half. But this is not nearly enough to avert what is an imminent funding crisis.

All these funds are in serious crisis, with companies facing increased contributions, penalties, and workers having their pensions cut. Not a single one of these funds is eligible for relief from the narrow bill dictated to the Congress by the White House in the conference report. These are basically the small businesses that are affected.

Just a week ago, the President claimed the small business agenda is vibrant and foremost on his agenda. He says it is important to reduce taxes to small businesses so they will have more money to invest, while at the same time he was saying this, the staff at the White House was pulling the rug out from under thousands of businesses in multiemployer plans.

Over half of the 65,000 multiemployers are small businesses. Small businesses, family businesses are the ones that will be hurt. They will not be able to use their money to invest and expand, and they will be paying excise taxes imposed by the IRS on the pension plans. These are just a few examples.

Acme Industrial Pipefitting in Chattanooga, TN, which has 50 workers, is going to see their annual contributions to its pension plan more than double from $200,000 to $500,000. We had their president, Jim Bailey, say: I am not asking for a nickel from the Federal Government; just give me the time you are giving to the big boys. No, we are not going to do that, not for Acme Pipefitting in Chattanooga.

The Coghlin Electrical Contractors, a fourth generation family business, faced increased payments of millions of dollars. Mr. Coghlin, and other contractors in the area, say this is catastrophic.

Procaccio Painting in the Chicago area: Mr. Procaccio tells us he just cannot participate in any economic recovery.

You know what they are basically saying, although they will not announce it. They are going to terminate the pension programs, and this is completely unnecessary. This is what we are facing.

That is where we find ourselves. This conference report provides $80 billion—$80 billion—for single-employer plans and $1.6 billion for airlines and steel, but less than $250 million for a handful of multiemployer plans. These provisions are punitive, unfair, and discriminatory. Clearly, President Bush cares more about hurting the union workers than helping small businesses.

This chart shows who gets the relief. Here it is: $81.6 billion for the single-employer; less than $250 million for the multiemployer. That represents effectively 10 million workers. I can show just who they are.

The multiemployer plans allow workers to earn pensions under different employers. This helps workers in short-term or seasonal employment—construction, hospitality, entertainment or retail—to earn a pension. Many could not earn pensions in the single-employer system.

The multiemployer plans provide pensions to low-wage workers, including hotel workers, restaurant workers, and janitors. Multiemployer plans are a critical source of pensions for employees of small businesses. Without these plans, small businesses could not afford to provide pensions.

This chart shows the percentage of workers in construction, about 38 percent; truck transportation, 10 percent; services, 15 percent; retail trade, 14 percent; and manufacturing, 15 percent. These are workers in small businesses.

As I pointed out earlier, this chart shows what has happened in this legislation. The Senate bill provides 100-percent relief for the single-employer plans. The conferees agreed to provide relief for 20 percent of those who need it the most in multiemployer plans, and the White House insisted the final conference comes out with less than 4 percent. It is wrong, Mr. President. We are talking about the same workers who have been the most vulnerable in the job market, who have lost their jobs, and if they get reemployed, they will be paid less. They are the ones who depend on unemployment insurance when they lose their jobs. That is being terminated. Many of them depend upon an increase in the minimum wage. That has been lacking. Many of them depend on overtime, and this administration is threatening them. Finally, they may just have been able to have something put away for a pension, and that is being destroyed. That is wrong. It is unfair.

The bill that applies to the single-employer plan should give the same coverage to multiemployer plans. That is all we are asking. We have fought for the single-employer, but we also fight for the multiemployer. All we are asking is fairness to both. This bill does not provide it.

If we were able to defeat this proposal, as I said, it would take 5 minutes to readdress it, the House would pass it, and we would have a bill on the President's desk. That would be fair. That would be just. That is the way we should proceed.

I will be glad to yield 10 minutes to the Senator from New York.

Mr. SCHUMER. Mr. President, I know my colleague from New Jersey wishes to speak on this issue for 2 minutes. I thank the Senator for his generous yielding of time. I yield 2 of my 10 minutes to Senator CORZINE, and I will then take the other 8 myself.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 2 minutes.

Mr. CORZINE. Mr. President, I rise to join with my colleague from Massachusetts to say this is an extraordinary failure to deal with small business employers across this country and their workers.

I find it difficult to believe that what is necessary for the Fortune 500 is not necessary for the small grocery stores, construction contractors, and others across this Nation. These pension funds are at risk, and there is no reason we should not apply the same rules to the small companies and the workers who are at risk in their pensions as we do for the large companies.

We spent in 2003 $5 million on these small companies we have eliminated in this conference report. We spent billions on large companies—billions. Where is the sensibility, particularly from the administration and from my colleagues on the other side of the aisle who are so enamored with every economic argument they make that they

want to support small business, and they are walking away from this.

This is absolutely outside the context of reasonableness. We can turn this around and get this bill corrected and have it deal with small business and multiemployer pension funds, as well as the Fortune 500. We would make a major improvement. Thirty percent of the workers we are talking about who are exposed—almost 10 million—are being left out. As the Senator from Massachusetts so ably said, these are the same people who are getting pressed over and over on property taxes, the cost of tuition, rising gas prices—the middle class, the hardest working folks in America. We are turning our backs on them saying this is great.

By the way, I want this for major employers. We want it. Continental Airlines is headquartered in New Jersey. We need to do it. I support this effort by the Senator from Massachusetts.

We should oppose this conference report, fix it, and bring it back for a vote.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, first let me thank my colleague from Massachusetts for his generous yielding of time and for his leadership on this issue.

There is no question about it, this is a sad day when we have to pit workers who work for large employers versus workers who work for small employers in terms of their pension.

TESTIMONY OF CONDOLEEZZA RICE

I am not here to address that issue. As head of our Task Force on National Security and Homeland Security, I am here to respond to the testimony of adviser Condoleezza Rice. The hearings we have had and Condoleezza Rice's decision to testify is all to the good. To quote from the Scriptures, the truth shall set you free, and this Commission—half Democrat, half Republican—has endeavored, is endeavoring, will endeavor to find the truth.

The bottom line is the Commission is bipartisan. The people on it tend to be those who look at things not as Democrats or Republicans but as experts, and the Commission is needed. The bottom line, too, is we should not look to this Commission for pointing fingers of blame. It is very easy, in hindsight, to say this should be done or that should be done, and I do not object to the fact this administration—or I understand the fact this administration and others made mistakes. Everyone in America made mistakes. So that is not the problem with the testimony of Condoleezza Rice.

The problem is something else. Unfortunately, we did not hear from Adviser Rice three important words: We made mistakes.

Of course, we made mistakes. This administration made mistakes. The previous administrations made mistakes. The inability of this administration and of the National Security Adviser to admit mistakes were made makes us fear we will make future mistakes because, after all, the only way we are able to understand what went wrong is to first acknowledge it and then say we are going to correct it.

We may not be dealing with al-Qaida in the future. We may be dealing with Chechnyans or East Timorese or skinheads. Unless we realize what went wrong and why we failed to pick up the warning signs, we are less likely to pick up future warning signs that could create even greater terror than the terrible terror on September 11 that befell my city.

Is it for sure that had everything been done right we could never have prevented 9/11, as Adviser Rice says? I doubt it. There are six facts that, if they all were to be put together, would have clearly pointed the arrow at what happened.

First, 12 intelligence reports throughout the 1990s showed terrorists would use planes as missiles to attack American targets.

Second, upon entering office in January, Dr. Rice read a memo from Dick Clarke indicating there were active al-Qaida cells in the United States.

Third, in the summer of 2001, there was a threat spike about terrorist activities against American targets, including hijackings and warnings that something very big was about to happen.

Fourth, on July 10, 2001, a document was sent to FBI headquarters in Washington from Phoenix, warning several Islamic militants had enrolled in flight schools in Arizona and positing that al-Qaida was trying to infiltrate the U.S. aviation system.

Sixth, we missed warning signs from Special Agent Rowley in Minnesota about Zacarias Moussaoui, an Islamic radical who was getting special aviation training.

Finally, on August 6, a White House briefing memo to the President stated, ''bin Laden determined to attack in the United States,'' which was specific examples from the FBI of al-Qaida moves against Americans.

If, if, if, if on August 6 word went from the White House out to the FBI and all of the intelligence agencies, go turn over every rock and find out what al-Qaida is up to, it is very conceivable we would have been able to figure out what they might be doing, certainly disperse some of the terrorists, two of whom were known to be in the United States, from doing what they had done.

Is it a certainty? Absolutely not. Is it a possibility? For sure. To say it would be impossible to add up these signs and figure out what happened is dead wrong, as it would be dead wrong to say it is a certainty you could figure that out.

So the bottom line is simple. It is not the fact this administration did not try very hard on terrorism, because in the eyes of Security Adviser Rice they did. It is not the fact certain things were missed. They were missed by this administration—and let me underscore previous administrations—but it is the fact this administration, the President and his advisers, have this inability to say mistakes were made, under our watch and under previous watches. That leads to an attitude that we do not correct the problems.

Every parent knows when their child makes a mistake, they try to get the child to understand they made the mistake and maybe they will not do it again, but somehow we have this stonewalling and that is the most destructive fact.

Right now we hope and pray the messy situation in Iraq ends and ends quickly and that our Armed Forces can do the job against such bad people as this Sadr leader, but if the eyes of the administration were more open to what had been done wrongly in the past, maybe we would be better off in Iraq today. I say that as somebody who has been largely supportive of fighting the war on terror, voting for the war in Iraq.

What bothers me most about the testimony of Condoleezza Rice and the actions of this administration is not that they did not do everything right. Who could ask anyone to do that in this brave, new, post-9/11 world? But there is an inability to want to gather all the truth and figure out from that truth what was done right, what was done wrong, and improve and make things better.

The one lesson we learned in Vietnam is when our leaders did not accept the truth, it made matters worse. When our leaders failed to admit mistakes, it made things worse. Unfortunately, today's testimony shows an inability to admit mistakes were made and move forward and correct those mistakes and make America a more secure place in the future. I hope and pray it changes.

I yield the floor.

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

The Senator from New Hampshire.

Mr. GREGG. How much time remains?

The PRESIDING OFFICER. The Senator from New Hampshire has 112 minutes.

Mr. GREGG. And the minority?

The PRESIDING OFFICER. Sixty minutes.

Mr. GREGG. Mr. President, I had not thought this debate was going to enlarge itself into the issue of the testimony before the 9/11 Commission, but it appears the other side of the aisle has decided the pension bill is not enough to debate today on this floor, even though that is what it was to be limited to, but it raises this issue. So I think it is appropriate to at least respond briefly, although the response could be much more extensive. However, I will try to return to the pension bill at the appropriate time since that is what we are debating.

I will respond briefly to the statements of the Senator from New York,

which I found to be outrageous. Maybe the Senator from New York did not listen to the testimony of Mr. Clarke. He very possibly did not, because he appears to have decided to make up his mind long before the National Security Adviser, Ms. Rice, testified.

I think it was Mr. Clarke who said—in fact, I know it was Mr. Clarke who said, in response to a question from Senator Gorton, if the administration had put in place every recommendation you suggested to the prior administration and to this administration, and which you put in your memos and your statements upon arrival of this administration in office in January, if the administration had done that—in other words, if the administration had pursued every course which had been laid out by Mr. Clarke, who was the guru of terrorism in the prior administration, which I also wish to comment on, would that have stopped the 9/11 event? Would that have prevented the 9/11 event? A one-word answer from Mr. Clarke: No.

Yet we have the Senator from New York say the opposite. I do not think the Senator from New York has the expertise of Mr. Clarke, and most certainly he has not presented himself as an expert on terrorism. Mr. Clarke has presented himself as an expert on terrorism, was the expert on terrorism in the Clinton administration, and did say definitively, in a one-word answer, no, 9/11 would not have been avoided had everything gone into place I wanted in place—I being Mr. Clarke.

The statement by the Senator from New York is excessive, to say the least, when he says 9/11 could have been avoided.

Then when he goes on to accuse this administration of not learning from lessons of the past—I will tell you something. This administration did learn from lessons of the past. The lessons of the past were the lessons of the Clinton administration, which were when our embassies were attacked in Africa and when our ship was attacked in Yemen, what was the response of the prior administration? They lobbed a missile into an empty terrorist camp in Afghanistan and then lobbed another missile into the wrong factory in Sudan and then washed their hands of Mr. bin Laden and said they had accomplished their purpose of defeating terrorism.

What we learned after 9/11 was that those sorts of marginal responses, those sorts of tepid responses to terrorism do not work in the present world and certainly this administration learned that.

I hesitate to think where we would be today had Al Gore been elected President. I suspect we would still be negotiating with the Taliban in Afghanistan.

This administration decided not to negotiate. This administration decided to take action. It went into Afghanistan and it destroyed the base of al-Qaida operations in that country and replaced a repressive regime that did not even allow women out of their houses and supported all forms of terrorism across this globe and especially the al-Qaida terrorism. They learned the lessons of the prior administration, which were tepid response does not work.

Then we moved into Iraq. As a government, we voted to move in that direction. Why? Because some of us understood that Saddam Hussein was a significant, dramatic threat to world peace and specifically was a dictator who had the capacity and had used weapons of mass destruction, who was oppressive at a level which hadn't been seen since the times of Nazi Germany, and who had the capacity to use his oppressiveness and his megalomania and his criminal view of the world to our detriment. He was a threat to us because of his ability to pass on that threat, the capacity to pass on weaponry, the capacity to be a sanctuary, and the capacity to be a feeding ground for people who caused us harm.

We are at war, there is no question about that, and we have, as a government under this President, pursued that war with an aggressiveness which was absolutely appropriate. We have chased these people who wished to do us harm across the globe. We have kicked over the rocks under which they live and we have brought them to justice so today their fear, their concern, is about where they sleep, not who they are going to attack tomorrow.

That is the type of response we needed as a government and as a nation, in light of what happened to us on 9/11. For the Senator from New York to come down here and say we did not learn the lessons of 9/11 and the lessons of the prior administration—which approached terrorism with such tepidness—is an absolute misstatement.

For them to come down here and say, after Mr. Clarke, who they have held up as the epitome of knowledge and expertise in the area of terrorism, testified in one word that 9/11 could not have been stopped, when he said ''no'' to that exact question, had all of his proposals been put in place—for the Senator from New York to come down here and make the statement we could have avoided 9/11, in light of that testimony, I find excessive to an incomprehensible degree.

I didn't intend to speak on this issue, but unfortunately it was drawn into this debate and I think it required a response.

The National Security Adviser today went before the Commission and testified under oath and made a clear and concise statement of how we as a nation are responding to terrorism, how we as a nation are fighting a war against people who have decided to try to destroy our culture and who have proven their willingness to kill Americans indiscriminately, whether they are men, women, or children.

We are using all our resources as a result of this President's commitment, which is total and absolute, to bring these terrorists to justice. I do not think statements such as those of the Senator from New York are constructive to the debate on that issue.

To return to the pension fund, a little less inflammatory subject, obviously not having the import of the fight for survival, which is what this war on terrorism is about for us as a culture, but still legislation we need to address on the floor.

We have heard from a number of speakers on the other side of the aisle how the bill, as it came back from conference, to use their phrase, is an attack on 9.5 million union workers who were not included in the multiemployer reform language of the bill.

My interest in this bill was to correct the interest rate question, which has been done. It was the essence of this bill. As I said earlier, it corrects the fact that $80 billion could be misallocated if we did not correct it. If we did not correct it, we could undermine capital investment and job creation.

But I do want to respond, not necessarily to the debate about how many multi's should have been included, but to some of the language which was used as to why the ''multi'' language was limited in scope, because it was partisan, to say the least, especially from the Senator from Louisiana, who said that 9.5 million construction workers who are union people would be left out of the ''multi'' reform bill as it was structured.

That is hard to do, because there are only 8.5 million people who are in the private sector union membership rolls, so she must have found another million people somewhere in the private sector union membership rolls to come up with that number. She must have assumed that none of the people who were protected—whose concerns were addressed, as was pointed out by the Senator from Massachusetts, where he had the number of 35 million people who would be positively impacted by the fix on interest rates—that none of those people are union people and that none of the people whose issues are addressed by the rifleshot DRC reform dealing with airlines are union people and that the White House somehow, according to the Senator from Louisiana, just picked out union people and decided to cut them out of this agreement.

But on the face of it that doesn't fly. First off, there are not 9.5 million people in the private sector union movement; there are only 8.5 million or 8. That is a lot of people, 8.5 million people. A large number of those folks are included in the DRC program, which is a targeted program, which happens to be the reason the UAW supports this bill—another large group of these people who are included in the interest rate fix, which is why the UAW supports this bill. A large number of the union people are pilot union people and other union people who work for airlines who are included under the DRC

section of this bill, so they are happy with this bill.

This bill is not broken down on the basis of whether you are union or not union. To make that statement is totally disingenuous on the face of the fact that it can't be defended. In fact, it is so indefensible that when Senator KENNEDY spoke he talked about how the people impacted here were small businesspeople and how the administration left out all of the small businesspeople by not including all the multi's because most of those are small businesspeople. You can't have it both ways. You can't say the White House is attacking the labor movement by leaving out a group of multi's in this bill claiming that was the case—I will get to that in a second; it wasn't necessarily the White House—and at the same time say you are attacking the small business folks by leaving out the multi's.

That is so inconsistent on its face that it brings a smile. Obviously, small businesses, theoretically at least, traditionally have been considered to be very supportive of this President and of Republican philosophy. If they are saying the White House, by not agreeing to the full multi language, was attacking small business, then at the same time you can't say the bill was structured to attack unions, which is exactly what they said. It is exactly what the Senator from Louisiana said, anyway. I think the Senator from Massachusetts also had some comments in that vein.

The inconsistency of the argument on its face is so apparent that it holds no validity. I was not actively involved in this negotiation. Obviously, I was in the conference, but I didn't, as they say, ''have a dog in this fight'' because I was focused on trying to get the interest rate fix through, which I think is a bigger part of the package. But the reason the debate on multi's got shifted around was that—I would, again, point this out to the Senator from Louisiana who asked why this didn't happen, why didn't they get their way—it is two branches of Government. When it left the House, this bill had no multi's, none, zero, zip. The White House took the position there should be no multicoverage. That is one-half of the legislative branch and all of the executive branch saying they do not want any multicoverage. The Senate came out with language that said all multi's should be covered.

In the process of negotiation, compromise and conference, which happens to be basically how you do things in a democracy, what is known as an agreement was reached which gave coverage to a certain number of multiplans, about 50. It was a limited number; no question about it. It was a very small number.

But the way that number was reached, as I understand it, there was an understanding that all multi's shouldn't be covered. There was a general consensus on that.

Again, when the Senator from Louisiana came down here and said not all multi's had been covered, that this was an attack on multi's, that was never the understanding when we reached conference. Everyone in that room in the conference came to the conclusion that the multi's which should be covered were those at serious risk of defaulting. Those were the ones we were going to try to take care of. We had a real issue from an actuarial standpoint of figuring out exactly which that was and how you calculated it. It is not an easy issue to resolve.

The Senator from Massachusetts took the very legitimate position that 20 percent of the multi's were probably at risk. That was a calculation which he reached through an actuarial firm that took a look at it.

The White House took the position there should be no multi's at all.

Remember, these multi's are small employers. It wasn't an attack on unions. It was both small employers and unions.

It wasn't a philosophical or a political decision, as the Senator from Louisiana said. If you have a union card, and you weren't allowed to play in the game, or Democratic card I think they said that is absolutely ridiculous. The small businesses don't carry union cards, and hopefully not too many carry Democrat cards, either. But who knows?

As a practical matter, they did not divide on the issue of whether you voted and why you voted. They divided on the philosophical position of whether multi's should be included in this 2-year reform package.

The impact of the White House position equally impacted union plans, union members, and affected more significantly small businesses than it did members of the union. It is quite obvious. I suspect there are more small businesses affected by the White House position that multi's shouldn't be included than there are members of unions. It was such a fallacious argument that it doesn't even stand up to the laugh test.

But the point is, when we got into the conference, there was a difference between the Senator from Massachusetts who said 20 percent of the plans were at risk and the White House that thought no plans should be included. The White House initially said no plan should be included, but then after a while, due to the strong and effective advocacy of the Senator from Massachusetts and the Senator from Iowa, a series of different proposals were put on the table until they finally got to a point where they could get a majority vote in the conference to support a position. It was a compromise position; no question about it. It was definitely a compromise position.

Senator GRASSLEY did make another offer that was not accepted. The offer that was finally accepted—because we happen to be a government where you have to get the Senate and the House to agree and you have to get the White House to agree—was the package that is before us. The package that is before us has the inherently good benefit, as the Senator from Massachusetts appropriately pointed out, of benefiting 35 million American workers by correcting the interest rate fix issue, and of benefiting, if you are so inclined, three major airlines which potentially would go under if this bill didn't pass, and two major steel companies, which are integrated steel companies which would go under if this bill didn't pass, and 50 multiplans, including the single largest plan in the country, the Midwestern plan.

That is how we got to this point. It is not the perfect bill. Nothing that ever comes out of conference is the perfect bill. We have certainly proven that over and over again. I think judicial note can be taken about that. But it is a bill that was reached by compromise through the process with a lot of different players at the table who had a very strong opinion as to where we should go. It was not done on the basis of any sort of retribution or attempt to single out an interest group and negatively impact them. On the face of it, that position cannot be defended because so many small businesspeople are impacted by the multilanguage in this bill, and also because of the fact so many union members are benefited by the interest rate fix in the bill and by the targeted rifleshot that goes into this bill dealing with airlines and steel companies.

That, hopefully, puts to rest that side of the argument made on this case.

If the Senator from Massachusetts has other very legitimate concerns in this bill, I acknowledge the fact we didn't get the 20 percent he wanted on the multi's that were at risk which might go into default. That is a legitimate reason to oppose this bill, if that is the position. You cannot oppose this bill, as the Senator from Louisiana did, on the basis that it is an attack on some group. That is simply a function of politics. It clearly isn't, and the facts and the debate from the other side prove it.

I reserve the remainder of our time.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I ask unanimous consent to have printed in the RECORD a list of the small business organizations and business groups that are in strong support of the conference including the multiemployer provisions. They include the Association of General Contractors of America, the Cherne Contracting Group, Energab, Inc., the Finishing Contractors Association, National Electrical Contractors Association, Printing Industries of America, Sheet Metal and Air Conditioning Contractors' National Association, Schnuck Markets, Inc., the Food Marketing Institute, the Mechanical Contractors' of America United Association of Journeymen and

Apprentices of Plumbing and Pipe Fitting Industry of the United States and Canada, and the Washington Group International, as well as others. This represents only part of the small business groups and associations that believe if we are going to provide help and relief for the single employer, we should do it for the multiemployer as well.

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

American Federation of Musicians
American Federation of Television and Radio Artists
The Associated General Contractors of America
Cherne Contracting Corp.
Construction Industries of Massachsuetts—Labor Relations Division
Enerfab, Inc.
International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers
International Association of Heat and Frost Insulators and Asbestos Workers
International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers
International Brotherhood of Electrical Workers
International Brotherhood of Teamsters
International Union of Bricklayers and Allied Craft Workers
International Union of Electrical Workers
International Union of Elevator Constructors
International Union of Operating Engineers
Internatioinal Union of Painters and Allied Trades of the United States and Canada
Laborers' International Union of North America
National Association of Construction Boilermaker Employers (NACBE)
Finishing Contractors Association
National Coordinating Committee for Multiemployer Plans (NCCMP)
National Electrical Contractors Association
NEA—The Association of Union Constructors Operative Plasterers' and Cement Masons' International Association of the United States and Canada
Plumbers' and Pipefitters' National Pension Fund
Printing Industries of America, Inc.
Sheet Metal and Air Conditioning Contractors' National Association
Sheet Metal Workers' International Association of the United States and Canada
Schnuck Markets, Inc.
The Food Marketing Institute
The Mechanical Contractors' of America
United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada
United Brotherhood of Carpenters and Joiners of America
United Food and Commercial Workers' International Union
United Union of Roofers, Waterproofers and Allied Workers
Washington Group International

Mr. KENNEDY. Madam President, I point out for the RECORD the fact that when the Senate considered the pension reform bill, the provisions in the bill that provided for the multiemployers actually provided a $42 million favorable score for the Federal Treasury. They made money while the single-employer had a cost of $1.5 billion. The multiemployer actually made money for the Treasury.

The idea included in the White House letter opposing the inclusion of the multiemployer because it was going to put the burden on the Pension Guaranty just does not measure up. That is the point of the Senator from Louisiana. There has to be another reason. It is not because it will cost the PBGC.

This chart says PBGC assistance to multiemployer plans is less than 1 percent of assistance to single-employer fans. This is the GAO finding representing 35 million workers. This represents 10 million, except these programs, although they have not been costly—$5 billion in 2003—are excluded. That is what is unfair. The question is, Why are we excluding them? It is not the additional burden. It could not be. The facts do not justify it. There has to be another reason. The reason is, I believe, the fact they are the union members which the administration has been strongly opposed to providing.

We say the White House is against it. The House is against it. Therefore, why should we include it? The fact is, the Senate had 100 percent, the House had nothing. You should have at least 50 percent.

The nature of the discussion in the course of the conference was, let's find out what the real need is. That seemed to be a sensible and responsible position, whatever the percentage. So we looked at what they call the single corporation, which is accepted by Republican and Democratic—certainly, the staffers, the professionals on this—as being a fairminded assessment. They found one in three of the multiemployers are facing difficulty, but one in nine are facing severe difficulty. We took the one in nine and tried to translate that into a formula that would help those in the most serious trouble. We all agreed on that—get a formula. It came out to approximately 20 percent.

That was in the newspapers. That is what the staff would certainly have agreed Thursday, 2 weeks ago. That was the agreement. It was in the Washington Post, not that that is the final word, but they have been following it closely. There is agreement that 20 percent of the worst-off plans should get assistance. That was my understanding. That was reported. No one contested that.

Then we get a surprise. We are about to have a final meeting and the White House suddenly gets the word on this and says, no, no, we are not going to do that. They come up with language that will get us down to approximately 4 percent.

The rest is history. The efforts that were made to try to get it up, move it from 20 down to 12 or 10, were all rejected as well. According to the Wall Street Journal, taking the language and going back to Segal, it is now probably 2 percent. The fact is, this is not going to put an additional burden on the Pension Guaranty Corporation. The employer plans are more stable than single-employer pension plans because even if one employer goes out of business, the other employers continue to support the pension fund.

Of the thousands of multiemployer plans that have been insured by the Pension Benefit Guaranty Corporation, only 33 multiemployer plans have ever received financial assistance from the PBGC, and the PBGC multiemployer program has enjoyed a surplus for a 20-year history.

The idea is we have a fragile Pension Guaranty Corporation; we can only do the single employer; we cannot afford to do the other. It does not hold. So we have to ask, What is the other reason? Particularly after we reached a fair compromise to only deal with those that were at greatest risks. The answer was, we are not going to compromise on this. As I mentioned at the time of the proposal, it was not a compromise, it was basically an insult.

That is it. What the conference did was admirable with regard to single-employer plans. It is grossly unfair to the multiemployer plans. It is basically excluding coverage for almost 10 million workers who are facing the same kind of economic challenges. The others, I seriously believe, we would have passed overwhelmingly, a proposal that would have taken into consideration those that were at the greatest risk in the multiple. They are the ones that are the pension programs that deal with the smaller businesses. Some of those small business associations strongly support the inclusion of the multiemployer and, of course, the large number of workers that will be affected.

I still believe we ought to take a position and a stand that says, look, what we did for the single one makes sense. We are supporting. But we also think it is grossly unfair to 10 million Americans to say we are giving them the back of the hand when their expansion plans are under the similar kind of pressure and they are representing workers who are generally lower income and from smaller businesses and whose pension plans are heavily stretched, given the economic times.

I talked to my friend from New Hampshire, and the Senator from Washington wanted some time. I believe the Senator from Iowa, Senator HARKIN, wanted a few minutes, and the Senator from New York. Then we would be prepared to suggest to work out with the leadership an appropriate way to have a vote at an appropriate time and let others who would like to speak on another subject be able to address the Senate. If there are other colleagues who want to speak, if they can let us know forthwith, we will try to work out with the leadership and the other side an appropriate time for a vote.

I yield 10 minutes to the Senator from Washington.

UNANIMOUS CONSENT REQUEST—S. 2236

Ms. CANTWELL. I thank the Senator from Massachusetts for yielding some time from this important debate on

pensions. Obviously it has been a busy day in Washington talking about a variety of different issues important to our country.

One issue our colleagues ought to realize is pending business on our calendar that could be brought up for discussion is, what should we do in light of the fact that we finally got a recommendation on reports about the blackouts that happened in our country from New York through the Midwest? We now have a report saying that liability legislation is needed to ensure consumers can be protected from the transmission grid and the blackouts that have been occurring.

Many of my colleagues may think of the latest New York blackout that happened just several months ago as a great catastrophe. Some of them may have forgotten that since 1996, we have had many blackouts throughout the United States. In fact, all of the States in black on this map show the number of blackouts we have had in various regions. In our Northwest region, in Washington, we had a blackout several years ago that cost consumers not only inconvenience, but millions of dollars of impact.

The question is, What are we going to do to try to get consumers more reliability in electricity? While a lot of my colleagues would like to say we will pass an energy bill, it has been clear for some time that the Energy bill has gotten bogged down with a variety of items involving pork barrel spending. The most famous line my constituents remind me of in the Energy bill: Hooters, polluters and Enron looters. What are we doing about getting the energy policy this country needs and moving it forward?

One piece of legislation that has been hung up has been the reliability standards legislation. We have, this week, a report issued by the United States-Canada Power System Task Force, their final report, asking, Why did the blackout happen in the United States and Canada and what do we want to do?

The No. 1 recommendation from the report is make reliability standards mandatory and enforce them with penalties for noncompliance. That was the No. 1 recommendation out of that report. Why don't we do that? If we cannot agree on the rest of the Energy bill, why don't we take this stand-alone piece of legislation and pass it so we can give consumers the confidence that we have some rules and regulations in place for reliability.

A lot of Americans woke up after the New York and Midwest blackout and said, geez, how did this happen?

I think a lot of people assumed there were rules and regulations in place on reliability, but there are not. There is no rule in place that says: This is how much electricity you have to have as a backup. There is no rule in place that says: This is how you need to make sure Akron, OH, or Toledo, OH, or someplace in New York has enough electricity, given the kinds of demands and the peak we are going to see in those areas. Those rules are not in place.

You can ask yourself why those rules are not in place, and what has transpired on energy policy and been debated over the last several years, as we moved towards deregulation. But the bottom line is, now that a majority of States across the country since 1996 have had blackouts, we have had a demand for reliability legislation. We also now have a task force that has said the No. 1 thing you need to do is pass this legislation. Yet this legislation is being held hostage to passing a larger energy bill.

If my colleagues think I am overstating this case, I would like them to think about the legislative history here, because my predecessor, Slade Gorton, introduced similar legislation after Washington State had a blackout. We had a blackout and said: Gee, this is crazy. How can you not have reliability standards? How can you not have rules in place to make sure there is enough power for consumers at peak times? He proposed reliability legislation that actually passed the Senate, and got held hostage in the House of Representatives because people wanted to see more energy deregulation, so the legislation never passed. Now we have been through two more Congresses where no reliability legislation was passed.

The interesting thing is the majority of Members in both the House and the Senate actually support this bill, this stand-alone bill, that now is sponsored by Senator BINGAMAN, Senator SNOWE, Senator CLINTON, Senator JEFFORDS, Senator SCHUMER, Senator DASCHLE, Senator REID, and myself. This legislation, I believe, does have the majority of support by both House and Senate Members. People want to see it pass, but it continues to be held hostage to getting a general energy bill.

I can tell my colleagues we have had enough of the energy debate, and I think even that this latest FSC/ETI bill, in which some of the energy package was added to that legislation, is a sign of recognition by my colleagues it is going to be very tough to get that comprehensive bill this year. So why not do the responsible thing? Why not do the responsible thing and have this energy legislation pass now as a stand-alone bill and give consumers the confidence there are rules and regulations in place before we have another blackout?

The issue has been clear for some time now, and has been debated and studied by U.S.-Canada Power System Task Force. In fact, the task force even went on to say:

> If reliability legislation had been enacted when first proposed (in 1999), I believe that a blackout would not have occurred.

That is a statement from the chairman of the North American Energy Reliability Council. He testified before the Energy Committee. I asked him this very question. I said: Do we need to pass this legislation? And should we pass it as a stand-alone? He said: Yes, we should. He was, I think, then followed by the chairman of the committee, who said: Well, it is not time to do that yet. Let's keep pushing on the larger Energy bill.

How many more weeks are we going to let go by with the American consumer not having reliability standards in place, having their energy supply in question about whether they are going to have reliability?

I know some people think: Well, gee, things happen. There is too much demand.

You have an impact. Consumers, individuals, in various regions of the country have dealt with it. People should understand the New York blackout cost us between $4 billion and $10 billion for those days that businesses did not have power, when people could not conduct business, and could not continue with their livelihoods. That is merely what we ended up losing in terms of revenue. Not only is it an inconvenience to consumers and unsafe—an issue where we have left a lot of elderly people without the resources and reliability they have counted on—we also have negatively impacted our economy.

While we are here in Washington talking about national security and how we make everyone more secure, the clearest answer is—at least with regard to the electricity grid—to pass this legislation, and pass it now before we adjourn for another recess and leave these standards again hostage to this Energy bill, saying we have to have a comprehensive energy bill to pass it. It is not responsible to the citizens of this country to leave them without these standards.

The legislation specifically gives the Federal Energy Regulatory Commission the authority to make sure, working with the North American Energy Reliability Council, that these rules and regulations are in place. Again, for some of my colleagues who may not be familiar with our electricity grid and how the system works, we do not have somebody right now who determines, in the various regions of the country, how much power supply an organization must have, or penalties for not having that supply.

The way regional transmission organizations have been formed, and the way they operate, is it is only one entity pushes the electricity out and puts more power onto the grid. These RTOs have no obligation or responsibility to make sure there is reliability in the system.

I think that is shocking that our country, with a large economic engine and so many people depending on things such as e-commerce that are absolutely dependent upon electricity for millions of dollars, if not billions of dollars, a day in transactions, can say that we have no reliability standards in place to protect consumers and businesses from these kinds of outages that have occurred in the past.

UNANIMOUS CONSENT REQUEST—S. 2236

Madam President, I ask unanimous consent that the pending bill be set aside and that the Senate now turn to Calendar No. 465, S. 2236, a bill to enhance the reliability of the electric system; that the bill be read a third time and passed, and the motion to reconsider be laid on the table, without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. I object.

The PRESIDING OFFICER. Objection is heard.

Ms. CANTWELL addressed the Chair.

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

Ms. CANTWELL. Thank you, Madam President.

Mr. KOHL. Mr. President, I rise today in reluctant support, for the conference report in front of us.

The conference agreement makes great strides towards heading off an impending crisis in private pensions. Requiring private companies to measure the solvency of their defined benefit plans with the 30-year Treasury bill as a benchmark has not been feasible for some time. Ever since the U.S. Government stopped issuing these bonds, the market for them, and the interest rates they pay, have been distorted. That forced businesses to contribute more to their pension plans than was really necessary. During a time when private enterprise is under so much pressure from foreign competition and a weak economy, these extra contributions have been a tremendous strain on small and large businesses alike. Without the changes laid out in this bill, many companies would be forced to end their defined benefit plans.

Defined benefit plans are too scarce today, and we need to encourage and sustain their use by companies that have chosen to offer them. These plans, which offer a set benefit usually based on how long an employee has worked for a company, provide a kind of security for employees that market-dependent 401(k)s and IRAs cannot.

Unfortunately, the benefits the bill handed out to all single-employer plans were not given equally to multiemployer plans. There seems to be little reason for this decision, other than some of my colleagues on the other side of the aisle were unwilling to help out plans that benefit members of organized labor. There is some help for multiemployer plans in this bill, but it is not nearly enough. I have heard from many unions, especially the construction trades, who strongly oppose this bill because they believe it is mean spirited and will force their members to make significant sacrifices. I am reluctant to vote against the men and women who build our homes and move our goods, but I am not left much choice.

If we delay this bill beyond April 15, businesses across the country will be forced to contribute large amounts of money to their pension plans to meet their quarterly obligations. Some of them will be unable to make those contributions and will be forced to withdraw the plan from their employees. To keep workers from losing their pension benefits, and to remedy a long-overdue policy, I have to support the bill before us.

I would like to take this opportunity to highlight a section of the bill that will substantially benefit both businesses and consumers in Wisconsin. Included in the pension legislation is a repeal of an outdated section of the Tax Code, section 809, which limits the ability of mutual life insurance companies to deduct a policy holder's dividends. The intent of the original legislation, as passed in 1984, was to ensure equity between mutual and stock life insurance companies. While this concern has expired as the number of mutual life companies in the Nation has dramatically decreased, the damaging economic impact of the legislation remains. Mutual life insurers have been forced to reduce the amounts paid to policyholders as dividends or benefits, thereby increasing the cost of insurance.

Tax savings that will result from a repeal of section 809 will be passed on to policyholders in the form of increased dividends and lower insurance costs. This comes at a critical time for Wisconsinites, where the effect of repeal will be twofold. In addition to providing such benefits to consumers, the mutual life insurance industry employs thousands of workers in my State. At a time when job loss across the country has been severe, this repeal will allow companies to avoid cost-cutting measures often resulting in job loss.

Unfortunately, the conferees were not as fair or reasoned in their judgment when they decided to include an antitrust exemption for graduate medical resident matching program in this conference report. This antitrust exemption was not reviewed or debated by either the Senate or the House, much less voted upon. The exemption will end many of the claims in an ongoing lawsuit brought by a number of medical students and residents that has already survived efforts to have it dismissed. The students contend that through the matching program, the hospitals depress wages and cause residents to work inordinately long hours to the detriment of patient care. This exemption appears to eliminate all of the students' claims with the exception of their allegation of price fixing.

In general it is bad policy to provide exemptions to the antitrust laws. It is certainly unusual to enact an exemption that ends part or all of an ongoing lawsuit. We should have had the opportunity to debate this issue and determine whether there was any merit to the exemption, rather than see the exemption mysteriously appear on an unrelated bill. It appears that this provision, enacted in this way, is nothing more than a giveaway to one particular special interest. Without judging the merits of the issue, we should have had an opportunity to explore it and make that decision for ourselves.

I have to agree with many of my colleagues who have argued that this conference report would have been greatly improved had Democratic conferees been allowed to participate fully in the conference. We have a bill before us now that deserves support, but is not the good and fair work of which this body is capable, nor is it even near the quality of the bill passed overwhelming out of the Senate earlier this year. I hope the Senate approves the measure today and continues to work to address the inequities continued or created in the conference report.

Mr. LIEBERMAN. Mr. President, today I will vote in support of the Pension Funding Equity Act conference agreement—although I do so with some reluctance. On January 28, 2004, the Senate passed H.R. 3108 with broad bipartisan support. The Senate-passed version addressed the critical need to update the interest rate for the purposes of calculating pension contributions. It also provided deficit reduction relief for single-employer pension plans, and multiemployer plan relief. It was a balanced bill which recognized that all companies holding defined benefit plans are suffering from the same market ills.

Apparently, because of heavy-handed pressure from the White House, the conference agreement before us omits critical relief for all but 4 percent of multiemployer pension plans, to the detriment of thousands of union workers and small businesses that participate in multiemployer pension plans. In my State of Connecticut, for example, the economic downturn has been devastating for the Connecticut Iron Workers pension fund. This plan, which was fully funded a few years ago, now faces a financial crisis, and is desperately in need of the relief which is denied under this bill, but which is being offered to 35 million workers covered under single employer plans.

Senate conferees demonstrated an admirable willingness to reach a reasonable compromise on the multiemployer pension relief provision. This compromise would have limited the multiemployer relief provisions to cover only 20 percent of multiemployer plans. I understand conferees were willing to compromise even further. But the White House was adamant in their opposition to multiemployer plan provisions, which is hard to understand because, historically, multiemployer plans place very little burden on the Pension Benefit Guaranty Corporation.

I wish the President had taken a different stance. I understand that my colleague, the distinguished Senator from Massachusetts, Mr. KENNEDY, will soon introduce legislation to address the concerns of multiemployer pension plans. I intend to support and cosponsor this legislation, and would hope that Congress would act swiftly to pass such a measure.

In the meantime, I will vote for this bill, because I believe it is essential that we update the interest rate formula for pension calculations prior to April 15, when the first quarterly payments of the year become due. Without this relief, many pension plans will face unmanageable financial strains, and that will ultimately hurt workers. Companies will be forced to grapple with decisions about layoffs, pension cutbacks, and withholding critical investments. Like many companies around the Nation, Connecticut hospitals, for example, and other healthcare employers in my State, have been hard hit by poor asset returns, declining interest rates, and spiraling pension plan costs. Without this replacement to the 30-year Treasury bond interest rate, I am informed that Connecticut hospitals will face financial hits that they simply cannot absorb and will be forced to cut benefits.

I will vote in support of H.R. 3108 so that millions of current workers covered by defined benefit plans will not see their benefits slashed, and so that additional resources will be available for investment and job creation. I urge my colleagues, however, to support legislation to provide relief for multiemployer pension plans, and I urge the White House to listen to reason.

Mr. LEVIN. Mr. President, with so many baby boomers nearing retirement age, increasing the likelihood and availability of secure retirement savings is more important than ever. Strengthening our private, employer-based pension system is a critical component of this effort.

Right now, our Nation's companies are confronting real challenges in providing adequate, guaranteed retirement benefits as the number of retired workers grows and global competition increases. This is a big part of the crisis that we are experiencing in our manufacturing sector. Across the Nation, 2.8 million manufacturing jobs have been lost during the Bush administration. Michigan alone has lost over 180,000 manufacturing jobs since 2000. Our States and our Nation cannot continue to sustain such losses, and action is needed on many fronts to address the crisis.

This bill is a small, but important, step toward helping with our manufacturing crisis. For the companies whose plans this bill helps, it will free up resources for equipment upgrades, new hires, R&D, and other investments in the future.

I am troubled by the fact that the component of this bill dealing with most multiemployer pension plans that had overwhelming support in the Senate has been dropped out of this conference report. I am hopeful that we can provide relief to those multiemployer plans soon. That is why I will cosponsor Senator KENNEDY's bill that would do just that.

If I thought that defeating this bill would help the many pension recipients whose plans were left out of this conference report, that would be one thing. However, after careful thought, I have concluded that defeating this bill would not achieve that goal but would only hurt those who do get the much-needed relief in the bill.

Mr. FITZGERALD. Mr. President, I rise today to oppose the conference report for H.R. 3108, the Pension Funding Equity Act, which the Senate is now considering. The original version of this bill that the House passed last year changed the discount rate used by defined benefit pension plans to calculate their pension liabilities from an interest rate based on the now defunct 30-year Treasury bond to an interest rate based on the average rate of return on high-quality long-term corporate bonds for plan years beginning in 2004 and 2005. There is a strong but not conclusive argument that the discount rate should be changed. According to the Pension Benefit Guaranty Corporation—PBGC, replacement of the 30-year Treasury rate will allow companies to lower their pension contributions by $80 billion over the next 2 years.

When this legislation reached the Senate, however, it became a magnet for giveaways to financially weak companies. The industries in which some of these financially weak companies operate are notorious for having woefully underfunded pension plans. Furthermore, select companies were also given additional relief. Why these companies deserve special breaks and others do not is not easily discernable. Multi-employer plans were also given a 2-year delay in recognizing investment losses. The most troubling section in the Senate version of the bill provided that any company could apply with the Secretary of the Treasury to waive a portion of its deficit reduction contribution. Fortunately for taxpayers, this provision was stripped from the bill during conference.

While the House-Senate conference report produced a pension bill that is much more limited in increasing PBGC's deficit than the Senate version, it still allows companies with underfunded pension plans to set aside less, thus increasing their pension deficits. According to the PBGC, the deficit reduction contribution waivers, special breaks to select companies, and the multi-employer plan relief, will allow companies to pay billions less into their pension plans, in addition to the $80 billion less because of the discount rate change. In total, the conference committee report probably relaxes corporate pension funding requirements by close to $90 billion over 2 years.

Allowing weak companies to pay less into their pension plans than is required by current law would be analogous to a credit card company allowing a financially distressed customer to pay less than his or her required monthly minimum payments. Just as credit card companies require minimum payments to ensure consumers do not fall too far behind in debt, the PBGC requires companies with defined benefit pension plans to make deficit reduction contributions to catch up on their funding. I think all of my colleagues would agree, when you're in a hole, the first rule of thumb is to stop digging. Allowing companies with underfunded pension plans to dig the hole deeper could cause premiums for well-funded plans to rise, and retirees could face cuts in pension benefits if their defined benefit pension plans are terminated.

I also am deeply concerned that the conference report does not include a ''hold harmless'' provision for the PBGC. The agency is currently in the worst financial condition in its history. Because it continues to absorb the losses of terminated pension plans, the PBGC reported a record deficit in its single employer program of $11.2 billion for fiscal year 2003, and for the first time ever, its multi-employer program ended the fiscal year in a deficit situation. The PBGC currently remains exposed to $85 billion in pension underfunding in plans sponsored by financially weak employers. I am thus concerned that taxpayers may one day be forced to bail out the PBGC.

In September 2003, as chairman of the Governmental Affairs Subcommittee on Financial Management, the Budget, and International Security, I held a hearing on the PBGC and defined benefit pension plans. While proponents of the deficit reduction contribution waiver and multi-employer plan relief claimed that funding rules are too strict for companies in America, what I found was just the opposite—that current funding requirements are inadequate to fully protect the pensions of America's workers and retirees when their plans terminate. Companies can stop making contributions when their plans are funded at 90 percent of ''current liability.'' Trouble is, the definition of ''current liability'' is the result of past legislative compromises, and does not reflect the amount of money needed to pay all benefits if a plan terminates. ''Current liability'' assumes the company is an on-going business, and thus does not recognize the early retirements that take place when an employer goes out of business and terminates its pension plan. Nor does ''current liability'' recognize the full cost of providing annuities as measured by group annuity practices in the private market.

Pension benefits are measured against ''termination liability'' if a company goes out of business and terminates its pension plan. Termination liability reflects an employer's cost to settle pension obligations in the private market. In the example of Bethlehem Steel, the company reported that it was 84 percent funded on a ''current liability'' basis in its last filing prior to termination. When the PBGC took over the Bethlehem plan, however, it turned out that the plan was

only 45 percent funded on a termination basis. In my judgment, therefore, further relaxing the already lax contribution requirements for weak companies with underfunded plans is imprudent.

As members of Congress we should not pass laws that encourage companies to manage pension plans in an irresponsible manner. Companies with underfunded pension plans will continue to run up deficits until everyone loses—workers, retirees, and taxpayers. We make a mistake today by giving weak companies the tools to dig their holes deeper.

Mr. GREGG. I would like to ask my colleague Senator GRASSLEY, a fellow manager of the conference report and Chairman of the Senate Finance Committee, whether he shares my view that, notwithstanding the enactment of this legislation, all of the existing relief measures applicable to multiemployer plans under ERISA and the Internal Revenue Code will remain available to multiemployer plans. Specifically, the multiemployer plan relief provisions in this legislation are in addition to, and not in lieu of, the existing relief measures applicable to multiemployer plans. Multiemployer plans that satisfy the criteria for relief under the existing measures are not precluded from obtaining relief under the existing relief measures. Is that your understanding?

Mr. GRASSLEY. Yes. I share my colleague's understanding. Under current law, the IRS is authorized to waive all or a portion of the minimum funding standard requirements for a given year or, alternatively, to allow plans to extend the period for amortizing their liabilities for up to an additional 10 years, so long as certain required showings are made. IRS regulations also include what is known as the ''shortfall funding method.'' The enactment of the short-term multiemployer plan relief in this legislation is not in any way intended to foreclose the availability of any of these existing relief measures to multiemployer plans.

Mr. FEINGOLD. Mr. President, I will vote against the conference report on H.R. 3108. While there is much to commend in the measure, the conferees failed to include meaningful relief for the multiemployer pension plans to which thousands of mostly small businesses and their workers contribute. That was not the case when this measure left the Senate, nor was it apparently the case in the conference committee prior to the intervention of the Administration. Members of the conference committee have noted that bipartisan negotiations on this measure in committee had been productive prior to the insistence by the White House that the provisions extending relief to multiemployer plans be greatly restricted, leaving thousands of businesses and 9.4 million workers high and dry.

Particularly disturbing are reports that while multiemployer plan relief was drastically reduced by the conferees, special consideration was provided for at least one large corporation that contributes to a multiemployer plan. The Wall Street Journal today reported that ''the final provisions also showed the remarkable influence'' of that corporation, noting that it ''used the bill to pursue its own agenda'' and that the provisions in the conference report were ''tailored to provide the most help'' to the fund to which the company contributed. This tailored assistance stands in stark contrast to the lack of relief to the thousands of smaller employers and the workers they employ.

Mr. President, I supported the pension relief package that the Finance Committee crafted a few weeks ago. I am pleased that some of the provision in that measure remain in the conference report, and that with the expected passage of this legislation many plans will get the relief they need. But I regret that while conferees reportedly tailored multiemployer relief to help at least one large corporation, they abandoned the multiemployer relief that helps thousands of small businesses and their workers. I very much hope this body will act to correct that serious flaw without delay.

Mr. FEINGOLD. Mr. President, I spoke earlier about the conference report to H.R. 3108. I wanted to discuss one additional provision of the bill that has not received much attention in the debate because it was not part of the bill until just a day or two ago.

I am very troubled by the eleventh hour addition to this conference report of a provision that purports to grant an antitrust exemption to the graduate medical resident matching programs. We have had no hearings on that issue in the Senate Judiciary Committee, and no language has ever been presented to the Committee or to the Senate. For the managers of this bill to insert a controversial provision with no Senate debate or discussion is the worst way to legislate, particularly in the complicated area of antitrust law.

I note, in addition, that Subsection (b)(3) of section 207 explicitly preserves the right to bring an antitrust lawsuit alleging any type of price-fixing arrangement among two or more graduate medical education programs. Therefore, the antitrust exemption that is described in subsection (b)(2) apparently does not apply to the lawsuit pending in the U.S. District Court for the District of Columbia.

Mr. DURBIN. Mr. President, although I rise in support of the conference report for the Pension Funding Equity Act, I have serious reservations about the lack of relief for multiemployer pension plans. This provision is yet another instance of the White House undermining conference committee negotiations and shutting out fair and full participation by Democratic conferees.

During the 108th Congress, Democrats have been locked out of conference negotiations time and time again in an unprecedented manner. This includes the energy bill, Medicare prescription drug benefit, and the omnibus appropriations. Given the importance of addressing the use of the 30-year Treasury bond rate to compute pension liabilities, our side reluctantly agreed to a conference on this bill as a test case for bipartisan cooperation. Unfortunately, the Senate has failed that test.

The Senate version of this legislation, which passed by a vote of 86–9, would have provided relief to all 1,600 multiemployer pension plans and the 9.7 million workers who have such pensions. During the conference negotiations, there was a tentative agreement to provide relief to 20 percent of the multiemployer plans and to reduce the amount of relief that the Senate version would have provided by roughly half. But then the White House interfered and insisted that the relief for multiemployer pension plans be dramatically reduced. Offers to cover 12 percent or even 10 percent of all multiemployer pension plans—only half of the original conference agreement—were rejected.

As a result, this conference report—approved by a party-line vote—provides relief to less than 4 percent of all multiemployer pensions and provides less than one-third of the relief provided by the Senate version.

In addition to my concerns regarding this procedural breakdown in the conference committee, I also am troubled by the substance of this provision that the White House insisted be reduced. This conference report provides only $250 million in relief to multiemployer pension plans. These plans receive no aid from the other provisions in this legislation.

Without relief from Congress, these plans will remain in crisis. For example, in Rockford, IL, the local iron workers union has a pension plan that covers more than 400 participants and has approximately 100 employer contributors. This plan is in jeopardy. Although multiemployer pension plans often are characterized as providing pensions for ''unionized workers,'' bear in mind that more than 60,000 businesses—mostly small businesses—contribute to multiemployer pension plans. In Rockford, if the iron workers' pension plan is not viable, the 100 companies and contractors that contribute to that plan and act as its signatories may face collapse if faced with the plan's failure and its withdrawal liability.

Therefore, we must provide aid to protect the millions of workers covered by multiemployer pensions and the tens of thousands of small businesses that employ these workers. Today, I am joining with Senators KENNEDY, BAUCUS, DASCHLE, and others to introduce a bill that would provide fair and equitable aid for these troubled multiemployer pensions. I hope this measure will be enacted as quickly as possible.

Despite my concerns regarding the lack of relief for multiemployer pensions, I rise in support of the conference report because of its deficit reduction contribution relief and its 30-year Treasury bond rate fix. For almost 6 months, I have worked to ensure that DRC relief—especially for the airline and steel industries—would be included in any pension legislation enacted by this Congress.

The DRC relief in this conference report would provide more than $1.6 billion in aid to the airline and steel industries over the next 2 years for companies that had well-funded pension plans as recently as 2000, but need assistance now. This aid would allow these industries to regain their financial footing by providing relief from DRC surcharges of up to 80 percent in 2004 and 2005. This assistance is vital for United Airlines, based in my home State Illinois. As a result, the pensions of almost 130,000 participants in United's pension plans, including over 22,000 participants in Illinois, will be more secure.

I also support this conference report because it would provide a 2-year replacement of the 30-year Treasury bond rate in computing pension liabilities. Nationally, this provision will provide $80 billion in relief to the 31,000 companies that provide single-employer pension plans and cover nearly 35 million workers and retirees.

I have heard from many Illinois companies supporting this provision. They include Caterpillar, Goodyear, John Deere, Smurfit Stone and the Children's Memorial Hospital. Unless this provision is enacted before April 15, the pension funding requirements for these companies will grow by millions of dollars and the pensions of thousands of Illinois workers will be in jeopardy.

Although this conference report is not perfect, I will vote in favor of it to provide aid to the airline and steel industries and to companies that provide single-employer pensions. However, I also look forward to working with my colleagues on both sides of the aisle to provide adequate and equitable relief to multiemployer pension plans as soon as possible.

Mr. KYL. I want to express my great disappointment with this conference agreement and to explain why I will vote against it.

This legislation, H.R. 3108, was originally intended to provide a temporary solution to a legitimate and serious problem facing all defined benefit pension plans—the interest rate used to calculate funding liabilities, the 30-year Treasury bond, is no longer being issued by the Federal Government, and consequently the rate has dropped to a point that companies would be forced to contribute far in excess of what is necessary to their pension plans if Congress does not provide a remedy. I have always supported efforts to make this necessary change to the interest rate and, in fact, I believe that President Bush put forward a reasonable permanent solution last year.

Because of disagreements over that permanent interest rate change, however, Congress was forced to seek a temporary solution to give us additional time to resolve our differences. H.R. 3108, as originally approved by the House, only included temporary interest rate relief; and that is all it ever should have included.

When it came time for the Senate to consider H.R. 3108, it was viewed as a ''must do'' bill, and thus attracted additional items that I believe should not have been included.

My primary concern is that the Senate added relief from the ''deficit reduction contribution'' for certain severely underfunded plans. The DRC is a special catch-up contribution that seriously underfunded plans—generally, plans that are 90 percent funded or less—are supposed to make to bring their plans back to full-funding. When the Senator began discussing adding DRC relief for airlines, steel companies, and possibly other industries, I expressed my opposition.

I believe that the DRC relief is harmful to workers, unfair to healthy pension plans, unfair to competitors who are not receiving the relief, and exposes taxpayers to unacceptable risks.

Underfunded plans are harmful to workers because they jeopardize expected pension benefits—especially for workers who are to receive larger pensions than the Pension Benefit Guarantee Corporate—PBGC—will guarantee, such as airline pilots. Companies should be required to fund their pension promises to their employees, they should not be excused from these promises.

DRC relief is unfair to healthy plans because an underfunded plan that fails will pay benefits using the insurance premiums paid to the PBGC by healthy plans. Further, many plans have made the difficult yet responsible financial decisions to fully fund their pensions. It is unfair to excuse other companies, who may have been less responsible, from these same promises.

The DRC waiver in the conference agreement applies only to certain airline and steel companies. The DRC waiver is really a back-door bailout for some companies and is unfair to their competitors that cannot benefit from the waiver, either because they have fully funded their pension plans or because they offer a different kind of retirement benefit to their employees.

Finally, the DRC waiver exposes taxpayers to a greater risk that the PBGC will require a taxpayer bailout. The PBGC recently reported a deficit of $11.2 billion in its single-employer insurance plan for fiscal year 2003—a record. While the PBGC estimates it will have sufficient assets to meet obligations for years to come, the failure of several large plans could change that.

Further, PBGC estimates that the sum total of all single-employer pension plan underfunding is about $400 billion. And Congress—meaning the U.S. taxpayers—would certainly bail out the PBGC, rather than allow the entire insurance system for defined benefit pension plans to collapse.

Because the Senate was insistent upon providing some DRC relief, however, I worked with my colleagues in the Republican leadership and on the Senate Finance Committee to scale back the relief so that it would cause less damage to our pension system, would be less harmful to competition, and would expose the taxpayers to marginally less liability. I worked to reduce the DRC waiver to 80 percent of the DRC liability in the first year and 60 percent in the second year. The idea was that by the second year, and with the interest rate relief, plans should begin turning their finances around such that they can make a greater percentage of the necessary payments to bring their plans back to full funding. This is what the Senate approved in its version of H.R. 3108 and I am very disappointed that the Senate position was abandoned during the conference negotiations.

I am also disappointed that we could not agree to protect the taxpayers from increased liabilities that could occur as a result of the DRC waiver. At a minimum, we should have stipulated that the PBGC would be ''held harmless'' for any benefit increases that occur during the waiver period. I believe we should have protected healthy plans and taxpayers by adopting a ''hold harmless'' provision for the PBGC. One of the big dangers with the DRC waiver is that the plans claiming the waiver will fail anyway in the near future, and by granting these plans a DRC waiver their funding situation will be even worse when the PBGC assumes these plans. A ''hold harmless'' provision would have mitigated this harm and limit the drain on healthy plans.

The DRC waiver is exactly the wrong thing to do. The system of DRC payments was devised because companies were habitually underfunding their plans. We should not aid and abet habitual underfunders by waiving much of their DRC liability. I must vote against the conference agreement because the DRC waiver is more comprehensive than what was approved by the Senate; because it fails to protect taxpayers; because the waiver is unfair to healthy plans that have responsibly funded their promises; and because the waiver provides a back-door bailout to certain airlines and steel companies, which is unfair to their competitors. I agree that there may be problems with the DRC system and that reforms may be in order. But we should make any reforms through a more thoughtful and deliberate process, taking into consideration the experience and recommendations of the PBGC.

Mr. HARKIN. Mr. President, I rise to discuss my thoughts before this very difficult vote on the Pension Funding Equity Act conference bill. The bill arrives at a reasonable immediate solution to a very complicated problem.

However, I do have concerns about the larger problem of pension funding rules in the US, and I have grave concerns about the treatment of multi-employer plans in this conference bill.

I supported this bill when it passed the Senate in January by a vote of 86–9. That bill provided a reasonable approach to funding single-employer plans—a 2 year corporate bond rate. I was especially satisfied with the 2-year amortization of losses for multi-employer plans.

When the White House wanted this provision struck in conference, an agreement was arrived at by conferees to cover the 20 percent of multi-employer plans most in need. The White House, however, held up these important negotiations and insisted on virtually eliminating multi-employer relief.

Clearly, immediate funding relief is needed. We have known that this was coming for well over a year. With the drop in the 30-year treasury rate corresponding directly with declining stock values, pension plans have become drastically underfunded. This situation doesn't just hurt the bottom line right now, it hurts the defined benefit system as a whole and jeopardizes the retirement security of millions of workers.

I have been concerned as this bill has evolved that it represents a band-aid approach that addresses immediate funding obligations without fixing the larger problem. There are perverse incentives that actually prevent employers from keeping money in the pension plan when times are good, so that we end up having to bail them out when times are bad. We need to put serious effort in the coming years to work out defined benefit pension plan funding in general.

I don't believe we take these long-term problems seriously enough. Two years ago, when we came up with the initial readjustment of the 30-year treasury rate, it was my hope that we would address these problems before the issue came up again. But, here we are—2 years later and no farther ahead. I am afraid that unless we focus on this issue this Congress, we'll be looking at simply extending this rate again in 2 years without any understanding of the impact of this rate on defined benefit pensions, on the economy, or on the Pension Benefit Guarantee Corporation.

I am sure that it comes as no shock to my colleagues that the stock market actually falls from time to time. Sometimes, by more than 25 percent. Yet, we allow companies to transfer funds out of their pensions when times are good, leaving only a 25 percent cushion for when times are bad. We offer little in the way of incentives to pad plans in the good years to carry them through the bad years.

Many advocates characterize this funding climate as the ''perfect storm.'' I believe that it's a storm that could have been more easily weathered had companies been prepared for a rainy day. However, the onus is reasonably on Congress to establish tax and accounting policies that create positive incentives to do so. I think we should consider increasing the funding level required prior to a section 420 transfer, at the same time, increasing the amount of money that can be kept on hand receiving favorable tax treatment.

I look forward to working with my colleagues to find a more precise solution to this delicate balance between making defined benefit pensions attractive for companies, while protecting workers. I share with my colleagues the goal of ensuring the viability of the defined benefit system.

Having said that, there is no other answer for the immediate problems facing us than to provide the funding relief provided in this measure. I think we absolutely need to do something now for the companies we can help. We need to help the airlines, we need to help the machinists. Eighty percent of this bill makes sense and is the right policy for the moment. Unfortunately, the White House has chosen to play politics with the income security of workers in multi-employer plans, and of the businesses that participate in those plans. There is no good reason for dropping these plans from the agreement, except to cause pain to certain working families. I plan to work with Senator KENNEDY and other colleagues very soon to repair the harm done in this portion of the bill to members of the construction trades, the Teamsters, IBEW, Plumbers and Steamfitters, Sheet Metal, Finishing Contractors, Operating Engineers, Bricklayers and other participants in multi-employer plans.

I am supporting this conference bill to help enact its truly necessary provisions—the vast bulk of the legislation which will keep other plans from freezing in the face of the current funding situation. But I will not drop my concern for those who are harmed.

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

● Mr. KERRY. Mr. President, I would like the record to show my views on the conference on H.R. 3108, the Pension Funding Equity Act. The conference report includes several provisions that I support. Most important among them is funding relief for single-employer defined-benefit pension plans, which will aid 35 million workers. The conference report also closes a huge tax loophole utilized by the wealthiest Americans to shield investment income known as the small insurance company loophole, or Section 501(c)(15). I applaud the work that crafted these provisions. I am particularly pleased that the pensions of hard-working Americans in the auto, steel, airline and other industries will have safer pensions and more secure retirements. I strongly support these provisions, and I can understand why many of my colleagues will cast a vote for this conference report.

The problem, and the reason for my opposition to the overall conference report, is that it provides hardly any relief for millions of Americans participating in multi-employer pension plans, despite strong bipartisan support for such relief in the original Senate bill. The Senate bill provided relief to all multi-employer plans, and that bill passed the Senate by the overwhelming vote of 86 to 9. After that, the conferees agreed on a bipartisan basis to limit relief to the 20 percent of plans that most needed it. But then, we have been told, the White House insisted that multi-employer relief be essentially gutted. I regret that the White House and the Republican conferees, on a strictly partisan basis, have done this. It means that nearly 10 million Americans who participate in multi-employer pension plans have been cast aside for no good reason.

The Republicans' insistence that multi-employer relief be stripped from the legislation, despite overwhelming Senate support for more widespread relief, also means that America's small businesses that participate in multi-employer plans will receive very little help. As ranking member on the Committee on Small Business and Entrepreneurship, I believe that to ignore small business is to ignore the great engine of our economy. More jobs are created in America by small businesses than any other sector of our economy.

Just a week ago, President Bush claimed that ''the small business agenda is vibrant and foremost on our agenda.'' He said that it's important to reduce taxes, so ''small businesses have got more money to invest and to expand.'' But at the same time the White House was pulling the rug out from under thousands of small businesses. More than half of the 65,000 employers in multi-employer plans are small businesses—real small businesses run by real families. So despite the President's rhetoric about small business, the White House has refused to help small business owners provide more secure pensions for themselves and their workers. These small businesses won't be able to invest and expand because they'll be paying excise taxes imposed by the IRS due to the crisis in their pension plans.

Mr. President, I support funding relief for single-employer plans. I am very glad that Congress has acted to help Americans participating in those plans. I am also glad to see tax loopholes closed whenever possible. But I regret that the Senate, after voting 86 to 9 to help Americans in both single-employer and multi-employer plans, is now leaving nearly 10 million Americans and thousands of small businesses out in the cold.●

Mrs. FEINSTEIN. Mr. President, I will vote in support of this conference report today because many of the private pension systems in this nation are on the verge of collapse.

Many companies are staring at an April 15 pension payment date. Without this legislation many companies will not be able to make their payments because of the effect of both the recent economic recession and the requirement that they use a payment calculation that is based on the discontinued 30-year Treasury bond.

I deeply regret the action taken by the conference committee to remove much of the assistance targeted toward multi-employer plans. I will support steps to correct this grievous action.

It is critical, however, that we pass this legislation today because 44 million pensioners are at risk of losing their hard-earned benefits.

While I wish the bill would do more, I believe it is important for several reasons:

One, this bill corrects several problems facing our private pension plans. These plans use the 30-year Treasury bond to determine the interest rate they may assume when making their periodic pension payments.

Because the 30-year Treasury bond is no longer in use by the federal government we must replace this mechanism and this bill does that.

Companies that have fallen behind in their pension payments are required under current law to make catch-up payments, or what we call deficit reduction contribution payments. A company must make these payments in addition to its regularly scheduled pension payments.

These additional payments raise the possibility that many companies will be driven into bankruptcy when it is discovered that they simply do not have the cash available to make these payments. This bill gives companies 2 years of relief from these payments.

This 2-year relief period provides these companies with an opportunity to get back on solid financial ground before beginning these payments again and it goes a long way in preventing the closure of pension plans by helping companies avoid bankruptcy.

Two, this bill targets much needed relief to the airline, steel, and iron industries by allowing them to receive the deficit reduction relief automatically unless they were subject to these catch-up payments in 2000.

These industries, more than most, have been reeling from the lingering effects of September 11, 2001 and the ensuing economic downturn. I have received more than 280 phone calls from United Airline pilots telling me that if this bill does not pass, United Airlines may have to terminate their pension plan as they work through bankruptcy. Management and labor at United Airlines are in total agreement on this issue and I have 35,000 United Airline pension participants in my home State of California.

It is clear that this bill provides more relief to single-employer pension plans than those maintained by a multiple number of employers—the so-called multi-employer pension plans. I would like to see us address this issue in the near future and I will work with Senator KENNEDY to make sure this happens. But, today we have the opportunity to do something good for the 35 million pension plan participants who are participating in mostly single-employer plans.

This legislation is not perfect, but it represents a commonsense approach to help solve the problem facing the majority of pension plans. I supported the Senate version of this bill because it included better assistance for multi-employer plans and I continue to think that the conference committee should have reported a bill that provided these multi-employer plans broader coverage.

While the conference committee did not provide us a bill containing all that I had hoped for, it did report to us a bill that will provide real support to real companies and labor groups.

We must do what we can before these faltering pension plans are driven under by the impending April pension payments.

I cannot support a move to defeat the whole bill because it doesn't address every need.

Thirty-five million pensioners will be assisted by this bill. Companies like C&H Sugar located in Northern California will be helped and more than 35,000 United Airlines pension plan participants who live in California will be helped.

The men and women who have invested their careers in a company should not lose the pensions they are due. But, if we do not pass this conference report, many will and this should not be allowed to happen.

While this legislation is not perfect, it represents movement in the right direction and I support it with the understanding that we need to address the larger issue facing multi-employer plans.

Mrs. BOXER. Mr. President, I am voting for this pension conference report, but I do so with serious reservations.

There are 35 million workers nationwide who participate in single-employer pension plans and who will benefit from this legislation. They need help now. Many of their pension plans are in trouble. Some are teetering on the verge of bankruptcy. This bill will help ensure greater retirement security for these hard working Americans.

Unfortunately, this bill does not help all pension plans and all workers. More than 9 million workers in multi-employer pension plans will not be covered by this bill. All of these workers were covered in the bill that passed the Senate, which I supported and which passed the Senate with 86 votes. Leaving them out was a partisan and ideological decision that leaves us with a truly sub-par solution to the pension plan crisis in America.

There is nothing wrong with what is in the bill. The problem is what has been left out. Senator KENNEDY is absolutely right on the merits. We should help all workers. We should not be picking winners and losers. I will work with Senator KENNEDY and the rest of my colleagues to pass the Senate provision on assisting multi-employer plans at the first and every available opportunity.

Mr. ROCKEFELLER. Mr. President, this afternoon I will vote to adopt the pension reform legislation before the Senate. However, I do so with serious reservations. The reforms in this bill are critical for both pension security and economic growth. Congress cannot allow April 15 to pass without updating the interest rate on which pension liabilities are based. As constructive as this legislation is, it is incomplete. This bill fails to address the needs of multi-employer pension plans. I will support the pension improvements we have before us today, but I will continue to fight for similar relief for the millions of employees who were left behind in this unfortunately partisan process.

It is not an exaggeration to say that the bill before us today is critical. If the Senate fails to pass this legislation today, then next week businesses will be required to make contributions to their pension plans based on an outdated interest rate. If we require companies to make billions of dollars in overpayments to their pension plans, then we are hurting economic growth and ultimately undermining the plans. I do not want workers to lose their pension benefits, because their employers determined that they could not comply with unreasonable funding rules.

This conference report also provides much needed relief from deficit reduction contributions (DRC), especially for airlines and steel companies. The grace period provided here does not diminish employers' obligations to fully meet the promises they have made to their workers. It simply provides some needed flexibility to help companies recover from the recent economic downturn. This relief is essential for the financial stability of the steel industry and the airline industry. Protecting the pensions of those workers while ensuring that their employers have the opportunity to strengthen their businesses has been one of my main priorities since this debate began. I am very pleased that the DRC relief was included in the final legislation.

Mr. President, while there is much to support in this bill, there is also a gaping whole in the pension security we are providing to American workers. Almost 10 million workers, participants in multi-employer pension plans, were abandoned by the conference committee. Despite strong bipartisan support for multi-employer relief in the Senate, the White House insisted it be dropped from the bill. I cannot account for this insensitivity. Participants in multi-employer pension plans are typically lower wage, union workers who are employed by several small businesses over the course of their careers.

To claim that these workers do not deserve the same pension security as other workers is unconscionable.

When the Senate voted on its own version of pension relief which included multi-employer plans, it garnered 86 votes in favor. Senators were pleased to support a bill that is so important for businesses and workers all across this country. The process by which the conference committee flagrantly disregarded the interests of 86 Senators is another sad example of the partisan dysfunction that has come to characterize House-Senate conference committees. And it is a lesson that this Senator will not forget.

So, Mr. President, today I will meet my responsibilities to update the pension funding rules prior to the April 15 deadline for required pension contributions. I will gladly support the DRC relief that this legislation accords single-employer pension plans. But let my colleagues be aware, I will continue to fight to provide similar security to all of the workers who are participating in multi-employer plans. I am hopeful that in the near future Congress will live up to our obligations to those workers as well.

Ms. MIKULSKI. Mr. President, I rise today in opposition to the conference report on the Pension Funding Equity Act of 2003. The conference report the Senate is considering today is a hollow promise for America's workers. This bill helps some companies and workers, but fails others. It provides relief for pension plans that cover 35 million American workers, including auto, steel and transit workers, and airline pilots. I support making sure their pension plans are safe.

But, this conference report fails to provide relief to the multi-employer pension plans that cover 9.7 million unionized workers. Many of these Americans work for small businesses, including many in my state. These workers are boilermakers, shipbuilders, electricians, and carpenters. I want to stand up for these workers to make sure their pensions are safe also.

I voted for a bill in the U.S. Senate in January, which was a truly genuine, bipartisan effort, passing by an overwhelming vote of 86–9. The bill I voted for wasn't perfect, but it was a solid, bipartisan bill.

Because of recent economic events, pension plans were hit by the perfect storm of a stock market crash, historically low interest rate, and a weak economy. So, many pension plans were in a crisis. Pension plans were calculating their liabilities based on an outdated rate that is no longer issued. By switching to a more accurate rate, pension plans will have lower funding needs which frees up money to buy plants and equipment and hire workers. This is a temporary fix while Congress reviews the issue and comes up with a permanent solution. I support this move.

Large pension plans that were particularly hit hard by the downturn in the stock market and the weak economy also are given a temporary break on their ''catch up'' contributions to give them a break while the economy recovers. I also support this provision.

Yet when I voted for the pension bill last January, there was pension relief for all pension plans, the large pension plans and the multi-employer plans which are common in small businesses, and used by plumbers, carpenters, shipbuilders, and truckers.

Some believe that the conference report we're considering today is the best we can do. I believe we could have done better. We must do better. We make sure all workers pensions are safe.

I'm voting against this bill because of its impact on people, yet I have to say something about the process. This was far from Congress's usual procedure. It was passed by the Senate by an overwhelming majority. However, the Senate's views were disregarded in conference. We were handed this conference report and told to take it or leave it. This is legislation that will affect the lives of 44 million Americans, but it fails to provide help for nearly 10 million of those Americans. I cannot support that.

I know that some in Maryland are asking, ''Why are you voting this way Barb?'' They're saying, ''We need help now. Our pension may be in trouble.'' To these Marylanders, I want you to know that I want to help you now. I want to ease your worry about your retirement security. But, I want to give you something real. Not all Marylanders will be helped by this bill.

So, I won't vote to pass this bill because I want to make sure all Marylanders have a safe and secure retirement. We can do better. We must do better, and we must do better this year.

There are twenty weeks left in this session of Congress. During these weeks, we can make sure all workers are protected. That is why I will be joining with my colleagues to fight to make sure that all pensions plans are safe.

Mr. GREGG. The Senator from New Mexico suggested today in the debate on the conference report to S. 3108 that the provisions of the conference report relating to Graduate Medical Education Residency Matching Programs were not intended to apply to antitrust litigation currently pending in the United States District Court for the District of Columbia.

That is not the case. The legislation applies to all anti-trust lawsuits, including pending and future lawsuits brought against Graduate Medical Education Residency Matching Programs which appropriately aligns the preferences of medical students and residency programs.

Mr. BUNNING. Mr. President, I understand that the conference report to H.R. 3108 before us today includes a provision repealing Section 809 of the Internal Revenue Code. I support repeal of this arcane provision of the tax code relating to the taxation of mutual insurance companies. I also support the repeal of another equally arcane provision of the tax code—Section 815 which affects stock insurance companies. This provision, which triggers a tax on a fictitious account under certain circumstances and unduly ties up needed capital, is unnecessarily complex and antiquated. Repeal of this provision will allow the affected companies to gain access to these idle funds and use them to expand their businesses and hire more employees. I am pleased that the JOBS Act, which we are also considering on the floor of the Senate, contains a temporary repeal of Section 815 and I urge the Senate to consider full repeal of this provision at the earliest possible opportunity.

Mr. DODD. Mr. President, I rise today to discuss the pension conference report that the Senate recently voted on.

I have long supported initiatives aimed at strengthening and protecting individuals' employer-sponsored retirement plans. Pension benefits are a critically important means of securing a measure of comfort and self-sufficiency for retirees, and we should do all we can to ensure that pension plans are secure and viable.

The intent of the Pension Funding Equity Act of 2004, H.R. 3108, is to provide temporary pension relief to businesses whose pensions have been hurt as a result of the economic downturn that began about 3 years ago. Understanding that companies were in need of relief, in January, by a vote of 86 to 9, the Senate passed H.R. 3108, which provided relief to single-employer plans, steel companies, the airline industry, and multiemployer plans. I supported this legislation.

Unfortunately, the pension bill was significantly weakened in conference, for no reason other than to single out multiemployer plans. In so doing, the conference report puts at risk 65,000 small businesses and their 9.5 million workers. To the best of my knowledge, more than 50,000 workers in Connecticut will be left without any relief under this conference report. Because of this exclusion, I was not able to support this conference report.

There is no sound policy reason to not provide multiemployer plans with relief. It does not cost the Treasury any money. The weak economic conditions plaguing our country have adversely affected multiemployer plans no less than single-employer plans. Since multiemployer plans are overwhelmingly used by workers who belong to a labor union, the only conclusion that I can draw for why the Republican conferees would not want to provide relief to multiemployer plans is to penalize union workers and the small businesses that employ them.

This is a regrettable and callous action by our Republican colleagues in this Chamber and the other Chamber. As we all know, conference reports cannot be amended. If they could, I would

eagerly support an amendment to ensure that multiemployer plans are covered.

This conference report primarily helps the Fortune 500 companies, which I am not against. In fact, that is one of the reasons I had supported the pension bill in January. I understand that employers across the country have faced extraordinary pension liabilities based upon the obsolete Treasury bond rate. And I supported providing these plans with relief. But the conference report leaves behind our small businesses. It excludes our construction workers, electricians, plumbers, service workers, and others, and I cannot pretend that that is OK.

This bill was supposed to be about maintaining the viability of pension plans, about doing what is right for our workers and their families, and for our small businesses. Instead, it unfairly left out thousands of our small businesses and millions of our workers, for no good reason.

I will continue to work with my colleagues to ensure that multiemployer plans are provided with relief so that we also can ensure the viability of these important plans.

Mr. DASCHLE. Mr. President, the conference report on the Pension bill is another example of a broken legislative process. We passed a good bill in the Senate. There was bipartisan cooperation. Two committees—Chairs and Rankings—worked together in a constructive manner.

This bill garnered overwhelming support here in the Senate, passing 86–9.

On the Democratic side, there was concern about having this bill go to conference. Too often in the past several months, we have seen the will of the Senate disregarded by House Republican leaders eager to rewrite bills in conference.

Our colleagues on the other side said no, that the Senate conferees would advance the Senate position on the main issue of disagreement on multi-employer plans.

Under the Senate bill 100 percent of multi-employer plans were covered. The House had no provision to protect multi-employer plans. We expected some give and take, some compromise. And we reached a good faith agreement. The Senate bending over backward to accommodate the House, going from 100 percent coverage, down to 20 percent of multiemployer plans in the most dire circumstances.

After an agreement was seemingly reached, the White House stepped in and told Republican conferees that they could not reach a compromise. They had to ignore what the Senate passed and fall in line.

The result is the conference report before us which covers only a tiny fraction—3 percent—of multi-employer plans.

This puts the secure retirements of nearly 10 million Americans at risk.

We are talking about people working for small businesses. Three-quarters of the approximately 60,000–65,000 employers that participate in multiemployer plans have fewer than 100 employees.

We are talking about hard working people bricklayers, carpenters, painters, janitors, hotel workers. In a multiemployer plan, a person gets to count all of the pension credit he earns working for any employer in the pension plan. Multiemployer plans are thus particularly important in industries like construction or hospitality where work can be short-term or seasonal.

Multiemployer plans have traditionally been well-funded. Only 31 multiemployer plans have ever received financial assistance in the history of the PBGC multiemployer insurance program. And the PBGC multiemployer program had never experienced a deficit through 2002.

Workers in multiemployer pension plans deserve the same relief we are giving to workers in single-employer plans. Like single employer plans, multiemployer plans have been hurt by three years of poor stock market performance. As many as 30 percent of multiemployer plans could face funding deficiencies in the next few years.

Moreover, multiemployer plans are not subject to the Deficit Reduction Contribution (DRC) as single employers are. Instead, participating employers have to pay excise taxes—these excise taxes can place huge burdens on employers. Companies also have to pay the amount needed to make up the funding deficiency.

Let's be clear—what the Republican majority is saying is that would prefer to impose tax increases on small businesses across the country instead of providing some reasonable period of pension relief. This is inexplicable.

Many employers may not be able to make these payments. If they can't they will go bankrupt, and this will jeopardize the pensions of the workers who have earned pensions under their collective bargaining agreement.

This legislation misses an important opportunity to help small businesses and millions of American workers.

At the same time, there are many good provisions in this bill that we support.

It would provide some protection for 35 million Americans covered by single-employer pensions. These are traditional pensions that provide monthly federally guaranteed checks earned after a lifetime of work. In combination with Social Security, these pensions provide a dignified retirement and most importantly, peace of mind.

As a result of a combination of economic factors, pensions faced a ''perfect storm'' in recent years. The recession, a bear stock market, and a drop in interest rates, all put extraordinary pressure on pension funds.

The airline industry has been especially hard hit in recent years as a result of fears caused by the attacks on the Pentagon and World Trade Center and the SARS outbreak. The secure retirements of employees of the airline industry were at extreme risk if we did nothing.

Congress needs to act to restore some stability to the defined benefit pension system. If we don't, jobs will be lost. We do not want to see deficit reduction pension obligations push companies into bankruptcy and push more workers onto the unemployment line.

While the lack of protection for workers with multi-employer pensions and the implicit tax increase on small businesses make it impossible for me to support this bill, the good it will do for 35 million American workers, their employers, and the economy compel us not to stand in its way.

But this legislation should be just the beginning of our work to defend the retirements of American workers. Democrats will be back to fight for those who have been left behind. We chose not to take out the wrong the Republicans have done to small businesses on those in who work for the airlines, the auto companies and other large employers. But we will be back to press this critical multiemployer issue.

Ten million Americans are seeing their retirements put at risk and Congress has an opportunity to come to their aid. I regret that this legislation does not offer them any help, and I promise them that Democrats will not rest until they have the retirement security they have earned.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, I yield such time as he may consume to the Senator from Iowa.

Ms. LANDRIEU. Madam President, may I inquire how much time is remaining on both sides?

The PRESIDING OFFICER. There are 40 minutes remaining on the minority side, and 91 minutes remaining on the majority side.

Ms. LANDRIEU. Madam President, can I simply inquire from the Senator from Iowa, who I know wants to speak in favor of the bill, how much time he may take, because there are other Senators who want to speak on our side.

Mr. GRASSLEY. I am going to speak for, I believe, in the neighborhood of 20 minutes.

Ms. LANDRIEU. OK. Madam President, I ask unanimous consent that after the Senator from Iowa speaks, I be allowed to speak for another 10 or 15 minutes. And I understand there are other Senators coming down to speak.

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

The Senator from Iowa.

Mr. GRASSLEY. Madam President, today, in the Senate, as you can tell from the debate, we are considering a bill that is critical to our Nation's pension system and is necessary to help this economy as a whole, primarily because of airlines being so essential to the economy of the United States of America, although it affects other segments of the economy.

This bill, H.R. 3108, is entitled the Pension Funding Equity Act. It provides a temporary 2-year fix to the interest rate companies are required to

use in their pension calculations. Without this legislation, companies will be required to make pension contributions based on the 30-year Treasury bond interest rate, even though the Government stopped issuing 30-year bonds way back in the year 2001.

Clearly, this is a rule, under the 30-year bond rule, that does not make sense anymore, so we have to change the pension laws to conform. This legislation will fix that by adopting a conservative, long-term corporate bond rate for the next 2 years.

While the bond rate of corporations is in place for the next 2 years, Congress will have a chance to find a permanent replacement. That is what we are about doing already. For instance, that is one of the major issues before the Senate Finance Committee.

This bill also includes provisions to provide some temporary help to the pension plans that need it most. Airlines and steel companies that have been hit very hard by tough economic times are given a little more time to get their plans' funding levels up to where they need to be. Of course, even multiemployer pension plans that were hit hardest by the bear market are given more time to make up their losses.

This bill is truly a must-pass bill. Without it, pension coverage for millions of workers across the country will be in jeopardy. Without it, tens of billions of dollars that could be used to create jobs and grow businesses will unnecessarily be drained from our economy. Without it, some companies could be forced into bankruptcy. In my own State of Iowa, I know there are a lot of companies working hard to compete in today's challenging economic environment. These companies want to provide pension plans for their employees, but they also need to know what the rules are for contributing to those plans. They want those rules in the process to make sense.

Without this legislation, some companies could see their pension contributions increase three or four times in 1 year; in some cases, even more. That is a very difficult burden for any company to bear. For a smaller or medium-size company, that kind of burden is probably too much.

This bill then gives our pension system a rule so pension contributions will be calculated based on a rational interest rate rather than one that is obsolete and artificially low.

I know this bill does not do everything everyone wanted. This is true. But the provisions in this bill have broad bipartisan support. And, of course, as I constantly remind my colleagues, nothing of substance gets done in this body if it is not done in a bipartisan way, unlike the House of Representatives where partisanship can prevail from time to time and does most of the time.

This legislation before us is simply too important not to be enacted now. Companies must pay their next pension payment on April 15, just around the corner. Failure to pass this bill would have devastating consequences for workers and the economy. This is a temporary bill, but we need to be working on permanent reforms. The Senate Finance Committee is about doing that.

Mr. LOTT. Madam President, will Senator GRASSLEY yield to me for some comments about his efforts in this regard?

Mr. GRASSLEY. Madam President, I am glad to yield without losing the floor, yes.

Mr. LOTT. Madam President, I commend the chairman of the Finance Committee, the Senator from Iowa, for the work he has done on this legislation. It should have been relatively easy to get this done, but it turned out to be a long process and a huge lift.

He was persistent, dogged, because he knew we had a problem we could responsibly address before this deadline of April 15 would cost billions of dollars for companies in a way that is not necessary and could affect their solvency.

I particularly want to note, since there have been some questions raised about it, if you are going to write a textbook about how a conference should be handled, this is it. The chairman of the committee didn't try to go around the other members. I was not a conferee, but I followed it very closely. The conferees met, House and Senate, Republican, Democrat. Everybody was involved. Everybody had a chance to make their case. Amendments were considered. In fact, the Senator from Iowa even offered a last-minute amendment that would have moved it more toward what Senator KENNEDY was advocating, and it was defeated.

I am not sure I agreed with that effort, but I make that point to magnify the point this was a full conference. It wasn't short-circuited. Nobody was cut out of the process. You may not like the results, but it was a good conference and it produced a good bill.

The criticism we are hearing today, in my opinion, is to threaten the good in pursuit of the perfect from somebody else's point of view.

I want to say for the record, to my colleagues and the American people, Senator GRASSLEY did a good job. We should pass this bill. I believe this conference report will pass overwhelmingly, and this is the way conferences should and can be done.

I thank the Senator for giving me a chance to commend him on his job on this legislation.

Mr. GRASSLEY. Madam President, I thank the Senator from Mississippi for his kind comments. He was active in helping us arrive at a solution, even though he was not on the conference committee. I would emphasize one thing he said, because I hope it sets a pattern for the future and maybe would relieve the Democratic Members of the Senate of some nervousness they have about conferences: This does set an example of both sides of the aisle participating fully in the conference, because we want to be able to use that pattern for the future. Wherever I am involved, we are going to use that in the future.

I thank the Senator from Mississippi. When the Senator from Mississippi asked to intervene, I had already emphasized the temporary aspects of this legislation and what it included and the necessity for it. Now I want to speak about the need for permanent reform because this is temporary legislation. It is a first step in what needs to be done to preserve the defined benefit pension plan.

While this 2-year interest rate fix provides a temporary solution, we must take action then on a permanent solution. Pension plan sponsors continue to confront a world of uncertainty until we get a permanent replacement. They need to be able to budget for future pension expenses. It is unfair to leave them in financial limbo. If we continue to do so, many will simply abandon pension plans altogether. We ought to be promoting the concept of pensions rather than doing things that encourage companies to abandon pensions for their employees.

There is uncertainty facing our pension system on a variety of other fronts as well. Our pension system needs funding rules that make sense and help avoid the funding problems many plans are facing today. In that regard, I was very pleased this conference agreement included a provision from the Senate bill that allowed plans that have funded their plans well and responsibly in recent years to continue making contributions.

Pension plans also are facing uncertainty due to the fact many of our pension laws predate the development of new and innovative pension plan designs that have been developed to meet the needs of today's workers. This uncertainty should be removed, and our pension laws and regulations should be brought up to date to take account of positive developments and evolutions in pension plans.

Defined pension plans are an irreplaceable part of our national retirement system. We owe it to the millions of workers and retirees who participate in these plans to make them as strong as possible. We also owe it to the young people of our country today to ensure our pension system remains healthy and vibrant, so they can benefit from these plans many years from now.

This bill is a first step to address what many experts have called a crisis in our pension system. I hope we in Congress can work on a bipartisan basis to address these problems. I look forward to working with my colleagues on that long-term solution.

(The remarks of Mr. GRASSLEY pertaining to the introduction of S. 2307 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. SPECTER. Will the Senator from Louisiana yield for a unanimous consent request?

Ms. LANDRIEU. Yes, I will.

Mr. SPECTER. Madam President, I ask unanimous consent that following the statement by the Senator from Louisiana, I be recognized for 10 minutes.

Ms. LANDRIEU. Reserving the right to object, I want to make sure that time is not applied to the Democratic side that remains on the underlying bill.

Mr. SPECTER. Madam President, if I may have the attention of the Senator from Iowa, Mr. GRASSLEY, I seek 10 minutes to talk about the asbestos bill, which we are having a meeting on this afternoon.

Mr. GRASSLEY. I will yield the Senator 10 minutes for that purpose, yes.

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

The Senator from Louisiana is recognized.

Ms. LANDRIEU. Madam President, I thank the Senator from Pennsylvania. I know the issue he wants to speak about—asbestos—is a very important issue that has great ramifications for workers and businesses in our country. I know he spent a great deal of time on that subject.

We only have, on this side, about 45 minutes to debate this very important pension bill that also affects large, small, and medium-sized corporations and workers, whether they are union workers or not. I wanted to come to the floor after the opening of this debate this morning and answer some of the questions that were raised, or comments made by my good friend, the Senator from New Hampshire, and also the Senator from Iowa.

Before the Senator from Iowa leaves, I thank him for his leadership. He has worked very hard on this bill and there is no doubt, as the Senator from Mississippi came to the floor and said, that there is a great deal of good being accomplished in this pension reform bill that helps us to direct capital in a much more effective and productive way, at a time when our country needs to be creating jobs, not destroying them, and at a time when we need to be strengthening all of our companies, not weakening them.

There is no argument on this side about that issue—none. No Democratic Senator has come to the floor to argue that there are not a lot of good things in this bill for companies in America, particularly the airline industry and steel companies, which are in very precarious situations with a deadline looming. Let me put that in the RECORD.

What is at issue is why 10 million workers are left out—10 million workers and the companies that employ them. Some of those companies are small and medium-sized companies that employ unionized workers. Some of them employ nonunionized workers.

I want to respond to a couple of things. The Senator from Iowa made a statement I would like to correct. He said it could not possibly affect 9.7 million workers. I have the GAO report—and that is where we get this information—which says 9.7 million participants, because of the White House's position and the very partisan Republican approach on the House side that was taken—this is the GAO report that shows clearly there are 9.7 million workers who will be left out. About 13 million workers in the country are unionized, and a great deal of them will be left out.

The second point is, the Senator from New Hampshire came to the floor and said: The Senator from Louisiana could not possibly be right because she claims this bill—the compromise purposely denied help to union workers because the underlying bill protects unions.

For the record, I will say he is correct in part. This is the difference. If you are a union that is fortunate enough to be attached to a big company that the Republican leadership in the House wants to help, you get help in this bill. Let me repeat that. If you are a union that happens to be attached to a very large company that the Republican leadership in the House, with the support of the White House, wants to help, you get relief, and you get relief whether your company is in trouble or not.

Let me submit for the record that General Electric Company will get relief, and they deserve it. General Electric deserves this help. Their pension is funded at 116 percent. Verizon is funded at 104 percent. AT&T pensions are funded at 111 percent. Prudential is funded at 112.1 percent. Edison Electric is funded at 100.2 percent. J.P. Morgan is funded at 102.8 percent. Southern Companies is funded at 112.8 percent. Wells Fargo is funded at 102.8 percent.

These are large companies; some are union, some are not. There is a company that was written in on a special provision, and they may deserve it, but it causes some of us to be cynical about how these conferences, behind closed doors, work. UPS, which is a large company and a union company—and I support their help—gets help. If you are a company that is overly funded, and a company that has union workers, the union is lucky to be attached to you because if they are left on their own, they don't get help. If you are a multiemployer plan, a union, not fortunate enough to be attached to a big company, but you are attached to a little company, or to a medium-size company, the White House and the Republican leadership in the House decided you don't deserve the help.

I have been waiting on the floor for 4 hours to get an answer to the question, why were they denied help? The RECORD shows—and I will submit for the RECORD—the fix that Senator KENNEDY asked for and that 86 Members of this body voted for—the fix in this bill, which would have given relief to everyone, whether you are a big company or a little company, whether you were union or nonunion, and that passed the Senate with 86 votes.

We are proud of that work. It went over to the House, and under partisan political leadership, the help for 10 million workers was stripped out because they were not lucky enough to be attached to a big enough company. That is the truth. The fix would have given money to the Federal Treasury, not taken money. Again, this fix did not cost anything. I can understand if someone would come to the floor and say: Senator, we simply could not afford it; we just could not afford it; we are fighting a war in Iraq; we have deficits; we cannot afford it.

Let me remind everyone, there is no cost to the Federal Treasury for this particular fix. In fact, as Senator KENNEDY spoke about, fixing the multiemployer pension plan adds money to the Treasury.

I have to sit here and listen to people argue that this was a good compromise? I have to go home and explain to my constituents, and I cannot explain it to them. Let me just tell you how it works in Washington these days: Bills that cost money to the Treasury get passed all day long. Bills that add money to the Treasury cannot get passed. I don't know how to explain that to my constituents in Louisiana. I don't know how to go home and explain to my constituents in Louisiana that the big companies, some union and some nonunion, get help, but the small companies that some people purport to represent and union workers got left out for no good reason.

Let me answer another charge. One of the Senators said: Senator, this is just the process; this happens all the time. I remember a time when it did not happen this way. I came to the Senate 7 years ago. When I got here, there used to be a Senate position and a House position, not a Republican position and a Democratic position. We had a Senate position. I am proud to be part of the Senate of men and women, Republicans and Democrats, who can put a fair deal together and will fight for a fair deal and not collapse, capitulate, and give in, and that is exactly what happened in conference.

So when my colleagues ask, Does this give this Senator confidence or any Senator confidence that the conference process works, I would say simply, No, it diminishes confidence. It undermines confidence. It does not build good will. It tears down what little good will is left and makes a mockery of it.

I wish for once the Senate would stand up and send a bill over to the House and say there is no reason we can't include everyone; it doesn't cost anything. These poor people who wake up early in the morning and stay up late at night trying to put bread on the table and pay their rent and buy gasoline that is now over $2 deserve a fair shake. It doesn't cost anything. There is no skin off your back. But no, we just cave, all of us just cave. It is a shame.

No, this does not help the process. This does not build confidence. This does not encourage anyone.

The fourth point I want to answer is, oh, there she goes, the Senator from Louisiana and other Senators on the Democratic side, making the perfect the enemy of the good. I am not looking for a perfect bill. I am looking for a square deal. I did not come here looking for a perfect bill. No Senator comes here looking for a perfect bill. There is no such thing. But I am still waiting for one Senator to come to the floor and give me one—one—good reason why 10 million workers and the companies that hire them that came here asking us for help when it is in our power to help, when it does not cost us anything to help, why were they taken out of this bill?

I have not received an answer to that question yet. I will tell my colleagues, we may vote on this bill in an hour or so, and I may end up voting for this conference report. Some Democrats will vote no. But because there are some very good provisions in this bill and there are companies in my State that will be helped—and I want to support large companies because they are hiring, they are struggling; some of them are not; some of them are doing very well. I have no problem. We all need to be pro-business, pro-growth, and pro-jobs.

I am probably going to vote for this conference report. I don't know how the rest of the caucus will vote. Some will and some will not, but that still does not answer my question or solve this problem.

I have to go back and tell 10,000, maybe more, workers in Louisiana: Sorry, you were left out. When they ask: Senator, we didn't cost them anything, why did they leave us out? I want someone to tell me why so I can go back and tell them. I am going to ask that question on every bill, and I am going to put an amendment on every bill, with Senator KENNEDY's help and other colleagues, whether this conference report is adopted or not, until we finally get an answer.

I hope it is not the answer I think it is. I will state it again and, until I get my answer, I am going to keep stating it. I think the answer is, because these employers that have multiemployer plans are mostly unions that are not attached to big companies, that have a lot of money invested in lobbyists and others who can be here talking to everybody all day long, and I think the White House decided that because most of these are unions that do not support them at election time, they are not going to support them at this time.

I know that is harsh, and I know it sounds very direct. I don't know any other way to be because that is the only conclusion to which I can come.

Again, it does not cost money. They were in the original bill; 86 of us voted for it. Until I get a better answer, I am going to have to go around and tell people that is the answer. If someone wants to debate me here, in a private debate somewhere else, write me a letter, give me a report, then I will stop saying that, and I will just say I was wrong and here is a good reason, and I will accept that and accept it as the process and just go on and fight another day. But I have yet to hear the answer.

Let me state again for the RECORD, in case anybody thinks the only businesses that are getting help are businesses that are in trouble, GE is funded at 116 percent; AT&T at 111 percent. So we are not just helping companies whose pensions are in bad shape. Part of the bill is to not put money in a pension that doesn't need it—obviously, these pensions don't need it because they are overfunded—and to get that money back in circulation to create jobs. I am for that 100 percent.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator's time has expired.

Ms. LANDRIEU. Mr. President, I ask unanimous consent for 1 more minute.

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

Ms. LANDRIEU. Mr. President, if it works for these big guys, why can't it work for the little guy, the little contractors, for the union guys? We better get past the politics of deciding something is good or bad, whether it helps people who vote Republican or vote Democrat, and start thinking about the country, start thinking about America, start thinking about our troops and get serious about creating jobs.

When this White House says they are serious about creating jobs, I am going to bring this up to the White House at every point. You could have created jobs. It didn't cost you a penny to do it. In fact, it would have added money. But you turned your back, you walked away, and you left them standing there.

I hope those who were thinking maybe they would not get active might get active because of this, because it would sure wake me up if I wasn't paying much attention to what was going on.

I don't want to take any more time. I know the Senator from Pennsylvania has been very patient. I will yield the floor but reserve the time that is remaining for debate on this side, according to the unanimous consent agreement. I think it is the Senator's time to speak.

The PRESIDING OFFICER. The Senator from Pennsylvania.

ASBESTOS DELIBERATIONS

Mr. SPECTER. Mr. President, I have sought recognition to comment briefly upon the status of legislation to deal with the asbestos crisis which faces America. We have had it said that purportedly there are some 70 companies which have gone into bankruptcy proceedings or reorganization proceedings. There are some 600,000 claims which have been filed by individuals who have been exposed to asbestos and make allegations of injury; some 8,500 companies have been sued. So we have a net situation today where there are people who have been exposed to asbestos, who suffered from mesothelioma, which is a deadly disease, and they are now not being compensated because the defendants are in bankruptcy. We have had a ruling by the Supreme Court of the United States that claimants who have been exposed to asbestos may receive compensation for whatever injuries they may in the future sustain, without having the proof as to existing damages, which seems inappropriate to this Senator. It was a narrow 5 to 4 decision.

We have had many companies, some in my home State, and all across the country, in bankruptcy proceedings where commerce has been impeded, and if we are able to find an answer to this very vexing problem, it would be an enormous economic stimulus to the economy of the United States.

In July, the Judiciary Committee passed out a bill largely along party lines. I supported it even though I said at the committee markup that I thought there were many infirmities and many problems, but I voted to move it out of committee to get the process going. A very unique, really unprecedented procedure was then adopted where the former Chief Judge of the Court of Appeals for the Third Circuit, a very distinguished jurist, Judge Edward R. Becker, agreed to participate in what were essentially mediation proceedings for 2 days in August, August 18 and 19. Judge Becker and I sat in his chambers in Philadelphia with representatives of the manufacturers, of the insurers, the reinsurers, the AFL–CIO, and the trial lawyers to start going through the very complex issues which were involved to try to come to some resolution.

Following those 2 days of meetings, we have met on 14 occasions in my offices in Washington with those same participants, the same so-called stakeholders. In between the meetings which Judge Becker and I have held with the stakeholders, they have met among themselves and have worked out many of the issues.

I am pleased to report at this time that agreements have been reached on quite a number of the tough issues. For example, the startup arrangements have been worked out so that funding has been provided for the defendants' expanded borrowing authority to make money available right away. There are provisions which provide for increased liquidity and upfront funding so that claims can be paid in short order. There have been provisions worked out for streamlining the administrative process. The Court of Federal Claims initially had that authority.

We have worked with the Department of Labor. I compliment the Department of Labor for helping us work through a procedure for streamlining the administrative process.

We have to define exigent health claims so people who are suffering from

mesothelioma and other deadly ailments will get early treatment. We have worked through the processes on judicial review. We have worked through the processes on medical commodity.

I ask unanimous consent that a schedule of the meetings which have been held with Judge Becker, some 14 in number, and the manufacturers' representatives, representatives of the insurers, AFL–CIO and trial lawyers, be printed in the RECORD.

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

S. 1125, THE FAIRNESS IN ASBESTOS INJURY RESOLUTION ACT OF 2003

IMPORTANT DATES

5/22/03—Senator Hatch introduces S. 1125
6/19/03—Committee mark-up
6/24/03—Committee mark-up
6/26/03—Committee mark-up
7/10/03—Committee mark-up; voted out of Committee—10 yeas, 8 nays and 1 pass
8/18/03—Meeting with Judge Becker in Philadelphia
8/19/03—Meeting with Judge Becker in Philadelphia
9/12/03—Meeting with Judge Becker in Washington, DC
9/26/03—Meeting with Judge Becker in Washington, DC
10/3/03—Meeting with Judge Becker in Washington, DC
10/14/03—Meeting with Senator Frist in Washington, DC
10/21/03—Meeting with Labor in Washington, DC
11/11/03—Meeting with Judge Becker in Washington, DC
11/12/03—Meeting with Department of Labor in Washington, DC
/1/22/04—Meeting with Judge Becker in Washington, DC
2/12/04—Meeting with Judge Becker in Washington, DC
2/25/04—Meeting with Judge Becker in Washington, DC
3/4/04—Meeting with Judge Becker in Washington, DC
3/11/04—Meeting with Judge Becker in Washington, DC
3/18/04—Meeting with Judge Becker in Washington, DC
3/30/04—Meeting with Judge Becker in Washington, DC
4/7/04—Frist/Hatch substitute introduced
4/8/04—Meeting with Judge Becker in Washington, DC

Mr. SPECTER. We are proceeding with another meeting this afternoon. The majority leader has deferred taking up the bill; had originally planned to do so in March, and at the request of a number of people, including this Senator, the majority leader has deferred taking floor action on the bill and has now listed floor action for the day we return from the next recess, which is April 19.

Just yesterday, the majority leader, Senator FRIST, and Senator HATCH, the chairman of the committee, introduced a substitute bill. Senator HATCH has done an outstanding job on this matter, has worked through the process of establishing a trust fund which was originally set at $108 billion, since has been increased, with a schedule of payments to be determined very much like worker's compensation so that liability does not have to be established.

Senator LEAHY spoke earlier today and raised questions about the desirability of the substitute bill which was introduced yesterday, with Senator LEAHY saying that there has yet to be achieved consensus on two essential elements of a FAIR trust fund, that is fair value awards and the total amount of the trust fund.

The parties are as yet substantially apart on these two items, and it is my hope that we can come to agreement. Senator FRIST, the majority leader, has made a determination that setting a date will facilitate more intense negotiations, so to speak, on the courthouse steps, and that is a generalization. I hope that if we are not in agreement, but close to agreement, that there may be yet some flexibility in the date listed for floor action.

I declined to join with Senator FRIST and Senator HATCH in their substitute bill because I think it is the better practice to try to work through these problems. We have made enormous progress, and it is my hope we can make more progress to be ready to reach the date which the majority leader has set.

If we are able to come to terms, it will be an enormous economic stimulus to rescue some 70 companies which are in bankruptcy, and it will be of enormous importance to the workers who have been exposed to asbestos and have serious ailments, including mesothelioma, which is a deadly ailment.

We are going to proceed to try to do that work. I am hopeful we will be able to come to terms with these outstanding problems and present a bill which can be enacted into law to solve these very serious problems.

To reiterate, on April 7, 2004, Majority Leader FRIST and Senator HATCH introduced a substitute bill to S. 1125, the Fairness in Asbestos Injury Resolution Act, FAIR Act, of 2004. S. 1125 was reported out of the Judiciary Committee on July 10, 2003, by a vote of 10 yeas, 8 nays and 1 pass. I voted for it.

According to The RAND Institute for Civil Justice, ''about two-thirds of the claims are now filed by the unimpaired, while in the past they were filed only by the manifestly ill.'' According to RAND, the number of claims continues to rise, with over 600,000 claims filed already. More than 8,500 companies have been named as defendants in asbestos litigation.'' In 2003 alone, a record 100,000 asbestos claims were filed. Seventy companies have already gone bankrupt due to asbestos liability.

As it has been noted before, the bill reported out of the Judiciary Committee bill required a great deal of evaluation, analysis and significant changes. I contacted senior Circuit Judge Edward R. Becker, who had been chief judge of the Court of Appeals for the Third Circuit until May 5 of last year. Judge Becker has expert insights into this matter and since August of 2003, we have convened some 14 meetings with the representatives from the manufacturers, the insurance companies, the reinsurers, organized labor and the trial lawyers.

Through the series of meetings with Judge Becker, we have wrestled with and have been able to solve a number of very complex issues. We have had the cooperation of many Senators. Senators HATCH and LEAHY have had representatives at the meetings. In fact, Senator HATCH addressed this ''working group'' at one of our meetings. The majority leader and minority leader have had representatives at the meetings. Senators DODD, CARPER, FEINSTEIN and NELSON have been represented as well.

I am encouraged and appreciative to note that some of these agreements that resulted from our meetings have been incorporated into the Frist-Hatch substitute asbestos bill. Included in the substitute bill are the following provisions negotiated through these meetings.

No. 1, streamlining administrative process, S. 2290 creates a more streamlined administrative system that can be up and running quickly. The trust fund will be administered by the Department of Labor, as opposed to the Court of Federal Claims under S. 1125.

No. 2, early startup, the bill aims to ensure that the compensation program under the bill can commence operations and begin paying claims quickly, particularly for living mesothelioma victims and for other exigent claimants who may have little time to wait. Such claimants should not be subject to unacceptable delays in obtaining compensation due to impediments in commencement of Fund operations. The agreed-upon administrative structure, for example, includes provisions for interim regulations and houses the Office for Asbestos Disease Compensation in the Department of labor, which has the experience and the infrastructure to help expedite the establishment of a claims processing system.

The proposal addresses the need to ensure that monies are available to the Fund in a short amount of time to be able to pay claims. It has two elements: 1, requiring up-front funding; and 2, providing increased borrowing authority.

First, participants would be required to provide funding on an expedited basis. This bill would establish a system where all participants would be required to make initial payments within 6 months of enactment.

Participants may seek judicial review after they make a payment, but cannot use judicial review to delay payment. Strict deadlines on lawsuits challenging the constitutionality of the funding procedure have been included in the judicial review provisions, and reviewing courts will be precluded from staying funding obligations pending review.

Also, the borrowing authority of the administration under the bill would be expanded to allow for borrowing initial

monies needed to establish and operate the asbestos compensation program from the date of enactment.

No. 3, defining exigent health claims that should be given priority during the startup period. A claim shall qualify for treatment as an exigent health claim if the claimant is living and the claimant provides: 1, documentation that a physician has diagnosed the claimant as having mesothelioma; or 2, a declaration or affidavit, from a physician who has examined the claimant within 120 days before the date of such declaration or affidavit, that the physician has diagnosed the claimant as being terminally ill from an asbestos-related illness and having a life expectancy of less than one year.

The Secretary may, in final regulations promulgated, designate additional categories of claims that qualify as exigent health claims under this subsection.

No. 4, judicial review, language is included in S. 2290 which is designed to ensure prompt judicial review of a variety of regulatory actions and to ensure that any constitutional uncertainties with regard to the legislation are resolved as quickly as possible. Specifically, it provides that any action challenging the constitutionality of any provision of the Act must be brought in the United States District Court for the District of Columbia. The provision also authorizes direct appeal to the Supreme Court on an expedited basis. An action under this section shall be filed within 60 days after the date of enactment or 60 days after the final action of the administrator or the commission giving rise to the action, whichever is later. The District Court and Supreme Court are required to expedite to the greatest possible extent the disposition of the action and appeal.

No. 5, medical monitoring, the working group also worked very hard in making sure that the medical monitoring provisions ensured that the initial doctor's visit was covered.

We will be back to work today to continue addressing the remaining issues. We are determined to solve the problems. The stakes are very high. We have many injured workers who are relying on some answers for just compensation. The companies are looking for answers, and the economy needs to be stimulated and also looks for an answer.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

HONORING OUR ARMED FORCES

Mr. BINGAMAN. Mr. President, I have three subjects I intend to address today. Let me address the first and the most sad of those. That is, of course, the enormous price that many families are paying as part of the current engagement that we are in in Iraq.

PFC CHRISTOPHER RAMOS

General Robert E. Lee was once quoted as saying:

> Duty, then, is the sublimest word in the English language. You should do your duty at all times. You can never do more. You should never wish to do less.

On Monday, April 5, just 3 days ago, PFC Christopher Ramos, age 26, did his duty with the First Marine Division. He lost his life in action against Iraqi insurgents in Al Anbar Province in Iraq. Christopher Ramos was from Albuquerque, NM. While at West Mesa High School, he dreamed about serving his country as a U.S. marine. Private Ramos' father, Al Ramos, said of his son Christopher:

> He was proud of what he was doing. He wanted to be a Marine. He said it was either the Marines or nothing.

Today, it is important that we in the Senate honor his memory and service, and the service of so many other brave young men and women who have answered the call to duty and have made the ultimate sacrifice for their Nation. It is equally important that we keep the families of those individuals in mind and in our prayers.

Private First Class Ramos leaves behind a wife, Diana Ramos, and an 18-month-old daughter, Malaya.

ARMY SGT LEE DUANE

In addition to that terrible news, the Four Corners area, which includes my State of New Mexico, also lost another fine young man in the last few days, Army SGT Lee Duane Todacheene, who was from Lukachukai, AZ, and was the nephew of the vice president of the Navajo Nation, Frank Dayish, Jr. This young man, Sergeant Todacheene, was killed in an Iraqi ambush, according to the Navajo Nation. We extend our sympathies to his family as well.

MARINE LT ERASMO VALLES

Finally, last week Marine LT Erasmo Valles of Hobbs, NM, was severely injured in an attack in Falluja when his Humvee was hit by a roadside bomb. He is being treated at Bethesda Naval Hospital and we wish him a speedy and a full recovery.

These brave soldiers were put in harm's way by their country, and their sacrifice needs to be noted by all of us. Just as we celebrate the safe return of many, we need to acknowledge and mourn those who are not going to return. I regret that PFC Christopher Ramos and other brave marines and soldiers have lost their lives in this endeavor, and our sympathies go out to their families.

Mr. GREGG. Will the Senator allow me to make a unanimous consent request?

Mr. BINGAMAN. I yield to my colleague.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I ask unanimous consent that the vote on the adoption of the pending conference report occur at 2:45 today, with the time until 2:45 being equally divided, provided further that the last 8 minutes of debate be divided so that Senator KENNEDY or his designee be recognized for up to 4 minutes, to be followed by the chairman of the committee or his designee to close for the final 4 minutes.

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

Mr. BINGAMAN. Mr. President, let me move to another subject and express some words about the pension bill that is pending before us.

I intend to support this bill, but I say that with substantial reservations because of the process, once again, that was followed in getting this bill to the Senate floor—the partisan way in which it was handled. I also say it because of what wound up in this pension bill that was not intended to be there. There were things that were left out, and many of my colleagues have spoken eloquently about those. The multiemployer plans were not treated fairly, as they should have been and as I believe most Senators would want them to be, but also there were provisions included in this bill—at least one provision that I think is highly objectionable.

Section 207 of the conference report creates an antitrust exemption for the graduate medical residency program that currently assigns medical students to hospitals where they are required to work for 60 to 100 hours per week for an average of $9 or $10 an hour. To people who are not familiar with the way this place functions in recent years, they would be surprised to find that we have written into the pension bill a retroactive exemption from the antitrust laws related to this issue of medical residency programs. I understand there is currently a lawsuit pending before Judge Paul Friedman in the U.S. District Court for the District of Columbia brought by medical residents that alleges a price-fixing scheme among graduate medical education programs in the United States.

On February 11 of this year, Judge Friedman issued an opinion that denied most of the defendants' motions to dismiss and allowed the lawsuit to proceed. In his opinion, the judge explained that the lawsuit involves one claim—that the defendant graduate medical education programs engaged in price fixing.

Subsection (b)(3) of section 207 explicitly preserves the right to bring an antitrust lawsuit alleging any type of price-fixing arrangement among two or more graduate medical education programs. Clearly this subsection ensures that the antitrust exemption that is described in subsection (b)(2) does not apply to this pending lawsuit.

The last sentence in subsection (b)(2) states that evidence of participation in a graduate medical education residency matching program shall not be admissible in Federal court to support a claim alleging antitrust violations.

However, subsection (b)(3) clearly states that:

> ''Nothing in this section shall be construed to exempt from the antitrust laws'' any agreement on the part of graduate medical education programs to fix prices.

Obviously, the restrictions on the admissibility of certain evidence in subsection (b)(2) cannot apply to price-fixing lawsuits that are explicitly preserved in subsection (b)(3). The provision says ''nothing'' in this section shall provide exemptions from price-fixing claims. Therefore, any provision that would not allow necessary evidence to be admitted in price-fixing cases must not apply and could not be construed to apply.

That being said, the antitrust exemption that is established by subsection (b)(2) raises grave constitutional concerns. There has been no justification presented to this Congress, to any committee of this Congress for depriving medical residents of the same protections under the antitrust laws that are enjoyed by other workers and other Americans. I do not see how it is constitutionally permissible to take away the equal protection and the due process rights of medical residents without any showing that is necessary or beneficial.

Frankly, this is outrageous for Congress to be legislating in this way, without any hearings, without any testimony, without any knowledge of what it is doing.

The reason we have debate on the Senate floor is to allow Members to express views when we are getting ready to change the law. This is a time-honored process. It is one that was not honored in this case. As far as I know, there has been no debate on the floor nor has there been debate in committee about this issue.

I spoke to the ranking member of the Judiciary Committee, which is the committee with jurisdiction over our antitrust laws, and asked if he was informed about this provision being included in the pension bill. He said he had not been informed. It is my understanding that the chairman of the Judiciary Committee was not informed either.

This is a provision that was added in a conference, without participation of Democratic Senators, and clearly it is contrary to good policy and to proper procedure here in the Senate.

Let me conclude by having printed in the RECORD a letter that Senator CRAIG, Senator FEINGOLD, Senator HERB KOHL and I all wrote to our majority leader, BILL FRIST, and to the Democratic leader, Senator DASCHLE, last November, expressing our concern about this exact type of legislative proposal and stating our strong objection to the inclusion of this kind of provision in legislation at that time or any time in the future. I ask unanimous consent that letter be printed in the RECORD.

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

U.S. SENATE,
November 18, 2003.

Hon. BILL FRIST,
Majority Leader,
Washington, DC.
Hon. TOM DASCHLE,
Minority Leader,
Washington, DC.

GENTLEMAN: We are writing to express our concern about legislative proposals that have the potential to undermine ongoing antitrust litigation against the National Resident Match Program (known as the ''Match'') by granting the ''Match'' a retroactive antitrust exemption.

It is our view that Congress should subject proposals like this one that hold widespread implications for patient safety and the working conditions of hundreds of thousands of medical residents to the regular legislative process—including hearings and consideration in the appropriate committees—before allowing it to move through Congress. This is particularly important considering that such proposals would retroactively interfere with pending litigation, in which the factual record has not yet been developed and the court has not yet ruled on the merits of the claims. In addition, it is important for the Committee to consider the specific language of any such proposal, as legislation intending to exempt the Match could have broader, unintended effects, including effectively immunizing price-fixing and other anticompetitive practices alleged in the litigation.

By permitting such a bill to go forward without full consideration of all the factual and legal issues, we would set a precedent that will encourage defendants in all types of pending litigation to come to Congress for relief. We request, therefore, that the Senate convene hearings on this matter before taking further action.

Thank you for your consideration.

Sincerely,

LARRY E. CRAIG.
JEFF BINGAMAN.
RUSSELL D. FEINGOLD.
HERB KOHL.

ELECTRIC GRID STABILITY

Mr. BINGAMAN. In November of 1965, a disturbance on the electric grid resulted in the loss power to some 30 million people in the Northeastern U.S. Almost all of New York, Connecticut, Massachusetts, Rhode Island, and parts of Pennsylvania and New Jersey were blacked out for up to 13 hours.

In July of 1977, power lightening caused the loss of power to 9 million people in New York city and surrounding areas.

In December of 1982, high winds caused the failure of a transmission tower. Power was lost to 5 million people.

In July of 1996, power was lost to 2 million customers in 14 States in the West, 2 Canadian provinces and 1 Mexican state. The outage was the immediate result of a line sagging into a tree.

In August of 1996, again as the result of contact with trees, another outage affected 7.5 million people in 14 Western States, 2 Canadian provinces and 1 Mexican state.

In August of last year 50 million people in 8 Northeastern and Midwestern States and 3 Canadian provinces were blacked out for up to 4 days.

These were only a few of the major outages that have rendered parts of our Nation powerless over the last few years. The most dramatic outage ever was only last summer. I don't have to tell the Members of this body how serious the effects on the economies of these regions were. We all saw it. Airports were shut down for days. Traffic was snarled for hours. Businesses were closed, schools shut down. The estimates of losses were in the tens of billions of dollars.

After the first big blackout, in 1965, the industry, under pressure from the government, created a voluntary association to try to govern the reliability of the system. That association became the North American Electric Reliability Council or NERC.

After the West Coast blackout in 1996, the Department of Energy put together a task force on reliability headed by former Congressman Phil Sharp. That task force made a number of recommendations. Chief among them was that Congress should pass legislation creating a mandatory structure for reliability, with penalties for failure to comply with the rules, and with government oversight.

In 1999, the Senate unanimously passed a bill sponsored by Senator Slade Gorton of Washington, that did just that. The House did not pass such a bill and no final action was taken.

After this most recent blackout, the Department of Energy, along with the Canadian Government, convened a task force to look at the causes of the outage and to make recommendations as to how to prevent future blackouts. That task force issued its final report Monday. There are a number of recommendations contained in that report, but the one that this body most needs to pay attention to is the recommendation that the Congress pass legislation to create a mandatory system for ensuring reliability, with penalties for failure to comply with the rules, and with government oversight. The report says: ''The U.S. Congress should enact reliability legislation no less stringent than the provisions now included in the pending comprehensive energy bills, HR. 6 and S. 2095.''

The bill that is before contains those very provisions.

I don't think that anybody in the Senate believes that we should not pass this legislation. The only question is in what form. This bill is the same as the language contained in S. 2095, Senator DOMENICI's more comprehensive energy bill. I am not optimistic that the larger bill will pass the Senate, or if it does, survive a conference with the House to make it to the President's desk.

Again and again this country has experienced crippling blackouts. Again and again investigating panels have recommended that the Congress pass legislation to establish a mandatory regime for governance of reliability, with penalties for failure to comply with the rules and with government oversight. Again and again, the Congress has failed to do so.

It is time for us to pass this legislation.

I ask unanimous consent that several articles be printed in the RECORD.

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

[From the Akron Beacon Journal, Apr. 7, 2004]

AFTER THE BLACKOUT—FIRSTENERGY HAS BEEN KICKED AROUND. WHEN WILL CONGRESS COMPLETE THE URGENT TASK OF IMPROVING OVERSIGHT OF THE POWER INDUSTRY?

In the immediate aftermath of the massive August blackout, President Bush and others in Washington were quick to call for sweeping repairs of the nation's electricity grid. Many talked about an investment of $100 billion (a hefty sum, even on Capitol Hill). What has happened in the meantime? Virtually nothing. Proposals ti improve the grid are part of a comprehensive energy bill long stalled in Congress.

The country would benefit from a broadly conceived approach to energy. Unfortunately, narrow interests have shaped a large part of the legislation under consideration. Those lawmakers arguing for a separate measure to address the electricity grid make sense. Perhaps their efforts will be advanced by the U.S.-Canadian task force that has issued its final report on the causes of the blackout.

As expected, the task force blamed FirstEnergy Corp. for plunging much of the Midwest, Northeast and Ontario into darkness. The Akron-based power company has admitted trouble with its computers, hampering coordination and diminishing its grasp of events that August day. In that sense, the task force faulting the company for failing to react more quickly seems off the mark. How could FirstEnergy respond when it wasn't fully aware of the problem?

The company already has made repairs. Among other things, trees near power lines have been trimmed. What will Congress do? Tough as the task force was on FirstEnergy, its 46 recommendations suggest (correctly) troubles far beyond one utility.

The task force proposed writing into federal law rules that more effectively ensure the reliability of power supplies. As it is, an industry group, the North American Electric Reliability Council, monitors the performance of power companies. Compliance with operating standards is voluntary. Meeting the standards should be mandatory. The monitoring effort should be independent of the industry.

If FirstEnergy operated at the edge of reliability (as the task force concluded), federal officials have little clue whether other utilities are doing so.

That lack of knowledge compounds the risk of blackouts, larger and smaller, in view of the changing realities of the power industry. The country asks the electricity grid to defy physics. An industry once defined by local utilities supplying electricity to nearby communities has been dramatically transformed the past decade. Electricity now travels long distances, across, say, Ohio into Canada, placing substantial strain on the system.

Independent power plants tap into the grid with few concerns about their overall impact. An industry pushed to embrace market principles requires a new regulatory scheme. That is the task Congress must complete—before the next blackout. That is the urgent message of the U.S.-Canada task force.

[From the Bergen Record, Apr. 7, 2004]

AVOIDING BLACKOUTS

Last August, a blackout left 50 million people in eight U.S. states and parts of eastern Canada without power. Although embarrassed utilities are almost certainly more vigilant, the blackout could happen again because in the eight months since not much on the federal regulatory front has changed.

On Monday, a joint U.S.-Canadian task force that has been studying the blackout issued its final report, with 46 recommendations to prevent a recurrence. Many of them are highly technical, but one is startlingly simple:

Congress should give the utilities' oversight body, the North American Electric Reliability Council, the power to set mandatory, enforceable reliability standards for power grids.

The big blackout started when a tree in Ohio brushed against a 345,000-volt line in an overgrown transmission corridor. There are currently no mandatory federal standards for how far back trees and brush should be cleared from high-voltage power lines.

Congress is considering mandatory reliability standards as part of the Bush administration's woeful energy bill, a rich mixture of subsidies and tax breaks for energy companies. The bill is now stalemated because of a dispute over costly ethanol subsidies and immunity from lawsuits for manufacturers of the fuel additive MTBE. The Bush administration's arguments that the bill would ease high gasoline prices were undercut when a study by its own Energy Department showed that the bill would actually raise gasoline prices by a few tenths of a percent.

One of the few levers left to backers is the mandatory reliability provision. But this is unfair to consumers because the energy bill could well fail to pass this year. A responsible energy policy would be to strip out the mandatory federal standards and pass them as a stand-alone bill.

[From the Cleveland Plain Dealer, Apr. 7, 2004]

PROBING THE DARKNESS

''We have no clue,'' lamented a First Energy Corp. engineer as his computer system sputtered and a massive blackout rolled across eight states last August.

Now, thanks to the final report of the joint U.S.-Canadian blackout task force, FirstEnergy, along with others, should have a fundamental understanding of how the lights went out and what it will take to keep them on in the future. So should the U.S. Senate, where an energy bill that could create mandatory reliability standards for utility companies is frozen because of other squabbles.

The task force has not wavered in blaming FirstEnergy for the blackout. It continues to dismiss FirstEnergy's notion that an unstable grid was to blame. Its interim report blasted FirstEnergy for failing to cut trees that stood too close to its high voltage lines. Now it adds that FirstEnergy could have limited the damage if it had cut power to its Greater Cleveland customers on Aug. 14. FirstEnergy executives might begin repairing the company's reputation by mustering the courage to utter three simple words: We are sorry.

Though FirstEnergy bears the primary responsibility for the blackout, it is not the sole culprit. Unlike other parts of the country with powerful regional grid operators with the authority to isolate trouble spots, the weaker Midwest Independent Transmission System Operator, Inc. could act once emergencies develop.

There is hope for the MISO, which was criticized for its poor coordination with FirstEnergy and its failure to tell other utilities about the grid's mounting troubles. Since the blackout, it now has a computer model that gives minute details about the grid and it has improved communications with other grid operators. For its part, FirstEnergy has agreed to cooperate with an industry preparedness audit.

The blackout report also recommends that the North American Electric Reliability Council, which sets voluntary standards for electric companies, become independent and break its financial ties to utility companies if it wishes to work closely with the Federal Energy Regulatory Commission. FERC has been pushing for the authority to control electric grids so it can make them more reliable.

The stalled Senate bill would boost FERC's power to rein in frontier-style grids.

Experts predict that without a powerful sheriff over the Midwest grid, another blackout is likely. Responsible senators should strip the electric provisions out of the energy bill and push for their separate approval before that dark day comes.

[From the Long Island Newsday, Apr. 7, 2004]

PASS ELECTRICITY RELIABILITY LAW

The failure by Congress to pass a national energy bill is trying up legislation that would help avoid another blackout like the one that shut down much of New York and the northeastern United States last year. The remedy is simple: Split off and pass the sections dealing with reliability of the nation's electric grid separately—and promptly.

The final report of the U.S.-Canada task force investigating the blackout makes explicit the need for enforceable reliability rules for North America's interlinked electric utilities. It was because one Ohio utility, FirstEnergy Corp., failed to follow the industry-recommended standards—neglecting to shut down part of its electric grid temporarily when a problem developed—that about 50 million people were left without power, some for up to 4 days, last August. The estimated cost to the U.S. economy: up to $10 billion.

It was something as simple as a transmission line shorting out on a tree branch that started the cascading chain of events. The task force found that the outage got out of hand because FirstEnergy violated several of the North American Electric Reliability Council's voluntary standards—by not responding properly to the power failure as it developed and by failing to let neighboring utilities know what was happening, among other shortcomings.

That's why the reliability rules need to be mandatory.

The necessary legislation is now part of a far-reaching and controversial energy bill that has been stalled in Congress for two years. The electric utility portion that would help avert future blackouts has broad support. Holding it hostage to the larger bill only delays the necessary effort to make the nation's power supply more reliable and secure.

[From the Newark Star-Ledger, Apr. 7, 2004]

HEAD OFF MORE BLACKOUTS

Last August the intricate web of power plants, transformer stations and transmission lines that form our nation's electric power grid failed, shutting out the lights for tens of millions in the Northeast and portions of Canada.

An international review team says it happened because the utility industry in general, and an Ohio utility in particular, failed to follow voluntary rules designed to ensure electricity flowed reliably.

Computers were faulty. Control room operators didn't realize the system was about to crash. Trees hadn't been trimmed, allowing high-voltage lines that were sagging to short

out. The industry board that set the rules isn't independent enough.

Another summer is approaching and the rules are still voluntary, held hostage to the political battle in Washington over a larger energy bill.

The power industry insists that another giant blackout is unlikely. Utilities are upgrading maintenance, training and equipment, spending lots of money to keep the juice flowing. They may be right, for now. This summer the utilities are likely to be on their toes.

But backsliding is inevitable without strong mandatory rules. Sooner or later, there will be another power disaster.

There is widespread support in Congress for tough new regulations. Unfortunately, GOP senators merged these reforms into the larger federal energy bill, seeing them as leverage to get support for the whole package, complete with lavish new subsidies for oil, gas and coal producers and expanded drilling in wilderness areas.

The energy bill is going nowhere in a presidential election year. Congress should see the light and pass a narrow bill designed to fix the electric grid and prevent future blackouts.

[From the Westchester Journal News, Apr. 7, 2004]

PREVENTING FUTURE BLACKOUTS

The power outage of August 2003 that left tens of millions of people without electricity in New York, seven other states and part of Canada should not have happened, according to the final report released Monday by a joint U.S.-Canadian task force that investigated the worst blackout in U.S. history.

The report, U.S. Energy Secretary Spencer Abraham said, ''makes clear that this blackout could have been prevented.'' Perhaps now—eight months later—Congress will act on its promise to fix the problems that caused the blackout.

The outage was not prevented, the report said, because poorly trained operators in the FirstEnergy Corp. of Ohio control room failed to alert other utilities that its computer system malfunctioned so the cascade of outages could have been short-circuited. The utility also had not followed through on safeguards to deal with power failures and lacked a backup monitoring system.

The result—in addition to the impact on millions of people, including 6.7 million in New York—was a $10 billion bite out of the economy.

The task force recommended establishing reliability standards under an international overseer with the authority to punish companies that violate them. That would replace the voluntary rules of the North American Electric Reliability Council, which has no enforcement power. The task force found that FirstEnergy had at least seven violations of the voluntary rules.

FirstEnergy has since increased staff training and spent $10 million on new computer controls, company spokeswoman Ellen Rains told USA Today. That's more than Congress has done.

Measures addressing electricity reliability are contained in an energy bill that is stalled in Congress for a third year. These include upgrading the nation's rickety grid, and taking control away from some 130 separate power authorities and forming new regional transmission networks regulated by the Federal Energy Regulatory Commission to ensure adequate electricity distribution.

Those measures, along with task force recommendations, should be separated from other measures in the dead-ended energy bill and approved quickly in stand-alone electricity reliability legislation such as that proposed by Sen. Maria Cantwell, D-Wash., and others.

New York state, it should be noted, has also done nothing about keeping an adequate flow of power to meet the state's current and future needs despite its own warning even before the massive 2003 blackout. In 1999, a blackout left 200,000 people without power in parts of Manhattan. The Democratic-controlled Assembly and Republican-dominated Senate are in political gridlock. Sadly, that's typical of a state government that hasn't passed a budget on time in 20 years. But nothing is happening.

Both Congress and the state Legislature need to act to prevent another costly blackout.

[From the Albany Times-Union, Apr. 8, 2004]

BLACKOUT LESSONS

A REPORT ON LAST AUGUST'S POWER FAILURE MAKES CLEAR THE NEED FOR TOUGHER REGULATIONS

Last summer's blackout plunged much of the Northeast and parts of Canada into blackness. But a newly released report on what caused the power failure, and whether it might have been prevented, is illuminating. It should put to rest the once-fashionable argument that the utility industry is best served by government deregulation. Perhaps in terms of a free market, less bureaucracy would lead to greater efficiency and lower rates. But what of reliability? If anything, the report is Exhibit 1 in a case for close government oversight.

As expected, the report, compiled by a joint U.S.-Canada task force, faults FirstEnergy Corp. of Ohio for failing to contain the blackout by shutting off 1,500 megawatts of power in the Cleveland-Akron area right after the first surge in voltage occurred in transmission lines south of Cleveland. Not only that, but the investigators found that FirstEnergy should have been more alert to the possibility of a power failure because the region it serves had a known history of grid instability.

The report found that FirstEnergy not only failed to act promptly but was ill prepared for an emergency because it hadn't followed voluntary industry guidelines for long-range planning and system monitoring. Just as alarming, the investigators faulted the Midwest Independent Transmission System Operator, which oversees FirstEnergy, for failing to alert neighboring regions of a gathering crisis, as well as other safeguards designed to stave off widespread outages.

The report's authors have rightly called for replacing the voluntary guidelines with government regulations designed to ensure the reliability of the nation's power grid. Given the huge cost associated with the blackout, not to mention the inconvenience for millions of stranded commuters and the hazards they faced, ensuring reliability must be a top priority. Given the vulnerability of the grid system to potential terrorist acts, reliability must be an urgent priority.

Regrettably, though, there are signs that any proposed regulations might become mired in yet another partisan standoff in Congress. Rep. Pete Domenici, R–N.M., prime sponsor of a sweeping energy bill, believes that his legislation already contains provisions that address most of the task force's concerns. But Sen. Maria Cantwell, D-Wash., has warned that the energy bill could become a ''quagmire'' for new regulations and has proposed a separate bill instead.

She is right. It's past time for corrective action. Perhaps no one has made that point better than Gov. George Pataki did last August, when he bitterly recalled the assurances of power systems managers that there would never be a repeat of the East Coast blackout of the 1960s. He should remind Sen. Domenici that those who do not learn from history are destined to repeat it.

[From the Baltimore Sun, Apr. 8, 2004]

POWERLESS

Imagine the moment. George W. Bush steps to the podium at Madison Square Garden. The roar of approval from his fellow Republicans is deafening as the president prepares to formally accept their nomination to seek a second term in the White House.

Then, suddenly, just as Mr. Bush is about to speak, the lights go out; the sound system goes dead; the air-conditioning clicks off.

Terrorism! Everyone suspects that at first. But they're wrong. it's just another particularly ill-timed power blackout in the Big Apple. A preventable disaster caused by a utility company that failed to follow safety procedures Congress has yet to make mandatory—even after a similar incident last summer shut off the juice for days to more than 40 million people in eight states and parts of Canada.

Admittedly, the odds of such a blackout disrupting the Republican National Convention in August are slim. And the GOP will likely be prepared with backup generators in any case.

A repeat of last summer's debacle is quite likely to occur at some point, however, until Congress enacts the reliability standards that are being held hostage to an internal Republican dispute over Mr. Bush's long-stalled energy bill.

Lawmakers should set aside that dispute and move quickly to enact a narrower proposal that would deal exclusively with electricity standards and penalties for utilities that fail to comply. There appears to be no disagreement in either party that such mandatory standards are needed.

Massive, cascading blackouts are not new, but they are getting worse. The first big blackout in November 1965 cut off power to about 30 million people in the Northeast for up to 13 hours. Other major outages have crippled Western states and parts of Mexico.

Task force after task force has recommended that voluntary reliability standards put in place in 1965 be stiffened through the force of federal law and oversight. The most recent such recommendation came this week from a joint U.S.-Canadian panel studying the reasons for last summer's grid collapse, which closed airports, schools and businesses and cost tens of billions of dollars.

Most or all of the consequences could have been avoided if an Ohio power company had been prepared, as it should have been, with emergency plans to contain the damage caused by three high-voltage lines that sagged onto untrimmed trees and short-circuited.

Even if Mr. Bush's comprehensive energy bill represented an enlightened approach to public policy, its failure to win enactment so far wouldn't justify further delay in approving the electricity standards. But this bill is a turkey, so laden with giveaways to the energy industry it makes many in his own party gag.

It's time for Mr. Bush to set the electricity standards free. If he doesn't, the trendy question this summer may not be ''Where were you when the lights went out?'' but ''Who was in charge of the switch?''

[From the Memphis Commercial Appeal, Apr. 8, 2004]

LITTLE CHANGE IN THE GRID

Last August, a blackout left 50 million people in eight U.S. states and parts of eastern Canada without power. Although embarrassed utilities are almost certainly more

vigilant, the blackout could happen again because in the eight months since not much on the federal regulatory front has changed.

Last week, a joint U.S.-Canadian task force that has been studying the blackout issued its final report, with 46 recommendations to prevent a recurrence. Many of them are highly technical, but one is startlingly simple:

Congress should give the utilities' oversight body, the North American Electric Reliability Council, the power to set mandatory, enforceable reliability standards for power grids.

The big blackout started when a tree in Ohio brushed against a 345,000-volt line in an overgrown transmission corridor. There are currently no mandatory federal standards for how far back trees and brush should be cleared from high-voltage power lines. Had those standards been in effect last summer and enforced—no blackout.

Congress is considering mandatory reliability standards as part of the Bush administration's woeful energy bill, a rich mixture of subsidies and tax breaks for energy companies. Even though its 10-year cost has been pared down from $31 billion to $14 billion, it is still too rich for many lawmakers.

The bill is now stalemated because of a dispute over costly ethanol subisides and immunity from lawsuits for manufacturers of the fuel additive MTBE. And its backers are running out of arguments why the bill should be passed. The Bush administration's arguments that the bill would ease high gasoline prices were undercut when a study by its own Energy Department showed that the bill would actually raise gasoline prices by a few tenths of a percent.

One of the few levers left to backers like Sen. Pete Domenici, R–N.M., and Rep. Joe Barton, R—Texas, the chairmen of the Senate and House Energy committees, is the mandatory reliability provision. But this is unfair to consumers because the energy bill could well fail to pass this year. A responsible energy policy would be to strip out the mandatory federal standards and pass them as a stand-alone bill.

Otherwise, the lights, elevators and air-conditioning could go out against his summer, and this time we won't need a joint U.S.-Canadian commission to know who is responsible.

[From the Toledo Blade, Apr. 8, 2004]

REGULATING THE GRID

The massive power blackout that darkened much of the northeastern U.S. and southeastern Canada last Aug. 14 showed that voluntary regulation isn't enough to keep the North American electric grid reliable. The final report of a U.S.-Canadian task force, which found that the outage was preventable, only reinforces that view.

What Congress needs to do is strip new mandates for operation of the grid from its moribund energy bill and pass them as separate legislation. And it should do so now, not later, before another catastrophic blackout ensues.

The North America Electric Reliability Council, which runs the interconnected grid, is a creature of the power industry. It should be, as the U.S.-Canada panel suggests, replaced by a body that would impose mandatory federal standards on the transmission of electric power, along with penalties for utilities that violate them.

Very simply, the panel found at least seven violations of the voluntary industry standards. NERC has no enforcement authority, even among its own members, and hundreds of millions of U.S. and Canadian residents should not have to depend on the good will of the industry for reliable electricity.

In addition, the panel has reinforced its earlier conclusion that Akron-based FirstEnergy Corp., parent of Toledo Edison, was largely responsible for failing to take quick measures that would have prevented the blackout's spread to parts of eight states and the province of Ontario.

Failures in FirstEnergy lines south of Cleveland started a voltage imbalance that tilted the system out of control on Aug. 14, the report said, but earlier warnings went unheeded by the company.

Months before the blackout, ''there was clear experience and evidence that the Cleveland-Akron area was highly vulnerable to voltage instability problems,'' the report said. Unfortunately, neither FirstEnergy nor the Midwest Independent System Operator, which was supposed to be overseeing the utility, were prepared to assess or deal such emergencies.

Cutting off the power of much of metropolitan Cleveland immediately might have limited the blackout, the task force said. We can understand FirstEnergy's reluctance to target certain customers, although failing to take action had far worse consequences. The outage ultimately affected some 50 million Americans and Canadians.

FirstEnergy and its subsidiaries are carrying out an aggressive tree-trimming program in the wake of the blackout, but it is important to remember that what happened on Aug. 14 was about more than limbs on wires.

As the panel pointed out, electric deregulation and the resulting need for greater long-distance power transmission have helped put the grid in jeopardy. In 1986, investor-owned utilities bought just 18 percent of their power from other producers. In 2002, the figure was 37 percent.

During the same period, U.S. electric demand grew by 26 percent and generating capacity rose 22 percent, but the grid's capacity remained largely static.

Those trends illustrate vividly the need to put the electric grid under stringent federal regulation. Otherwise, we'll never be sure the lights will stay on.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Mr. President, I ask unanimous consent the time be charged to our side until we get to the 8 minutes which was reserved for the two managers of the bill if there is nobody speaking.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GREGG. Mr. President, I ask unanimous consent that the Senator from Massachusetts be allowed to speak until there are 4 minutes remaining prior to the vote.

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

The Senator from Massachusetts.

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

The PRESIDING OFFICER. There are 4 minutes on the minority side, and there are 6 minutes 50 seconds remaining on the majority side.

Mr. KENNEDY. Mr. President, I ask the Chair to let me know when 3½ minutes have been used.

Mr. President, the issue before the Senate at this time is whether we are going to treat all workers fairly and equitably in the pension system.

As we know, there are two different pension systems. The single-employer pension system has 35 million Americans, and effectively 9.7 million are in the multiemployer plans. Both of those pension systems are under pressure because of the adverse economic impact.

We have tried in conference to make sure those 9.7 million Americans in a multiemployer pension system which are at serious risk are going to get the same kind of fairness and attention as in the single-employer plans. We were unable to do that. We had that basically agreed on.

They are effectively excluded. It is like taking 100 Members of the Senate and saying we are going to take care of 80, but we are leaving 20 out. That is not right. What we ought to be doing is taking care of the whole 100.

That is why I ask people to vote in opposition and give us a chance to come back and include all of those. We shouldn't exclude all those.

Who are the 9.7 million?

First of all, if we look at what has happened in the pension systems in America, we see the rapid decline and loss of pension coverage in America. Among the groups that are losing it the fastest are those low wage workers. They are the ones in the multipension systems. They are the ones at the greatest risk. They are the ones we ought to be out there trying to protect. They are the ones involved as workers in the small business. That is what this is all about.

Why shouldn't we provide the protection for those workers in small businesses that are at the lower economic income as we are providing for the Fortune 500? This legislation provides for the workers in the Fortune 500. We are saying there are ''fortune 10,000'' companies as well. I have read into the RECORD the various companies and corporations.

We now know there is an assault on pension coverage. Without the kind of protection of including multiemployers, there are going to be hundreds of thousands of workers at risk, who play by the rules, work hard, and who have been falling further and further behind in the economic progress of this country.

Final point: The point has been made that the White House says we can't include the multiemployer programs because we do not want to put more pressure on the Pension Guaranteed Corporations.

Look at this: Last year, $2.4 billion in 2003 drawdown on the pension PPGC for single-employer plans; less than $5 million last year for multiemployer plans.

These smaller companies need protection, they need fairness, they need equity. These companies need the kind of attention and relief that we are providing for the single employer. This legislation doesn't do it.

Let us defeat this legislation and then embrace it and include all the workers.

The PRESIDING OFFICER. The Senator has used 3½ minutes.

Mr. KENNEDY. I yield the floor.

Mr. GREGG. Mr. President, what is the time remaining?

The PRESIDING OFFICER. Senator KENNEDY has 32 seconds; the Senator from New Hampshire has 6 minutes 32 seconds.

Mr. GREGG. Does the Senator wish to make any further statement?

I yield the Senator 2 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, it is interesting. Pensions are sort of like health insurance. We all have it in the Senate. We all have good health insurance, unlike the rest of the 270 million Americans. We all have good pensions.

Can you imagine how many Members of the Senate would be over here now if we said over 20 percent of the Senators are going to see their pension effectively undermined?

That is what we are effectively saying to the workforce in this country. We are looking out after 80 percent. There is another 20 percent out there. We all have good ones in here. Why don't we at least make sure, if we are going to protect the 80 percent of American workers, that we protect the other 20 percent?

That is the issue that is before the Senate. It is an issue of fairness in how we are going to act for workers in this country. That is why I hope Senators will vote no.

I thank the Senator from New Hampshire for his courtesy, as always. I appreciate it.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, the issue before the Senate is how we correct an imminent problem, an immediate problem that many pension funds are facing because the present way their payments into their pension funds are valued is based on an instrument that no longer exists, the 30-year Treasury bond; therefore, they are being asked to contribute an artificial number which has no relationship to the actual interest rate charges and revenues or interest rate return that the marketplace would naturally generate.

The practical effect is $80 billion will be misallocated within the marketplace. The practical effect is that a significant amount of investment—the purchase of machines, the purchase of things which make things more efficient, contributions to people's employment and other areas, including wages—will be impacted negatively because dollars will be artificially moved, rather than where they are most efficiently used, meaning a loss of jobs.

The companies will be less competitive, the people who work for these companies do not have the support they need in the way of capital equipment and compensation, and there will be a negative impact on employment in the marketplace. We need to correct that in the short term. This is a short-term bill, a 2-year bill.

The Senator from Massachusetts has raised some very legitimate concerns about where the multiemployer plans are going, but that is a very complicated issue. This bill is a very small attempt to address the most severely distressed elements of the multiplans. It has targeted language to address a few individual plans which are employer plans which are under clear stress—specifically, airlines and steel companies—but it does not try to solve all the problems.

The understanding behind this bill is that we are going to come back to this issue, hopefully promptly, for long-term substantive review of the question and a fix. This is a 2-year bill. The most important part is to get the 30-year bond issue straightened out so the $80 billion is not misallocated and the jobs that would be lost are not lost. That is why we need to pass this bill at this time.

I urge adoption.

The PRESIDING OFFICER. All time is expired.

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

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

Mr. GREGG. Mr. President, I ask for the yeas and nays on the question.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the conference report.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

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

The result was announced—yeas 78, nays 19, as follows:

[Rollcall Vote No. 68 Leg.]

YEAS—78

Alexander	Boxer	Clinton
Allard	Breaux	Cochran
Allen	Brownback	Coleman
Baucus	Bunning	Collins
Bayh	Burns	Conrad
Bennett	Campbell	Cornyn
Biden	Cantwell	Craig
Bingaman	Carper	Crapo
Bond	Chambliss	Dayton
DeWine	Inhofe	Pryor
Dole	Inouye	Roberts
Domenici	Jeffords	Rockefeller
Dorgan	Johnson	Santorum
Durbin	Kohl	Schumer
Enzi	Landrieu	Shelby
Feinstein	Levin	Smith
Frist	Lieberman	Snowe
Graham (FL)	Lincoln	Specter
Graham (SC)	Lott	Stabenow
Grassley	Lugar	Stevens
Gregg	McConnell	Sununu
Hagel	Miller	Talent
Harkin	Murkowski	Thomas
Hatch	Murray	Voinovich
Hollings	Nelson (FL)	Warner
Hutchison	Nelson (NE)	Wyden

NAYS—19

Byrd	Fitzgerald	Nickles
Chafee	Kennedy	Reed
Corzine	Kyl	Reid
Daschle	Lautenberg	Sarbanes
Dodd	Leahy	Sessions
Ensign	McCain	
Feingold	Mikulski	

NOT VOTING—3

Akaka	Edwards	Kerry

The conference report was agreed to.

Mr. FRIST. Mr. President I move to reconsider the vote.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FRIST. Mr. President, for the information of colleagues, in terms of the schedule, we will not be in session tomorrow. There will be no further rollcall votes today. We still have some business to do, which I will comment on shortly.

On the Monday after recess, we will have no rollcall votes on that day. I will come back and announce the specifics of the schedule later today or tonight.

We are making real progress on establishing the universe of amendments for the FSC/ETI bill. We will continue to work. We have made real progress over the course of the day in the area of this important bill.

We have a number of issues to address over the course of the afternoon. Again, there will be no rollcall votes tomorrow. We will not be in session tomorrow. We will have no rollcall votes on the first day back after the recess.

The PRESIDING OFFICER. The Senator from Arizona.

ADOPTING A DRUG-TESTING POLICY BY MAJOR LEAGUE BASEBALL

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 335 submitted by this Senator earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 335) expressing the sense of the Senate that Major League Baseball clubs and their players take immediate action to adopt a drug-testing policy that effectively deters Major League Baseball players from using anabolic steroids and any other performance-enhancing substances that create a competitive advantage for, and

pose a serious health risk to, such players and the children and teenagers who emulate them.

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I am joined today by my colleagues Senators BIDEN, FITZGERALD, ALLEN, BREAUX, DORGAN, and many others in submitting this legislation which calls on Major League Baseball and its players to adopt a legitimate drug-testing policy.

The resolution expresses the sense of the Senate that Major League Baseball's current drug-testing policy stops short of what is necessary to protect the game, its players, and the children and teenagers who emulate them.

As Major League Baseball starts a new season—a time that ordinarily signals renewal and promise—a dark shadow of public suspicion looms over the game and its players. Sadly, the talk amongst baseball fans is less this year about which team will win the World Series and more about which at athletes have cheated by using performance-enhancing substances. Action is clearly needed by Major League Baseball to address this problem and refocus its fans' attention to what takes place on the fields of play.

The sport of baseball is America's pastime and an institution inextricably interwoven into the fabric of our culture. If Major League Baseball and its players fail to act to preserve and protect the sport by adopting a drug testing policy that effectively deters the players from using anabolic steroids or any other similar performance-enhancing substances, this important part of our culture will remain tarnished. The resolution we are introducing today would call on Major League Baseball and its players to restore legitimacy to professional baseball and make the welfare of the sport more important than the self-serving interests that have a choke hold on America's game.

As chairman of the Commerce Committee, which has oversight authority over professional sports, and, more importantly, as a parent, let me be clear. There are real consequences to demanding anything less than clean professional sports. As discussed during a recent Senate Commerce Committee hearing on steroid use in professional and amateur sports, the failure to insist on stringent drug testing policies damages the integrity of the games and calls into question records set by those suspected of using performance-enhancing drugs.

No reasonable person would disagree that using any performance-enhancing substance for the sole purpose of gaining a competitive edge over an opponent is cheating. And, simply put, any sports organization that turns a blind eye to drug use among its athletes is as guilty of cheating as the players. This cheating and the negative effect it has on the integrity of any sport is shameful, and Major League Baseball and its players must cease treating the issue of drug testing as just another bargaining chip. But more worrisome still is the poor example set by professional athletes in the eyes of the kids who idolize them and are led by their example.

Some may doubt the powerful effect that athletes have on the lives of kids. Let me remind them of the five-fold increase in the sales of the steroid-like substance androstenedione—better known as ''andro''—that occurred after Mark McGwire admitted to using the substance in 1998 while chasing Roger Maris's home run record. Since then, the problem of harmful supplement use among children and teenagers has reached epidemic proportions. According to the Department of Health and Human Services, nearly 12 percent of high school boys and 3 percent of high school girls use steroids. This is unacceptable.

The adverse health consequences associated with such use are indisputable. Medical experts warn that the effects on children and teenagers include stunted growth, scarring acne, hormonal imbalances, liver and kidney damage, as well as an increased risk of heart disease and stroke later in life. Psychologically, steroids have been associated with increased aggression, suicide, and a higher propensity to commit serious crimes.

Today we call on Major League Baseball and its players to step up to the proverbial plate and implement a drug testing policy that will effectively deter players from using anabolic steroids and other similar performance-enhancing substances. We cannot, and will not, allow professional baseball to collectively bargain away the legitimacy and history of the sport. The current drug-testing regime is simply unacceptable, and without quick and significant change to the way the league tests for drugs among its athletes, the owners and players will continue to be viewed by the public as the knowing perpetrators of a shameful fraud.

I urge my colleagues to support this resolution and to not allow the integrity of professional baseball to be choked by the foul ambition of those who cheat.

In today's East Valley Tribune in Arizona is a letter to the editor. It reads as follows:

I am a 12-year-old Boy Scout working on my communications merit badge. One of its requirements is to write a letter to the editor of a local newspaper on a topic I believe in.

I think baseball players should not take steroids.

The letter goes on—this is from Hunter Amos of Chandler, AZ—to talk about the need for baseball to bring about a meaningful drug-testing program. This from a 12-year-old Boy Scout.

It certainly proves the American people are involved and concerned about this issue.

I would like to state the following very briefly. One, organized baseball, Major League Baseball, and its players union have to come together and resolve this issue with a meaningful drug-testing program. A good model would be that which the minor leagues of baseball employ. It seems to me, since it is already in being, that the major leagues could just adopt the same procedures as the minor leagues.

Second, the blame is not entirely on the players. Part of the blame is on the owners. Commissioner Selig stated before our committee: It was the last issue and they refused to budge, and we gave in because we didn't want a work stoppage.

I understand that, but it is an indicator the owners were not that concerned about it; otherwise, they would have held fast.

More importantly, this is for the good of two groups of Americans: One, Major League Baseball players. But, two, young Americans, high school athletes all over America who today believe the way to athletic excellence is to take performance-enhancing drugs. That is wrong. Statistics, as well as anecdotal evidence, from high school coaches all over America are telling us young Americans, young athletes are using performance-enhancing drugs in greater and greater numbers. Who are their role models? The major league athletes themselves.

We are not picking on baseball. The NFL has an excellent program. The other professional leagues do as well, and Major League Baseball obviously has one that is termed by many as a joke.

I could spend a lot of time mentioning Curt Schilling—who is one of my personal heroes; unfortunately he has left the Diamondbacks and is now with the Red Sox—was quoted in Sports Illustrated as saying:

Some of these guys look like Mr. Potato Head.

Some of these guys look like Mr. Potato Head? The damage some of these individuals are doing to themselves is really terrible, but far more terrible is the damage young high school athletes and college athletes are inflicting on themselves because of the precedent and example of Major League Baseball players. My greatest hero was Ted Williams. When I was a young, mediocre high school athlete, I probably would have been tempted to emulate him.

All of us are aware a sense-of-the-Senate resolution has no force of law. I also recognize a sense-of-the-Senate resolution is a far cry from actual legislation. But I want to say now I believe I speak for all of my colleagues in the Senate, particularly those of us who have been involved in this issue, that we expect Major League Baseball owners and players to act. We expect them to act quickly. If they do not, obviously we have to explore other options. I do not want the Congress of the United States to be involved in a management-labor dispute. None of us want

that, and I think there will be difficulty because an action of that type is almost unprecedented. But I point out Major League Baseball does have an involvement with the Congress of the United States. They were not ashamed to come to the Congress of the United States to get an antitrust exemption, probably the most generous of any professional sport. Of course, they are engaged in interstate commerce.

I hope Major League Baseball understands we are serious, and the purpose of this sense-of-the-Senate resolution today is taking one step forward. I pray for the good of these young high school and college athletes and even junior high school athletes that Major League Baseball will realize we are serious and take it upon themselves to reopen negotiations and resolve this issue.

I thank my colleague, the Senator from North Dakota, who has been a stalwart on this issue and, in his usual eloquent and persuasive style, has contributed enormously to this debate.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I follow my colleague from Arizona, Senator MCCAIN, and thank him for his work. He, obviously, once again on this issue, will not let go. He insists we address this issue. I deeply appreciate it. I, like Senator MCCAIN, am a great baseball fan. I grew up in a small town 60 miles from the nearest daily newspaper. When I was a kid, I used to get that newspaper and I would look at this tiny little section, ''Major League Leaders.'' I wanted to see if Willie Mays hit another home run. I loved baseball.

Later, I followed the saga of someone from my own State, Roger Maris, who in 1961 was engaged in this home-run derby with Mickey Mantle. We were so proud in North Dakota of having this home State slugger, Roger Maris, setting a new record for Major League Baseball in 1961.

Baseball was called our national pastime. In fact, last week the President of the United States traveled halfway across the country to throw out the opening pitch. Why? It is a national pastime. People care about baseball in this country. It is a great sport. But something is happening in this sport that ought to give all of us great concern.

Sports Illustrated has a cover story. In the old days when Sports Illustrated had a cover story about baseball, it was about a pitcher, a catcher, a player, or a baseball exploit. Now it is about drugs—Ken Caminiti, Jose Conseco, and others talking about drug use in baseball.

Two years ago, I chaired a subcommittee hearing of the Commerce Committee on this subject. We had representatives from Major League baseball, owners and others. We had representatives of the baseball players, and we addressed this issue. Then a month ago, Senator MCCAIN chaired the full committee of the Commerce Committee hearing on the same issue. We had the same people involved in testimony.

Do my colleagues want to know something. In 2 years, nothing had changed. There was not even a baby step forward.

They say they initiated a testing program, one test a year, and there is prior notice of the test. That is not a testing program.

Senator MCCAIN offers a sense-of-the-Senate resolution. I know this by itself will not fix the problem, but it will send a message, it seems to me, to all involved that they ought to make progress; they ought to do what is right and do what is necessary.

Two years ago when I held these hearings, we also asked a pediatrician to testify, a pediatrician who is involved in sports. Do my colleagues know what he said? He said we have kids in the sixth, seventh, and eighth grades who are wanting to take performance-enhancing drugs in order to play better football, basketball, perform better on track. Why do they do that? Because they see their idols do it. They see the professional baseball players on the front cover of Sports Illustrated who are taking performance-enhancing drugs. Ken Caminiti said he thought half the players in the big leagues were using steroids, and that he had used them in 1996 during his Most Valuable Player season.

He is out of baseball, says he feels ashamed and embarrassed about his own problems, including a guilty plea for crack cocaine possession in 2002. A Most Valuable Player in baseball says half the players in the big leagues were using steroids.

Does this have an impact? You bet your life it does. It has an impact on American kids, kids who aspire to be involved in sports. It sends a message that the way to improve in sports is to take some performance-enhancing drug. That is a dangerous message. It is the wrong message. People will die as a result. That is why Senator MCCAIN says let's stop this.

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

Mr. DORGAN. I am happy to yield.

Mr. MCCAIN. As the Senator is well aware, and I want to thank him for his continued involvement in this issue, this will be reported as a sense-of-the Senate resolution, which we all know is nonbinding. Could the Senator predict what he thinks might happen if we go for another month or two and no action of any kind is taken by Major League baseball? What does the Senator think might happen or could happen?

Mr. DORGAN. Mr. President, I think what certainly could happen and might happen is the Congress might intervene with legislation that is real legislation, not just a sense of the Senate, because this is a significant public issue.

The National Football League has solved this issue. They have rigorous testing for those who play professional football in this country. They testified at the hearing Senator MCCAIN held. Minor League baseball has solved this issue. The commissioner of baseball ordered rigorous, wide testing for drugs in the minor leagues. So it is not as if no one knows how to do this.

Mr. Fehr said in his testimony 2 years ago, and now 2 weeks ago, that this is a matter of privacy for baseball players. It seems to me it is not a matter of privacy. If in private people are taking banned drugs in order to enhance their performance in public, which is exactly what happens in professional sports, the taking of drugs in private in order to enhance their public performance, does the public have a right to understand that and know about that? Darn right, the public has a right to know.

My point is this: When the Sports Illustrated magazine—a wonderful magazine, one I love to read, that chronicles the great sports achievements in this wonderful country of ours—has a cover story of a magnificent baseball player who says nearly half the players in the major leagues are taking some sort of banned substance, I do not know whether he is right or wrong, but I do know this: it ought to be a wake-up call for baseball. It is in their interest, it is in the players' interest, to solve this issue.

There is a great baseball pitcher who used to pitch in the home State of my colleague from Arizona, Kurt Schilling. He is now in Boston. I know 2 years ago, when all of this broke, this wonderful pitcher, perhaps one of the best of all times, what did he say? He thought there ought to be testing. Why? I think the great baseball players understand that this cloud over baseball, as a result of these drug allegations, ought to be removed. It taints the sport. The good players, those who are not on performance-enhancing drugs, understand. They believe there ought to be rigorous testing.

Mr. MCCAIN. Will the Senator yield for another question?

Mr. DORGAN. I would be happy to yield for another question.

Mr. MCCAIN. As the Senator well knows, there are some superb athletes in Major League baseball today, and they are performing magnificent feats. Yet a cloud hangs over their performances both in the minds of the fans as well as many of their fellow players. Why is it, does the Senator think, that these players and owners would not recognize it is in the best interest of baseball itself? If they do not care about the high school athletes, if they do not care about the detriment to their health after they retire, as we see is happening with steroid users in other sports as well as this one, does not the Senator from North Dakota think they would care about the reputable aspects, or being held in disrepute the records they are making as

they are spending the best years of their lives in Major League baseball?

Mr. DORGAN. I fully agree. In rodeo sports, something I care a lot about because I grew up with horses and my father was an excellent horseman, they say somebody has a lot of try. It is an interesting way of describing it, saying he had a lot of try.

Well, I hope when we look back in the rearview mirror and get the testing that is necessary in baseball, the achievements of a baseball player in this country will be the result of both skill and try—I mean somebody who had the determination to do well, had the skill, who put in the time, and did well. But when we read the front cover of Sports Illustrated, and they have some magnificent baseball player saying, I had an MVP season, but I was on drugs, in my judgment it colors and taints the exploits and achievements of others.

I hope Mr. Fehr and all of those involved will have a vote of the baseball players or do what is necessary to get a consensus. I am certain a consensus of professional baseball players must surely want to remove this cloud. Again, this is not some mysterious issue for which we do not have a solution. The National Football League has solved it. The minor leagues have solved it. So, too, should Major League baseball.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I thank my friend from North Dakota, Senator DORGAN. He has been involved in this issue longer than I have. I appreciate the opportunity of working with him on a variety of issues in the Senate.

I would like to make one additional point. I have seen some comments by some observers of Major League baseball, and they are saying: Look, it cannot be too big a problem because Major League baseball is breaking all records and it is more popular than it was before and ratings are higher, so it probably then should not be such a big deal.

I will make two points. There was a recent Pew Research poll that showed 90 percent of people who identify themselves as baseball fans say something needs to be done about steroids. But maybe more importantly, there was a time when baseball was very popular and had great attendance and was the national pastime and everybody was happy, but baseball was segregated. Baseball was a segregated sport. I would argue today, baseball in America is a lot better off now that it is an integrated sport, and I would argue that baseball will be a lot better off once we have a reasonable, workable testing program as far as performance-enhancing drugs are concerned.

For the good of our national pastime, I urge that Major League baseball owners and players sit down together and resolve this issue and then, as they have asked, we can move on to other issues of the day.

Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid on the table en bloc, and any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 335) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 335

Whereas, the sport of baseball is widely considered America's pastime and an institution inextricably interwoven into the fabric of our culture;

Whereas, anabolic steroids are substances that are chemically and pharmacologically related to testosterone and promote muscle growth;

Whereas, anabolic steroids are Schedule III controlled substances under the Controlled Substances Act (21 U.S.C. 801 et seq.);

Whereas, certain products are sold legally in the United States that promote muscle growth in a manner similar to anabolic steroids;

Whereas, medical experts warn that the health consequences associated with the human use of anabolic steroids or other similar performance-enhancing substances can be dire;

Whereas, medical experts warn that anabolic steroids and other similar performance-enhancing substances can have particularly serious adverse health effects on children and teenagers;

Whereas, these adverse health effects include stunted growth, scarring acne, hair loss, dramatic mood swings, hormonal imbalances, liver and kidney damage, a higher risk of heart disease and stroke later in life, as well as an increased propensity to demonstrate aggressive behavior, commit suicide, and commit crimes;

Whereas, the dangerous and anti-competitive effects of anabolic steroids when used by Major League Baseball players were acknowledged but not adequately addressed by the 30 Major League Baseball clubs and the Major League Baseball Players Association in their September 30, 2002, Collective Bargaining Agreement;

Whereas, the September 2002 Collective Bargaining Agreement does not allow for the imposition of a suspension or fine for a first-time violation of the League steroids policy;

Whereas, the September 2002 Collective Bargaining Agreement does not allow Major League Baseball players to be subjected to more than one unannounced drug test per season;

Whereas, the September 2002 Collective Bargaining Agreement does not prohibit the use of certain performance-enhancing substances that, although legal, promote muscle growth and pose a serious health risk to users;

Whereas, notwithstanding the 2002 Collective Bargaining Agreement, the prevalence of the use by Major League Baseball players of anabolic steroids and other performance-enhancing substances that promote muscle growth and pose a serious health risk, at the very least, appears to be significant; and

Whereas, the use of anabolic steroids and other performance-enhancing substances that promote muscle growth and pose a serious health risk to children and teenagers continues to rise: Now, therefore, be it

Resolved, That—

(1) the use of performance-enhancing substances such as anabolic steroids poses a health risk, especially to children and teenagers;

(2) the use of athletic performance-enhancing substances such as anabolic steroids to gain a competitive advantage is tantamount to cheating;

(3) there is sufficient evidence that children and teenagers tend to emulate professional athletes;

(4) the effectiveness of the 2002 Collective Bargaining Agreement to deter Major League Baseball players from using performance-enhancing substances such as anabolic steroids has been called into question;

(5) Major League Baseball and its players should exercise their collective bargaining authority to negotiate and adopt a more stringent drug-testing policy that is sufficient to effectively deter Major League Baseball players from using anabolic steroids or other similar performance-enhancing substances to gain a competitive advantage; and

(6) taking such a step would help—

(A) to preserve the integrity of the game of professional baseball;

(B) to protect the health of Major League Baseball players; and

(C) to discourage the use of performance-enhancing substances such as anabolic steroids by children and teenagers who seek to emulate professional athletes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. 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 1-YEAR ANNIVERSARY OF THE LIBERATION OF IRAQ

Mr. KYL. Mr. President, I would like to speak for a moment about the historic day tomorrow, which is the 1-year anniversary of the liberation of Iraq, and the experience which Senator MCCAIN and Senator CHAMBLISS and Senator COCHRAN and I just had with a few others in meeting the Ambassador-designate from Iraq, Ambassador-designate Rend Al-Rahim.

She has been a leader in the movement for women's rights in Iraq, and has been designated by the Iraqi Governing Council to represent her country here in the United States at this historic time. In listening to her message, it simply should remind all of us of the importance of what we, as Americans, have been doing in support of freedom for the Iraqi people.

I wish to share a few of the comments which she made to us, and a bit of the response to that. First, she is a remarkable woman in her own right; she, as I said, has been fighting for Iraqi rights for a long time. It is no surprise that someone with her background and qualifications has been selected to represent her country in the United States.

Her first remarks were to thank the United States for helping to free the Iraqi people and making an opportunity available to them to govern themselves. She said that the main

word in Iraq today is the word ''democracy,'' that is what the Iraqi people are talking about, and they are going to be ready and, indeed, demand that when June 30 comes, they will be able to take control of the political affairs of their country.

This is something they have been waiting for a long time to accomplish, and they are very grateful to the United States for making this opportunity available to them. She made the point that democracy died in Iraq 35 years ago; that under the repressive regime of Saddam Hussein there was no freedom of expression, no ability to debate, political parties ceased to exist; he would not permit anyone to question him. But today she talked about the 150 new newspapers that have cropped up, debating all sorts of issues in the country, and the opportunity for people to present their views on free television.

She said throughout the country of Iraq today there is free and robust debate about the political future of their country; that political parties have grown, and the ability of Iraqis to govern themselves, in her view, is not in doubt.

She made the point the security problems the United States and coalition and Iraqi forces are facing today, while grave and serious, are not representative of any kind of popular uprising in the country as a whole; that in her view they represent a very thin slice of the Iraqi population, and Americans should not view this as the view of the Iraqi people in general. Indeed, the opposite would be the case; that most Iraqis support the presence of the United States, appreciate what we are trying to accomplish with the help of the Iraqi people there, and that this relatively small group of disaffected people does not represent the view of the Iraqi people as a whole.

In fact, her quotation, almost exactly—and she repeated it three times—was that the vast, vast, vast majority of the Iraqi people reject this point of view and support the presence of the United States and assistance to the people.

It was a remarkable performance by the Ambassador-designate who told us about the condition in which they found the Embassy when they came in and simply reminded us that we have a lot to do in supporting this new government and helping it to be a viable force, not just in the country of Iraq itself but in representing itself to the rest of the world, and most especially in the United States.

I was also moved by the strong statement made by my colleague from Arizona, Senator MCCAIN, who had talked about his experience in Iraq and his experiences elsewhere in admonishing all of us to remember that there is no alternative to victory in this war on terror, and especially in the front we are conducting in Iraq today. Defeat is not an option. The consequences of defeat for the United States and the West and our position in the war on terror would be catastrophic. Our credibility would be lost, and that credibility is our primary asset in dealing with terrorism around the world.

Our ability to affect the future with respect to the terrorist threat would be diminished significantly if we were not to persevere and complete our job in Iraq. This means, as Senator MCCAIN pointed out, we will have to acknowledge the hard reality that it will not be easy, and it will not be cheap. There will be casualties, and it is going to take a long time.

Remember President Bush first told us that when this war commenced, and in his State of the Union speech, pointing out that it would be a long, difficult struggle and that the American people would have to be prepared to persevere. The American people have persevered.

We are at a crossroads now. There are some among us who are raising questions. That, in and of itself, in a democracy is not only fine but critically important. The question is the tone of the criticism and the effect that it can have both on the morale of the Iraqi people and our own troops fighting there, as well as the message it conveys to the enemy terrorists. If the criticism is constructive and goes to questions of how we should be doing what we are doing, it could be very beneficial.

If, on the other hand, it suggests political motives for the President and the administration, suggests there is no support for the position we are taking, and suggests what little support there might be will erode to the point that we will not be able to sustain our position, then people begin to wonder. The people of Iraq who are still not secure, who are still fearful there are those among them who would cause them harm if they only had a chance, including the old Baathists, are going to be less secure and bold going forth with their new government and less willing to continue to support the United States.

Our allies, the same message. Our troops would wonder, Is this a fight worth fighting; their families wondering, Is it worth my son or daughter dying? Of course, the message to the terrorists, If we wait these people out, these Americans have shown that they are willing to only fight for so long, and then they will cut and run if we make life difficult enough for them.

This is a message we cannot afford to send. It is important the tone of the debate, the content of debate, the motives ascribed to leaders in this country all take into account the way the message is portrayed elsewhere, the way it will be played on Arab television, for example. These are not small matters. These are matters of fine-tuning a debate in the United States so that it will not adversely affect the way we can conduct the war on terror generally, and on operations in Iraq specifically.

I think sometimes we fail to take into account how our words are listened to all over the world. I know as a Senator, it is still hard for me to appreciate, knowing who I am and where I came from, that when I speak, my words may have pretty significant consequences to an awful lot of people. It is hard for me to remember that. I don't look at myself any differently than I did when I was a lawyer 20 years ago. But we in the United States tend to forget that others view us very closely, and everything we do they pay a lot of attention. So the words we speak in this Chamber and in other forums are going to be parsed very carefully by others around the world for meaning.

When those words suggest either there is a lack of support in this country for the policies being pursued, that were overwhelmingly supported by the Members of this body, the House of Representatives and, of course, the administration, when there is a suggestion that there is a lack of support for that policy or that support is eroding, and if terrorists continue to ply their trade they can undercut us to the point we will cut and run, when the words are interpreted in that way, then they undercut not just our policy but the people who are fighting for us in that region, and the people on whose behalf we are trying to help secure freedom.

That is why it is so important for us to conduct this debate in a civil and measured and responsible way. I urge all of my colleagues to try to approach the subject in that fashion. I criticize no one for raising questions or even for criticizing the President or the administration. It is perfectly appropriate in our country to do that. There is certainly no right or wrong in exactly how we are approaching each of these issues. The decisions are made in the fog of war. Many of them are somewhat gray.

I would only ask my colleagues, as we conduct this debate, that we consider the tone so it doesn't have an adverse effect on the actual war on terrorism itself.

As my colleague, Senator MCCAIN, said, defeat is not an option. It is impossible, given our military power, for us to lose the war in Iraq, but it would be possible to lose that war at home if we don't conduct ourselves in the same fashion and same spirit we ask our troops to conduct themselves when they are fighting for us abroad. That is an important responsibility we take on.

When I listened to the words of the Ambassador-designate today about looking at the future of her country with such optimism and such courage and such hope, it rekindled in me the desire to come and talk about the fact that we have to do our part. Our troops are doing their part. We have to do our part as well. We need to make wise decisions. We need to support the troops. We need to support the administration

to the absolute extent we can. Our partisanship should stop at the shores, as it historically has.

I know in an election year it is going to be difficult for us to discipline ourselves in that way, but we have to do so because of the stakes involved.

I find after 1 year of the liberation of the Iraqi people, great cause for hope.

We should not minimize the difficulties that lie ahead. I think we need to be extraordinarily candid about the problems we will continue to confront. But at the end of the day, if we persevere as we know we can, if we have the same resolve and strength of character our young men and women do who are there fighting right now—and you only have to talk to a few to be imbued with their spirit—then I have no doubt the United States will stay strong, our great ally Great Britain will do the same, as well as other members of the coalition that have assisted us so strongly; and in persevering and staying the course, we will be able, No. 1, to turn over political control of Iraq on June 30 to the Iraqi Governing Council and, No. 2, we will be able to stay for as long as it takes to help secure that country.

Just as we have had the opportunity to govern ourselves, the Iraqi people will have the same opportunity. That will, in turn, show others in the region how they too can govern themselves democratically, they can live in an environment of freedom, and that is infectious and probably would do more than any other single thing to ensure that region of the world can enjoy peace, and that peace can even come to the troubled relationship between the Palestinians and Israelis. It is something to be hoped for. It all depends on our ability right now to persevere, stay the course, and to maintain the hope and optimism we had when we began this operation.

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

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

Mr. BYRD. Mr. President, what is the order before the Senate?

The PRESIDING OFFICER. The Senate is on the motion to recommit S. 1637.

Mr. BYRD. I ask unanimous consent that I may speak out of order.

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

THE EASTER PROMISE

Mr. BYRD. Mr. President, the Senate will soon enter a period of recess prior to the Easter holidays. I am a bit like Samuel Adams, I believe it was, who said that he could listen to anyone speak of his religion. I am that way. I can listen to a Methodist, to a Baptist, a Presbyterian, Seventh-Day Adventist, a Jewish rabbi, a Catholic priest. I have no problem in listening and paying rapt attention to anyone speak of his or her religion.

My own religion is the Christian religion. I grew up in a Christian home. I was raised by an aunt and uncle who took me after my mother died during the influenza epidemic in 1918. I was a bit less than 1 year old at that time, my mother having died on Armistice Day 1918. I was brought to West Virginia and grew up in the coal camps of southern West Virginia.

At this point I should say that the woman who raised me was a very religious woman. She did not go around wearing religion on her sleeve or claiming to be better than anybody else; she simply was a kindly lady who believed in religion, the old-time religion. She practiced it and many times I used to hear her pray after the old kerosene lamp was out and the rooms were dark. I heard her praying on her knees. I could say that my uncle, Titus Dalton Byrd, was also a God-fearing man who died when he was 82 years of age, a coal miner. He never owed any man a penny when he passed away from this Earthly life. I never heard him utter the Lord's name in vain in all the years that I lived with him. So that is the way it was. They were poor folks.

I recently heard someone say—I believe one of the Democratic Presidential candidates—that he was the first in his family to attend college, or some such thing. Well, I am the first in my family to have gone to second grade in school. About the only books that were in my home when I grew up as a child were a Montgomery Ward catalog, perhaps a Sears Roebuck catalog, and the Holy Bible, King James Version. The man who raised me could read the Bible. I do not know how he learned to read, but nevertheless there was a Bible in that home, and here is the Bible on my desk at this moment.

Now, why do I have this Bible here? Well, Easter is coming on and I am going to read from chapter 20 of the book of Saint John. I will not make any comment on the Scriptures, except to read very briefly from them. I do not claim to be a minister. I am not a minister, but I am fortunate enough to have the gift of being able to read, and as we approach Easter, I think it appropriate to read into the RECORD the following excerpts from the book of Saint John, chapter 20:

The first day of the week cometh Mary Magdalene early, when it was yet dark, unto the sepulchre, and seeth the stone taken away from the sepulchre.

Then she runneth, and cometh to Simon Peter, and to the other disciple, whom Jesus loved, and saith unto them, They have taken away the Lord out of the sepulchre, and we know not where they have laid him.

Peter therefore went forth, and that other disciple, and came to the sepulchre.

So they ran both together: and the other disciple did outrun Peter, and came first to the sepulchre.

And he stooping down, and looking in, saw the linen clothes lying; yet went he not in.

Then cometh Simon Peter following him, and went into the sepulchre, and seeth the linen clothes lie,

And the napkin, that was about his head, not lying with the linen clothes, but wrapped together in a place by itself.

Then went in also that other disciple, which came first to the sepulchre, and he saw, and believed.

For as yet they knew not the scripture, that he must rise again from the dead.

Then the disciples went away again unto their own home.

But Mary stood without at the sepulchre weeping: and as she wept, she stooped down, and looked into the sepulchre,

And seeth two angels in white sitting, the one at the head, and the other at the feet, where the body of Jesus had lain.

And they say unto her, Woman, why weepest thou? She saith unto them, Because they have taken away my Lord, and I know not where they have laid him.

And when she had thus said, she turned herself back, and saw Jesus standing, and knew not that it was Jesus.

Jesus saith unto her, Woman, why weepest thou? whom seekest thou? She, supposing him to be the gardener, saith unto him, Sir, if thou have borne him hence, tell me where thou hast laid him, and I will take him away.

Jesus saith unto her, Mary. She turned herself, and saith unto him, Rabboni; which is to say, Master.

Jesus saith unto her, Touch me not; for I am not yet ascended to my Father: but go to my brethren, and say unto them, I ascend unto my Father, and your Father; and to my God, and your God.

Easter Sunday, Mr. President, is the holiest day on the Christian calendar. On that first Easter Sunday, so long ago, a momentous gift was given to the world. It was a promise of life everlasting, of immortality.

For God so loved the world that he gave his only begotten Son,

That whosoever believeth in him should not perish, but have everlasting life.

It is easy to overlook the magnitude of this great but invisible gift amid all the brightly colored cellophane and foil-covered chocolates, amid the soft nests of translucent plastic grass nestled around sugary jelly beans and luminous dyed eggs. The talents of advertising agencies and merchandisers effect a powerful sleight of hand, drawing our focus away from the moving story of Easter with the dazzle of sugary commercial products that have been divorced from their historical and religious meaning.

It is difficult to ponder the end of life and death while surrounded by a quickening Earth under a warm Sun. These lovely spring days are each a small gift, too. In West Virginia, the trees are just in bud, allowing the warmth of the Sun to reach all the way into the shadiest hollows. In Washington, the 92nd annual Cherry Blossom Festival is underway, as the cherry trees along the tidal basin and the Jefferson Memorial create a lovely vista of blossoms.

Loveliest of trees, the cherry now
Is hung with bloom along the bough,
And stands about the woodland ride
Wearing white for Easter.

So said Alfred Edward Housman, who was a Shropshire lad.

But the promise of rebirth and gift of new life everlasting are the great prize, hard won from the tragedy of betrayal and a torturous, protracted death.

Over the span of a week, from His entry into Jerusalem on Palm Sunday, and the final miracle of the resurrection and ascension on Easter Sunday, an epic unfolds. Christ's pain and suffering, so nobly borne, gave no hint of the miracle to come.

On this Easter Sunday, I offer my hopes to our men and women serving in Iraq and Afghanistan and all the dangerous places in the world. Our hearts, our hopes, and our thoughts are with you, and may the Lord protect you and give you the strength to see you through these difficult times.

As William Cowper wrote:

It is the Lord who rises with feeling in his wings. When comforts are declining, he grants the soul again a season of clear shining to cheer it after rain.

I would like to think as we used to back in my younger days of the words spoken by William Jennings Bryan. The words that come from his proof of immortality:

If the Father deigns to touch with divine power the cold and pulseless heart of the buried acorn and to make it burst forth from its prison walls, will He leave neglected in the earth the soul of man, made in the image of his Creator?

If he stoops to give to the rosebush, whose withered blossoms float upon the autumn breeze, the sweet assurance of another springtime, will He refuse the words of hope of the sons of men when the frosts of winter come?

If matter, mute and inanimate, tho' changed by the forces of nature into a multitude of forms, can never die, will the imperial spirit of man suffer annihilation when it has paid a brief visit like a royal guest to this tenement of clay?

No. I am sure that He who, notwithstanding His apparent prodigality, created nothing without a purpose, and wasted not a single atom in all His creation, has made provision for a future life in which man's universal longing for immortality will find his realization.

I am as sure that we live again as I am sure that we live today.

I also enjoy reading from William Jennings Bryan's ''The Prince of Peace,'' reading what he said about the grain of wheat.

He said:

In Cairo I secured a few grains of wheat that had slumbered for more than thirty centuries in an Egyptian tomb. As I looked at them, this thought came into my mind: If one of those grains had been planted on the banks of the Nile the year after it grew, and all of its lineal descendents had been planted and replanted from that time until now, its progeny would today be sufficiently numerous to feed the teeming millions of the world. An unbroken chain of life connects the earliest grains of wheat with the grains that we sew and reap. There is in the grain of wheat an invisible something which has the power to discard the body that we see, and from earth and air fashion a new body so much like the old one that we can not tell the one from the other. If this invisible germ of life in the grain of wheat can thus pass unimpaired through three thousand resurrections, I shall not doubt that my soul has power to clothe itself with a body suited to its new existence when this earthly frame has crumbled into dust.

I thought a couple of these reminiscences from William Jennings Bryan and a few passages of the Scriptures might be appropriate on this April afternoon as we close.

I finally end with the words of Julian S. Cutler, whose poem, ''Through the Year,'' reminds us the Lord is with us in all the seasons of the year and in all the seasons of our lives. And at Easter, we celebrate God's promise that we may be with Him in life everlasting:

God be with you in the Springtime
When the violets unfold,
And the buttercups and cowslips
Fill the fields with yellow gold;
In the time of apple blossoms,
When the happy bluebirds sing,
Filling all the world with gladness—
God be with you in the Spring!

God be with you in the Summer,
When the sweet June roses blow,
When the bobolinks are laughing
And the brooks with music flow;
When the fields are white with daisies
And the days are glad and long—
God be with you in the Summer,
Filling all your world with song.

God be with you in the Autumn,
When the birds and flowers have fled,
And along the woodland pathways
Leaves are falling, gold and red;
When the Summer lies behind you,
In the evening of the year—
God be with you in the Autumn,
Then to fill your heart with cheer.

God be with you in the Winter,
When the snow lied deep and white,
When the sleeping fields are silent
And the stars gleam cold and bright.
When the hand and heart are tired
With life's long and weary quest—
God be with you Erma, in the Winter,
Just to guide you into rest.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

ASBESTOS LITIGATION

Mr. CARPER. Mr. President, before Senator BYRD leaves the floor, I wish him a joyous Easter and thank him for reminding us of what Easter is all about.

When Members reflect on the diversity of the religious views of our constituents—some are Protestant, some are Catholic; some folks in West Virginia or Delaware are Jewish, as some here are. We have folks in our States who are Hindu, Muslim, Buddhist. There is a wide diversity of religions in this country. It is a sign of our strength, not a sign of weakness.

We are reminded that one of the reasons we are strong is because we respect the right of everyone to worship God as he or she sees fit, or to not worship at all.

Ironically, whether we happen to be Jewish, Catholic, Protestant, or some other faith, it is interesting how often we agree on a premise, a principle laid out in the New Testament.

I don't think Senator BYRD read it today, but we call it the Golden Rule. The idea there is to treat other people the way we want to be treated. I am not enough of a religious scholar to know where that scripture appears in the New Testament. It may also appear in the Koran or the Torah or any other religious text of other religions around the world. But my guess is it does say, in so many words, we should treat other people the way we want to be treated.

I want to talk about that principle and how it might apply to what we do in the Senate. I apply it to an issue we may address as soon as we return April 19.

Majority Leader FRIST has said, when we return immediately following the Easter holiday, the first issue of any consequence he would like for us to address deals with asbestos litigation. This is something I have worked on, along with many of my colleagues, for most of the 3 years I have been in the Senate.

My first year in the Senate, about a year or two before the Presiding Officer arrived, I remember visiting Senator BYRD. I asked how this place works and he gave me some pointers. He was a great mentor then and he continues to be a great mentor today.

Among the pieces of advice he gave me: When people want to talk to you, talk to them.

It turns out one of the calls my first year was from a fellow named Frank Macher. He is somebody my wife introduced me to. She worked at DuPont at the time and had dealings with Ford Motor Company. Frank Macher was a fairly senior official at Ford Motor Company. He retired from Ford Motor Company.

I lost track of him for a few years and he called to say he had assumed a new position with a new company. I asked, ''Who is that,'' and he told me he had just become the CEO of a company called Federal-Mogul. I was not familiar with the company. He said I was probably familiar with some of their products. They manufacture or sell and distribute, among other things, Champion spark plugs and a variety of other products used in the automotive industry.

He said: Sometime when I come to Washington in my new role I want to be able to come and see you; it is good to renew a friendship. I said: Come on over.

Lo and behold, a month or so later he came. We had a great meeting. It was a good moment. He headed for home. I said: If you are back this way, let us know.

After 6 months or so, he called me again. I said: How are you doing?

He said: We have a problem.

I asked: What is that?

He said that somewhere along the line, before he became CEO of this company, Federal-Mogul had acquired a subsidiary, I think it was a British subsidiary, for a period of time, not a long period of time but maybe a couple of years.

He said because of that relationship—they acquired it and sold it within a couple of years—his company, Federal-Mogul, had been exposed to all kinds of litigation with respect to asbestos because this subsidiary that they owned years ago for a short period of time had a position or presence in the asbestos business.

We met and talked. I said: Since you live in Michigan, maybe you ought to spend some time with your Senators. I think he visited his two Senators. I suggested he visit with the chairman of the Senate Judiciary Committee at the time, Senator LEAHY. He was good enough to meet with Frank Macher.

What proceeded from there, about a year or so later, is Federal-Mogul ended up going into bankruptcy. Ultimately, it was reorganized and emerged from bankruptcy.

I don't know the effect on the employees within that company. I do know this: The shareholders in the company lost, as far as I understand, the entire value of their shares. The employees of the company who had money in a 401(k) plan that included company stock lost the value of that company stock. The pensioners from Federal-Mogul who were retired, or trying to retire, probably lost some of their pensions as the company went in and out of bankruptcy.

We know what happens all too clearly—in fact, I am reminded of legislation we worked on today—to employees or retirees of companies that go into bankruptcy and how that can adversely affect the size and amount of their pensions.

In any event, that experience with Frank Macher and with Federal-Mogul acquainted me with an issue that, frankly, I had not thought about for one minute before I came to the Senate.

Fast forward for several months, subsequent to that initial meeting with Frank Macher, a second meeting with Frank Macher from Federal-Mogul, to a conversation, a visit I had from an attorney from the west coast. I can't recall his name off the top of my head, but he was a good person, a trial lawyer. His particular specialty was representing people who were afflicted with mesothelioma. Apparently, mesothelioma is something folks contract from exposure to asbestos. There is no known cure. There are several thousand people who will die each year from that disease.

The attorney who came to meet with me talked about his clients. Those who were fatally stricken and soon to die, and how in many instances they or their families were not receiving the compensation for what they were going through and for the loss of life.

He said the current system we have is broken. It ought to be fixed. In too many cases, the way the current system works is that the people who may have mesothelioma or a serious asbestos-related disease, lung cancer that has grown from exposure to asbestos, these individuals or their families are receiving pennies on the dollar for what they should be getting for pain and suffering and loss of life.

Meanwhile, in too many instances people who may have had exposure to asbestos but are not impaired, are not sick, are taking away, siphoning off, some of the money that ought to be going to people who are impaired or seriously ill and may ultimately die. Instead of the money actually getting to the victims, I am told maybe half goes to other parties in transaction costs.

That is not a good situation. It is not a healthy situation. Almost everybody here familiar with this situation would say if there is anything we ought to fix this year, this is near the top of the list. We should fix it. We can fix it.

I have been here about 3 years and for most of those 3 years people on both sides of the aisle have been trying to do that. Progress has been made. The Judiciary Committee marked up and reported out a bill last year, a bill that has been criticized by a number of people, a number of parties that are involved in this issue. Nonetheless, it represents an effort to try to address a situation we all know needs to be addressed.

The bill was reported out of committee last year. Since November of last year, there have been a series of negotiations that have taken place involving, among others, organized labor, as a proxy for the victims and the workers, insurers, manufacturers; and, from time to time, the trial lawyers have been involved in those discussions. Those discussions were intended to try to bridge the differences that separated them and us from legislating successfully on this issue and establishing a procedure and funding to make sure people who are sick and dying get the help they need, and folks who are not sick but may have had an exposure have their health monitored, and if they do become sick, they get the financial help they and their families need, to try to reduce the transaction costs so it becomes pretty much a no-fault system.

While some progress has been made, there is more work to be done. I spoke yesterday with Majority Leader FRIST, whom I respect very much. In fact, the conversation I had with him yesterday is similar to one I had with him the week before, and I think probably the week before and the month before that. I have suggested to him, in strong terms, that as we return from the recess that begins tomorrow—and we return in about 10 days—that the first bill we take up be legislation about which there has emerged a bipartisan consensus.

Again, it involves legal issues, but the first bill that we take up, in my judgment, should not be asbestos litigation reform. It should be class action reform. We have debated it to some extent on the floor. We had a cloture vote on class action legislation last year. We ended up one vote short of the 60 we needed to proceed to the bill and take it up.

In the time since then, three other Democratic Senators have stepped forward and been part of a negotiation with our friends on the other side—negotiations in which Senator KOHL and I participated. I think out of those negotiations has emerged a significant improvement to the class action bill that came to the floor last year and is a path forward to enacting that legislation in the Senate the week after we return from this upcoming recess. We should take it up. We should provide a week to debate it. We should let it be like a bottle of wine, to breathe on the floor, if you will, to give Members the opportunity to offer amendments, hopefully, mostly germane. And I know there are some Members who have constructive amendments to offer. There are others who would like to offer some nongermane amendments, and I hope the other side would allow some votes on those nongermane amendments.

After a reasonable period of debate, we ought to be able to go to final passage and send that bill to the House of Representatives.

I do not believe we are at that point yet with respect to asbestos litigation. I urge Senator FRIST not to lead with asbestos litigation on April 19. Progress has been made in recent months, particularly since November, in a negotiation begun by Senator SPECTER and overseen by Judge Becker. They have been successful in getting organized labor, insurers, and manufacturers to agree on the administrative structure: Where should this fund be housed? How should people go about applying for money if they are sick or impaired? How do they go about, in a practical way, getting the help they need?

It has been a very constructive negotiation. Out of that negotiation I think a sense of trust and confidence has grown among the parties who have been negotiating under the auspices of Judge Becker and Senator SPECTER.

Previously, when the legislation was voted on, debated in committee, among the very positive things the committee did was to agree on medical criteria. It is a tough issue. They reached consensus. We have the medical criteria agreed to by the committee. We have agreement on the administrative issues, which is important. My hope is they will be agreed to by the Senate.

But there are other issues that still remain to be addressed, and they need to be resolved. I am not convinced, by a long shot, that our best bet and our smartest course is to try to resolve all of these issues, and a number of others yet to be resolved, on the Senate floor.

Let me mention a few. How much money should each individual victim receive? How much money should be contributed to the fund? How much from the insurers? How much from the manufacturers? How do we treat the several hundred thousand current claims—more than a quarter of a million current claims? What kind of

screening should be provided for workers? How do we treat railroad employees who are covered under a unique compensation system of their own? What happens if our assumptions are wrong, and the fund runs out of money 10 or 15 years from now, and people are still getting sick from their exposure to asbestos?

Those are big issues. Those are important issues. They are central to the overall premise of this bill. And despite the best efforts of all sides thus far, we do not have consensus on them, at least we do not have consensus as yet. That certainly does not mean we ought to give up, not by a long shot; quite the contrary.

Senator FRIST has said the bill he has recently introduced is not a take-it-or-leave-it offer. He said he is willing to work with Senators on both sides to improve the bill and to improve its ultimate chances of passage.

I would say again to Senator FRIST, I am anxious to be part of this solution. I know others on my side, and certainly on the Republican side, are anxious to be a part of that solution. I would call on him today to join with Senator DASCHLE in a bipartisan effort where they convene, under their auspices a negotiation that includes, among others, organized labor, the insurers, the manufacturers, and perhaps the trial bar, and get people in a room who can make some decisions, and to keep them there until most of the issues I have just gone through—at least those—are, for the most part, worked out to the satisfaction of the parties.

We hear from organized labor that more money needs to go into the fund. And $114 billion—now I think a lot of people are suggesting that is enough. It may be; it may not. On the other hand, organized labor says a number closer to what was reported out of committee—I think $153 billion—might be enough. But whether the number is $114 billion or $154 billion, there is some point there between $114 billion and $154 billion where we ought to be able to agree that those dollars—whether it is $124 billion, $134 billion, $144 billion—that those dollars are likely to be sufficient to meet the legitimate claims that are going to be submitted for people who are sick from asbestos exposure.

And there needs to be a provision that says: If somewhere down the line the fund does run out of money, there has to be a way for people who are still getting sick from their asbestos exposure to have a way to be compensated.

Some have suggested that maybe the way to do it is to let those people back into the tort system. I would suggest not this tort system, through State and local courts, but through the Federal court. So if the money ever runs out—and I hope it doesn't—people would have the opportunity to come back into the tort system.

If we take up asbestos litigation legislation that has been introduced by Senator FRIST on April 19 and immediately ask for a cloture vote, we are going to get an objection from this side for moving forward at that time. We accomplish nothing. We could take up class action on the same date. We have the votes to go to the bill. We have a bipartisan consensus to do something to make sure that when national class action litigation is brought of a national scope, of a sufficient financial magnitude, that it would be heard in a Federal court, particularly when the defendant is from a different State than the plaintiffs. We can pass that bill. We ought to. We should send it to the House and hopefully they will find favor with it. I believe they will.

But if we take up asbestos litigation at the beginning of the next period in which we are working in the Senate, we are going to end up making people angry, turning people off, raising further the sense of distrust that permeates this body. We will make no progress. My fear is we may poison the well for our ability to pass a class action bill that should move through here pretty easily.

Again, I say to Senator FRIST, reach out to Senator DASCHLE, to my leader, engage him earnestly, the two of you pulling interested parties together. I am not kidding, get them in a room and get them to stay there. If some of us can be in the room, fine. Some of our staffs that are very knowledgeable on these issues and want to see this legislation worked out, get them in the room, too, to keep the negotiating parties honest and to keep them moving. But let's put some focus on getting that negotiation done so the issues around the amount of money we need and where it should come from, what to do with those hundreds of thousands of claims that are pending, so that we can resolve those issues before we bring the bill to the floor.

Senator CORNYN has been here a little over a year now. I have been here a little bit longer than he. We both have been here long enough to see bills come to the floor that are literally worked out on the floor because the committee was not able to do it, maybe it was not possible, and we ended up writing the bill on the floor. Sometimes that works out. Sometimes it doesn't.

If we try to write the asbestos litigation on the floor on April 19, we are not going to work it out. There is value in setting a date certain when we are going to take up this bill. I don't have a calendar with me, but I think that Monday, May 17, is the last week we will be here before the Memorial Day recess. I believe that is the date we should set. I urge us then to take up asbestos litigation legislation the week of Monday, May 17.

Maybe if we have had a chance to already do good work on class action legislation in April, that will be helpful in dispelling some of the distrust and mistrust that characterizes so much of what goes on in this body and in this building these days.

A lot of Democrats and a lot of Republicans—going back to the adage we talked about in the New Testament—understand that we ought to be trying to treat other people the way we would like to be treated, whether they happen to be folks whose health is impaired, maybe their lives are threatened because of asbestos exposure, or maybe they are a company that is like Federal-Mogul that went bankrupt or an insurance company, some of which are, frankly, pretty close to the edge of remaining solvent because of their exposure over this issue. Maybe we can put ourselves in the shoes of all those different parties and make sure that whether you happen to be impaired, injured, or you happen to be an insurer or an employer, that we try to treat them with a compromise bill where we treat them the way we would want to be treated ourselves.

It is critically important that people who are sick and dying get the help they need now and that it be generous. It is important that people who may have had an exposure, who become sick from asbestos exposure, if they become sick, they get the help they need, that it is fair, generous, and prompt. It is also important that people who may have had an exposure but are not sick, as they go forward in time, their health be monitored, and that, frankly, somebody pay for that monitoring for them, and that this fund we would create under this legislation pay for medical monitoring costs so if those folks become impaired or develop the symptoms that have costs the lives of too many people, they can get the help they need and get it promptly.

By the same token, we have seen a whole lot of companies go under. They have gone into bankruptcy. Some will say: Well, they will reorganize. Everything is fine.

It is not. It is not fair to the people whose 401(k)s are in company stock, if it is gone. It is not fair to the retirees whose pensions have been reduced. It is not fair to the employees who may have lost their jobs at those companies. It is not fair to the shareholders who have lost almost everything they invested in those companies.

Finally, as we bemoan the loss of manufacturing jobs—and we have seen literally millions more manufacturing jobs lost just in the last 3 or 4 years—it is important for us to create an environment in this country where manufacturing jobs can continue to exist and we don't lose even more jobs. I am convinced there are a couple things we could do to help reverse this trend, or at least stop it in its tracks. One of them is to provide a legal system, a system of justice that makes sure when people are hurt, they are compensated and they are compensated fairly; that the folks who damage them, who have hurt them, pay their fair share.

It is also important as we do that work that we do it in a way that is fair and does not make our country an even less attractive place for companies to be in business, manufacturing businesses especially. We have to be smart enough to figure this one out.

We need to set a deadline for action, action to take the bill up here. In the 3 or 4 weeks before we do that, there needs to be continued negotiation. My view is that negotiation should be fostered and overseen by the majority and minority leaders. We don't need to take this up and do this on April 19. We need to take it up and we need to change it and improve it. We need to infuse that legislation with more consensus that may grow out of the negotiations I am encouraging. If that happens, we can pass a bill Delaware and Texas can be proud of. It will really put truth to the notion that we treated other people the way we want to be treated, whether they happened to be an asbestos victim or the company that is required to pay for their treatment.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, over the next 30 minutes or so, I have a couple of statements I want to make on important issues and, shortly thereafter, we will be adjourning for our recess.

I had the opportunity to hear most of the comments from the Senator from Delaware, who, as he knows, I respect tremendously on a whole range of issues, but in particular his commitment to doggedly working these issues of class action and asbestos, issues that are so important to the American people. He and I have had many discussions in terms of approach and how best to address the issues. It is frustrating for me, obviously, in many ways in trying to schedule a lot of legislation that is important for us to have to stop or to switch and sequence these pieces of legislation. Two of those pieces he mentioned—the asbestos legislation and class action—are two that I hope we can address. Although it is difficult on the floor of the Senate to fully address them, it is harder in committee. Both have been addressed in committee. The issues on each have taken a different course.

Although no final decision is made, part of the reason for introducing a revised asbestos bill last night was that people who care very much about this issue—the 100 people in this body, and others who will be impacted by this significant piece of legislation—will be able to read a current document that I think is improved in many ways. Others may disagree, and that is why we need time to look at it and discuss it. But in the area of administration of the bill itself, there has been a lot more discussion since the asbestos bill was marked up in committee. Those have been incorporated. There have been other changes we need to debate and discuss. We can argue about the most appropriate forum. You can take it back through committee, or you can do it on the floor of the Senate, where everybody can be involved.

Since we have given it one good shot through committee, I think it is time to take the improved product, put it out there, which is what we have done, and let people digest it and discuss it, starting today. That was the whole purpose of introducing it. Then we will see over the next 8 to 10 days. Hopefully, people will be getting together. I will make that commitment to the Senator. He has appealed to common sense that we get together on both sides of the aisle with leadership. I will do that.

I am confident that in the end, we are going to be able to work through a lot of these issues. He enumerated the issues that were addressed in committee, which made it a good bill, and the issues that need to be addressed, whether it is the size of the fund or payout of the fund, the level 7 type criteria, a whole range of things I think we can address.

We have addressed class action on the floor of the Senate. It was debated and we had good debate here and in committee. There it was blocked. We had a filibuster here. We can, again, argue why there was a filibuster, but it was filibustered. We tried it. Since then, we have gone back and worked together and have improved the product. My challenge is to bring that improved product, where there are probably more than 60 votes, to the floor, but do it in a way that we can stay on the bill, have germane amendments, improve the bill, debate it, and vote on it.

My problem, as my distinguished colleague knows, is that nobody can make that commitment. He and others have seen, without that sort of commitment, what happens. It has happened with the FSC/ETI JOBS bill, which we will be talking about shortly. We spent 3 weeks on that, and we would start and stop and start and stop, starting with 75 amendments on one side, and we may have had 75 on our side, I don't know. But it has been overwhelming. Now we are 3 weeks into that bill, and finally we are going to come to some agreement on a universe of amendments. On class action, we were unsuccessful. So I will shift to asbestos and see what we can do there by working together. Then we will come back to class action. I heard loud and clear the rationale of why we can't consider class action now, so I have decided another course. There is no agreement to address it yet. I express my willingness to work on these issues.

Even though it is a very partisan environment and we have campaigns and it is an election year, if I look at what has been filibustered—the JOBS Act, Welfare Reform Act, energy, medical liability, FSC/ETI, which were all filibustered—you almost say we are not going to get anything done. But we can. We can make progress on the JOBS bill here shortly, and I think also on these important tort-type issues where we know we can do better and we can make progress as well.

So I thank my colleague. I don't think there is anybody in the body who has worked harder on these issues on a personal basis to try to move America forward on the issues, recognizing there has to be give and take. Nobody has the perfect answer. My purpose last night was to introduce a product we can look at and debate and approve. We have that opportunity, over the next 8, 9, or 10 days, to do that.

We need to get everybody to the table, not excluding anybody, and to really make it work. There is no way to pass a bill right now unless we get people to the table. Unless we are going to get more than 60 people—but even 60 people isn't much—you have to have people as committed as the Senator from Delaware.

Mr. President, I want to comment on a public health issue. I know people say every time I get up, I am taking a health issue. It is important to me personally, but also to the American people, to address issues that don't necessarily make it to the front page every day which ultimately impact people's lives, some of whom don't have anybody speaking for them directly all the time. But also there are so many issues in health care that, if you shine a spotlight on them, people say, that makes sense; let's do something about that.

One such issue centers on the fact that this week is National Public Health Week. It started in the early part of the week and runs throughout the week. It is a week during which health care professionals and the public at large, hopefully, take the time to reflect on the successes of our public health system and examine ways it can be improved.

As a physician and one who has spent 20 years in the field of health, I have always admired our public health system. I think our country has underinvested in it in the last 10 or 15 years. But I think as people look at issues like bioterrorism, the threat of biological agents, and chemical agents, and emerging infectious diseases such as SARS, HIV/AIDS, people realize that the frontline of defense is our public health system. With regard to Public Health Week, the American Public Health Association has focused its efforts this year on raising public awareness about health disparities, along with a short list of issues. I want to focus my remarks on the health disparities.

Each day over the course of this week, the national association has convened a townhall discussion in a different city to highlight an aspect of this topic of health disparities. People say: What is Dr. FRIST talking about? It is the disparities, the differences that center on race, on ethnicity, on geography—where somebody lives, whether it is in a city, a rural area, or different parts of the country—or health care disparities that center on health literacy, how educated you are to understand what is being told to you about health care, your own health care, the environment and chronic disease, all of which have these disparities

which, if we shine the light, we would probably eliminate a large number of them.

Two days ago on Tuesday, the American Public Health Association held a townhall meeting in Memphis, TN, to highlight rural health disparities, one of those geographic disparities that affect people in ways that may not always be obvious. I want to take a moment and acknowledge several people: The Honorable Dr. W. W. Herenton, mayor of Memphis, the Honorable A. C. Wharton, mayor of Shelby County, as well as all the other many distinguished participants and sponsors of this successful event, including another good friend, a former classmate of mine, a medical colleague when I practiced medicine, Dr. Kenneth S. Robinson, who is now commissioner of the Tennessee Department of Health; Georges Benjamin, M.D., executive director of the American Public Health Association; Pat Santel, president of the Tennessee Public Health Association; Shavetta Conner, M.D., regional medical officer, west region, Tennessee Department of Health; Robin J. Womeodu, M.D., executive director, Center on Health Disparities, University of Tennessee; the Rural Health Association of Tennessee; the Tennessee Hospital Alliance, as well as TennCare.

I especially wish to commend APHA, the American Public Health Association, for taking time to hold this particular meeting in Tennessee and for their efforts to bring a comprehensive approach to the problem of health disparities.

I strongly believe any health care disparity among our citizens is simply unacceptable. No patient should be denied quality health care because of their race, where they live, what their ethnicity is, what their gender is, or their socioeconomic status.

Consider some of the facts, and once you hear these facts, you will see why I believe it is unacceptable, there is no good reason for it, and almost all of these have reasons we can address that can change the disparity.

Even when socioeconomic status is equal, the mortality rates are higher among African Americans and American Indians than among other groups.

My own speciality of heart disease—heart disease is, by the way, the leading cause of death in the United States. Heart disease mortality rates are almost twice as high among African Americans as among Whites. Even when we examine heart disease mortality by socioeconomic status, the differences between African Americans and Whites, though significantly reduced, are not eliminated.

African-American and Hispanic women both experience a higher prevalence of diabetes when we compare those groups to White women.

New studies indicate 70 percent of American Indians live in urban areas, and nearly 1 in 4 of these live below the poverty level, and nearly half below 200 percent of the Federal poverty level. These rates are substantially higher than the rates for all other races combined.

I mentioned income and geography. When we look at the disparities, both income and geography play a major role. For example, African-American men with incomes less than $10,000 have a heart disease mortality rate that is nearly 3 times that of their counterparts with incomes greater than $15,000.

Geography is also important. Twenty percent of the U.S. population lives in rural areas. These rural communities often experience poorer overall health status than many urban communities. Notably, residents of rural communities have higher rates of chronic illnesses, such as diabetes mellitus and cardiovascular disease. They also have higher rates of disability.

The reasons for these rural disparities are many. They include factors such as transportation difficulties, lack of physicians, and lack of other health services. Often the health care services that are available are much more limited than those services available to their urban counterparts, to their counterparts in the cities. Also, residents who are in rural areas are much more likely to be uninsured than those in urban areas.

Last year in a speech at Morehouse University, I laid out a plan to combat these health disparities. Since that time, I reached out broadly to a whole range of constituencies, working with stakeholders and national leaders to gather input and ideas. Together we are working to ensure my proposed legislation includes the very best possible strategies to eliminate these health disparities.

These efforts culminated in the introduction earlier this year of major bipartisan legislation. Two months ago, I joined with Senator MARY LANDRIEU, Senator THAD COCHRAN, Senator MIKE DEWINE, Senator CHRISTOPHER BOND, Senator JAMES TALENT, and Senator KAY BAILEY HUTCHISON to introduce Closing the Health Care Gap Act of 2004. This legislation builds on past bipartisan efforts to address disparities, most importantly the Minority Health and Health Disparities Research and Education Act of 2000.

In this legislation, we target five key areas. First, expanding access to quality health care; two, strengthening national efforts and coordination; three, helping increase the diversity of those health professionals who are active; four, promoting more aggressive health professional education that is intended specifically to reduce the barriers to health care, several of which I have already mentioned; and five, enhancing the research to identify sources of those disparities—racial disparities, ethnic disparities, and geographic disparities—and also to assess the intervention strategies we know today are quite promising.

In addition, in closing, we know reducing and eliminating health care disparities is not going to be easy. It is going to be a huge challenge before us. Even a lot of the conversations we must have as a society are very difficult, but we must try, and I believe we can do so.

When we engage in this debate, even in the heat of an election year, all of us need to keep in mind the stakes could not be higher. We are talking about the health and the lives of our fellow Americans. The only way we can make progress toward ending health disparities is by forging bipartisan solutions.

Again, I commend the APHA for focusing this entire week on health care disparities. I also appreciate the efforts they have made to support this bipartisan legislation in this arena of health disparities.

I look forward to working with the APHA and all of my colleagues to continue to work to combat the health care disparities that currently do plague our American health care system and, as long as those disparities exist, hurt innocent people.

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. SMITH). Without objection, it is so ordered.

INSOURCING AND OUTSOURCING OF JOBS

Mr. FRIST. Mr. President, I will take another few moments to talk on a separate issue that centers on a topic that has been the subject of a lot of debate and a lot of discussion on the Senate floor and elsewhere. It is the overall topic, the phenomenon of outsourcing. Critics contend that a company's effort to deliver a product or service more cheaply and efficiently to the American consumer is hurting our economy and hurting America's workers. Indeed, this has become fodder for sound bites that I think are not justified and thus want to take a few moments to talk more broadly about what outsourcing is and what it is not.

I should begin by starting with the flip side of outsourcing and that is insourcing. What is ''insourcing''? What is this phenomenon of insourcing? Well, it has been a company such as Nissan opens a plant in the United States and thereby creates high-paying jobs for American workers to the benefit of those American workers. In fact, that is the very thing that happened in Tennessee when, in 1980, Nissan opened its first plant in Smyrna. In the 1970s, Tennessee, like the rest of the country, was struggling with high unemployment several times the current rate of 5.6 percent. Then Nissan opened a manufacturing plant in Rutherford County and Rutherford County then went into high gear.

A few years later, Saturn announced it was opening a plant, and today middle Tennessee is home to three major automobile factories. Nissan today employs roughly 7,400 workers and in the year 2000 paid out $27.7 million a month in payroll. That is insourcing.

Mark Herbison of the county's chamber of commerce says with understandable home pride:

> We continue to see our existing companies grow and expand. That is because of our quality of workforce here. If you look at the Nissan plant, in 9 out of the last 10 years, they've been ranked the most productive automotive plant in North America.

Because of increased demand for Nissan cars, the company has spent $1 billion to expand its Smyrna and Decherd plants. Production in Smyrna was up 40 percent in February. Moreover, Nissan's success has extended by spurring growth of a number of companies that in turn supply the plant. There are now more than 900 suppliers providing 140,000 jobs in the State.

The Nashville Business Journal reports that based on its success in manufacturing, Rutherford County is now branching out to attract more white-collar jobs.

Nissan is just one success of how insourcing has led to job growth. Over 400 overseas companies have U.S. subsidiaries that are employing and creating jobs just in my home State of Tennessee.

The Swedish company Electrolux, previously known as Frigidaire, has a Springfield operation that employs 2,900 workers. If one looks at the size of these companies and the range, they will see there is a broad spectrum. In Australia, a corrugated box company operates a small outpost in Humboldt; a Netherlands food preparation company has an office in Chattanooga that employs 175 called Bunge Foods.

Insourcing has, indeed, brought good jobs and good wages to Tennessee. Over 157,000 jobs in Tennessee are the result of insourcing. That is the flip side of outsourcing. U.S. subsidiaries support nearly 7 percent of Tennessee's private sector workforce.

One might ask why do companies come to the United States of America, come to Tennessee, to create jobs and manufacture their products? Because company after company has found that insourcing is a boon to their bottom line. In turn, Tennessee workers get more and pay less for their products and the services they purchase.

There is a second aspect to this whole discussion of world trade that has gotten overlooked in the debate, and that is the growth of American exports. Again, Tennessee has been a major beneficiary of the opening of foreign markets.

In 2002, Tennessee exported more than $11.6 billion worth of goods, up nearly 26 percent from 1997. Tennessee exports support 232,000 local jobs, nearly one-tenth the State's total labor force, and over the last 5 years the average Tennessean exporter increased sales by nearly 16 percent, selling over $2 million in goods each year to foreign consumers.

Even more notably, export-supporting jobs paid 13 to 18 percent more on average than nonexport jobs. Our focus should be to expand economic growth and promote higher wages, not to impose sanctions and restrictions on America's job creators.

Listen to the words of Dyer County farmer Jim Moody. He tells a local Memphis paper: We've got to have exports to survive and do well.

Farmer Moody is right, and it is not just his farm that benefits from increasing exports. It is every American who gets a good job, who gets a higher wage, and every American consumer who is thereby able to stretch their dollar a little bit further, sometimes a whole lot further.

As we have all seen, especially recently in the last 6 months, our economy over the last measured 6 months is growing faster than it has in the last 20 years. America has a dynamic economy. It is true that as this economy, because of its dynamism, because of its flexibility, because of its ability to adapt, expands it at times has to shift resources, thereby resulting in dislocations. Hopefully, the dislocations are temporary. That is why it is so important for us to focus on workforce development and training.

There is no question that in these dislocations workers are hurt, those who are dislocated for a period of time, but our responsibility in Government, on the Senate floor, is to respond and support them, and support them with programs of retraining, education, and of allowing these workers to adapt to this new environment.

Workers who are dislocated need to be trained to find a new job but also to work at that new job. Luckily, there are a whole range of public and private sector programs that are available. According to the Government Accounting Office, there are 44 federally funded programs today that provide employment and training services. In 2002, Congress spent more than $12 billion on employment and training activities, aiding 30 million Americans with a whole range of services such as job search assistance, employment counseling, basic adult literacy, vocational training. The list goes on.

The Trade Adjustment Assistance Act was expanded in 2002 to provide even more generous assistance for workers who lose their jobs because of import competition or because of shift of production to another country.

Similarly, Congress has invested over $27 billion in training, under the Workforce Investment Act. That act went into effect in 2000, and it is over $27 billion since that point in time. Its hallmark is the one-stop career center, and that provides job seekers with a single location to access a whole host of resources, including unemployment insurance, job market information, job training, and job search assistance.

We reauthorized the bill last year with strong bipartisan support in this body, the Senate. But, unfortunately, the Senate Democrats have blocked this bill from going to conference. Again, we passed it—I think it was even unanimous—in the Senate, and the House has passed such a bill. But right now we are being blocked from going to conference. As a result, they are holding up a vital and much needed improvement to the program that spends more than $5 billion a year on job training and other valuable assistance.

People say they want to help workers. But by blocking us going to conference on these bills, that, again, passed the House and the Senate, it is more just talk where we need to deliver that action. That is what the American people want. That is what they need. It is what they deserve. So again I appeal to the other side of the aisle, please let us go to conference on this important bill for the good of the American people.

We need to help workers find good-paying jobs, to retrain them if they need it, to get the support they need, to get them back on their feet. Every American who needs a job should be able to get a job. We should be willing to work hard together to expand the economy and to tackle whatever structural problems exist that hinder job creation.

You have seen numerous attempts on the floor of the Senate, most recently a couple of days ago, that are aimed at controlling things such as litigation, unnecessary litigation costs that do, in effect, cripple economies, both at the macro and the micro level. It is estimated that frivolous lawsuits in this country today are costing the economy $200 billion a year. If you assume a salary of, say, $50,000 a year, that is the equivalent of 4 million jobs caused by frivolous lawsuits—4 million jobs that could lower the unemployment rate.

We see the effects of frivolous lawsuits most dramatically in my own profession. You see it across the board, and we debated it again on the floor yesterday, and we were unsuccessful, with a filibuster of that particular legislation. But we talked a lot about the issues in terms of the impact on people—expectant mothers, in terms of their access to obstetricians. We looked at it in terms of trauma units and emergency rooms, where specialists, high-risk specialists are simply saying they can't afford the malpractice insurance that is being charged to them and therefore are not going to take trauma anymore, and not going to work in emergency rooms anymore because they simply cannot afford that insurance. That ends up affecting the health care of all of us—all of us who might need that emergency room tonight or their trauma center tomorrow or that mom or expectant mom who needs an obstetrician.

We find doctors who are moving. We find doctors in Pennsylvania moving

out to California and moving down South because of medical liability. We find doctors leaving their local communities. We find doctors, in fact, even retiring from medicine.

A recent study by a University of Nevada Medical School professor found that 42 percent of obstetricians are planning to move their practices out of southern Nevada. And if they do, Las Vegas will have 78 obstetricians to deliver 23,000 babies each year. So how many babies will get medical care and how many babies will not get medical care if that is to occur?

These are the real-life consequences of surreal courtroom dramas that take place. It is the reality of today. That is why, on this particular issue—although it was filibustered yesterday and was filibustered about 2 months ago and was filibustered back in July—we are going to continue to bring it back because it is reality today. It is affecting people's lives.

The Senator from Delaware was just on the floor talking about the out-of-control asbestos lawsuits. There, once again, you see effects that are very similar in that they are severe and the people who most need help no longer are getting that help. The approximately 600,000 claims that have been filed have already cost $54 billion in litigation costs, in judgments, in settlements.

Over 70 companies so far have declared bankruptcy under the crush of asbestos lawsuits. It is a problem that is bad. It has gotten worse in recent years. In the very recent years it has even gotten worse in terms of the bankruptcies, in terms of the money not reaching the victims themselves or even the potential victims but being siphoned off by frivolous suits by people who may be a little less scrupulous than any of us would like.

More than a third of the bankruptcies have taken place in the last 3 years. In other words, it is getting worse and worse. These are huge companies: Johns Manville, Owens Corning, US Gypsum, WR Grace; over 90 percent of American industries are in some way affected. Even companies that have little or no direct connection to asbestos are now being targeted for legal annihilation. Asbestos-related bankruptcies have already cost more than 60,000 jobs.

It is a broken system. The reason we plan in the future bringing it to the floor—I introduced the bill with Chairman HATCH last night—is that we must make progress. I believe we have the responsibility to address this unfair system that is hurting the American people. I know we have the power to do it. Now we just need to show that we have the will.

What started out as a quest for justice in the courts has, unfortunately, evolved into a wild litigation lottery, but it is something we can fix and I believe we will fix. I will have to say in the lottery today—this out-of-control lottery that has now become the sort of system itself—there is only one winner, and that is plaintiffs' trial lawyers. It is not the victim or the person who is potentially hurt. People who are hurt by the negligence of others deserve justice. But so do people who are hurt by a system that is driving doctors out of the practice of medicine, that is driving companies out of business, and driving jobs out of the economy.

Every day we encourage America's job creators to grow and expand and to compete in this world market. Yet at the same time we are burdening them with unnecessary, and I would argue unfair, litigation practices that ultimately amount to a hefty tax, which makes them less competitive in the world marketplace.

In the manufacturing sector we have spent so much time on the FSC/ETI bill and the JOBS bill, talking about them, saying we must address them. It is reported that excessive regulations have added 22.4 percent to the cost of doing business.

In closing, if we want American companies to be competitive, which we all do, if we want them to be strong, if we want them to be vital, if we want them to grow, if we want them to create jobs, we have an obligation, too, and we need to make the system fair.

We can't ask these companies to run this great race to prosperity and then bind them up at the same time in miles and miles of redtape and unnecessary, frivolous lawsuits.

America's entrepreneurs are smart, they are dynamic, they are productive, they are highly competitive. And so are America's workers. We need to pursue policies that allow us both to maximize their potential, and also their prosperity potential. We need to pursue policies that, indeed, keep America moving forward.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I simply want to congratulate the majority leader on a speech filled with a lot of common sense. I would like to hear more of that these days and will just take 3 or 4 minutes to go back over what I heard and emphasize it.

On the first point, all the talk about jobs comes down to jobs training. We know in this country, and we have known it for years, that our economy is characterized by losing jobs and gaining jobs.

I remember 25 years ago during my first year as Governor; I went down to Memphis to try to persuade the International Harvester plant not to close. I got my picture in the paper and pats on my back. I went back to Nashville. The next day they closed.

I realized if all I was doing was going around having my picture made in front of plants that closed I wouldn't be much of a Governor.

The more I study, I realize we literally will lose 6 or 7 percent of our jobs every year in Tennessee and in this country. The key to success is whether we replace them with better jobs. The key to that is whether we educate American men and women who are in one job to get a better job. That is painful. That is hard. That is not easy. But that is the truth.

The President's proposal about community colleges and the workforce bill, which is being held up, are good antidotes to that.

Second, on the majority leader's comments on insourcing, he is exactly right about that. We don't want to say: Nissan, go home from Smyrna, TN; Toyota, don't build that plant in San Antonio; Honda, go home from Ohio.

In our State alone, as was pointed out, over the last 20 years the coming of the auto industry to Tennessee has raised our family income from 80 percent of the national average to 100 percent of the national average. It has been led by foreign companies. If they can't come here, we can't go there. This is a two-way world.

The last thing the majority leader said is exactly right. We should learn our lesson in the way we are insourcing. If you go to Europe, you hear a lot of people talking about outsourcing there. They are outsourcing brains to the United States because they are coming to our universities. We have created an environment in which we can grow the best universities in the world, and we have done it. We can create the same environment in the United States for the best jobs in the world.

We can do that by passing a lot of legislation that is being held up here by the other side: legislation to reduce the cost of energy, the Energy bill; legislation that would lower the corporate tax on manufacturing—that is the JOBS bill being held up; legislation that would reduce runaway lawsuits and reduce costs on business. The majority leader brought that up several times. Legislation that would solve the asbestos problem would reduce costs on business.

By reducing costs and encouraging education, we can create the same sort of environment that will insource new good jobs into America just as we have created the best universities in the world and insourcing the best brains in the world that are coming to the U.S. because they are attracted here.

I hope I hear more of that kind of commonsense language, not just from the majority leader but from more and more Senators on both sides of the aisle.

I wanted to compliment him and congratulate him for his remarks.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS CONSENT AGREEMENT—S. 1637

Mr. FRIST. I ask unanimous consent that the pending first-degree amendment to the motion to recommit be withdrawn; I further ask unanimous consent that the motion to recommit

be agreed to, and the substitute amendment then be agreed to and be considered as original text for the purpose of further amendment.

I further ask unanimous consent that when the Senate returns to the bill Senator HARKIN or his designee be recognized in order to offer his amendment relating to overtime.

I further ask unanimous consent that the following list of amendments that I send to the desk be the only remaining first-degree amendments to the bill; provided further that they be subject to the second degrees which are to be relevant to the amendment to which they are offered.

I finally ask unanimous consent that following the disposition of the amendments the bill be read the third time and the Senate proceed to a vote on passage of the bill with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The list of the amendments is as follows:

Alexander—pollution control
Allen—TAA Housing
Baucus—Managers' Amendments
Bayh—Applying anti-subsidy laws to non-market economy
Bingaman—Medical student matching program
Bingaman—Outsourcing
Breaux/Feinstein—Re-patriation
Cantwell—UI (separate vote guarantee)
Clinton—Privacy of information
Coleman-Customs
Coleman—TAA
Collins—Manufacture jobs tax credit
Corzine—Trade barriers
Daschle—5 relevant or relevant to the list
Dayton—Credit for making motion picture accessible for hearing impaired
Dorgan/Mikulski—Runaway plants/Notification
Feingold—Buy American provisions
Frist—5 relevant or relevant to the list
Frist or designee—UI
Graham (Florida)—Repeal of international title
Graham (Florida)—Strike international manufacturing and replace with job credit
Grassley—Family Oppt. Act
Grassley—Managers' amendments
Harkin/Wyden—No tax deduction for outsourcing
Harkin—Overtime
Hollings—Strike all international provisions
Hutchison—Architects/Engineers
Kennedy—Multi-Employer pensions
Kyl—Contract Manufacturing
Kyl—Strike energy
Landrieu—Reservists
Lautenberg—Foreign subsidiaries doing business with terrorist nations
Levin—Advanced technology vehicle incentives
Levin—Tax shelters
McCain—20 relevant
McConnell—3 relevant
McConnell—Overtime
Miller/Schumer—Green bonds
Nickles—Corporate rate
Nickles—Electricity depreciation
Nickles/Kyl—Death tax
Nickles—Family tax relief extension
Reed—CARE (Senate passed bill) as modified
Reid—3 relevant
Santorum—CARE
Santorum—Sec. 29 Coke
Schumer—China
Specter—Cotton trust fund
Specter—Manufacture legacy costs
Talent—Sickle Cell
Wyden/Coleman/Rockefeller—TAA for service & health care

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to 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.

HONORING OUR ARMED FORCES

SGT DAVID M. MCKEEVER

Mr. HAGEL. Mr. President, I rise to express my sympathy over the loss of David M. McKeever, a sergeant in the United States Army. Sergeant McKeever was killed on April 5, 2004, in Baghdad, Iraq, when his Army unit was ambushed while guarding a hospital. He had 15 days left in Iraq when he was killed. He was 25 years old.

Sergeant McKeever was assigned to the 1st Armored Division and had been recently promoted from the rank of specialist to sergeant. He was stationed at Fort Carson in Colorado Springs, CO before later moving to the Army base at Giessen, Germany in September 2002. He was one of thousands of brave American service men and women serving in Iraq who confront danger every day. Their tremendous risks and sacrifices must never be taken for granted.

His wife, Niki, grew up in Kearney, NE. Last October, Sergeant McKeever, a Buffalo, NY native, visited family in Kearney while on leave. Sergeant McKeever leaves behind his wife; son, Dylan, now 1 year old; parents, David T. and Carol of Buffalo; brother, Thomas; and four older sisters. Our thoughts and prayers are with all of them at this difficult time. America is proud of David M. McKeever's service and mourns his loss.

Sergeant McKeever will be buried in Kearney. He will be remembered as a dedicated soldier with an optimistic outlook on life.

For his service, bravery, and sacrifice, I ask my colleagues to join me and all Americans in honoring Sergeant McKeever.

U.S. ARMY PFC CLESTON C. RANEY

Mr. CRAPO. Mr. President, I rise today with great sadness and tremendous gratitude to honor the life of a brave young soldier from Idaho. U.S. Army PFC Cleston C. Raney of Rupert was only 20 when, on March 31, 2004, he lost his life in Iraq. Private Raney was killed by a roadside bomb doing what he considered his duty: fighting for the freedoms we all hold dear. Today, I recognize his service and express my sincere condolences to the family and friends of this exceptional young man.

Private Raney was born in Twin Falls, ID, and attended school in Rupert and Burley. Driven by a strong sense of purpose, he joined the Army in November of 2002 and began his military career as a combat engineer in Fort Riley, KS, in April 2003. In September 2003 he was deployed to Iraq. He served honorably until his death.

Private Raney's death was part of the deadliest day of the war for the Army's 1st Infantry Division, stationed at Fort Riley, KS. Four fellow soldiers from the same division were also killed. This fact underscores the great threats that continue to face our young men and women in the Armed forces. It is also a testament to their great bravery, commitment, and resolve. Private Raney's death was the ultimate sacrifice by a brave young America, made so that we and others around the world can live in freedom.

His family is very private and has asked that the media allow them to grieve without the glare of cameras and the insistent questioning from reporters, but they did share some thoughts publicly about Cleston and his love of life and family. He was a young man at the beginning of so many opportunities in his life. He loved his family and enjoyed participating in activities with them, particularly beating his cousin Gina at pool. He was so typical of many 20-year-old young men, and yet his sacrifice for his country is anything but typical.

Private Raney's decision to serve our country places him in my highest esteem. With gravity and sincerity, I honor him. My thoughts and prayers are with his grieving loved ones as they work to find peace in this difficult time. I know my colleagues here in Congress and many Americans throughout our country do the same.

CLOTURE VOTES ON S. 2207 AND S. 1637

Mr. LIEBERMAN. Mr. President I rise to discuss S. 2207, Pregnancy and Trauma Care Access Protection Act of 2004, and S. 1637, the Jumpstart our Business Strength (JOBS) Act. Unfortunately I did not have an opportunity to cast a cloture vote yesterday on S. 2207 due to my observance of Passover in Connecticut. The medical malpractice problem is a difficult issue and one about which I have long been concerned. We need to strike the appropriate balance so that we have a system that ensures those harmed by medical negligence are justly compensated while at the same time not set up a system that unnecessarily inflates insurance rates. I have long sought to address this issue in a fair and rational way. For instance, I authored several bipartisan and balanced reform bills with Senator MCCONNELL in the past. Unfortunately, the bills that have been before the Senate this Congress have been neither bipartisan nor balanced.

This includes the Pregnancy and Trauma Care Access Protection Act of 2004. S. 2207 goes further than necessary and than advertised, offering

limited liability not only to doctors, but also to medical device manufacturers and drug companies. Furthermore, the $250,000 cap on noneconomic damages included in this bill may often prove too low for many seriously harmed patients. I believe in meaningful and fair medical malpractice reform; but this bill and the others debated on the floor this session simply do not fit that description. For these reasons I would have voted against cloture for S. 2207, which failed to receive the needed 60 votes by 49 to 48.

I was also unable to cast a second cloture vote on a motion to recommit S. 1637, the ''Jumpstart our Business Strength (JOBS) Act,'' a bill to repeal the foreign sales corporation tax regime, and its successor, the extraterritorial income tax regime, that have been found to be an illegal export subsidy by the World Trade Organization. I voted against the first cloture filing on March 24 and, had I been present on April 7, I would also have voted against cloture. The cloture vote failed to meet the 60-vote threshold by 50 to 47. I support many of the provisions of the underlying bill, S. 1637, which provides tax relief to domestic manufacturers, curtails abusive tax shelters, and contains a number of international tax simplification and reform measures.

Cloture would have prevented debate on a number of amendments that deserve to be debated and voted upon. The Senate must renew efforts to bring the FSC/ETI bill to the floor, to pass S. 1637, while at the same time allowing open debate and votes on issues of importance to American employees.

LOCAL LAW ENFORCEMENT ACT OF 2001

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 February 2004, two gay men visiting from Washington State were attacked by four men and one woman outside a popular bar in Government Camp, OR. Investigators believe the two men were attacked because of their sexual orientation and are pursuing leads in the search for the suspects. The five suspects are charged with first-degree intimidation.

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.

THE IRS TAX GAP

Mr. BAUCUS. Mr. President, in the next week, millions of Americans will do their duty, obey the law, and complete their income tax returns. Although this is clearly one of our citizens' least favorite annual rituals, most taxpayers will do what's right and provide their share of funding to keep our national government running.

But while these honest Americans are doing their part, a number of others are trying to get by without doing theirs. And that's what I would like to talk about this afternoon.

Some call it the ''tax gap''—the difference between the amount of taxes that taxpayers actually owe to the Federal Government and the amount of taxes that taxpayers actually pay to the Federal Government.

This is not about raising taxes. This is about enforcing the tax laws on the books. This is about collecting the taxes that are owed to the Treasury under the existing Tax Code.

While most Americans, with quiet patriotism, file their tax returns and pay their taxes on time, too many do not. There are a number of ways that these folks try to skirt the law: Some don't file their returns. Others understate their incomes. Still others take excessive or illegal deductions. And there are those who claim fictitious refunds.

Unfortunately, there is a growing perception among honest taxpayers that a large number of people are cheating the tax collector—and getting away with it. The IRS Oversight Board Annual Survey on Taxpayer Attitudes reported that the proportion of Americans who ''completely agree' that it is all Americans' civic duty to pay their fair share of taxes has steadily declined.

In 1999, 81 percent of Americans agreed that it's their duty to pay taxes. In 2002, only 72 agreed with that statement. And last year, that group fell to just 68 percent of the population.

This trend is very distributing, but it is also very clear. More and more people believe that cheating is acceptable.

As if this public attitude were not disturbing enough, the growing lack of taxpayer compliance jeopardizes the voluntary tax system on which our government depends. American taxpayers who voluntarily pay their fair share of the country's revenue will not support a tax system that tolerates widespread cheating.

Taxpayers expect their Government to ensure that all pay their fair share. Not one dime more, but not one dime less. The millions of honest taxpayers deserve no less.

The National Taxpayer Advocate estimated that the tax gap for 2001 was $311 billion. But this is based on 16-year-old data from 1988. There is every likelihood that the tax gap is significantly higher. It certainly isn't less.

For the taxable years 2001 to 2003, the cumulative tax gap exceeded a trillion dollars. In other words, if all individuals and corporations fully paid all of their taxes due for the past 3 years, the IRS could collect an additional $1 trillion.

This huge level of unpaid taxes is harmful to law-abiding Americans and to the economy as a whole. Just as retail stores raise prices for honest shoppers after they lose merchandise due to shoplifting, honest taxpayers pay more to cover those who aren't paying their share.

In terms of the economy, each dollar in unpaid taxes increases the deficit by a dollar. The administration predicts that the deficit will be cut in half in the next 5 years. But since the administration took office, the cumulative IRS tax gap has exceeded $1 trillion. Let me say that again: $1 trillion. This is enough to help shore up Social Security, pay for the war in Iraq, ensure that no child is left behind, fix the highways and extend unemployment insurance.

Currently, the overall taxpayer noncompliance rate is 15 percent and growing. The plain fact is that voluntary compliance has been and remains the backbone of our tax system. Our primary mission must be to maintain and enhance the health of that system by encouraging and facilitating voluntary compliance with our tax laws. A 1-percent point swing in voluntary compliance will increase, or decrease, revenues each year by more than $20 billion.

Our Federal budget has gone from one of the greatest surpluses in its history to the highest deficit ever known—$478 billion—close to half a trillion dollars in the current fiscal year.

Now more than ever we need a plan of action to close the IRS tax gap. I propose the following:

First, let's make it easier for people to pay their taxes. Our Federal Tax Code and accompanying regulations are more than 54,000 pages long. They are too complex, confusing, and costly to comply with. In addition to making the code simpler for individual taxpayers, simplification would reduce opportunities for dishonesty. Tax shelters develop because sections of the lengthy code are manipulated to achieve unwarranted tax benefits.

That is why I support a broadly based blue ribbon commission that would recommend simplifications for our income tax system that we could act on.

Second, we need better data on noncompliance. To fix a problem, you have to know the facts. I support the National Research Program that would allow us to have a more accurate estimate of the IRS tax gap and should help IRS identify where they should target their enforcement efforts.

Third, the IRS needs to do a better job enforcing our current tax laws. And that may take Congress passing legislation forcing them to take stronger action. Bills such as the good Government tax administration bill would improve efficiency and strengthen safeguards in IRS collection cases. And in

the JOBS bill—which I am optimistic we will pass in the very near future—we have included antitax shelter legislation that will make sure transactions are done for legitimate business reasons and not solely for tax benefits.

We have also included provisions that would impose stiffer penalties on any taxpayers who engage in shelter transactions. It is also time to crack down on expatriation practices, corporate inversions, SILOs, abuses in the charitable area, Enron-related tax shelters, and offshore abusive tax schemes. And we should devote more resources to IRS enforcement. Dollars spent there will bring in several times as much in additional revenue raised.

And last, but certainly not least, we need to set a goal, a benchmark of where we are going on tax compliance. Today, I proposed that we reach at least a 90 percent tax compliance rate by the end of the decade. By 2010, at least 90 percent of Americans should be filing their taxes and paying their dues. It is not too much to ask. Now, it will not be easy, but that does not mean that it cannot be done. I know we can achieve it through the methods I just outlined.

With the growing deficit and the upcoming retirement of the baby boom generation, increasing tax compliance is more important than ever. And it is also one of the easiest ways to raise more revenue for our Nation. We are not talking about raising taxes—we are simply asking all Americans to pay their fair share as citizens of this great Nation. By reaching a 90-percent compliance rate, we would raise at least $100 billion more each year. This funding would go a long way toward strengthening Social Security or helping our classrooms or paying down the deficit.

April 15 is just around the corner. I encourage every citizen to do what is right, to stand up for your country and make your contribution. Here in Congress, we will keep working to make it easier for our honest taxpayers to comply and to make it harder for those dishonest folks to cheat the system. Together, we will seal the tax gap and help the economy.

SENATOR BOXER'S TRIGGER LOCK AMENDMENT

Mr. LEVIN. Mr. President, last month the Senate considered and passed the Boxer trigger lock amendment by a 70–27 vote. Senator BOXER's amendment would require that all handguns sold by a dealer come with a child safety device, such as a lock, a lock box, or technology built into the gun itself. Further, it would direct the Consumer Product Safety Commission to develop standards for child safety devices. The need for this legislation is clear, and I supported its passage.

According to the Brady Campaign to Prevent Gun Violence, each year teenagers and children are involved in more than 10,000 accidental shootings in which close to 800 people die. Further, about 1,500 children age 14 and under are treated in hospital emergency rooms for unintentional firearm injuries. About 38 percent of them have injuries severe enough to require hospitalization.

In addition to accidental shootings, according to the Brady Campaign, every year 1,300 children use firearms to commit suicide. Unlike suicide attempts using other methods, suicide attempts with guns are nearly always fatal. These children are given no second chance.

It does not have to be this way. If gun manufacturers put locking or other safety mechanisms on guns, or dealers sold handguns with safety devices, many shootings could be avoided, and fewer children would die each year.

The gun industry immunity legislation, to which Senator BOXER's amendment was attached, would have provided unprecedented protection from liability to gun manufacturers and dealers, even in cases where their own gross negligence or recklessness led to someone being injured or killed. I opposed the immunity bill and was pleased that it failed to pass the Senate. However, Senator BOXER's trigger lock amendment passed with bipartisan support. Given that, I hope the Senate takes up and passes that legislation this year.

ASBESTOS LITIGATION

Mr. BREAUX. Mr. President, Senator LANDRIEU and I rise today to add our voices to those who have been calling for a comprehensive national solution to the asbestos litigation problem. Several members of both parties have recently come to the floor to discuss this very issue and we want to join with them in urging our colleagues to address this matter with immediate legislation.

I have always believed that one of the greatest freedoms in this country is the ability of ordinary citizens to seek redress in an impartial court of law from other citizens or businesses—no matter how large or powerful. However, in the case of asbestos litigation the system no longer is able to meet this goal. The courts are so backed up with asbestos lawsuits, many of which are brought by individuals who are not yet sick or may never get sick, that those victims who are truly suffering from asbestos-related illnesses are not receiving compensation and businesses are going bankrupt in the process.

Asbestos litigation is a serious and growing problem in our home state of Louisiana. For the benefit of victims, union members, and businesses in Louisiana—both large and small—that are suffering the consequences of this crisis, we urge the Senate to resolve this problem as soon as possible. Let me be clear: we want a bill that will provide guaranteed, fair compensation to deserving victims in our state and around the country. And, we want a bill that will provide certainty for victims and businesses in Louisiana and elsewhere that have been caught up in this crisis.

I am becoming increasingly troubled by reports that negotiations between the parties on the asbestos bill are reaching a standstill. Too much work and tireless hours of negotiation have gone into this bill to let it become yet another marker in the growing graveyard of failed legislation. I would like to use this opportunity to urge all parties in this matter to continue working in good faith with one another to find agreement on the issues that are still outstanding.

A final deal on asbestos will not be easy and it will require more concessions from all parties. I know a number of my colleagues have worked unflagging to try and get this issue resolved. I commend them for all their effort and work. However, it is also important that we realize how close we are to not having any bill at all. I am concerned that by hastily pushing forward legislation that only has partial support, we will effectively kill this bill. We cannot stand back and allow the current system to continue to spiral out of control. Another failed cloture vote will not help victims, nor will it help business. This is an issue that we should be able to vote out of the Senate, not by 60 votes, but by 70 or 80. We must continue to work together to this end. The asbestos litigation system is broken and it must be fixed.

Ms. LANDRIEU. Mr. President, I rise to join with my colleague, the senior Senator from Louisiana, to urge the Senate to enact meaningful asbestos litigation reform this Congress. I am equally concerned about the impact that this escalating crisis is having in our own state of Louisiana.

The example of just one company illustrates how this ongoing litigation is affecting Louisiana. In 1978, McDermott, headquartered in Louisiana, acquired Babcock & Wilcox, B&W, a premier commercial boilermaker and provider of other power generation equipment. B&W was the leading manufacturer of boilers in the United States. In line with United States government specifications, all of these boilers were insulated with asbestos. Now many years later, the company has been subjected to an avalanche of asbestos claims. In fact, B&W had no recourse other than to file for reorganization under Chapter 11 of the U.S. Bankruptcy Code. Because of the uncertainty of its asbestos liability and the resulting inability to satisfactorily reorganize the finances of the company, McDermott's union employees in my state are adversely impacted. Just last week, representatives from my staff and Senator BREAUX's staff attended a meeting of the management and union labor at McDermott's facility in Morgan City, LA, to discuss this problem. We now have a petition signed by 1,000 of these workers asking that we solve this problem as soon as possible.

Other industries and companies in Louisiana are threatened by the current litigation system. Louisiana's economy is dependent on trade and the maritime industry. Many of our U.S.-flag shipping companies have asbestos issues because certain parts of their ships' engines were insulated with asbestos. These companies are equally concerned about the uncertainty created by the current system and their long-term ability to maintain solvency.

I do not have all the answers. I do know that legislation addressing this issue is very complex. Any bill should virtually guarantee that asbestos victims receive fair and adequate compensation and it should also give certainty to companies like McDermott. I realize that progress has been made during the course of negotiations, but we must build on this progress by continuing to negotiate. I think we can reach a bipartisan agreement and bring a bill to the floor as soon as possible.

ATTORNEY GENERAL ASHCROFT'S APPEARANCE BEFORE THE SENATE JUDICIARY COMMITTEE IN 2003

Mr. LEAHY. Mr. President, March 4, 2004 was the 1-year anniversary of the last, brief appearance by Attorney General Ashcroft before the Senate Judiciary Committee. It was not an anniversary that we marked for celebration. Instead, we marked the day as a low point, and symbolic of the disdain shown by the administration for oversight by the people's representatives in Congress.

I recognize that the Attorney General was recently incapacitated by a personal medical condition. We all wished him a speedy and full recovery. Up through March 4, however, there was no explanation for ignoring his oversight responsibilities. The Attorney General has since resumed his duties after successful surgery and a brief respite. It is time now for him to answer the call of those oversight responsibilities by appearing before this committee.

Vigorous oversight is instrumental to ensuring that our law enforcement officials are effective and accountable, both in fighting crime and in preventing acts of terrorism. The lack of attention this Justice Department has given to oversight by the Senate Judiciary Committee regarding issues of national importance, including implementation of the USA PATRIOT Act, is, quite frankly, appalling. Reticence by the Nation's chief law enforcement officer to appear before the authorizing committee of the Senate would be disappointing any time. During these trying times in which the administration has chosen unilateral action it is inexcusable.

The written questions I posed to General Ashcroft in connection with last year's hearing did not get any response for 9 months, and even then, the so-called answers were incomplete and unresponsive. In fact, the Justice Department has delayed answering numerous written oversight requests until answers are moot or outdated, or they respond in vague and evasive terms. This approach stymies our constitutional system of checks and balances. The checks and balance on the executive intended by the Founders and embodied in the Constitution are being put to the test by a secretive administration. More importantly, such flagrant avoidance of accountability fuels the sort of public distrust that is now associated with federal law enforcement and, in particular, with this Attorney General and his department.

Let me provide a few of what could be many, many examples:

On June 19, 2002, Senator GRASSLEY and I sent a letter to the Office of the Inspector General, regarding allegations made by an FBI whistleblower that posed several important questions about the problems in the FBI's translator program that have never been answered. The Attorney General has yet to intervene despite the unseemly delay. I raised the issue of translators in our first meeting on September 19, 2001, as we began the process of constructing what became the PATRIOT Act. I have attempted to follow up in the months and years since that time and have been given the run around with conflicting responses virtually each time I inquire. With the implications proper translation and translation capacities have for the country's security, these delays and this unresponsiveness is simply unacceptable.

Over 2 years ago, I began asking about the FBI's translation program. Yet, questions I posed to the Assistant Attorney General Wray during an October oversight hearing were greeted with a virtual blank stare and no knowledge about the issue at all. On March 2 of this year, I sent a letter to the Attorney General and FBI Director Mueller repeating some of what I have asked before and asking about new issues that have since been raised. Needless to say, no answers have been forthcoming.

On January 10, 2003, Senator FEINGOLD, Senator CANTWELL and I sent the Attorney General a set of questions regarding the Department's data-mining practices. On February 19, we were informed that our letter had been referred to the FBI for a response, and that a response would be provided no later than March 31. On March 18, we were advised that the FBI's response had been delivered to the Department for review and approval, and that the Department would transmit the final response to us directly. That was the last we heard on this matter. It has been over a year since we inquired. American's privacy interests should not be so easily sloughed aside.

On May 23, 2002, I wrote to the Attorney General to request a full accounting of any problems the Department or the FBI might be experiencing with regard to the PATRIOT Act amendment authorizing ''roving wiretaps'' under the Foreign Intelligence Surveillance Act, FISA. In particular, I asked the Department to detail any problems involving technical and operational implementation of the new authority, the current statutory language, construction of that language by the FISA court, or a combination of any or all of these factors. I have received no response. Roving wiretaps were one of the more controversial authorities that we provided following September 11. Americans across the country are concerned and fearful that their privacy is being invaded by a federal government that may be repeating historical excesses. To reassure the public and to correct problems, we need answers—prompt answers. Ten months is too long to have to wait for such an accounting.

Other oversight letters that have remained unanswered for 6 months or more include questions about the Department's death penalty procedures, the status of regulations for reporting suspicion child exploitation matters, concern about the Wen Ho Lee espionage case, and the release of Office of Legal Counsel opinions.

Despite his having recently been a Member of the Senate and of the Senate Judiciary Committee, it would seem that in his current role as Attorney General, former Senator Ashcroft has forgotten that effective oversight of the Justice Department requires the Department's full and timely cooperation. When stale and incomplete responses to questions trickle in after months of delay, one has to wonder whether the Department is incapable of responding in a timely fashion or is deliberately stonewalling.

Congress is not the only one asking questions. In the past year, several Federal courts have criticized the Justice Department's use of tools to pursue terrorism-related activity and the unilateral power asserted by the executive branch. I regret that when Congress is not vigorous in its necessary oversight and when the Executive ignores our oversight, it falls to the courts as the only remaining check on Executive power to review its actions. That is why the Supreme Court will be spending so much time this year on terrorism cases. That is not the way it should be or needs to be. That is apparently the intention of the Executive, however. That contravenes the Constitution and denigrates our Government.

Last March, I was hopeful that the Attorney General's appearance before the committee would be the first of a series of hearings building on the important oversight activities we began in the last Congress, including the first comprehensive oversight of the FBI initiated in decades. Unfortunately, that important mission too seems to have fallen by the wayside. With the change in Senate leadership to the Republican Party, little interest has been

shown in effective congressional oversight. Our security and the American people are the losers in this regard.

Late on a February Friday afternoon—a time often used by the current administration to bury news stories—the FBI quietly released a report on its broken ''Office of Professional Responsibility.'' The report was occasioned in part by FBI whistleblowers who had the courage to stand up and denounce longstanding problems in the way the FBI disciplined itself. One recommendation of the OPR report was to adopt a reform Senator GRASSLEY and I have introduced over the last few years as part of our FBI Reform Act. Like oversight, our legislative efforts to improve the practices of the Executive branch also seem stymied. This Republican-controlled Senate will not even consider enacting reforms we all know are needed, that watchdogs within the Executive have endorsed.

So here we are, over 13 months after we last saw General Ashcroft, and we have no schedule for the long overdue appearance by the Attorney General of the United States before the oversight committee of the Senate. Republican Senators may have disagreed with Attorney General Reno's leadership on certain issues, but they cannot say that she did not appear before the Judiciary Committee for hours and hours at a time and listen to our questions and seek to answer the questions of all Senators, Republicans and Democrats. By contrast, the current Attorney General found the time to make a 19-city cross country tour last year in which he appeared before friendly, handpicked audiences and delivered a series of statements seeking to defend his use of the PATRIOT Act. He finds time to attend virtually every press conference on an indictment or case development in high profile cases. Yet he has not, and apparently will not, appear before the people's elected representatives to answer our questions, hear our concerns and work with us to improve the work of the Department of Justice.

We in Congress have the constitutional obligation and public responsibility to oversee the Department of Justice's operations. After September 11, after we expressed our sorrow for the victims and our determination to respond while preserving American freedoms, I publicly noted my regret that we had not performed more effective and thorough oversight of the Department of Justice in the years before 2001. During the 17 months in 2001 and 2002 when I chaired the Judiciary Committee I worked with all Members, Republicans and Democrats, to provide real oversight. There were times when the Attorney General used our hearings as a forum to attack us and our patriotism but we persisted to perform our constitutional duties. It is with deep regret that I report to the Senate and the American people that it is now more than a year since the Attorney General of the United States last appeared before the Senate Judiciary Committee. It is with sadness that I note the lack of effective oversight the Committee and the Senate are conducting on matters that threaten the freedoms and security of the American people.

CHILD ABUSE PREVENTION MONTH

Mr. DOMENICI. Mr. President, I rise today in recognition of April as Child Abuse Prevention Month.

Child abuse continues to be a significant problem in the United States. It was estimated that in 2001, 903,000 children were the victims of child abuse or neglect. Child abuse is a crime perpetrated on the innocent and the defenseless.

In 2003, there were 17,345 substantiated child abuse or neglect cases in New Mexico. We must protect these children who cannot protect themselves. By acknowledging April as Child Abuse Prevention Month, we are increasing awareness in the hopes that no more children live in fear.

Across this Nation, numerous individuals and organizations dedicate countless hours of selfless work in the fight against child abuse. Many of the organizations that work to end child abuse began at the local level. I would like to acknowledge one of these organizations from my home State in Las Cruces, NM. The child abuse awareness team consists of around 40 members who recognized a need in their community and resolved to make a change. This team of volunteers, law enforcement agents, school personnel and social service agency representatives, continually strives to protect the children in Dona Ana County.

The child abuse awareness team educates the community about child abuse prevention and reporting child abuse and neglect, promotes enforcement of child abuse and neglect laws, and provides advocacy for child abuse victims. They believe the most effective child abuse prevention programs succeed when the entire community is involved. The child abuse awareness team has developed this support system within the community by creating partnerships among social service agencies, schools, religious and civic organizations, law enforcement agencies, and the business community.

The child abuse awareness team is taking the right steps in preventing child abuse incidents. I would like to specifically recognize the founder of this community organization Jesús Frietze, a social worker who saw a need in his community and took action. It is noble actions, from individuals like Jesús, who make a difference not only in the local communities but in our States and our Nation.

By taking this month to recognize the problem of child abuse, I hope we will all do our part to combat this epidemic.

THE PARTIAL BIRTH ABORTION BAN ACT COURT TRIALS

Mr. SANTORUM. Mr. President, I rise today to draw the attention of my colleagues to an issue that is currently being debated in Federal district courts in New York, Nebraska, and San Francisco. Today, the Partial Birth Abortion Ban Act, which we overwhelmingly passed and saw signed into law last year, is being challenged in three Federal courts across the country. This law bans the gruesome procedure known as partial birth abortion, which is performed over a three-day period in the second or third trimester of pregnancy. In this particular abortion technique, the physician delivers all but the baby's head through the birth canal, stabs the baby in the base of the skull with curved scissors, and then uses a suction catheter to remove the child's brain.

As we have seen these trials go forward, I have been disturbed at some of the testimony that has been given in opposition to this legislation, and I wanted to ensure that my colleagues were aware of it.

In particular, in the testimony of these doctors who are challenging this law, we see a complete disregard for any consideration of the pain a child experiences during a late-term abortion. On March 30, in the New York case, the judge asked the doctor testifying whether the fetus having pain ever crossed his mind. The witness, who does not perform partial birth abortions, but who has been present when they were done, replied, ''No.'' The judge further questioned the witness as to whether the mother of the child was informed as to the specifics of the procedure in terms that the patient can understand.

The Witness: I guess I would say that whenever we describe medical procedures we try to do so in a way that's not offensive or gruesome or overly graphic for patients.

The Court: Can they fully comprehend unless you do? Not all of these mothers are Rhodes scholars or highly educated, are they?

The Witness: No, that's true. But I'm also not exactly sure what using terminology like sucking the brains out would . . .

The Court: That's what happens, doesn't it?

The Witness: Well, in some situations that might happen. There are different ways it could be dealt with, but that is one way of describing it.

This witness further testified that up until the last steps of a partial birth abortion, the feet of the child could be moving.

On April 5, another doctor testifying for the plaintiffs in New York showed similar callous disregard for the pain the fetus might feel.

The Court: Do you ever tell them (the women) that after that is done you are going to suction or suck the brain out of the skull?

The Witness: I don't use suction.

The Court: Then how do you remove the brain from the skull?

The Witness: I use my finger to disrupt the central nervous system, thereby the skull collapses and I can easily deliver the remainder of the fetus through the cervix.

The Court: Do you tell them you are going to collapse the skull?

The Witness: No.

The Court: The mother?

The Witness: No.

The Court: Do you tell them whether or not that hurts the fetus?

The Witness: I have never talked to a fetus about whether or not they experience pain.

The Court: I didn't say that, Doctor. Do you tell the mother whether or not it hurts the fetus?

The Witness: I don't believe the fetus does feel pain at the gestational ages that we do, but I have no evidence to say one way or the other so I can't answer that question.

Yet even this week, Dr. Kanwaljeet Anand, a pediatrician at the University of Arkansas for Medical Sciences and a witness in the Nebraska case, testified that the procedure would cause ''severe and excruciating'' pain to the fetus. He said, ''What we have noted from studies of premature infants is that they have a much lower threshold for pain, meaning they are more sensitive to pain than the full term infant. In fact, some types of pain are three times greater sensitivity in the pre-term baby as compared to the full term neonate.'' He went on to say, ''I would say between 20 and 30 weeks of gestation is the greatest sensitivity to pain.'' ''The threshold for pain is very low. The fetus is very likely extremely sensitive to pain during the gestation of 20 to 30 weeks. And so the procedures associated with the partial-birth abortion that I just described would be likely to cause severe pain, right from the time the fetus is being manipulated and being handled to the time that the incision is made, and the brain or the contents, intracranial contents, are sucked out.''

Another aspect of the current court challenges to this law centers around whether partial birth abortions are ever medically necessary. Those arguing against the law have expressed their opinion that the procedure is a medical necessity. The Department of Justice is defending the law by supporting the extensive congressional findings included in the Partial Birth Abortion Ban Act that indicate that partial birth abortions are never medically necessary. For this reason the Department of Justice has sought the release of abortion records in order to demonstrate that partial birth abortions are never medically necessary. In order to ensure patient privacy, any personal information on these records which could identify a patient would be deleted prior to being submitted for review. Since those arguing against this law have done so claiming the ''medical necessity of this procedure,'' it seems reasonable that they be required to show evidence which backs up their claims.

Those testifying in opposition of banning the use of this inhumane procedure have continued to state its medical necessity. However, under questioning from Department of Justice attorneys and Judge Casey in New York, these abortionists have conceded that there are no studies which show this procedure to be less risky for the mother than other types of late-term abortions. They have also not been able to deliver any records showing its medical necessity, though this claim is at the core of their case. Some witnesses have indicated that this information would be found in the patient's medical chart—the ones which they have refused to release.

On April 6, Judge Casey in New York had this to say on April 6 regarding these medical records:

I have no comprehension why there is such resistance from doctors maintaining as they argue as to the appropriateness, the safety, etc., of these procedures, why the records, in this case that book, should not be opened for examination. To not have it turned over to the government continues not in a fashion of a level playing field and I don't think was what was envisioned as to how we should administer trials of this nature or any trials in this court.

I would hope that the hospital would rethink their position. I would also urge any of the plaintiffs, if they have any records that are personal to them, that they don't wait until, shall we say, by accident or whatever means they are uncovered or stumbled upon; that they produce them, as well they should know through their counsel that our system believes in full discovery and disclosure, and concealing facts or things in this context in our courts, in federal court, is not something that is encouraged, just as the Court has expressed a strong feeling that lawyers should be open and completely candid in their statements to the Court.

I came to the floor today about this because I want my colleagues to be aware of these cases as they go forward, and especially to point out examples of some of the blatant disrespect being shown for the lives of these partially-born children and their mothers.

CONGRATULATIONS TO THE MEN AND WOMEN'S NCAA BASKETBALL CHAMPIONS UNIVERSITY OF CONNECTICUT HUSKIES

Mr. LIEBERMAN. Mr. President. I come to the floor today to congratulate the University of Connecticut Huskies' Men and Women's basketball teams on their double national championship. This is the first time any school has accomplished this incredible feat. With this achievement, coaches Jim Calhoun and Geno Auriemma have solidified their place at the peak of college basketball's coaching mountain.

On Monday night, the men, lead by terrific performances by Emeka Okafor and Ben Gordon, defeated the Georgia Tech Yellow Jackets 82–73. This victory gave the men's program its second national title. On Tuesday, the women, on the strength of a brilliant 17-point effort by Diana Taurasi, completed the Huskies' double dip, knocking off the Tennessee Lady Vols by the score of 70–61 to capture their third straight national championship and the fifth in the school's history.

These victories were captured with great teamwork, which was fortified by outstanding leadership. Not just from the two legendary coaches, but from the players themselves. On the men's side, Emeka Okafor, whose dominating second half in the semi-finals against Duke is the stuff of which legends are made. That performance, followed by his brilliant 24 point 15 rebound effort in the championship game earned him Most Outstanding Player in the Final Four honors, and will most likely make him the top pick in this summer's NBA draft. On the women's side was Diana Taurasi. Diana's greatness speaks for itself. She lead the Huskies to three straight national titles, compiled a career NCAA tournament record of 22–1, and was named Most Outstanding Player in the Final Four the past two seasons.

This year started out with the greatest of expectations for both teams. They were both picked as pre-season No. 1 teams, but as the season wore on, each had their share of adversity. Coach Calhoun and Coach Auriemma saw their teams suffer tough losses and key injuries. Each team's best player would battle through nagging injuries that made many people question whether they had what it took to reach their championship aspirations. What is truly remarkable is that neither team ever doubted themselves. As the calendar turned to March, both teams battled through the adversity, and began the long steady journey toward greatness. After all the ups and downs of a long season, our UCONN Huskies finished the season where they started—on top of the college basketball world.

Mr. President, today is a day of great pride for Connecticut. We are proud of Jim Calhoun, Geno Auriemma, and their terrific players. We thank them for their brilliance. We thank them for giving us such tremendous joy in watching them play. At a time when there are so many things that divide us and have us concerned, it is so important to have something that unites us, lifts our spirits, and gives us a sense of pride. Thanks to the Huskies' unprecedented accomplishment, today we can truly say Connecticut is the College Basketball Capital of America.

MINNESOTA ATHLETICS

Mr. COLEMAN. Mr. President, it has been a great winter when it comes to Minnesota athletics. Last week I had the privilege to congratulate and recognize the achievements of the University of Minnesota Twin-Cities women's hockey and basketball teams. Today, I switch schools and genders to recognize and congratulate head coach Scott Sandelin and the University of Minnesota-Duluth Men's ice hockey team for their appearance in the NCAA Frozen Four. The Bulldogs will be making their third NCAA Frozen Four appearance tomorrow, having previously appeared in 1984 and 1985.

The team and many of its fans are in Boston today, gearing up for the fast pace and the emotion that comes with playing in the Frozen Four on national

television. The road to the Frozen Four can be difficult and demanding. I say ''can be difficult'' only because—well, the Bulldogs made it look somewhat easy.

In convincing fashion, the Bulldogs defeated Michigan State 5 to 0 and the University of Minnesota-Twin Cities 3 to 1 to earn their first Frozen Four bid since 1985. Against arch-rival Minnesota-Twin Cities, the Bulldogs stuck to a solid game plan, scored timely goals, and received phenomenal goaltending from Isaac Reichmuth, who also should be recognized for his stellar shut-out of Michigan State.

While absent 19 years from the Frozen Four, the Bulldogs appearance in this year's Frozen Four is no surprise. After finishing the season 28–12–4, and placing second in the Western Collegiate Hockey Association, the Bulldogs earned the second seed in the Midwest Regional of the NCAA tournament.

They are coached by Scott Sandelin. Coach Sandelin is a finalist for the Spencer Penrose Award, the official award of the NCAA for Division 1 coach of the year, and recently received Inside-college-hockey's award for Coach of the Year.

On the ice, the Bulldogs have been led all year by Hobey Baker finalist Junior Lessard, who currently leads the Nation in goals and scoring. Lessard has also racked up two prestigious Player of the Year awards by Inside-college-hockey and U.S. College Hockey Online.

On the blue line, the Bulldogs are led by first team WCHA all-conference selection Beau Geisler, and as I mentioned before, Isaac Reichmuch, himself a second team all conference selection, has been unbeatable in the pipes for the Bulldogs.

The Bulldog ice-hockey tradition runs deep. The program has placed over 34 of its student-athletes into the National Hockey League over the past 35 years. Thanks to Bulldog legends such as Curt Giles, Pat Boutette, Brett Hull, Chris Marinucci, Derek Plante, and Shjon Podein, Minnesota-Duluth is one of the premier hockey schools in the Nation and a source of deep pride for Duluth and all of Minnesota.

These young men, 15 of whom are native Minnesotans, are continuing this tradition of excellence and deserve the recognition and excitement that is accompanying their trip to the Frozen Four. Charter buses of Minnesotans have made the long trek to Beantown to cheer on their team and I, like them, look forward to a great matchup between the Bulldogs and the University of Denver tomorrow in Boston.

Congratulations to the University of Minnesota-Duluth Bulldogs for what has been a stellar season, and best wishes on their ongoing quest for the national championship.

GEORGIA TECH'S RAMBLIN WRECK MAKES GEORGIA PROUD

Mr. CHAMBLISS. Mr. President, I want to extend my congratulations to Georgia Institute of Technology for the incredible performance of the Yellow Jackets basketball team this year. Georgia Tech proved itself to be a national power as it won game after game on its way to the NCAA final game.

I join all Georgians in admiration of the Yellow Jackets Head Coach Paul Hewitt, and his assistants Dean Keener, Willie Reese, and Cliff Warren for building a program which proved itself in national competition. I also want to congratulate the players who showed leadership, poise and class as they played great basketball against the best teams in the country.

Georgia Tech is an important educational institution. Tech graduates lead the way in every aspect of the business and professional community in America. Its graduates are in high demand around the world for their skills and abilities. Its sports programs are also very well regarded.

The reputation of the Ramblin Wreck's athletic program can only grow higher after this appearance in the NCAA tournament. When the season began, Georgia Tech was picked to finish seventh in the nine-team Atlantic Coast Conference. Instead it made it to its first Final Four appearance since 1990 and its first title game ever.

I salute the 2003–2004 Georgia Tech basketball team for a great year. They have made all of Georgia proud.

RE-OPENING I–95 IN CONNECTICUT

Mr. LIEBERMAN. Mr. President, I rise today in praise of the exemplary efforts of the construction and maintenance crews, engineers, and State and Federal transportation officials to quickly re-open Interstate 95 in Bridgeport, Connecticut, last week after a devastating fire destroyed a portion of the highway. On behalf of the people of Connecticut, I offer them my deepest thanks for the hard work—and teamwork—that has restored a vital artery in our nation's transportation system faster than anyone thought possible.

On Thursday evening, March 25, a car and a tanker truck collided while traveling along I–95 South in Bridgeport. The tanker truck, carrying 12,000 gallons of home heating oil, tipped over and slid along the barriers before stopping and, minutes later, the truck's contents ignited, sending flames 50 to 60 feet into the air. Remarkably, no one was killed or injured in the accident, and within 20 minutes firefighters had extinguished the blaze, but the damage had been done. Both the existing southbound bridge and a new bridge that had just been built alongside of it were severely damaged.

I–95 in Connecticut—a traffic corridor of national significance that links New York City with Boston—was immediately shut down in both directions over a distance spanning several exits. This caused major traffic problems, especially for tractor-trailer drivers. Engineers determined that the northbound overpass could be shored up and made structurally sound again, and additional supports were erected to reinforce the northbound span, which was reopened to traffic on Sunday night, March 28. The southbound lanes, however, were beyond easy repair, and engineers concluded that a temporary bridge would have to be erected to support traffic on the southbound span of the highway. A temporary bridge was supplied by Acrow Corp of Carlstadt, NJ. It arrived in pieces and was assembled by crews from the Connecticut Department of Transportation, DeMatteo Construction, and Brunalli Construction. By Sunday morning, the skeleton of the temporary bridge had been fully assembled. A steel deck was then laid on top of it and the surface was paved. The southbound lanes of I–95 were reopened on Wednesday morning at 3:30 a.m.

Approximately 120,000 vehicles pass over this span of I–95 every day, and officials initially estimated that the highway would be closed for three to four weeks. But the crews that performed the work managed to re-open it in just five days. This accomplishment cannot be overstated. I rise today to say thank you to the Connecticut DOT employees, Federal DOT officials, contractors and others who worked around the clock to make it possible. Your service to our State is deeply appreciated, and we commend you for your excellent work.

HONORING JACK SMITH

Mr. HAGEL. Mr. President, I rise to express my sympathy over the loss of Jack Smith, distinguished Vietnam veteran and former ABC News Correspondent. Jack Smith died on April 7 at the age of 58 at a hospital in Greenbrea, CA. He had been struggling with cancer for the past year.

Jack had a long and successful career as a Washington-based reporter for ABC News. He covered foreign wars, five presidential elections, and hosted numerous shows and documentaries. His thoughtful reporting and dedication to journalism ranks Jack Smith high in the history of news reporters.

Jack was wounded during the 1965 battle of Ia Drang Valley. He was decorated with the Bronze Star and the Purple Heart for his bravery. His experiences in the Vietnam War prompted him to speak and report extensively on the war and its aftermath. He was a man of great integrity who never faltered on his commitment to demonstrate accurately and honestly the historic events of our time.

Jack Smith leaves behind his wife, Pamela Peffer; a son, Alexander Smith; two stepchildren, Aidan McTighe and Matthew McTighe; his mother, Benedicte Smith; and a sister. Jack was the son of legendary reporter Howard K. Smith.

For his service to his country during the Vietnam War and excellence in journalism, I ask my colleagues to join me and all Americans in honoring Jack Smith.

IN RECOGNITION OF BRITTNEY MORASKI

Mr. LEVIN. Mr. President, I am pleased to recognize my Senate page today, Brittney Moraski of Bark River, MI, for achieving highest honors at the Senate Page School. Brittney's hard work earned her a 4.0 grade point average this semester, the highest in her class.

Highest honors are nothing new for Brittney. At home in Michigan's Upper Peninsula, Brittney attends Bark River-Harris High School where she is a member of the National Honor Society and also maintains a 4.0 G.P.A. Brittney took advanced placement classes in U.S. Government and Politics and microeconomics and achieved the highest score possible on both A.P. exams. In addition, Brittney has taken college classes at Bay de Noc Community College. Brittney was the first Bark River-Harris High School student to earn the highest endorsement level possible on the senior-level Michigan Educational Assessment Program test as a sophomore.

Complementing her school year work, Brittney has participated in activities that further nurtured her lifelong interest in government and politics. Last summer, Brittney spent three weeks in Washington as part of the Junior Statesmen Summer School at Georgetown University where she took a course on foreign policy and had the opportunity to meet with high-ranking officials in the Congress, State Department, Pentagon, White House and French Embassy.

In addition to her exemplary academic achievements, Brittney stands out for her community involvement. She is the president of the Bark River-Harris Key Club and serves on the Community Foundation of Delta County's Youth Advisory Committee. During the past three years, she traveled to Honduras to volunteer at a soup kitchen, distribute food and clothing, and read and play with Honduran children.

Brittney brings her idealism and achievements to her duties as a Senate page. In her application for the page program, Brittney wrote, ''I would not only grow as a student of government from the experience, but I would grow as an individual and as a potential future public servant.'' Later in her application, Brittney said, ''I believe in the U.S. government and in American values, and I would be honored to serve as a page in the epicenter of American lawmaking, the U.S. Congress.''

Mr. President, Brittney Moraski exemplifies all that is best in the Senate Page Program and in our young people, and I congratulate her on her outstanding achievements.

ADDITIONAL STATEMENTS

THE OUTSTANDING SERVICE OF JUDITH OLIVER

• Mr. KENNEDY. Mr. President, I welcome this opportunity to pay tribute to Judith Oliver, Director of The Children's Room Center for Grieving Children and Teenagers in Arlington, MA.

Ms. Oliver has dedicated her professional life to aiding children and families who suffer the loss of a family member. A week from tomorrow, the Center will celebrate its fifth anniversary with a dinner and an auction, and she will be presented with an eminently well-deserved award for excellence.

Ms. Oliver became Director of The Children's Room in 1992, when it was a program at Hospice West in Waltham. She organized it as an independent charity in 1999, and since then it has grown from helping a group of ten children to serving over a hundred children and sixty families.

Today, The Children's Room is a beacon of hope and help for bereaved children and others in their family. It provides a safe and caring environment where children, teenagers and their families can obtain the support they need in grieving over the death of their loved ones.

Ms. Oliver's extraordinary caring, compassion, and dedication are the hallmarks of her career. In many ways, she's a pioneer in this very important field. She earned a Master's Degree in Counseling at Loyola College in Baltimore, with an internship in grief counseling at Hospice of the Chesapeake in Maryland and at Grandma's House, a Washington, D.C. home for children with AIDS.

As we all know, the need for these counseling services is especially great today, Judith Oliver's leadership is a model for all communities. Massachusetts is proud of her. We're fortunate to have her, and I join her many admirers in congratulating her on this award.•

OREGON VETERANS

• Mr. SMITH. Mr. President, today I rise to honor an Oregon veteran who answered the call of duty in service to his country. Grover Judd Killpack was born on January 24, 1924 in a small mining town called Mohrland, close to Price, UT.

Judd's military career began in October of 1943, when he entered the Coast Guard as an Seaman Apprentice. He was assigned to the USS *Callaway*, an attack transport ship that fought in the Pacific theater during World War II. While on the *Callaway*, he ran one of the landing boats, transporting the soldiers to the fight and returning the wounded to the ship. He participated in six invasions in the Pacific, including the Battle for Leyte Gulf and the Battle for Iwo Jiwa. Judd watched as the Marines took control of the island and raised the flag on Mount Suribachi; a scene immortalized in the now-famous monument in Arlington, VA.

After his tour of duty ended in May of 1946, he left the Coast Guard as a petty officer 3rd class and went home to Price, UT where he married Eva Milkovich. He attended Carbon College where he focused his studies in the dairy field. He demonstrated his leadership skills as the student body president. He transferred to Utah State University where he participated in the ROTC program and received his degree in Dairy Technology. During this time Judd and Eve were blessed with a son and a daughter.

Judd took a sales job that led him and his family to Denver, CO. One day before his tour was over, his country called for his services once again. He answered that call, leaving for the Korean War as a 2nd Lieutenant in the Army in January of 1952. During his short time in the conflict he served as an artillery observer flying over enemy lines to direct friendly fire on communist targets. He came home for good in November of 1952 as a 1st Lieutenant.

A new job opportunity brought Judd and his family to the northwest. They stayed in Seattle, WA until January of 1955. They found their permanent home in Beaverton, OR and the Killpack family has lived there since that day.

Judd went on to be a sales rep for the R&H Company in 1961 and spent the rest of his working days with them, finally retiring in 1986. Judd has been married to Eve since July 3, 1946 and has two children, five grandchildren, and one great grandchild on the way.

For his selfless service to others, and to the United States in time of war, I salute Grover Judd Killpack as an Oregon Veteran hero.•

NATIONAL PUBLIC HEALTH WEEK

• Mr. JOHNSON. Mr. President, this week is National Public Health Week, an annual event sponsored by the American Public Health Association or APHA. Every year in April, national, State and local public health professionals highlight an important public health issue, to raise awareness about leading health problems impacting our nation. This year, the theme of National Public Health Week is ''eliminating health disparities''.

There are many groups that experience disparities in health, largely a result of limited access to important health care services. Living in a rural area is in itself a health risk factor, due to numerous factors that can adversely influence health and access and the resulting disparities are well documented. Chronic illnesses are more prevalent in rural communities and studies have shown that rural residents are more likely to describe their overall health status as poorer than their urban counterparts. Limitation in activity due to chronic health conditions among adults is more common in rural counties than in large metro counties.

The University of Pittsburg's Center for Rural Health Practices released a report this week which highlights specific rural health disparity issues. The report indicated that death rates for children and young adults are highest in the most rural counties. Nationally and within each region, death rates from unintentional injuries increases greatly as counties become less urban. And death rates for motor vehicle-related injuries in most rural counties are over twice as high as the rates in central counties of large metro areas. My home State of South Dakota ranks 8th with two other States for having the worst motor vehicle death rate in the Nation.

In addition, adolescents living in the most rural counties are most likely to smoke. For example, in 1999 for the United States as a whole, 19 percent of adolescents in the most rural counties smoked compared with 11 percent in metro counties. This disparity also holds true for adults who smoke. Adults in rural areas are more likely to consume alcohol than those living in other areas, and both men and women in rural areas have higher rates of self-reported obesity than men and women in other areas.

Minorities in rural areas also face additional health disparities. Diabetes among Native Americans is more than twice that of the general population, and heart disease and cancer are the leading causes of death among this population. Infant mortality among this population is 1.7 times higher than among non-Hispanic whites and the sudden infant death syndrome or SIDS rate among this minority group is the highest of any population group in the nation.

It is important that we find ways to address rural public health disparities. Access to health care providers is a critical component of the solution and that is why I have long supported rural provider payment equity. Payment equity ensures that the doors stay open at our local hospitals and physicians offices. I feel that Congress needs to continue to address this important issue and make a commitment to rural residents across America that it will support initiatives to remedy this problem.

While payment equity is a critical component in solving this disparity issue, it is only part of the overall solution. Access problems continue to be a distinct challenge in rural communities, due largely to declining rates of health care workers in these areas. In 1998, there were six times as many general pediatricians per 100,000 in central counties of large metro areas as in the most rural counties and five times as many general internists.

One of the ways to address this problem is through enhanced funding for important Federal programs that promote the recruitment and retention of health care workers. I have recently sent letters to the leadership on the Senate Labor, Health and Human Services, Education Appropriations Subcommittee, requesting a $63 million dollar increase for Title VIII nurse education programs created under the Nurse Reinvestment Act. I have also asked the committee to restore the President's proposed drastic cuts of almost $200 million for the Title VII health professions programs, by providing $308 million for these programs.

In order to further address rural health disparities, we need to strengthen efforts towards establishing a 21st century health care system that utilizes information technology to allow health care professionals across rural America to share their knowledge, expertise and resources. I have worked with my colleagues in the Senate to secure funding in recent years to allow just that, such as the wonderful health information systems project through the Community HealthCare Association of South Dakota, and the nurse distance learning project through the University of South Dakota and the Good Samaritan Society. I encourage my colleagues to continue to build on these types of rural specific projects nationwide so that we may see this dream of a modern 21st century health care system become a reality.

In order to address the Native American health disparities problems, in addition to improving access to direct health care services, it is important that we obtain comprehensive data on key health risk factors impacting this population. In South Dakota, the Northern Plains Tribal Epidemiology Center in Rapid City is providing information to tribes and working with tribes to help access health data through good assessment tools, which can be used to develop interventions and improve the health in Native American communities across the State. This is an effective model for approaching a critical minority health problem and the Center combines epidemiology, research, and public health practice to develop interventions that can be disseminated to the tribal communities.

Often our best solutions come from the local experts. I look forward to working with public health experts in both South Dakota, as well as the Nation at large, to address these shortfalls in rural health. I believe that the information we gain through these discussions will provide Congress with a broader scope of knowledge, thus allowing us to better meet the needs of those who fall into this health disparity category.●

JOHN THORNTON

● Mr. ALEXANDER. Mr. President, I rise today to tell my colleagues about a generous person, who I am proud to call my friend and a Tennessean.

His name is John ''Thunder'' Thornton. You may have read about his generosity last week in USA Today.

In 1998, John went to the Final Four in San Antonio. While there, he had a frightening experience—he has a heart attack in the back of a taxi cab. His cab driver, Ceasar Hernandez, quickly drove him to the hospital and then made sure his teenage children, Dori and Johnny, got back to the hotel where family friends could take care of them.

In the USA Today article, John said, ''Caesar saved my life, and he comforted my kids at a time when they needed that. I wanted to do something for him.''

So to show his appreciation 6 years ago, John bought the stranger who saved his life a 1998 Cadillac sedan. The new car allowed Mr. Hernandez to start a cab company in his hometown of Victoria, TX instead of commuting to San Antonio to drive a taxi.

John's gratefulness and graciousness doesn't end there. He returned to San Antonio last Friday for the Final Four. While there, he took Mr. Hernandez to the games and dinner and also had a surprise in store. Anyone who knows John knows he's an avid fan of the University of Tennessee. Ten years ago, he bought an orange and white stretch limo that he's driven to UT games across the country. Now Mr. Hernandez's taxi cab fleet includes that limousine.

This isn't the first time something like this has happened. Most people in Tennessee know about John's gift to the University of Tennessee in Knoxville to establish the Thornton Athletic Student Life Center. But most people don't know that 10 years ago, when John sold his business in Georgia, he paid off the mortgages of every employee that worked for him.

As I said earlier, I am proud to call him my friend, and I am proud to call him a Tennessean. His father, Lloyd, and my father carpooled to work at the Aluminum Company of America in Alcoa when John and I were growing up in Maryville.

The Lloyd L. Thornton stadium at Maryville College is named in honor of him—a tribute by his son.

On a personal note, I was proud to introduce John's daughter Dori, our Tennessee Cherry Blossom princess, at an event last week. She is a young Washington professional doing a fantastic job in political event planning and fundraising for Hammond and Associates. Like he father, Dori has an incredible energy and commitment to service. She serves as a patient care volunteer at the Children's National Medical Center and the Gilda's Club of Greater Washington and is a Junior Achievement kindergarten teacher at Douglas MacArthur Elementary School. She is a lovely young woman and a true Tennessee volunteer.

Mr. President, thank you for allowing me to tell you and our Senate colleagues about a man who has found success and has set an example for all of us in what he does for others with that success.●

BOB EDWARDS AND NATIONAL PUBLIC RADIO

• Mr. HARKIN. Mr. President, the management of National Public Radio has announced that Bob Edwards, the host of ''Morning Edition'' for a quarter century, will be removed from the show at the end of this month. NPR executive vice president Ken Stern explained that getting rid of Edwards was part of ''a natural evolution.'' He says that it was ''a programming decision about the right sound.''

''Natural evolution?'' The ''right sound?'' I have no idea what these words mean. In fact, I have yet to talk to anyone who knows what those words mean.

If NPR's management wants to remove a star broadcaster, enormously popular all across America, you would think they would offer a clear, coherent explanation. But, no, the best we are offered is that they want a different ''sound.''

Well, this is not very sound on the part of NPR management. Think about it: Bob Edwards has been the host of ''Morning Edition'' for 25 years. He has won every radio broadcasting award imaginable, including the 1999 Peabody Award. He has built ''Morning Edition'' into the No. 1 morning show on radio in the United States, with almost 13 million loyal listeners. He has played a major role in doubling NPR's audience over the last 10 years.

Now, I didn't go to Harvard Business School. I don't have the business and management credentials of the top executives at NPR. But I have enough sense to heed the oldest and wisest rule of management: If it ain't broke, don't fix it.

If you are fortunate to have the best in the business, a broadcaster who is the heart and soul of the No. 1 morning show on radio, then, for heaven's sake, you don't remove him. You don't dump him. You raise his pay.

Characteristically, Bob Edwards was gracious and restrained. He said, ''I would love to have stayed with 'Morning Edition.' But it is not my candy store.''

No, ''Morning Edition'' is not Bob Edwards' candy store. Nor is National Public Radio the candy store of Mr. Stern, Jay Kernis, Kevin klose, and the other NPR executives apparently responsible for this decision.

I would remind them that NPR's middle name is ''Public.'' National Public Radio and its affiliate stations depend on taxpayer dollars and contributions from ordinary Americans. NPR depends on the public's support. And I have yet to talk to one person, one member of Congress, one listerner of public radio who supports this decision.

Americans are speaking up and expressing their unhappiness. NPR has been deluged with telephone calls and e-mails. And I certainly encourage people to call their local NPR station or go to the NPR website at www.npr.org, where you can register your dissatisfaction. Urge NPR's executives to reconsider this unwise decision. Urge them to listen to their listeners.

Let me be clear, I do not advocate or support any kind of boycott of NPR. It would be a misguided and counterproductive for people to withhold contributions to their local NPR station. After all, National Public Radio is a national treasure. It is the gold standard of radio news and journalism. And we should do nothing that undermines it.

But we have a right to speak up. And we need to speak up. So by all means, send an e-mail to NPR. The address of the ombudsman at NPR is simple enough: ombudsman@npr.org. In addition, call your local NPR affiliate. Urge them to request NPR to reconsider its decision to remove Bob Edwards from ''Morning Edition.'' And if NPR digs in its heels, urge your local affiliate to discontinue ''Morning Edition'' and find alternative programming for the morning time slot.

Obviously, I am personally a big fan of Bob Edwards. I listen to him virtually every morning, and have for as long as I can remember. He is a straight-shooter, smart, erudite, witty, and calm. He doesn't shout or rant. In other words, he adds class to radio news reporting and interviews.

So I urge executives at National Public Radio to reconsider their decision to remove Bob Edwards from ''Morning Edition.'' And I urge Americans who share my respect for Bob Edwards to make their voices heard.•

IN MEMORIAM OF NORMAN A. LEBEL

• Ms. COLLINS. Mr. President, I would like to take a moment to reflect on the life of Professor Norman A. LeBel, who passed away on December 21, 2003. Professor LeBel's life was dedicated to organic chemistry research where he was an outstanding example to his colleagues and an inspiration to his students.

Professor LeBel was born in Augusta, Maine on March 22, 1931, and received an A.B. degree in chemistry from Bowdoin College in 1952. Professor LeBel and his wife Connie, also from Maine, returned often to the States.

Professor LeBel obtained a Ph.D. in organic chemistry from the Massachusetts Institute of Technology in 1957. He then moved to Detroit, MI, where he began a 40-year career at Wayne State University in the Department of Chemistry, during which time he directed the research of 32 Ph.D. students. Professor LeBel made numerous contributions to organic chemistry during his long career, the most notable being the development of the chemical transformation commonly called the LeBel Reaction. He retired in 1996, after serving Wayne State University as chairman of the chemistry department; as chief of staff for the office of the provost; and as interim dean of the College of Liberal Arts.

Professor LeBel served the American Chemical Society (ACS) in a number of roles, starting as chairman of the Awards Committee of the Detroit Section (1961–1962), then secretary-treasurer of the Division of Organic Chemistry (1965–1969). He was a division councilor for 20 years, starting in 1970, and served on the Committees on Publications, Nominations & Elections, and Divisional Activities. Professor LeBel was also general chairman of the international chemistry meeting known as Pacifichem 2000.

Among his many awards, Professor LeBel received the Wayne State University President's Award for Excellence in Teaching in 1981, the ACS Organic Chemistry Division's Paul G. Gassman Distinguished Service Award in 1996, and the ACS Santa Clara Valley Section's Shirley B. Radding Award in 2001.

In conclusion, I want to express my condolences to Professor LeBel's family and former students. His contributions to the field of organic chemistry are only equaled by his devotion to higher education.•

ASSISTED LIVING

• Mr. BREAUX. Mr. President, I rise today to honor the Louisiana Assisted Living Association, LALA, which will be celebrating ''Assisted Living Day'' open April 14, 2004 in the State capitol. Both in my home State and in States across the Nation, disabled individuals and older Americans are voicing their demand for a wide range of long-term services. Assisted living represents a significant piece of that continuum of care.

Decades ago, those in need of long-term care had limited options—family caregivers, skilled nursing homes or institutional care. In many cases, family caregivers cannot provide the proper level of care for their loved one for a variety of reasons. In other instances, the person does not require the high level, around-the-clock care of a skilled nursing facility or institution. Now, many disabled persons and older Americans with functional limitations and/or cognitive impairments are finding the assistance they need and desire in assisted living, and in other home and community-based settings.

Unfortunately, our Federal financing structure has a strong institutional bias and does not reflect Americans' growing desire to be cared for in settings other than nursing homes or institutions. Public preference is not the only momentum driving this need for change—we see this direction in our courts as well. At the Federal level, the landmark Olmstead decision underscored this push toward allowing our countrys' elderly and disabled to live in the least restrictive settings for as long as possible. And, in my home State of Louisiana, this momentum was echoed in the Barthelemy case, in which the court strengthened the rights of people to get assistance in

home and community-based settings. We now know that we are not talking about merely a preference for non-institutional care—but a legal right to it.

In my capacity as ranking member of the Senate Special Committee on Aging, I have held numerous hearings on long-term care and the importance of supporting the continuum of care options. Assisted living is one of the most significant of these options and offers a real choice to those Americans wanting assistance outside of an institutional setting—a preference that will only grow as more of our baby boomers look for help with long-term care. Today, I salute the Louisiana Assisted Living Association for taking time to educate and improve awareness about a service that I believe can and will improve the lives of many of our Nation's disabled and elderly.●

HONORING KAREN MAYRY

● Mr. JOHNSON. Mr. President, I stand today to recognize an individual who is a dedicated advocate for the blind in this Nation, and especially in my home State of South Dakota.

Karen was raised in Hibbing, MN. The second of five children, she learned at an early age to cope with people's afflictions. Her brother Robert was born with Down syndrome. It was from this early exposure that Karen gained some of the beliefs that would carry over in later life. At age 11, Karen, herself was diagnosed with Type 1 diabetes—the disease that was to define the rest of her life.

In 1965, Karen married her long-time love, Marshall. While living in Tacoma, WA, where Marshall was to finish out his military obligation, Karen found a job teaching in the Clover Park school system. In her first year on the job, she experienced her first hemorrhage in her right eye which resulted in complete vision loss in that eye. Because of her love of educating children, she remained on the job teaching despite experiencing a traumatic physical ailment.

Marshall and Karen moved to Denver, CO after his military obligation was fulfilled. While in Denver, Karen lost still more of her vision and for all purposes became ''totally blind'' and underwent eye surgery with the hope of restoring some vision to her right eye. The surgery was deemed a cosmetic failure. It was also at this time, that doctors discovered that she was beginning to experience renal failure.

In 1969, Karen and Marshall moved to Rapid City where she was hired on as a Juvenile Probation officer. She remained at the position for 6 years until her renal failure had continued to progress so much that she was no longer able to continue her duties. Experiencing kidney failure soon after, her loving brother, David, offered one of his kidneys. After many months of complications delaying the surgery, the transplant was successful. Three weeks later, she left the hospital and her kidney functions have remained excellent for the past 27 years.

Following the successful kidney treatment, she was approached by representatives of National Federation of the Blind to become a member. The philosophy of the NFB matched her own; one of independence and the abilities of blind persons, if given a chance. Soon after joining, she became active that same year and was elected state president, a quite remarkable accomplishment.

Karen Mayry is the long-time president of the South Dakota Federation of the Blind. For many years, she has provided tireless advocacy for the blind residents of South Dakota and for the disabled population of the State. Under her presidency the State affiliate has grown to five local chapters. She has proposed and lobbied for and had legislation passed bettering the lives of blind South Dakotans. She has testified before the Senate, investigating transportation for the handicapped and has annually made trips to our Nation's Capital to lobby for issues of importance to the blind of the country.

She is dedicated to advocating issues of importance, and she is committed to breaking down the structural and attitudinal barriers that impact the blind and disabled community in south Dakota. Her list of organizations is vast and her accomplishments and awards are countless.

Despite various physical ailments in recent years, Karen refuses to be sidelined and continues her stalwart advocacy. Her vitality and energy is commendable and her advocacy and education over the years on issues affecting blind and disabled individuals have proven very successful. She works hard to educate and advocate for the Americans with Disabilities Act, helps promote the skills and talents of the blind and educates the business community about the importance of hiring individuals with disabilities.

South Dakotans with disabilities have many fighters in their corner, and Karen Mayry is one of their most ardent advocates. Karen doesn't mince words with elected officials, I, for one, have appreciated her frankness and candor over the years. Her insight is valuable on important issues, not only on matters directly affecting blind residents, but also in issues vital to all South Dakotans, disabled and non-disabled alike.

As residents in my State prepare for the annual South Dakota Federation of the Blind Convention in Sioux Falls, I take this opportunity to congratulate and commend Karen Mayry for her many years of outstanding advocacy work for the blind. I applaud her dedication and commitment, appreciate her advocacy, and wish her the best in her own individual battle to come. I look forward to continuing my work with Karen concerning issues of importance to the blind and disabled citizens of south Dakota. It is with great honor that I share her impressive accomplishments with my colleagues.●

CONGRATULATING ALISA BARTON

● Mr. BUNNING. Mr. President, today I would like to take the opportunity to honor Mrs. Alisa Barton of Hopkinsville, KY. Salvation Army welfare coordinator Alisa Barton was honored nationwide with an Award of Excellence in Social Service at the National Social Services Conference in Pittsburgh on Tuesday, March 20.

As former military child and wife, Mrs. Barton knows firsthand the hardship Army families can experience, especially during times of deployment. Mrs. Barton has continuously worked to help alleviate the needs of families remaining at home while their loved ones serve this country in Afghanistan and Iraq.

She developed a program called Homefront War Relief, which has received national recognition for helping the families of deployed Fort Campbell soldiers. The Homefront War Relief program, partnered with Wal-Mart, allowed the Salvation Army to assist 743 military families resulting in the largest military assistance effort the Salvation Army of Hopkinsville has ever done. Throughout 2003, 5,000 military personnel and their families received assistance in the form of comfort kits to deployed soldiers, food and clothing, holiday meals, and Bibles and inspirational books to troops.

Mrs. Barton is dedicated to helping those who come to the Salvation Army in need. She began working with the Salvation Army by ringing donations bells and describes her work as a labor of love spreading the Christian faith and helping people. I ask my colleagues to join me in honoring Mrs. Barton. She is a wonderful asset to Kentucky and an inspiration to us all.●

CONGRATULATING MARSHALL ALL-STAR CHEERLEADERS

● Mr. BUNNING. Mr. President, today I would like to take the opportunity to honor the Marshall All-Star Cheerleaders for their recent success at the national championships in Indianapolis.

The Marshall All-Star Cheerleaders is made up of girls from grades 1–12 competing in three age levels, Peewee grades 1–4, Youth 3–6, and Senior 6–12. They are from Marshall, Graves, Lyon, and McCracken counties and students at Melissa's Gymnastics in Benton, KY.

The squads spent hours in preparation for the fierce competition they faced in Indianapolis. Other squads were from Indiana, Kansas, Illinois, Missouri, Tennessee, Ohio, Michigan, West Virginia, Maryland, Iowa, Wisconsin, and Kentucky. They competed in dance, cheering, and tumbling, and came out on top in the end.

The Marshall All-Star Cheerleaders were the national champions in all three age levels. They are to be commended for this high honor. Their hard work and dedication paid off, and I join

my fellow Kentuckians in congratulating these fine young ladies.●

JUAN MEJIA

● Mrs. BOXER. Mr. President, I am pleased to recognize Juan Mejia for his achievement in becoming the Tulare County spelling bee champion and his entrance into the prestigious National Spelling Bee in Washington D.C.

Juan was born in Guzman, Mexico and moved to the United States when he was a year and a half old. He learned English while attending pre-school at a Head Start Program at Sundale School. Continuing on to Kohn Elementary he distinguished himself as a bright and motivated student and was accepted into the GATE program for gifted students. Now at Live Oak Middle School he continues to excel in his studies and extra-curricular activities.

Juan Mejia's achievement in the Tulare County Spelling Bee is particularly notable because of his late introduction to the English language. By working hard and using all available resources, Juan overcame an educational barrier to become a master of the English language. For his focus, fortitude and determined work, I congratulate him and wish him the best of luck in the National Spelling Bee in Washington D.C. Regardless of the outcome in the National Spelling Bee, Juan Mejia is a tremendous success and a worthy example of how challenges can be met and overcome with focused effort and perseverance.●

IN RECOGNITION OF DOUG HARRISON

● Mrs. BOXER. Mr. President, I am pleased to recognize Doug Harrison's lifetime of service to the Fresno Metropolitan Flood Control District, and most importantly, the people of Fresno County.

In 1970, Doug Harrison began a career with the FMFCD. He served as general manager for 31 years. Mr. Harrison led the effort that designed and implemented a storm drainage system that ended regular flooding which had plagued residences and businesses for generations. Under his leadership, the construction of flood retention basins throughout the Fresno-Clovis metropolitan area became part of a network of groundwater recharge facilities, and in recent years Mr. Harrison led efforts to work with community groups, such as Tree Fresno, to landscape many of these facilities. The result has been the protection of property, replenishment of vital groundwater resources and beautiful greenspace, as well as recreational facilities at many basins.

Mr. Harrison is an exemplary public servant, who has worked tirelessly for a broad constituency. He has made the lives of many people better. His innovation, energy and dedication will be missed. To him, I say thank you. He is a public servant in the best and truest sense of the word.●

KENNESAW STATE UNIVERSITY BASKETBALL TEAM

● Mr. CHAMBLISS. Mr. President, I commend the Kennesaw State University Owls basketball team for winning its first NCAA Division II national championship title. In the 84–59 victory over Southern Indiana, the Owls showed great poise. After the Screaming Eagles sprinted to an eight-point lead, the Owls settled down, regained the lead and never lost it. The team, which moved up to the NCAA Division II Peach Belt Conference in 1994, took the championship in only their second appearance at the NCAA Division II national tournament.

The title capped a 35–4 season record, which had ended with a 26-game winning streak and the Peach Belt championship.

I commend Coach Tommy Ingle, his assistant coaches Jeff Jones and Stace Tedford, for developing and leading this strong team of student athletes. Coach Ingle was able to take the team to a national title in only his second year at the helm. That is extremely impressive.

I also want to praise the players themselves, including seniors Reggie McCoy, Terrence Hill, and Justin Thompson for displaying leadership, determination, skill and sportsmanship. This young basketball squad has already made its mark in college basketball.

In addition to their basketball performance, the Fighting Owls have demonstrated the personal qualities that make them a credit to one of Georgia's great institutes of higher learning, and a credit to the great State of Georgia as well.●

75TH ANNIVERSARY OF ASSUMPTION GREEK ORTHODOX CHURCH

● Mr. LEVIN. Mr. President, I would like to pay tribute to Assumption Greek Orthodox Church, the second Greek Orthodox congregation to be formed in the state of Michigan. Events celebrating the 75th anniversary of Assumption Church began in 2003 and will continue in 2004 with a grand banquet to be held on April 24. These events bring together members of the congregation, as well as thousands of others from throughout the metropolitan Detroit area and around the country, to mark this milestone in the history of Assumption Church.

At the turn of the century, many Greek immigrants settled in cities and towns across the nation. Greek immigrants established a thriving community in Detroit, in what has become known as Greektown. Seventy-five years ago, seven men from the growing Greek community on Detroit's ''eastside'' met to lay plans for a parochial school and a place of worship that would be close to their homes. They sought to continue the tradition of teaching the Greek language and history to their community. In 1930, with the blessing of the Patriarch of Constantinople, the first Church Council established the Assumption Church at Hillger and Kercheval in Detroit. The Church was formally named ''Koimisis tis Theotokou'' meaning ''The Dormition of the Virgin Mary.''

The Church experienced steady growth in both the number of families that joined the parish and the number of new programs that served the needs of the parishioners. Beginning with its first Greek school ''Socrates,'' the Church added various programs for its youth, women, and senior citizens, and continued to expand its philanthropic and religious outreach. The parishioners' reputation as a thriving, caring congregation grew and attracted families from Detroit's suburbs and beyond. Today, more than 1,200 families belong to Assumption Church, making it the largest parish in the region and one of the largest parishes in the Archdiocese.

The Assumption Greek Orthodox Church family moved several times over the years before building the current facilities in St. Clair Shores, which include the notable Assumption Cultural Center. They built churches at Beniteau and Vernor Highway and on Charlevoix that serve Protestant congregations today. Like these stalwart structures that are reminders of the congregation's vision and faithfulness, Assumption's spiritual leaders have been significant pillars in the community. The first priest, Father Christopher Makris, arrived in Detroit from Chicago. His service was followed by 11 clergy leaders and several laity, who have been represented in the highest positions of service nationally in matters of religious education, stewardship, athletics, the St. John Chrysostom Oratorical festival and various missionary activities. Father Demetrios Kavadas provided spiritual leadership for 39 years and is Assumption's longest serving clergyman. In 2003, Father Epihanios Perialas became interim pastor and honored the parish through his elevation to Metropolitan of Spain and Portugal. Father Michael Varlamos became pastor in 2003 and continues to serve in that capacity today. Unfortunately, the Church experienced a devastating fire on December 21, 2002, that destroyed the interior of the Church along with its beautiful iconography. The Church was promptly restored and re-opened its doors almost one year to the day, in December 2003.

I know my colleagues join me in congratulating the congregation of Assumption Greek Orthodox Church for achieving 75 years of devotion to God, their faith, and excellence in serving their members and the surrounding communities.●

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

MESSAGES FROM THE HOUSE

At 2:08 p.m., a message from the House of Representatives, delivered by one of its clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3550. An act to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

ENROLLED BILL SIGNED

At 4:01 p.m., a message from the House of Representatives, delivered by one of its clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 3108. 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.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2290. A bill to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

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

EC–7036. A communication from the Secretary of Homeland Security, transmitting, pursuant to law, a report of a violation of the Antideficiency Act in the United States Coast Guard; to the Committee on Appropriations.

EC–7038. A communication from the Deputy Associate Administrator, Office of Acquisition policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Federal Acquisition Circular 2001-20'' (FAC2001-20) received on April 5, 2003; to the Committee on Armed Services.

EC–7039. A communication from the Assistant Secretary of Defense for Health Affairs, Department of Defense, transmitting, pursuant to law, a report on the quality of health care furnished under the health care programs of the Department; to the Committee on Armed Services.

EC–7040. A communication from the Acting Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, the National Defense Stockpile Annual Materials Plan for Fiscal Year 2005; to the Committee on Armed Services.

EC–7041. A communication from the Acting Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, a report relative to the National Defense Stockpile; to the Committee on Armed Services.

EC–7042. A communication from the Board of Trustees, National Railroad Retirement Investment Trust, transmitting, pursuant to law, a report relative to the Trust's operations and financial condition; to the Committee on Finance.

PETITIONS AND MEMORIALS

POM–387. A resolution adopted by the Senate of the Legislature of the State of New Jersey relative to their ratification of the Fourteenth Amendment; to the Committee on the Judiciary.

JOINT RESOLUTION

Whereas, the Fourteenth Amendment to the United States Constitution granted citizenship to, and protected the civil liberties of, freed slaves; and

Whereas, the Fourteenth Amendment also prohibits states from abridging the privileges or immunities of any citizen, depriving any person of life, liberty, or property without due process of law, or denying any person equal protection of laws; and

Whereas, the rights guaranteed by the Fourteenth Amendment are part of the foundation of our free society; and

Whereas, in 1866, the New Jersey Legislature acted to ensure these rights by ratifying the Fourteenth Amendment; and

Whereas, thereafter, the New Jersey Legislature, in 1868, attempted to withdraw its ratification of this amendment by passage of Joint Resolution No. IV; and

Whereas, both the Federal Secretary of State and the Congress refused to recognize the New Jersey's attempt to withdraw ratification and the Fourteenth Amendment became a part of the United States Constitution on July 20, 1868; and

Whereas, the attempt to withdraw New Jersey's ratification of the Fourteenth Amendment is contrary to this State's long tradition of respect for, and protection of, the civil rights of all persons; and

Whereas, even though the attempt to withdraw New Jersey's ratification of the Fourteenth Amendment was without effect, there is, nevertheless, a need to rectify this misguided action; now, therefore, be it

Resolved by the Senate and General Assembly of the State of New Jersey.

1. Joint Resolution No. IV of 1868 which attempted to withdraw New Jersey's ratification of the Fourteenth Amendment is hereby revoked.

2. Duly authenticated copies of this Joint Resolution shall be transmitted to the federal Secretary of State, the presiding officers of the Congress of the United States, and each member of New Jersey's congressional delegation.

3. This Joint Resolution shall take effect immediately.

POM–388. A joint resolution adopted by the Legislature of the State of California relative to disabled military retirees; to the Committee on Armed Services.

ASSEMBLY JOINT RESOLUTION NO. 34

Whereas, a penalty is imposed against disabled military retirees for concurrent receipt of retirement and disability compensation; and

Whereas, if a member of the armed forces retires with 20 or more years of service to this country, earning retirement compensation, and this same retiree has a major disability resulting from wounds or service connected activities, $1 from his or her retirement check is deducted for each dollar of disability payment received; and

Whereas, this law requires retired military personnel to do something no one else in America is obligated to do—pay for their own disability; and

Whereas, for many years, veterans' organizations and disabled veterans battled to change this law; and

Whereas, last year, Congress recognized that disabled military retirees had a legitimate complaint and introduced legislation that was designed to correct this policy; and

Whereas, included within the National Defense Authorization Act For Fiscal Year of 2002 is legislation that will end this discriminatory practice of deducting disability compensation from retirement pay. However, the legislation will be effective only if the President requests money to cover its costs in his next budget; and

Whereas, these disabled military retirees fought in World War II, Korea, Vietnam, the Persian Gulf, and a dozen brush fire wars in unremembered countries, risking everything for our country. They gave of their youth and health, only to be retired with a disability that they are forced to pay for out of their own pockets; and

Whereas, the discrimination our country has displayed for its disabled military retirees should not be passed on to those young people who are now fighting our War Against Terrorism; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress and the President of the United States to urge the Congress of the United States to fund the National Defense Authorization Act For Fiscal Year of 2002, to eliminate the penalty imposed against disabled military retirees for concurrent receipt of retirement and disability compensation; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, and to the Speaker of the House of Representatives, the President of the Senate, and each Member in the Congress of the United States.

POM–389. A joint resolution adopted by the Legislature of the State of California relative to military reserve personnel; to the Committee on Armed Services.

ASSEMBLY JOINT RESOLUTION NO. 26

Whereas, the military reserve forces of the United States provide a valuable service to the citizens of the United States; and

Whereas, military reserve personnel make up 60 percent of the total armed forces of the United States; and

Whereas, the reserve forces of the United States military provide for the continuing freedom and pursuit of democracy throughout the world; and

Whereas, the military reserve upholds our values and beliefs in times of peace as well as war; and

Whereas, evidence suggests that members of the military reserve may be discriminated against due to their reserve status when applying for financing; and

Whereas, this discrimination results in members of the military reserve being charged higher interest rates for loans due to their reserve status; and

Whereas, this discrimination is an attempt to circumvent the Soldiers and Sailors Relief Act of 1940; and

Whereas, the Soldiers and Sailors Relief Act of 1940 specifies that should a member of the military reserve be called to active duty, that person's outstanding loans shall be capped at a 6 percent interest rate should the soldier prove that his or her active duty status would put him or her in financial hardship; and

Whereas, the practice of subprime lending based on reserve status is not prohibited by federal law; and

Whereas, California has taken the lead in protecting the military reserve and the National Guard in California through Assembly Bill 120 of the 2001–02 Regular Session; and

Whereas, we must protect the interest of our military reserve personnel in order to preserve military readiness and morale; and

Whereas, the federal government must stand firm in upholding the rights and duties of the military reserve and continue to demonstrate leadership in the implementation of a strong military force; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California memorializes the President and Congress of the United States to do all of the following:

(a) Stand firm in protecting the financial interest of military reserve personnel.

(b) Enact new legislation that strengthens the provisions of the Soldiers and Sailors Relief Act of 1940.

(c) Look into the practice of predatory lending against military reservists based on their reserve status.

(d) Enact legislation that makes it a crime to discriminate against military reserve personnel based on reserve status when applying for financing; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States and to all members of Congress of the United States.

POM–390. A joint resolution adopted by the Legislature of the State of California relative to Armenian Genocide; to the Committee on Foreign Relations.

ASSEMBLY JOINT RESOLUTION NO. 44

Whereas, one and one-half million men, women, and children of Armenian descent were victims of the brutal genocide perpetrated by the Ottoman Empire from 1915 to 1923; and

Whereas, the Armenian Genocide and massacre of the Armenian people have been recognized as an attempt to eliminate all traces of a thriving and noble civilization over 3,000 years old; and

Whereas, to this day revisionists still inexplicably deny the existence of these horrific events; and

Whereas, by consistently remembering and openly condemning the atrocities committed against the Armenians, California residents demonstrate their sensitivity to the need for constant vigilance to prevent similar atrocities in the future; and

Whereas, recognition of the 87th anniversary of this genocide is crucial to preventing the repetition of future genocides and educating people about the atrocities connected to these tragic events; and

Whereas, Armenia is now a free and independent republic, having embraced democracy following the dissolution of the Soviet Union; and

Whereas, California is home to the largest population of Armenians in the United States, and those citizens have enriched our state through their leadership in the fields of business, agriculture, academia, medicine, government, and the arts and are proud and patriotic practitioners of American citizenship; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California hereby designates April 24, 2002, as ''California Day of Remembrance for the Armenian Genocide of 1915–1923''; and be it further

Resolved, That the State of California respectfully memorializes the Congress of the United States to likewise act to commemorate the Armenian Genocide; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, Members of the United States Congress, the Governor, and Armenian churches and commemorative organizations in California.

POM–391. A joint resolution adopted by the Legislature of the State of California relative to commending Title IX of the Education Amendments of 1972; to the Committee on Health, Education, Labor, and Pensions.

ASSEMBLY JOINT RESOLUTION NO. 47

Whereas, June 23, 2002, marks the celebration of the 30th anniversary of Title IX of the Education Amendments enacted by the United States Congress and signed into law in 1972, and upon this occasion, it is deserving of special public commendations; and

Whereas, Title IX of the Education Amendments of 1972, which is one of the most significant pieces of federal legislation passed in the 20th century, prohibits discrimination on the basis of sex in education programs and activities at education institutions that receive federal funds, and it is an omnibus education law affecting all curricular and extracurricular offerings, from medicine, law, and science to drama, dance, and athletics; and

Whereas, girls and women throughout the ages have participated in a variety of sports and physical activities in school, community, and club programs; and

Whereas, prior to the passage of Title IX, there were few opportunities for girls and women to participate in high school or college athletics; and

Whereas, participation in sports is acknowledged as a positive force in developing and promoting physical, mental, moral, social, and emotional well-being, and it is well-established that participation in athletics builds self-esteem, communication skills, discipline, and perseverance, all qualities that make a positive and significant difference in the quality of life and in the level of accomplishment; and

Whereas, participation in girls youth and high school sports leagues has risen to a record level, and participation by female collegiate athletes now represents 41 percent of all varsity athletes; and

Whereas, girls who participate in sports have the opportunity to develop strong interpersonal relationships while learning teamwork, goal-setting, and other achievement-oriented behaviors; and

Whereas, participation in athletics strengthens family bonds between young women and their parents who may have participated in athletics themselves, and engaging in physical activities and sporting events as a family unit further enhances family bonds; and

Whereas, teenage female athletes are less likely to use marijuana, cocaine, or other illicit drugs, less likely to be suicidal, less likely to smoke, and more likely to have positive body images than female nonathletes, and woman student athletes graduate at a significantly higher rate than women students in general; and

Whereas, teengage female athletes are 50 percent less likely to become pregnant as female nonathletes, less likely to have sex as teenagers than female nonathletes, and more likely to postpone their first sexual experience than female nonathletes; and

Whereas, many female athletes have distinguished themselves as representatives of California and the nation in international competition and the Olympic Games, and during the 2000 Summer Olympics, women competed for the first time in the same number of team sports as men; and

Whereas, professional female athletes now compete in leagues such as the Women's United Soccer Association, the Women's National Basketball Association, the Women's Tennis Association, the Ladies Professional Golf Association, Women's Professional Softball League, and the Women's Professional Football League, and the United States Professional Volleyball League will launch in 2002; and

Whereas, the increased visibility of female athletes provide people, young and old, female and male, with positive role models, and many women agree that seeing successful female athletes make them feel great pride as women; and

Whereas, Title IX continues to break down the gender barriers in educational institutions, giving women the opportunity to strive and achieve for excellence and realize the best within themselves; and

Whereas, women of all ages should be encouraged to compete and contribute to sports at all levels of competition and to ensure opportunity for the next generation of female athletes and sports leaders as we enter the new millennium; now therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California memorializes the President and Congress of the United States to do all of the following:

(1) Stand firm in their resolve to uphold the intent and substance of the current provision of Title IX of the Education Amendments of 1972.

(2) Pursue a strong enforcement policy for Title IX of the Education Amendments of 1972 and strengthen the compliance and enforcement policies of the U.S. Department of Education's Office for Civil Rights (OCR).

(3) Support the continuation of the strong compliance standards that are currently in place for Title IX of the Education Amendments of 1972.

(4) Encourage all Americans to participate in the national celebration, ''Celebrating 30 Years of Title IX''; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States and to all Members of Congress of the United States.

POM–392. A joint resolution adopted by the Legislature of the State of California relative to the reunification of Cyprus and its accession to the European Union; to the Committee on Foreign Relations.

ASSEMBLY JOINT RESOLUTION NO. 48

Whereas, for 27 years Turkey has illegally occupied 37 percent of the territory of the Republic of Cyprus and during that time has continually violated the will of the international community; including the United States and the United Nations, that Turkey cease its illegal occupation of Cyprus; and

Whereas, it is the position of the United States government that a political settlement to the Cyprus problem should be based on United Nations Security Council Resolutions; and

Whereas, these resolutions provide that a Cyprus settlement must be based on a State

of Cyprus with a single sovereignty and international personality and a single citizenship, with its independence and territorial integrity safeguarded, and comprising two politically equal communities as described in the relevant Security Council resolutions, in a bicommunal and bizonal federation; and

Whereas, the resumption of direct talks in January 2002, in the context of the Good Offices of the Secretary General, to find a just and viable solution to the Cyprus problem is an encouraging development that should be sustained and intensified in order to arrive, by the target date of June 2002, to an agreement; and

Whereas, the members of the Security Council, reiterated, on April 4, 2002, their full support for the negotiating process and for the Secretary General's mission entrusted to him by the Security Council in Security Council Resolution 1250, which was adopted on June 29, 1999, and urged the leaders to work for reaching a comprehensive settlement that takes full consideration of the relevant United Nations Resolutions and Treaties; and

Whereas, a peaceful, just, and lasting solution to the Cyprus problem would greatly benefit the security and the political, economic, and social well-being of all Cypriots, as well as contribute to improved relations between Greece and Turkey, and will serve the interests of the United States in the region; and

Whereas, security, reconciliation, and prosperity for all Cypriots can be best achieved within the context of membership in the European Union which will provide significant rights and obligations for all Cypriots; and

Whereas, the prospect of Cyprus' accession to the European Union has acted as a catalyst for the resumption of the talks aimed at reaching a resolution of the Cyprus problem; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature calls upon the President of the United States to increase the administration's efforts to encourage initiatives that will help promote and achieve reunification, reconciliation, stability, and prosperity in Cyprus within the context of the ongoing efforts under the United Nations Secretary General's auspices and on the basis of the relevant United Nations Security Council Resolutions; and be it further

Resolved, That the Assembly and Senate of the State of California, jointly, request the United States government to continue to strongly support the accession of Cyprus to the European Union, without a settlement of the Cyprus problem being a precondition for accession; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative in the Congress of the United States.

POM–393. A joint resolution adopted by the Legislature of the State of California relative to the extradition of criminals; to the Committee on Foreign Relations.

ASSEMBLY JOINT RESOLUTION NO. 63

Whereas, the Mexican Supreme Court ruled in October 2001 that Mexico will not extradite criminals who face life sentences in the United States; and

Whereas, the United States Constitution prohibits states from entering into treaties with foreign governments to protect their citizens and arrange extradition for criminals; and

Whereas, the person or persons responsible for the April 29, 2002, murder of Los Angeles County Sheriff Deputy David March is believed to have fled to Mexico to avoid prosecution; and

Whereas, California and other states must rely upon the federal government to resolve this issue of national importance; and

Whereas, the Attorney General from each of the 50 states has asked United States Attorney General John Ashcroft and United States Secretary of State Colin Powell to address this extradition issue with their counterparts in Mexico; now, therefore, be it

Resolved, by the Assembly and Senate of the State of California, jointly, That the extradition from Mexico of all criminals who face life sentences is a matter of urgent and enduring importance to the State of California; and be it further

Resolved, That California's Senators and Members of the House of Representatives should take all prudent and necessary steps to ensure that this matter is addressed at the highest levels of our federal government; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, the United States Attorney General, the United States Secretary of State, and to each member of the Congress of the United States.

POM–394. A resolution adopted by the House of Representatives of the General Assembly of the State of Pennsylvania relative to the Snowe Amendment to the PRIDE Act; to the Committee on Finance.

HOUSE RESOLUTION NO. 560

Whereas, the House of Representatives of the United States Congress has passed H.R. 4, which would set requirements for state welfare programs and establish funding levels for the Temporary Assistance to Needy Families (TANF) and child-care block grants for the five-year reauthorization period; and

Whereas, the Child Care Development Block Grant (CCDBG) currently provides $4.8 billion annually to states for child-care services, $2.7 billion in mandatory funding annually for the period of reauthorization and $2.1 billion in discretionary funding, subject to annual renewal by the Congress; and

Whereas, although H.R. 4 would increase mandatory child-care funding by $1 billion over five years, this is an amount widely regarded as insufficient to meet the increased demand for child-care for families leaving welfare or the demand for child-care subsidy for income-eligible families; and

Whereas, Senator Olympia Snowe of Maine is prepared to offer an amendment to H.R. 4 that would increase mandatory spending to $7 billion for the five-year reauthorization period; and

Whereas, since Federal funds make up 74% of Pennsylvania's child-care spending, an increase in mandatory funds through the CCDBG would provide the Commonwealth a stable source of funds to expand subsidy for families, build program quality and school readiness and improve services to parents; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania memorialize the Senate of the United States Congress to adopt the Snowe Amendment to H.R. 4, the Personal Responsibility and Individual Development for Everyone (PRIDE) Act; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of the Senate of the United States Congress and to the two Senators from Pennsylvania.

POM–395. A resolution adopted by the Commission of Wayne County of the State of Michigan relative to federal transit funding formulas; to the Committee on Environment and Public Works.

POM–396. A resolution adopted by the Board of Supervisors of the County of Sonoma of the State of California relative to gaming facilities in the County; to the Committee on Indian Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GRASSLEY, from the Commitee on Finance:

S. 1637. A bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. MCCAIN for the Committee on Commerce, Science, and Transportation.

*Kirk Van Tine, of Virginia, to be Deputy Secretary of Transportation.

*Theodore William Kassinger, of Maryland, to be Deputy Secretary of Commerce.

*Thomas Hill Moore, of Florida, to be a Commissioner of the Consumer Product Safety Commission for a term of seven years from October 27, 2003.

*A. Paul Anderson, of Florida, to be a Federal Maritime Commissioner for the term expiring June 30, 2007.

*Joseph E. Brennan, of Maine, to be a Federal Maritime Commissioner for the term expiring June 30, 2008.

*Deborah Hersman, of Virginia, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2008.

*Louis S. Thompson, of Maryland, to be a Member of the Reform Board (Amtrak) for a term of five years.

*Jack Edwin McGregor, of Connecticut, to be a Member of the Advisory Board of the Saint Lawrence Seaway Development Corporation.

*Coast Guard nomination of Vice Adm. Terry M. Cross.

*Coast Guard nomination of Rear Adm. Vivien S. Crea.

*Coast Guard nomination of Rear Adm. Harvey E. Johnson.

*Coast Guard nomination of Radm (L) James C. Van Sice.

Mr. MCCAIN. Mr. President, for the Committee on Commerce, Science, and Transportation 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.

Coast Guard nomination of Glenn M. Sulmasy.

Coast Guard nominations beginning George W Molessa and ending Yamasheka Z Young, which nominations were received by the Senate and appeared in the Congressional Record on March 12, 2004.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. EDWARDS:

S. 2303. A bill to help American families save, invest, and build a better future, and for other purposes; to the Committee on Finance.

By Mr. HAGEL:

S. 2304. A bill to amend the Reclamation Project Authorization Act of 1972 to clarify the acreage for which the North Loup division is authorized to provide irrigation water under the Missouri River Basin project; to the Committee on Energy and Natural Resources.

By Mr. HAGEL (for himself and Mr. LIEBERMAN):

S. 2305. A bill to authorize programs that support economic and political development in the Greater Middle East and Central Asia and support for three new multilateral institutions, and for other purposes; to the Committee on Foreign Relations.

By Mr. MCCAIN (for himself and Mr. SUNUNU):

S. 2306. A bill to reauthorize, restructure, and reform the intercity passenger rail service program; to the Committee on Commerce, Science, and Transportation.

By Mr. GRASSLEY:

S. 2307. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs by importers, and by individuals for personal use, and for other purposes; to the Committee on Finance.

By Mr. CORZINE (for himself, Mr. REED, Mr. BINGAMAN, Mr. LAUTENBERG, and Ms. CANTWELL):

S. 2308. A bill to provide for prompt payment and interest on late payments of health care claims; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DORGAN:

S. 2309. A bill to amend the Internal Revenue Code of 1986 to provide for a refundable wage differential credit for activated military reservists; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself, Mr. NELSON of Florida, and Mr. REED):

S. 2310. A bill to promote the national security of the United States by facilitating the removal of potential nuclear weapons materials from vulnerable sites around the world, and for other purposes; to the Committee on Armed Services.

By Ms. SNOWE (for herself, Mrs. FEINSTEIN, Mr. BINGAMAN, and Ms. CANTWELL):

S. 2311. A bill to provide for various energy efficiency programs and tax incentives, and for other purposes; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. DAYTON):

S. 2312. A bill to regulate the transmission of personally identifiable information to foreign affiliates and subcontractors; to the Committee on Commerce, Science, and Transportation.

By Mr. GRAHAM of Florida (for himself, Mrs. CLINTON, Mrs . BOXER, Mr. NELSON of Florida, Mr. SCHUMER, Mr. LAUTENBERG, Mr. HOLLINGS, and Mrs. LINCOLN):

S. 2313. A bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes; to the Committee on Rules and Administration.

By Mr. DURBIN:

S. 2314. A bill for the relief of Nabil Raja Dandan, Ketty Dandan, Souzi Dandan, Raja Nabil Dandan, and Sandra Dandan; to the Committee on the Judiciary.

By Mr. BURNS:

S. 2315. A bill to amend the Communications Satellite Act of 1962 to extend the deadline for the INTELSAT initial public offering; to the Committee on Commerce, Science, and Transportation.

By Ms. MURKOWSKI (for herself and Ms. LANDRIEU):

S. 2316. A bill to amend the Internal Revenue Code of 1986 to allow penalty-free withdrawals from individual retirement plans for adoption expenses; to the Committee on Finance.

By Mr. THOMAS:

S. 2317. A bill to limit the royalty on soda ash; to the Committee on Energy and Natural Resources.

By Ms. COLLINS (for herself, Mr. BAYH, Mr. ROBERTS, and Mr. REED):

S. 2318. A bill to expand upon the Department of Defense Energy Efficiency Program required by section 317 of the National Defense Authorization Act of 2002 by authorizing the Secretary of Defense to enter into energy savings performance contracts, and for other purposes; 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. FITZGERALD (for himself and Mrs. FEINSTEIN):

S. Res. 334. A resolution designating May 2004 as National Electrical Safety Month; to the Committee on the Judiciary.

By Mr. MCCAIN (for himself, Mr. BIDEN, Mr. FITZGERALD, Mr. BREAUX, Mr. ALLEN, and Mr. DORGAN):

S. Res. 335. A resolution expressing the sense of the Senate that Major League Baseball clubs and their players should take immediate action to adopt a drug-testing policy that effectively deters Major League Baseball players from using anabolic steroids and any other performance-enhancing substances that create a competitive advantage for, and pose a serious health risk to, such players and the children and teenagers who emulate them; considered and agreed to.

By Mr. AKAKA (for himself, Mr. FITZGERALD, Ms. COLLINS, Mr. LIEBERMAN, Mr. VOINOVICH, Mr. DURBIN, Mr. COLEMAN, and Mr. LEVIN):

S. Res. 336. A resolution expressing the sense of the Senate that public servants should be commended for their dedication and continued service to the Nation during Public Service Recognition Week, May 3 through 9, 2004; to the Committee on Governmental Affairs.

By Ms. MURKOWSKI (for herself, Mr. SPECTER, Mr. GRAHAM of Florida, Mr. MILLER, Mr. CAMPBELL, Mrs. MURRAY, Mr. GRAHAM of South Carolina, Mr. AKAKA, Mr. NELSON of Nebraska, Mr. BOND, Mr. COLEMAN, Mr. BUNNING, and Mr. STEVENS):

S. Res. 337. A resolution expressing the appreciation of the Senate for the Paralyzed Veterans of America; considered and agreed to.

By Ms. MURKOWSKI (for herself, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLEN, Mr. BAYH, Mr. BUNNING, Mr. CAMPBELL, Mrs. CLINTON, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CONRAD, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DURBIN, Mr. KERRY, Ms. LANDRIEU, Ms. MIKULSKI, Mrs. MURRAY, Mr. SCHUMER, Ms. SNOWE, Ms. STABENOW, Mr. STEVENS, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. CRAIG, and Mr. JOHNSON):

S. Res. 338. A resolution calling on the President to designate April 16, 2004, as National Youth Service Day, and for other purposes; considered and agreed to.

By Mr. DODD (for himself, Mr. CORZINE, and Mrs. BOXER):

S. Res. 339. A resolution urging the President to immediately instruct the Secretary of State and the Secretary of Defense to respectively begin initiating consultations with other members of the United Nations Security Council concerning a United Nations Security Council Resolution for Iraq, and with the Secretary General of the North Atlantic Treaty Organization (NATO) concerning a mandate for a NATO commitment for security in Iraq, with the goal of securing both not later than May 15, 2004; to the Committee on Foreign Relations.

By Mr. BROWNBACK (for himself and Mr. FEINGOLD):

S. Con. Res. 99. A concurrent resolution condemning the Government of the Republic of the Sudan for its participation and complicity in the attacks against innocent civilians in the impoverished Darfur region of western Sudan; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 623

At the request of Mr. WARNER, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 623, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 863

At the request of Mr. EDWARDS, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 863, a bill to amend the Higher Education Act of 1965 to allow soldiers to serve their country without being disadvantaged financially by Federal student aid programs.

S. 976

At the request of Mr. WARNER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 976, a bill to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

S. 1010

At the request of Mr. HARKIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1010, a bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities.

S. 1197

At the request of Mr. ENZI, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1197, a bill to amend the Public Health Service Act to ensure the safety and accuracy of medical imaging examinations and radiation therapy treatments.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1638

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1638, a bill to amend title II of the Higher Education Act of 1965 to increase teacher familiarity with the educational needs of gifted and talented students, and for other purposes.

S. 1645

At the request of Mr. CRAIG, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 1645, a bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

S. 1737

At the request of Mr. WYDEN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1737, a bill to amend the Clayton Act to enhance the authority of the Federal Trade Commission or the Attorney General to prevent anticompetitive practices in tightly concentrated gasoline markets.

S. 1755

At the request of Mr. LEAHY, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1755, a bill to amend the Richard B. Russell National School Lunch Act to provide grants to support farm-to-cafeteria projects.

S. 1873

At the request of Mr. KERRY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1873, a bill to require employees at a call center who either initiate or receive telephone calls to disclose the physical location of such employees, and for other purposes.

S. 1916

At the request of Ms. LANDRIEU, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from New Hampshire (Mr. SUNUNU) were added as cosponsors of S. 1916, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 1934

At the request of Ms. LANDRIEU, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1934, a bill to establish an Office of Intercountry Adoptions within the Department of State, and to reform United States laws governing intercountry adoptions.

S. 1961

At the request of Mr. HOLLINGS, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1961, a bill to provide for the revitalization and enhancement of the American passenger and freight rail transportation system.

S. 2088

At the request of Mr. KENNEDY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 2088, a bill to restore, reaffirm, and reconcile legal rights and remedies under civil rights statutes.

S. 2215

At the request of Mr. REED, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 2215, a bill to amend the Higher Education Act of 1965 to provide funds for campus mental and behavioral health service centers.

S. 2234

At the request of Mr. DASCHLE, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2234, a bill to amend title XVIII of the Social Security Act to ensure that prescription drug card sponsors pass along discounts to beneficiaries under the medicare prescription drug discount card and transitional assistance program.

At the request of Ms. MIKULSKI, her name was added as a cosponsor of S. 2234, supra.

S. 2236

At the request of Ms. CANTWELL, the names of the Senator from West Virginia (Mr. BYRD) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 2236, a bill to enhance the reliability of the electric system.

S. 2252

At the request of Mr. KENNEDY, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2252, a bill to increase the number aliens who may receive certain non-immigrant status during fiscal year 2004 and to require submissions of information by the Secretary of Homeland Security.

S. 2267

At the request of Ms. SNOWE, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 2267, a bill to amend section 29(k) of the Small Business Act to establish funding priorities for women's business centers.

S. 2271

At the request of Mr. DURBIN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2271, a bill to establish national standards for discharges from cruise vessels into the waters of the United States, and for other purposes.

S. 2273

At the request of Mr. MCCAIN, the names of the Senator from California (Mrs. BOXER), the Senator from Washington (Ms. CANTWELL) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. 2273, a bill to provide increased rail transportation security.

S. 2280

At the request of Mr. STEVENS, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2280, a bill to establish a coordinated national ocean exploration program within the National Oceanic and Atmospheric Administration.

S. 2292

At the request of Mr. VOINOVICH, the names of the Senator from Delaware (Mr. BIDEN) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. 2292, a bill to require a report on acts of anti-Semitism around the world.

S.J. RES. 1

At the request of Mr. KYL, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S.J. Res. 1, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

S.J. RES. 30

At the request of Mr. ALLARD, the names of the Senator from Tennessee (Mr. FRIST), the Senator from Kentucky (Mr. MCCONNELL) and the Senator from Missouri (Mr. TALENT) were added as cosponsors of S.J. Res. 30, a joint resolution proposing an amendment to the Constitution of the United States relating to marriage.

S. CON. RES. 78

At the request of Mr. LIEBERMAN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. Con. Res. 78, a concurrent resolution condemning the repression of the Iranian Baha'i community and calling for the emancipation of Iranian Baha'is.

S. CON. RES. 90

At the request of Mr. LEVIN, the names of the Senator from New York (Mrs. CLINTON), the Senator from Wisconsin (Mr. KOHL) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. Con. Res. 90, a concurrent resolution expressing the Sense of the Congress regarding negotiating, in the United States-Thailand Free Trade Agreement, access to the United States automobile industry.

S. RES. 221

At the request of Mr. SARBANES, the names of the Senator from South Carolina (Mr. GRAHAM) and the Senator

from Indiana (Mr. BAYH) were added as cosponsors of S. Res. 221, a resolution recognizing National Historically Black Colleges and Universities and the importance and accomplishments of historically Black colleges and universities.

S. RES. 311

At the request of Mr. BROWNBACK, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. Res. 311, a resolution calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Father Thadeus Nguyen Van Ly, and for other purposes.

S. RES. 326

At the request of Mr. BIDEN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. Res. 326, a resolution condemning ethnic violence in Kosovo.

S. RES. 330

At the request of Mr. WYDEN, the names of the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Illinois (Mr. DURBIN), the Senator from Iowa (Mr. HARKIN) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. Res. 330, a resolution expressing the sense of the Senate that the President should communicate to the members of the Organization of Petroleum Exporting Countries ('OPEC') cartel and non-OPEC countries that participate in the cartel of crude oil producing countries the position of the United States in favor of increasing world crude oil supplies so as to achieve stable crude oil prices.

AMENDMENT NO. 3036

At the request of Mr. BAUCUS, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of amendment No. 3036 intended to be proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

AMENDMENT NO. 3043

At the request of Mr. AKAKA, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of amendment No. 3043 intended to be proposed to S. 344, a bill expressing the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. EDWARDS:

S. 2303. A bill to help American families save, invest, and build a better future, and for other purposes; to the Committee on Finance.

Mr. EDWARDS. Mr. President, I rise to introduce the Better Future for American Families Act. Today's legislation will strengthen progressive tax credits to help middle-class families save, invest, and get ahead.

For more than 200 years, our country has been propelled by this single, powerful idea: All Americans should have the opportunity to rise as far as their hard work and God-given potential can take them. In the last generation, however, the American Dream of building something better has been replaced with the hope of just getting by.

Due to the rising costs of housing, health care, and other necessities, many families are no longer saving for the future. In fact, they need to borrow to get through the present. Personal bankruptcies reached an all-time high of 1.6 million a year in 2002. Almost one in five households approaching retirement can expect to retire in poverty, and this rate is even higher for African American and Hispanic households. The middle-class—the foundation of this country—is sinking.

If we want to create new wealth in this country, we should start by rewarding the work and responsibility of America's families. What's right for our economy, our democracy, and our society is consistent with our values as well: Every American should have the chance to be an owner—to buy a home, save for college, invest in America, or put money aside for a secure retirement.

In current law, there is a Saver's Credit that matches retirement savings of low-income families up to dollar-for-dollar. The credit has been a success, but it does suffer from some limitations.

First, the Saver's Credit will expire in 2006. The Republican budget plan fails to extend it, even as it extends other tax cuts enacted in 2001. My legislation would make it permanent.

Second, the credit phases out rapidly, providing only a small benefit to many middle-income families and creating high marginal tax rates for millions of savers. My legislation would expand benefits for families earning less than $50,000.

Finally, although 57 million taxpayers are eligible for the maximum credit on paper, 80 percent of them cannot actually benefit from it because they lack income tax liability. These are families that need help as much as anyone, and my legislation would make them eligible for the credit.

This legislation would make a real difference for American families. A family that saves the maximum under this plan every year from age 25 to retirement will have a nest egg of $200,000 on top of any other savings, pensions, and Social Security.

Here in Congress, it is our responsibility to make sure that families working for a living have the tools they need to move forward. My legislation is not about creating another government program to protect families; it is about helping families help themselves.

If we help families save, we can unleash a new era of possibilities with a stronger economy because we're saving and investing more; with families at ease because they have financial security; and with our children prospering because they have a strong foundation on which to build. I urge all of my colleagues to join me in supporting this effort.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 2393

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 ''Better Future for American Families Act''.

SEC. 2. MODIFICATIONS TO SAVER'S CREDIT.

(a) SAVER'S CREDIT.—Section 25B of the Internal Revenue Code of 1986 is amended by striking the heading thereof and inserting ''THE SAVER'S CREDIT.''.

(b) MODIFICATIONS TO APPLICABLE PERCENTAGE.—Subsection (b) of section 25B of the Internal Revenue Code of 1986 is amended to read as follows:

''(b) APPLICABLE PERCENTAGE.—For purposes of this section—

''(1) IN GENERAL.—The applicable percentage is 50 percent reduced (but not below zero) by 1 percentage point for each phaseout amount by which the taxpayer's adjusted gross income for the taxable year exceeds the threshold amount.

''(2) PHASEOUT AMOUNT; THRESHOLD AMOUNT.—The phaseout amount and the threshold amount shall be determined as follows:

In the case of an individual filing:	The phaseout amount is:	The threshold amount is:
A joint return	$400	$30,000
A head of household return.	$300	$22,500
Any other return.	$200	$15,000.''.

(c) REPEAL OF TERMINATION.—Section 25B of the Internal Revenue Code of 1986 is amended by striking subsection (h).

(d) CREDIT REFUNDABLE.—

(1) IN GENERAL.—Section 25B of the Internal Revenue Code of 1986, as amended by this Act, is hereby moved to subpart C of part IV of subchapter A of chapter 1 of such Code (relating to refundable credits) and inserted after section 35.

(2) CONFORMING AMENDMENTS.—

(A) Section 24(b)(3)(B) of the Internal Revenue Code of 1986 is amended by striking ''and 25B''.

(B) Section 25(e)(1)(C) of such Code is amended by striking '', 25B''.

(C) Section 26(a)(1) of such Code is amended by striking ''24, and 25B'' and inserting ''and 24''.

(D) Section 25B of such Code, as moved by paragraph (1), is redesignated as section 36.

(E) Section 904(h) of such Code is amended by striking ''24, and 25B'' and inserting '' and 24''.

(F) Section 1400C of such Code is amended by striking ''24, and 25B'' and inserting '' and 24''.

(G) The table of sections for subpart C of part IV of subchapter A of chapter 1 of such

Code is amended by striking the item relating to section 36 and inserting the following:

''Sec. 36. The Saver's Credit.

''Sec. 37. Overpayments of tax.''.

(H) The table of sections for subpart A of part IV of such Code is amended by striking the item relating to section 25B.

(I) Section 1324 of title 31, United States Code, is amended by inserting '', or enacted by the Better Future for American Families Act'' before the period at the end.

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

By Mr. HAGEL (for himself and Mr. LIEBERMAN):

S. 2305. A bill to authorize programs that support economic and political development in the Greater Middle East and Central Asia and support for three new multilateral institutions, and for other purposes; to the Committee on Foreign Relations.

Mr. HAGEL. Mr. President, I rise today to introduce The Greater Middle East and Central Asia Development Act of 2004 with my colleague, Senator LIEBERMAN. This bill supports economic and private sector development in the countries of the Greater Middle East and Central Asia.

The terrorist attacks of September 11, 2001 signaled a turning point in United States foreign policy. Al-Qaida and affiliated groups have established a terrorist network with linkages in Afghanistan, Pakistan, throughout the Greater Middle East and Central Asia, and around the world. The war on terrorism requires that the United States consider the Greater Middle East and Central Asia as a strategic region with its own political, economic and security dynamics. While rich in cultural, geographic and language diversity, the Greater Middle East and Central Asia face common impediments to economic development and political freedom. Although poverty and economic underdevelopment alone do not ''cause'' terrorism, the expansion of economic growth, free trade, and private sector development can contribute to an environment that undercuts radical political tendencies that give rise to terrorism.

The economic problems of the Greater Middle East and Central Asia cannot be considered in isolation. We must work with the governments and peoples of the region on a cohesive program of political and economic reforms that builds a better future. We cannot lose the next generation to hopelessness and despair. Our initiatives must support progress toward market economies, enhanced trade, the development of democratic institutions, expansion of citizen-to-citizen contacts, educational reform, and private sector development. UN Secretary General Kofi Annan has said that we cannot reach the UN's goals for improving health, education, and living standards over the next 12 years ''without a strong private sector in the developing countries themselves, to create jobs and bring prosperity.'' This region needs more jobs, economic growth, a vibrant private sector, and good governance practices to help stabilize societies and lead to a stronger foundation for political reform and conflict prevention.

President Bush has committed the United States to a ''forward strategy of freedom'' in the Greater Middle East to combat terrorism and encourage reform in these countries. This is a multi-layered strategy, including increased spending and support for the National Endowment for Democracy, greater emphasis on public diplomacy, and initiating programs that support political liberalization and free markets. The G–8 summit in June and other forthcoming multi-lateral forums will provide opportunities to consult with our allies on many of these issues. Similarly, Senator DICK LUGAR, chairman of the Senate Foreign Relations Committee, has called for a Greater Middle East Twenty First Century Trust as part of a program of greater engagement with this region, and Senator JOSEPH BIDEN, ranking member on the committee, has proposed a Middle East Foundation to support political participation and civil society in the Middle East.

Our bill deepens and expands America's commitment to economic reform and private sector development in the Greater Middle East and Central Asia by authorizing $1 billion per year for five years and creating three new multilateral mechanisms: a Greater Middle East and Central Asia Development Bank to promote private sector development; a Greater Middle East and Central Asia Development Foundation to implement and administer economic and political programs; and a Trust for Democracy to provide small grants to promote development of civil society.

These are not traditional foreign aid programs. Our legislation seeks to help stimulate private sector development, promote strong market economies, invigorate trade relations within the region, and empower states to rebuild and open their economies. Through a combination of government initiative and flexible private sector financing, we can bring the resources and expertise needed to launch a new beginning for economic development to the Greater Middle East and Central Asia. Our bill also encourages the State Department and other relevant government agencies to consider new and creative approaches to coordination of political and economic support for the region.

Over the past 2 years, the United States has spent at least $120 billion on our military efforts in Iraq and Afghanistan. Investing in political and economic development is equally important in order to achieve stability in the Greater Middle East and Central Asia. Promoting trade and economic growth in the region complements our political and diplomatic objectives in the war on terrorism. People need hope for better lives. We cannot succeed in our war on terrorism until hope replaces despair among the next generation in the Greater Middle East and Central Asia.

Just this week, the editorial page of the Omaha World-Herald, my State's leading newspaper, supported the Bush administration's efforts to encourage economic openness among Muslim nations. Our bill today complements these worthy initiatives. Working with our allies to encourage free market development and political liberalization in the Muslim countries of the Greater Middle East and Central Asia would create, in the World-Herald's words, ''a win-win situation'' for the United States and those Muslim countries.

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. 2305

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 ''Greater Middle East and Central Asia Development Act of 2004''.

SEC. 2. PURPOSE.

The purpose of this Act is to authorize assistance for political freedom and economic development, particularly through private sector development, in the Greater Middle East and Central Asia, including contributions to and participation in 3 new entities: a Trust for Democracy, a Development Foundation, and a Development Bank.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) The terrorist attacks of September 11, 2001, signaled a turning point in United States foreign policy.

(2) Al Qaeda and affiliated groups have established a terrorist network with linkages in Afghanistan, Pakistan, throughout the Greater Middle East and Central Asia, and around the world.

(3) The war on terrorism requires that the United States consider the Greater Middle East and Central Asia as a strategic region with its own political, economic, and security dynamics.

(4) While rich in cultural, geographic, and language diversity, the Greater Middle East and Central Asia face common impediments to economic development and political freedom.

(5) Although poverty and economic underdevelopment do not alone cause terrorism, the expansion of economic growth, free trade, and private sector development can contribute to an environment that undercuts radical political tendencies that give rise to terrorism.

(6) Given the relationship between economic and political development and winning the global war on terror, America's support for freedom in the Greater Middle East and Central Asia must be matched with expanded and new programs of partnership with the people and governments of the region to promote good governance, political freedom, private sector development, and more open economies.

(7) The United States and other donors should support those citizens of the Greater Middle East and Central Asia who share our desire to undertake reforms that result in more open political and economic systems.

(8) Turkey, which should be supported in its aspirations for membership in the European Union, plays a pivotal and unique role

in efforts to bring economic development and stability to the Greater Middle East and Central Asia.

(9) The President should seek new mechanisms to work together with European and other nations, as well as with the countries of the Greater Middle East and Central Asia to promote political and economic development in the Greater Middle East and Central Asia.

(10) Because the dynamics of the Greater Middle East and Central Asia have a serious impact on global security, the North Atlantic Treaty Organization (NATO) should now shift its strategic focus to the region, including expanded roles in Iraq, Afghanistan, and the Mediterranean.

SEC. 4. DEFINITION; SPECIAL RULE.

(a) GREATER MIDDLE EAST AND CENTRAL ASIA DEFINED.—In this Act, the term ''Greater Middle East and Central Asia'' means the 22 nations of the Arab world (Algeria, Bahrain, Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Palestine/West Bank/Gaza, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Emirates, and Yemen), Afghanistan, Iran, Israel, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, Turkey, Turkmenistan, and Uzbekistan.

(b) SPECIAL RULE.—A country listed in subsection (a) may not receive assistance under this Act if such country is identified as a country supporting international terrorism pursuant to section 6(j)(1)(A) of the Export Administration Act of 1979 (as in effect pursuant to the International Emergency Economic Powers Act; 50 U.S.C. 1701 et seq.), section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)), section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), or any other provision of law.

SEC. 5. AUTHORIZATION OF ASSISTANCE.

Notwithstanding any other provision of law, the President is authorized to provide assistance to countries of the Greater Middle East and Central Asia for the purpose of promoting economic and political freedoms, free trade, and private sector development, including the programs described in the following paragraphs:

(1) UNITED STATES CONTRIBUTION TO AND MEMBERSHIP IN A GREATER MIDDLE EAST AND CENTRAL ASIA DEVELOPMENT BANK.—The President is authorized to work with other donors and the countries of the Greater Middle East and Central Asia to establish a Greater Middle East and Central Asia Development Bank to promote private sector development, trade, including intra-regional trade, and investment in the Greater Middle East and Central Asia.

(2) CREATION OF A GREATER MIDDLE EAST AND CENTRAL ASIA DEVELOPMENT FOUNDATION.—The President is authorized to work with other donors and the countries of the Greater Middle East and Central Asia to establish a multilateral Greater Middle East and Central Asia Development Foundation to assist in the administration and implementation of assistance programs, including public-private programs, pursuant to this Act, with specific emphasis on programs at the grass-roots level, to include volunteer-based organizations and other nongovernmental organizations that support private sector development, entrepreneurship, and development of small- and medium-size enterprises and exchanges.

(3) CREATION OF TRUST FOR DEMOCRACY.—The President is authorized to establish, together with other donors and private sector and nongovernmental leaders from the Greater Middle East and Central Asia, a multilateral, public-private Trust for Democracy to support grass-roots development of civil society, democratic reform, good governance practices, and rule of law reform in the Greater Middle East and Central Asia. Private foundations shall be encouraged to participate in the Trust through the provision of matching funds.

SEC. 6. SENSE OF CONGRESS REGARDING COORDINATION OF ASSISTANCE TO COUNTRIES OF THE GREATER MIDDLE EAST AND CENTRAL ASIA.

Recognizing the importance of coordination of assistance to the countries of the Greater Middle East and Central Asia, and the strategic imperatives required by the war on terrorism, it is the sense of Congress that—

(1) the Secretary of State and the heads of other relevant Government agencies should consider new approaches to the coordination of the provision of political and economic support for the countries of the Greater Middle East and Central Asia; and

(2) the Secretary of State should consider appointing a Coordinator for Assistance to the Greater Middle East and Central Asia.

SEC. 7. PROGRAM REPORTS.

(a) REQUIREMENT FOR REPORTS.—Beginning on January 31, 2005, and annually thereafter, the President shall submit to Congress a report on the progress of the countries of the Greater Middle East and Central Asia, the Greater Middle East and Central Asia Development Bank, the Greater Middle East and Central Asia Development Foundation, and the Trust for Democracy in developing more open political and economic systems and the degree to which United States assistance has been effective at promoting these changes.

(b) CONTENT.—The reports required by subsection (a) shall include general information regarding such progress and specific information on the progress of each of the Greater Middle East and Central Asia Development Bank, the Greater Middle East and Central Asia Development Foundation, and the Trust for Democracy in—

(1) encouraging entrepreneurial development and supporting growth of small- and medium-size enterprises in the countries of the Greater Middle East and Central Asia;

(2) promoting private sector development, democratic political reform, good governance building, rule of law reform, and other appropriate goals in the countries of the Greater Middle East and Central Asia;

(3) fostering intra-regional trade and investment by United States businesses and financial institutions in the countries of the Greater Middle East and Central Asia;

(4) developing public-private partnerships to carry out the purpose of this Act; and

(5) encouraging the involvement of the countries of the Greater Middle East and Central Asia, and other donors in each institution.

SEC. 8. ENTERPRISE FUNDS REPORTS TO CONGRESS.

Not later than 1 year after the date of enactment of this Act, the President shall submit to Congress a comprehensive report evaluating the appropriateness of the establishment of enterprise funds for 1 or more countries of the Greater Middle East and Central Asia. The report shall evaluate whether and to what extent enterprise funds might be an effective mechanism for promoting economic reform and investment in the countries of the Greater Middle East and Central Asia.

SEC. 9. REPORT ON COORDINATION OF ASSISTANCE TO THE GREATER MIDDLE EAST AND CENTRAL ASIA.

Not later than 1 year after the date of enactment of this Act, the President shall submit to Congress a report that describes the measures that have been employed, and the measures that are planned to be employed, to improve the coordination within the Department of State and among the heads of the relevant Government agencies of the provision of support to the countries of the Greater Middle East and Central Asia.

SEC. 10. NOTIFICATIONS TO CONGRESS REGARDING ASSISTANCE.

Section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1) (relating to reprogramming notifications) shall apply with respect to obligations of funds made available to carry out this Act.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds otherwise available for such purpose and for the countries to which this Act applies, there are authorized to be appropriated to the Department of State to carry out the provisions of this Act, $1,000,000,000 for each of the fiscal years 2005 through 2009.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) shall remain available until expended.

Mr. LIEBERMAN. Madam President, I rise today, along with my friend and colleague from Nebraska, Senator HAGEL, to introduce the Greater Middle East and Central Asia Development Act of 2004. This would be a Marshall Plan for the Greater Middle East.

Let me put it in the context of the news we are receiving from Iraq today. While public opinion surveys that have been taken by independent groups have shown recently that the substantial majority of the people of Iraq, quite understandably, are grateful that Saddam Hussein is no longer in power, and while a majority of them are optimistic about their future—a better life for themselves and their children—it is clear, of course, every day there is a growing group of Saddam loyalists left over from the previous regime, and terrorists, fanatical jihadists, insurgents who will attack and kill Americans and Iraqis to stop the forward movement of progress and freedom and prosperity in Iraq.

We clearly have to respond to that with force in defense of our values, of liberty, of freedom for the Iraqis. We have, if you will allow me to use Scriptural words, to employ our swords. But it is also true in Iraq and throughout the world that we will only win the war on terrorism if we use not just our swords but plowshares as well. That is what this piece of legislation Senator HAGEL and I are introducing today is all about.

I want to speak for a few moments about it. Senator HAGEL will be over later in the day to offer his remarks on the bill.

Madam President, a half century ago, at the dawn of the cold war, Congress authorized the Marshall Plan for Europe—a bold initiative inspired by Secretary of State George Marshall and premised on a simple but transformational idea: that to stop communism, we had to rebuild and democratize Europe. The Marshall Plan offered monetary aid, of course, but it offered much more. It was a national commitment of American values to transform the future of Europe by offering the Europeans the blessings of liberty and prosperity, and thereby

linking, in the deepest way, Europe's future with our own. The same ideals and goals of the Marshall Plan can and must now be applied to the people of the Greater Middle East.

The predominantly Muslim countries of the Middle East and Central Asia have, unfortunately, emerged at this moment in history as the cradle of fanatical Islamic jihadist terrorism. There is a great civil war being fought in the Arab world between the peace-loving, law-abiding majority of Muslims and the minority of jihadists. This civil war unleashed the violent terrorist forces that led to September 11, 2001, the attacks on America; March 11, 2004, the attacks on Spain; and the repeated attacks in places such as Fallujah in Iraq that are occurring almost every day. The outcome of our war against Islamic terrorists will be determined by the way in which we use our swords and our plowshares to determine the outcome of the civil war in the Muslim world.

To stop al-Qaida and other terrorist groups from expanding this civil war and recruiting a new generation of killers, we must use all of our military power to capture and kill the enemy. We must drain the swamps of terrorists in Iraq and wherever they grow.

At the same time we must combat the conditions that fuel terrorism and drive recruits to al-Qaida and hate and despair. To do this we must seed the garden, not just drain the swamp, with freedom, hope, and economic opportunity. If we invest in the political and economic future of the Middle East and Central Asia in our time, as we did in Europe with the Marshall plan after the end of the Second World War and at the beginning of the cold war, we will expand democracy's reach, choke off the terrorists, strengthen our own national security, and move the world toward greater peace.

That is the underlying premise of the legislation Senator HAGEL and I are introducing today. It is designed to complement our swords in the war against terrorism with the plowshares of political and economic assistance.

Our legislation is not soft. It is not welfare. It is in fact a different kind of warfare on the battlefield of ideas and ideologies, visions for the future. Although there are compelling humanitarian reasons for offering assistance to the people of the Greater Middle East, there are also compelling American national security reasons for doing so. The political and economic assistance Senator HAGEL and I are proposing might be though of as additional weapons in America's arsenal in the fight against terrorists.

Let me summarize what our legislation contains. We advocate making a major financial investment in the future of the Middle East and Central Asia. How we propose making this investment is in some ways as significant as how much we propose investing. The key to the success of our Marshall plan for the Middle East, as it was of the Marshall plan for Europe, is it is not a detailed list of programs. It is a statement of values and purposes. It is the creation of a structure to carry out those values and purposes, and it is a commitment of American and international resources to realize those purposes.

Our legislation would create three new international institutions that will support economic and political development in the Greater Middle East and Central Asia, open institutions that will require participation by representatives of the countries benefiting from this support, a partnership. Institutionalizing involvement of a wide group of donors and recipients will promote better cooperation and give ownership and accountability to the impacted nations and to the private reformers in those nations—key ingredients to successful foreign assistance.

The first new institution Senator HAGEL and I would create is a trust for democracy for the Middle East that would support the development of civil society in the region, not unlike efforts we made to help those who had the dream of freedom and opportunity in countries of the former Soviet Union, now living to experience that dream. Modeled on the Balkan Trust for Democracy, this institution we propose would marshal the support of civic leaders and reformers as well as private foundations to provide grants to worthy grassroots projects that support free association and promote civic responsibility, the building blocks of democracy.

Second, Senator HAGEL and I would build a multilateral development foundation that would provide a second track for assistance, together with other donors, assistance that would be additional to that already being provided bilaterally by the U.S. and other international donors. This foundation will be a public place where we and other donors can come together with the countries of the region to set priorities together, to work together for the greater good of this troubled region. Many countries in the Greater Middle East are richer than they are developed, meaning their wealth has not translated to economic progress for most of the people. We would invite all governments in the region to sit on the board of this foundation, and we would ask all to contribute financially and programmatically to it.

Finally, our legislation would establish a new Middle East and Central Asia development bank, like the European Bank for Reconstruction and Development. This bank would include private sector participation and would underwrite large-scale infrastructure projects in the region. It would also have a microcredit lending facility and a project development facility.

We also believe it is important and necessary to make American assistance more effective. That is why we are calling for the establishment of an office of the coordinator for Greater Middle East and Central Asia at our Department of State. The creation of such an office would help ensure all assistance provided by any government agency of ours is in line with the overarching goals and objectives of our foreign policy. It would also give other donors and countries of the region a simple place to go when seeking information about the programs we would create.

With this collaborative structure in place, Senator HAGEL and I would authorize $5 billion in assistance over the next 5 years. That is no small sum. But it is in fact small in comparison to the tens of billions of dollars in today's money that were spent on the Marshall plan in Europe 50 years ago and the hundreds of billions of dollars we are spending now and will continue to have to spend for the military side of the war against terror. That figure, we believe, is the minimum required to have a positive, measurable impact in the region and to signal the seriousness of our intentions.

Earlier this month, civil society leaders from all over the Arab world gathered in Alexandria, Egypt to discuss an Arab reform agenda. At that meeting participants agreed on a declaration that calls for significant reforms that encompass the ''political, economic, social, and cultural aspects'' of society. The fact is the reforms those Arab world reformers seek are at least as far-reaching as those that are being suggested by others from the outside, including from the United States. I know there are similar reform efforts underway in Central Asia. They deserve our support.

In introducing this legislation today, Senator HAGEL and I hope to give new impetus to the discussions taking place in Washington and elsewhere about what we collectively can do to support political and economic reform in the Greater Middle East and to give the people in those great regions an alternative to a better life than the hatred and suicidal death al-Qaida offers.

The Bush administration has put forward serious proposal along the same lines as ours. It certainly has the same goals. This bill Senator HAGEL and I are introducing today is intended to build on that effort. We hope it helps shape the debate of the best method to implement, which should be one of partnership and collaboration along with a serious commitment of American resources.

In June, the United States will host the G–8 summit in Sea Island, GA. That summit will be followed by the U.S.-EU and NATO summits also in June. The future of the Greater Middle East will be placed high on the agenda of all those important meetings.

By introducing this legislation today, Senator HAGEL and I hope to enable our Government to go into these summits with the bipartisan support of the Congress and also to provide some direction as to what we believe should be done and how it might best be done.

Senator HAGEL and I hope our colleagues will take a look at this proposal and join us in cosponsoring it and sending thereby a message no less profound and no less necessary than the message of the Marshall plan half a century ago, that the United States is serious about improving the lives and expanding the freedoms of the millions of people who live in the Greater Middle East and Central Asia.

Today, that is our most urgent international imperative. At the dawn of the cold war, America answered the challenge of communism by seeding a garden of peace, hope, and prosperity in Europe. Today, at the dawn of our current war against terrorism, it is equally essential that we answer the inhumane, barbaric threats of terrorism and acts of terrorism with all necessary force, but also by seeding the same kind of garden of peace, hope, and prosperity in the Greater Middle East.

By Mr. MCCAIN (for himself and Mr. SUNUNU):

S. 2306. A bill to reauthorize, restructure, and reform the intercity passenger rail service program; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, today, joined by Senator SUNUNU, I am introducing legislation to fundamentally reform our Nation's intercity rail passenger program. The proposal adopts the core concepts for reform advanced by the administration in its Amtrak legislation—cost-sharing with the States, a network of trains that makes economic sense, and fair and open competition for Amtrak. However, in recognition of the magnitude and complexity of the task of restructuring Amtrak, the legislation takes a more moderate, realistic approach to reform. While I would prefer to see more accomplished in the next 6 years, enactment of the restructuring and reforms we are proposing today would represent meaningful progress toward creating an intercity passenger rail program that makes economic sense and meets the needs of the traveling public.

It is past time for Congress to come to terms with Amtrak's problems and why it is largely a failure. Year after year, for more than 3 decades, Congress has funded an essentially nationalized passenger railroad, that in most areas of the country neither meets a market demand nor provides needed public transportation. After 34 years and $27 billion in taxpayer subsidies, Amtrak still serves less than 1 percent of intercity travelers.

My colleagues and I may not agree on exactly how Amtrak should be restructured, but we should agree that what exists today is far from ideal. Amtrak loses over $1 billion annually. Its debt stands at almost $5 billion, a legacy the taxpayers will bear for years to come. It has mortgaged nearly every asset it owns, including a portion of New's York's Penn Station, to avoid bankruptcy. It operates routes, many of them in the middle of the night, that lose hundreds of dollars per passenger. And despite a Federal investment of $3.2 billion for high-speed service on the Northeast Corridor, the Acela service has been plagued by equipment and operating problems. In a report prepared at my request, the General Accounting Office recently found that Amtrak mismanaged the project, blatantly ignoring the Federal master plan and failing to complete 51 of the project's 72 work elements.

It is past time to end the status quo. If the collective wisdom of Congress is to continue to fund intercity passenger rail service, then we should do so in a manner that makes economic sense. The legislation we are introducing today would restructure the passenger rail program in a realistic way and provide responsible funding for existing service and new corridor development.

First, the legislation would make cost-sharing on shorter-distance corridor routes more equitable. Today, California, Washington, Oregon, and a number of other States play an active role in funding and managing passenger service on corridor routes in their States, while other States pay nothing. This legislation would require equitable cost-sharing for all corridor trains. By the end of the 6-year reauthorization period, States would be required to fund 70 percent of the operating losses on corridor services, the level of contribution already being made by California, the Pacific Northwest, Oklahoma, Missouri, and several other States. Furthermore, the Federal share of operating subsidies would be payable as grants to the States. Where States have taken an active role in managing Amtrak service, there has been more accountability, better customer service, and a higher level of efficiency.

Second, the legislation would restructure Amtrak's long distance routes. I am not proposing, as many of my colleagues would expect, to ''whack'' every long distance train. In fact, closure and consolidation would be a last resort under my proposal. The ultimate goal would be to reduce the annual operating subsidy required for these routes by at least 50 percent whether by restructuring the route, reducing operating expenses, contracting out service to a private operator, or securing State financial support. Amtrak operates 16 long distance trains, including the Sunset Limited, a train that runs through Arizona on its 3-day odyssey from Los Angeles to Orlando and loses over $400 per passenger. Reducing the burden of these trains on the taxpayer is one of my top priorities.

This proposal would also establish fair and open competition for Amtrak. If, after 34 years of being told by Amtrak that profitability is just a few years away or, more recently, that it is on a ''glide-path'' to self-sufficiency, we are now to conclude that Amtrak will always run operating and capital deficits. Our duty to the taxpayers is to ensure that service is operated as efficiently as possible to minimize subsidies. To achieve this goal, there must be fair and open competition for Amtrak from private sector companies and commuter authorities.

Some of my colleagues contend that the private sector would not be interested in operating passenger service, noting that Amtrak was created because the freight railroads did not wish to continue providing what had become unprofitable service with the development of air travel and the Interstate Highway System. But times have changed. Norfolk Southern recently told transportation officials in Georgia that it wants to be considered to run the State's planned commuter service between Atlanta and Macon. Herzon, a private company headquarted in Missouri, operates commuter services in Texas and California, and has been trying to bid against Amtrak to operate the ''Mules'' service between St. Louis and Kansas City. Further, 14 private corporations expressed interest in operating service following a Commerce Committee hearing in which the question of private sector interest was posed.

Fourth, this legislation would establish a process for corridor development modeled after the transit ''new starts'' program. Many States have expressed interest in developing new conventional or high-speed intercity passenger service in highly-traveled corridors. My proposal would evaluate new intercity services on a competitive basis and require that projects meet planning and design requirements similar to those that apply to the well-respected new starts program administered by the Federal Transit Administration. As the States assume more responsibility for operating subsidies, the amount of funding available for corridor development would increase. By year 6 of the reauthorization period, $800 million would be authorized for corridor development.

This legislation also addresses ownership, management, and maintenance of Northeast Corridor. As recommended by the administration, the bill proposes that the Federal Government assume ownership of the Northeast Corridor and implement a plan to restore the Corridor to a state of good repair. The Northeast Corridor States would be encouraged to adopt an interstate compact within 5 years and assume responsibility for the Corridor's management. Other States would be expected to manage their corridor services, and the Northeast Corridor should be no exception. Moreover, over 1,000 of the 1,200 or so trains operated daily on the Corridor are commuter trains, not intercity services. Until the interstate compact is in place, Amtrak would continue to operate and maintain the Corridor.

Finally, the legislation institutes reforms at Amtrak. Amtrak would be required to perform its services under

contract with the Federal Government or States, and would be required to develop a more accurate and transparent cost accounting system. As recommended by the DOT Inspector General, an effort would be made to restructure Amtrak's debt to reduce the cost to the taxpayers.

We encourage our colleagues to support this legislation. Reforming Amtrak and the way our intercity passenger rail program is now organized must be accomplished before Congress considers expanding intercity service. Simply throwing billions more at Amtrak as some of my colleagues propose—whether through appropriations, bonds, or some other funding scheme—will not solve the fundamental problems. We can and must do better.

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. 2306

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 ''Rail Passenger Service Restructuring, Reauthorization, and Development Act''.

SEC. 2. TABLE OF CONTENTS; AMENDMENT OF TITLE 49, UNITED STATES CODE.

(a) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents; amendment of title 49, United States Code.

TITLE I—NETWORK RESTRUCTURING AND COST-SHARING

SUBTITLE A—RESTRUCTURING

Sec. 101. Findings, purpose, and goals.
Sec. 102. Passenger rail service restructuring.
Sec. 103. Definitions.
Sec. 104. Operating grants for corridor routes.
Sec. 105. Operating grants for long distance routes
Sec. 106. Long distance route restructuring commission.
Sec. 107. Criteria for restructuring.
Sec. 108. Implementation of restructuring plan.
Sec. 109. Redemption of common stock.
Sec. 110. Retirement of preferred stock; transfer of assets.
Sec. 111. Real estate and asset sales; other.

SUBTITLE B—NORTHEAST CORRIDOR

Sec. 131. Interstate compact for the Northeast Corridor.
Sec. 132. Shut-down of commuter or freight operations.
Sec. 133. Capital grants for the Northeast Corridor.

SUBTITLE C—RELATED MATTERS

Sec. 151. Fair and open competition.
Sec. 152. Access to other railroads.
Sec. 153. Limitations on rail passenger transportation liability.
Sec. 154. Train operations insurance pool.
Sec. 155. Collective bargaining arrangements.

TITLE II—RAIL DEVELOPMENT

Sec. 201. Capital assistance for intercity passenger rail service.
Sec. 202. Regulations

TITLE III—REFORMS

Sec. 301. Management of secured debt.
Sec. 302. Employee transition assistance.
Sec. 303. Termination of authority for GSA to provide services to Amtrak.
Sec. 304. Amtrak reform board of directors.
Sec. 305. Limitations on availability of grants.
Sec. 306. Repeal of obsolete and executed provisions of law.
Sec. 307. Establishment of financial accounting system.
Sec. 308. Restructuring of long-term debt and capital leases.
Sec. 309. Authorization of appropriations.

(b) AMENDMENT OF TITLE 49.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

TITLE I—NETWORK RESTRUCTURING AND COST-SHARING

SUBTITLE A—RESTRUCTURING

SEC. 101. FINDINGS, PURPOSE, AND GOALS.

Section 24101 is amended to read as follows:

"§ 24101. Findings, purpose, and goals

''(a) FINDINGS.—

''(1) It is in the public interest of the United States to encourage and promote the development of various modes of transportation and transportation infrastructure to efficiently maximize the mobility of passengers and goods.

''(2) Despite Federal subsidies of nearly $27 billion over the past 34 years, intercity rail passenger service still accounts for less than 1 percent of all intercity travel.

''(3) Intercity rail passenger service can be competitive with other modes of transportation and achieve a significant share of the travel market in short-distance corridors connecting metropolitan areas.

''(4) Rail passenger transportation can help alleviate overcrowding of airways and airports, and can provide needed intermodal connections to airports, bus terminals, and mass transit services.

''(5) Corridor routes account for approximately 85 percent of Amtrak's ridership but only one-third of Amtrak's operating losses, excluding depreciation.

''(6) A number of Amtrak's long-distance routes may be more efficiently operated and attract higher ridership as connected corridors.

''(7) Long-distance routes that cannot be restructured as connected corridors, do not receive State financial support, cannot be operated on a for-profit basis, or are not an essential link to the rest of the intercity passenger rail network, should be consolidated or discontinued.

''(8) Some States with corridor services provide significant financial support for such services, while other States with routes and all States with long-distance routes contribute nothing for such services. More equitable cost-sharing is needed to justify Federal investment in intercity rail passenger service.

''(9) The need to invest taxpayer dollars in intercity rail passenger service demands that fair and open competition be permitted for the provision of such services to ensure that service is provided in the most efficient manner without jeopardizing the safety of such operations.

''(10) A greater degree of cooperation is necessary among intercity passenger service operators, freight railroads, State, regional, and local governments, the private sector, labor organizations, and suppliers of services and equipment to achieve the performance sufficient to justify the expenditure of additional public money on intercity rail passenger service.

''(11) Transportation services provided by the private freight railroads are vital to the economy and national defense and should not be disadvantaged by the operation of intercity passenger rail service over their rights-of-way.

''(12) The Northeast Corridor is a valuable resource of the United States used by intercity and commuter rail passenger transportation and freight transportation and should be restored to a state of good repair.

''(b) PURPOSE.—The purpose of this part is to assist in the preservation and development of conventional and high-speed intercity rail passenger services where such services can play an important role in facilitating passenger mobility in the United States.

''(c) GOALS.—The goals of this part are—

''(1) to move toward a national network of interconnected short-distance passenger rail corridor services;

''(2) to return the Northeast Corridor to a state of good repair;

''(3) to establish a framework for the development of new conventional and high-speed rail services;

''(4) to allow for train services to be operated under contract to a State or group of States, with the operator of the service selected by the State or group of States;

''(5) to establish equitable cost-sharing for capital expenses and operating losses with the States; and

''(6) to encourage greater participation in the provision of intercity rail passenger services by the private sector.''.

SEC. 102. PASSENGER RAIL SERVICE RESTRUCTURING.

(a) IN GENERAL.—Chapter 243 is amended by inserting before section 24301 the following:

"§ 24300. Restructuring mandate

''(a) IN GENERAL.—Within 6 months after the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, the Amtrak Reform Board shall restructure Amtrak as 2 independent entities, as follows:

''(1) THE NATIONAL RAILROAD PASSENGER CORPORATION.—One entity shall be the National Railroad Passenger Corporation, otherwise known as Amtrak, that shall provide overall supervision of the restructuring of the intercity passenger rail program.

''(2) THE AMERICAN PASSENGER RAILWAY CORPORATION.—The other entity shall be a for profit corporation, to be known as the American Passenger Railway Corporation, that shall be responsible for conducting the passenger operations, infrastructure maintenance, and related services, including operation of reservation centers and ownership and maintenance of rolling stock.

''(b) ARTICLES OF INCORPORATION AND OTHER DOCUMENTATION.—Within 6 months after the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, the Amtrak Reform Board shall—

''(1) file appropriate articles of incorporation under State law for the American Passenger Railway Corporation; and

''(2) amend the articles of incorporation and bylaws of the National Railroad Passenger Corporation to reflect its changed functions and responsibilities.

''(c) ROLES AND RESPONSIBILITIES OF THE AMERICAN PASSENGER RAILWAY CORPORATION.—

''(1) RAILROAD ACTIVITIES.—Consistent with the business corporation law of the State of incorporation of the American Passenger Railway Corporation, the Corporation shall be qualified to undertake railroad activities of an operational or infrastructure nature.

''(2) RAIL OPERATIONS AND RELATED FUNCTIONS.—The American Passenger Railway Corporation—

''(A) shall have the exclusive right, until October 1, 2005, to continue to provide the intercity passenger services provided by Amtrak on the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act;

''(B) shall, beginning October 1, 2005, operate intercity passenger service only on a contractual basis under negotiated terms and conditions;

''(C) shall operate a national reservations system; and

''(D) subject to fulfillment of its contractual obligations, shall have the exclusive right, until management of the mainline of the Northeast Corridor between Boston, Massachusetts, and Washington, District of Columbia, is transferred to the interstate compact created under section 131 or to another entity, to provide the train operations, dispatching, maintenance, and infrastructure services that are being provided by Amtrak on the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, but may provide such services beginning October 1, 2005, only on a contractual basis with the National Railroad Passenger Corporation under negotiated terms and conditions.

''(3) STATUS OF CORPORATION.—

''(A) The American Passenger Railway Corporation—

''(i) is a railroad carrier under section 20102(2) and chapters 261 and 281 of this title;

''(ii) shall be operated and managed as a for-profit corporation; and

''(iii) is not a department, agency, or instrumentality of the United States Government nor a Government corporation (as defined in section 103 of title 5).

''(B) Chapter 105 of this title does not apply to the American Passenger Railway Corporation, except that laws and regulations governing safety, employee representation for collective bargaining purposes, the handling of disputes between carriers and employees, employee retirement, annuity, and unemployment systems, and other dealings with employees apply to the American Passenger Railway Corporation to the same extent as they applied to Amtrak before the restructuring required by this section.

''(C) Subsections (c), (d), and (f) through (l) of section 24301 of this title shall apply to the Corporation.

''(4) CHIEF EXECUTIVE OFFICER.—Subject to further action by the board of directors of the American Passenger Railway Corporation, the individual who, on the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, is President of Amtrak shall be offered the position of chief executive officer of the American Passenger Railway Corporation as soon as practicable after the corporation is established.

''(5) ISSUANCE OF STOCK AND ASSUMPTION OF DEBT.—The Corporation may not issue stock or incur debt without the express approval of the Secretary of Transportation.

''§ 24300A. American Passenger Railway Corporation board of directors

''(a) IN GENERAL.—

''(1) MEMBERSHIP.—The American Passenger Railway Corporation shall be governed by a board of directors consisting of 7 members appointed by the President, by and with the advice and consent of the Senate.

''(2) QUALIFICATIONS.—

''(A) IN GENERAL.—Members of the board shall be chosen from among individuals who have technical qualifications, professional standing, and demonstrated expertise in the field of transportation, corporate management, or financial management.

''(B) FEDERAL EMPLOYEES DISQUALIFIED.—No individual who is an officer or employee of the United States may serve as a member of the board.

''(3) TERM OF OFFICE.—Each member shall serve for a term of 5 years. An individual may not serve for more than 2 terms.

''(4) QUORUM.—A majority of the board members who have been lawfully appointed and qualified at any moment shall constitute a quorum for the conduct of business.

''(b) BYLAWS.—The board of directors shall adopt bylaws governing the corporation consistent with the provisions of this section and its articles of incorporation, and may amend, repeal, and otherwise modify the bylaws from time to time as necessary or appropriate.

''(c) TRANSITION BOARD MEMBERS.—Individuals who are serving as members of the Amtrak Reform Board on the day before the date on which the American Passenger Railway Corporation is established, with the exception of the Secretary of Transportation, shall serve as members of the board of directors of the American Passenger Railway Corporation until 4 members of that board have been appointed and qualified.

''§ 24300B. National Railroad Passenger Corporation board after restructuring

''(a) IN GENERAL.—After the American Passenger Railway Corporation is established, the Reform Board established under section 24302(a) shall be dissolved, and the National Railroad Passenger Corporation shall be governed by a board of directors consisting of—

''(1) the Secretary of Transportation;

''(2) the Federal Railroad Administrator or another officer of the United States within the Department of Transportation compensated under the Executive Schedule under title 5, United States Code, who is designated by the Secretary; and

''(3) the Federal Transit Administrator or another officer of the United States within the Department of Transportation compensated under the Executive Schedule under title 5, who is designated by the Secretary.

''(b) ROLES AND RESPONSIBILITIES.—

''(1) SUPERVISION AND MANAGEMENT.—After the board of directors described in subsection (a) takes office, the National Railroad Passenger Corporation shall—

''(A) provide overall supervision of the restructuring of the intercity passenger rail program;

''(B) manage residual Amtrak responsibilities; and

''(C) retain and manage Amtrak's legal rights, including its legal right of access to other railroads, and ownership of Amtrak's real property, until that property is transferred to the Secretary of Transportation under section 110 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act.

''(2) CONTRACTS FOR SERVICE.—The National Railroad Passenger Corporation shall, by contract, permit an operator to provide intercity passenger rail service over any route operated by Amtrak on the date prior to the date the restructuring required by section 24300 becomes effective, at the frequencies in effect on that date, on its behalf and to use its right of access to any segment of rail line owned by another rail carrier needed for the operation of that train. The operator may be the American Passenger Railway Corporation or another operator, but there shall be no more than 1 intercity passenger rail operator at a time over any segment of rail line owned by another rail carrier, except in terminal areas as determined by the Secretary or as may otherwise be provided by agreement among the National Railroad Passenger Corporation, the operators, and the owner of the rail line.

''(3) USE OF AMTRAK NAME.—

''(A) IN GENERAL.—The National Railroad Passenger Corporation shall retain all legal rights pertaining to the name 'Amtrak,' and may, at its option, license or otherwise make the name 'Amtrak' commercially available in connection with intercity passenger rail and related services.

''(B) USE BY AMERICAN PASSENGER RAILWAY CORPORATION.—Amtrak shall by contract, permit the American Passenger Railway Corporation to market its services under the Amtrak name.

''(4) AMTRAK PERSONNEL.—All Amtrak employees shall become American Passenger Railway Corporation employees unless retained by the National Railroad Passenger Corporation. The American Passenger Railway Corporation shall succeed to the collective bargaining agreements in effect between Amtrak and labor organizations that are in effect on the day before the date on which that Corporation is established. An employee who elects employment with National Railroad Passenger Corporation shall become an employee of that Corporation, with only such rights regarding pay and benefits as that Corporation shall determine.

''(5) FREIGHT AND COMMUTER OPERATIONS.—The National Railroad Passenger Corporation shall ensure that the implementation of the restructuring required by section 24300 gives due consideration to the needs of freight and commuter operations that, as of the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, operate on the Northeast Corridor using Amtrak rights-of-way.

''(6) ROLLING STOCK.—The National Railroad Passenger Corporation shall set the terms under which the American Passenger Railway Corporation must make available to any replacement operator the legacy equipment associated with any intercity passenger rail service provided as of the date of the restructuring required by section 24300.''.

(b) SPINNING-OFF OF RESERVATIONS SYSTEM.—Not later than 2 years after the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, the Inspector General of the Department of Transportation shall submit to the Secretary of Transportation, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure recommendations on the feasibility, advantages, and disadvantages of spinning off the national reservations system as a private for-profit entity.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 is amended by inserting the following after the item relating to section 24309:

''24300. Restructuring mandate
''24300A. American Passenger Railway Corporation board of directors
''24300B. Amtrak board after restructuring''.

SEC. 103. DEFINITIONS.

Section 24102 is amended—

(1) by striking paragraph (2) and redesignating paragraphs (3) through (9) as paragraphs (2) through (8), respectively;

(2) by redesignating paragraphs (3) through (8), as redesignated, as paragraphs (4) through (9), respectively, and inserting after paragraph (2) the following:

''(3) 'corridor route' means—

''(A) a train route operated by Amtrak with a route length of 750 miles or less as of January 1, 2004; or

''(B) a new conventional or high-speed route eligible for funding under chapter 244 of this title.'';

(3) by redesignating paragraphs (6) through (9), as redesignated, as paragraphs (8)

through (11), respectively, and inserting after paragraph (5) the following:

''(6) 'long distance route' means a train route operated by Amtrak with a route length greater than 750 miles as of January 1, 2004.

''(7) 'legacy equipment' means the rolling stock required to provide intercity passenger rail service owned or leased by Amtrak on the day prior to the date on which the restructuring required by section 24300 is completed (as such date is determined by the Secretary).''.

SEC. 104. OPERATING GRANTS FOR CORRIDOR ROUTES.

(a) IN GENERAL.—Chapter 243 is amended by adding at the end the following:

''§ 24316. Operating grants for corridor routes

''(a) IN GENERAL.—

''(1) OPERATING GRANT AUTHORITY.—Beginning on October 1, 2005, the Secretary of Transportation may make grants to States for operating assistance under the authority of this section, and not under any other provision of law, to reimburse operators of the corridor routes operated by Amtrak on the day before the date on which the restructuring required by section 24300 is completed (as determined by the Secretary) for a portion of the operating subsidies required to operate those routes with the same train frequencies.

''(2) CONDITIONS.—A grant under this section shall be subject to the terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including limitations on what operating expenses are eligible for reimbursement.

''(b) FEDERAL SHARE OF OPERATING LOSSES.—

''(1) REIMBURSABLE AMOUNT.—A grant to a State under this section for any fiscal year may not exceed an amount equal to the lower of—

''(A) the applicable percentage of the Federal operating subsidy for that fiscal year; or

''(B) the percentage of the operating subsidy for a route not borne by a State during the last fiscal year ending before the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage of the operating subsidy for a fiscal year is—

''(A) 70 percent for fiscal year 2006;

''(B) 60 percent for fiscal year 2007;

''(C) 50 percent for fiscal year 2008;

''(D) 40 percent for fiscal year 2009; and

''(E) 30 percent for fiscal year 2010.

''(c) DETERMINATION OF EXPENSES ELIGIBLE FOR REIMBURSEMENT.—

''(1) ANNUAL DETERMINATION OF SUBSIDY.—On an annual basis, the Inspector General for the Department of Transportation shall analyze and advise the Secretary of Transportation as to the operating subsidy required on each corridor route operated by the American Passenger Railway Corporation under contract with a State without competitive bid. The operating loss on such routes shall—

''(A) reflect the fully allocated costs of operating the route, including an appropriate share of overhead expenses, including general and administrative expenses; and

''(B) exclude depreciation and interest expense on long-term debt.

''(2) AGGREGATION OF NORTHEAST CORRIDOR PROFITS AND LOSSES.—Operating profits and losses on corridor routes operated exclusively on the mainline of the Northeast Corridor extending from Washington, D.C. to Boston, MA may be aggregated for purposes of determining the operating subsidy required on the routes.

''(3) DETERMINATION WITH COMPETITIVE BIDDING.—Expenses eligible for Federal support pursuant to paragraph (b)(2) for reimbursement for a corridor route that has been competitively bid shall consist of the operating subsidy agreed upon by the State, group of States, or other entity and the operator.

''(d) EXCEPTION TO DATE COST-SHARING REQUIRED.—For any State whose legislature has not convened in regular session after the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act and before October 1, 2005, the additional cost-sharing requirements of this section shall become effective on October 1, 2006.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

''(1) $125,000,000 for fiscal year 2006;

''(2) $100,000,000 for fiscal year 2007;

''(3) $90,000,000 for fiscal year 2008;

''(4) $75,000,000 for fiscal year 2009; and

''(5) $50,000,000 for fiscal year 2010.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 is amended by adding at the end the following:

''24316. Operating grants for corridor routes''.

SEC. 105. OPERATING GRANTS FOR LONG DISTANCE ROUTES

(a) IN GENERAL.—Chapter 243, as amended by section 104, is amended by adding at the end the following:

''§ 24317. Operating grants for long distance routes

''(a) IN GENERAL.—

''(1) OPERATING GRANT AUTHORITY.—Beginning on October 1, 2005, the Secretary of Transportation may make grants to the American Passenger Railway Corporation or to a State providing financial support for a long distance route for operating assistance under the authority of this section, and not under any other provision of law, to reimburse operators of the long distance routes operated by Amtrak on the day before the date on which the restructuring required by section 24300 is completed (as determined by the Secretary) for a portion of the operating subsidies required to operate those routes with the same train frequencies.

''(2) CONDITIONS.—

''(A) A grant under this section shall be subject to the terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including limitations on what operating expenses are eligible for reimbursement.

''(B) The Secretary shall require the American Passenger Railway Corporation, as a condition of a grant under this section, to systematically reduce its route and system-wide overhead expenses by a minimum of 5 percent annually through fiscal year 2010. A contract between the National Railroad Passenger Corporation and the American Passenger Railway Corporation for the operation of a long distance route or routes must provide for a reduction in the annual operating subsidy to reflect the reduction in such expenses.

''(3) ANNUAL DETERMINATION OF SUBSIDY.—On an annual basis, the Inspector General for the Department of Transportation shall analyze and advise the Secretary of Transportation as to the operating subsidy required on each long distance route operated by the American Passenger Railway Corporation without competitive bid and the portion of the subsidy attributable to route and system-wide overhead expenses.

''(b) FEDERAL SHARE OF OPERATING LOSSES.—Pending restructuring of the long distance routes required by sections 106 through 108 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, the Federal share for an operating grant may be 100 percent of the qualifying operating subsidy for the route.

''(c) COST-SHARING PROCESS FOR LONG DISTANCE ROUTES.—Within 9 months after the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, the Secretary shall develop a process to facilitate State cost-sharing on long distance routes. The process shall—

''(1) provide States the option of either—

''(A) receiving Federal grants, managing the service, and selecting the train operator; or

''(B) having the service managed by the Federal government with a train operator selected by the National Rail Passenger Corporation;

''(2) include a methodology to assist States interested in providing financial support in equitably allocating the share of a route's required operating subsidy among the affected States; and

''(3) be made available to the Long Distance Restructuring Commission established under section 106 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act and the States to assist in the development of the restructuring plan under that section.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation to carry out this section—

''(1) $550,000,000 for fiscal year 2006;

''(2) $425,000,000 for fiscal year 2007;

''(3) $375,000,000 for fiscal year 2008;

''(4) $325,000,000 for fiscal year 2009; and

''(5) $300,000,000 for fiscal year 2010.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243, as amended by section 104 of this Act, is amended by adding at the end the following:

''24317. Operating grants for long distance routes

SEC. 106. LONG DISTANCE ROUTE RESTRUCTURING COMMISSION.

(a) ESTABLISHMENT.—There is established an independent commission to be known as the Long Distance Route Restructuring Commission.

(b) DUTY.—

(1) IN GENERAL.—The Commission shall submit a plan to Congress for restructuring long distance intercity passenger rail routes in a manner that will reduce Federal operating subsidies on the routes by at least 50 percent by the end of fiscal year 2010 (as compared to the operating subsidies for those routes for fiscal year 2003) by—

(A) retaining routes that provide a unique service that can be contracted out by the National Railroad Passenger Corporation on a for-profit basis;

(B) restructuring other routes as linked corridor routes between major metropolitan areas; and

(C) consolidating or discontinuing service over remaining routes.

(2) PRESERVATION OF NATIONAL NETWORK.—The restructuring plan submitted by the Commission shall ensure that no corridor route is completely isolated from the rest of the intercity passenger rail network.

(3) EXCEPTIONS.—

(A) IN GENERAL.—A route will be excluded from consideration for restructuring, consolidation, or closure if a State or group of States commits, by contractual arrangement with the American Passenger Railway Corporation or another operator selected through a competitive process, to provide financial operating support at a level sufficient to offset at least

(i) 30 percent of the operating subsidy for fiscal year 2007;

(ii) 40 percent of the operating subsidy for fiscal year 2008; and

(iii) 50 percent of the operating subsidy thereafter.

(B) FAILURE OF SUPPORT.—If a State or group of States fails to provide the financial support to which it committed under this paragraph, then service over the route shall be discontinued.

(4) CONSULTATION REQUIRED.—In carrying out its duties, the Commission shall consult with the American Passenger Railway Corporation, State and local officials, freight railroads, companies with expertise in intercity passenger transportation, and other organizations with an interest in the restructuring of the long distance train routes.

(c) APPOINTMENT.—

(1) The Commission shall be composed of 7 members appointed by the President within 6 months after the date of enactment of this Act.

(2) The Commission members shall elect 1 member to serve as Chairman.

(d) TERMINATION.—The Commission shall terminate 90 days after the Commission's recommendations for consolidation and closure are submitted to Congress.

(e) VACANCIES.—A vacancy on the Commission shall be filled in the same manner as the original appointment.

(f) DETAILEES.—Upon the request of the Chairman of the Commission, the head of any Federal department or agency may detail personnel of that department or agency to the Commission to assist the Commission in carrying out its duties.

(g) COMPENSATION; REIMBURSEMENT.—Members of the Commission shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(h) OTHER AUTHORITY.—

(1) The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

(2) The Commission may lease space and acquire personal property to the extent funds are available.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the use of the Commission in carrying out its responsibilities under this section for each of fiscal years 2005 and 2006, $4,000,000, such sums to remain available until expended.

SEC. 107. CRITERIA FOR RESTRUCTURING.

(a) RESTRUCTURING AS LINKED CORRIDORS.—

(1) PREREQUISITE FOR RESTRUCTURING.—A long distance route or portion thereof may be recommended for restructuring as a linked corridor if—

(A) the origin-to-destination travel time of each corridor link in the new route, at conventional train speeds, including all station stops, will be competitive with other modes of transportation;

(B) each corridor link in the new route connects at least 2 major metropolitan areas or provides a link between 2 or more existing corridor routes;

(C) the route as restructured can be reasonably expected to attract at least 10 percent of the combined common carrier market in the markets served;

(D) the projected cash operating loss of each of the restructured links does not exceed 11 cents per passenger-mile on a fully allocated cost basis; and

(E) by the end of fiscal year 2010 the Federal operating subsidy will be reduced by at least 50 percent (as compared to the operating subsidy for the route for fiscal year 2003), taking into account commitments by the affected States to provide financial support for the route so that no Federal operating subsidy is available for any portion of a route for which there is no such State commitment.

(2) HOURS OF OPERATION.—In addition to the eligibility criteria in paragraph (1), any long distance routes recommended for restructuring as linked corridors shall be designed to operate between the hours of 6:00 a.m. and 11:00 p.m.

(3) MODIFICATION OF ROUTES.—With the concurrence of the affected States and the host railroad, the route and stations service by a restructured long distance route may be modified to improve ridership and financial performance.

(4) NEW CAPITAL PLANS.—As part of the restructuring plan for reconfigured routes, the Commission shall develop a capital plan, if additional capital is needed to reconfigure the route as linked corridors.

(b) CONTRACTING-OUT OF PROFITABLE LONG DISTANCE ROUTES AND SERVICES.—The Commission shall determine which long distance routes or services on such routes, including auto-ferry transportation, food service, and sleeping accommodations, could be contracted to a private operator on a for-profit basis. In making these determinations, the Commission shall solicit expressions of interest from the private sector in operating long distance routes or services, including the conditions under which private companies may be interested in operating such services.

(c) CONSOLIDATION AND CLOSURE.—The Commission shall make recommendations to Congress for consolidating and closing long distance train routes or portions of routes that cannot be restructured under subsection (a) or contracted out under subsection (b), to reduce the Federal operating subsidy required by at least 50 percent by the end of fiscal year 2010 (as compared to the operating subsidies for those routes for fiscal year 2003), taking into consideration—

(1) the operating loss on a fully allocated cost basis, including capital costs, of the route or portion thereof;

(2) the extent to which train service is the only available public transportation to the cities and towns along the route or portion thereof;

(3) whether an alternate route could significantly reduce operating losses and capital requirements or increase ridership;

(4) available capacity on the rights-of-way of the host railroad or railroads; and

(5) commitments by the affected States to provide financial support for the route or portion thereof.

(d) COOPERATION OF AMERICAN PASSENGER RAILWAY CORPORATION.—

(1) The American Passenger Railway Corporation shall cooperate and comply, subject to the agreement of the Commission to protect the confidentiality of proprietary information, with all requests for financial, marketing, and other information about the routes under consideration by the Commission.

(2) The Secretary of Transportation may withhold all or part of an operating or capital grant to the Corporation if the Secretary determines the American Passenger Railway Corporation is not cooperating with the Commission as required by this subsection.

(e) REPORT.—The Commission shall submit its recommendations for restructuring the long distance routes to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 18 months after the date of enactment of this Act. The report shall include a description of—

(1) the analysis performed by the Commission to reach its conclusions;

(2) options considered in the development of a restructuring plan; and

(3) the impact of the restructuring on employees of the American Passenger Railway Corporation for any long distance route restructured under this section.

SEC. 108. IMPLEMENTATION OF RESTRUCTURING PLAN.

(a) IN GENERAL.—The Secretary of Transportation shall implement the restructuring plan submitted to Congress by the Long Distance Route Restructuring Commission in its report pursuant to section 106 unless a joint resolution is enacted by the Congress disapproving such recommendations of the Commission before the earlier of—

(1) the end of the 60-day period beginning on the date the Commission submits its report to Congress; or

(2) the adjournment of Congress sine die for the session during which such report is submitted.

(b) CERTAIN DAYS DISREGARDED.—For purposes of subsection (a), the days on which either House of Congress is not in session because of an adjournment of more than 4 days to a day certain shall be excluded in the computation of a period.

(c) 1-YEAR IMPLEMENTATION PERIOD.—Unless disapproved under section (a), the Secretary of Transportation shall fully implement the plan within 1 year after the date on which the period described in subsection (a) expires.

SEC. 109. REDEMPTION OF COMMON STOCK.

(a) VALUATION.—The Secretary of Transportation shall arrange, at the National Railroad Passenger Corporation's expense, for a valuation of all Amtrak assets and liabilities with an estimated value in excess of $1,000,000 as of the date of enactment of this Act by the Secretary of the Treasury, or by a contractor selected by the Secretary of the Treasury. The valuation shall be conducted in accordance with the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation's Appraisal Standards Board and shall be completed within 1 year after the date of enactment of this Act.

(b) REDEMPTION.—

(1) Prior to the transfer of assets to the Secretary directed by section 110 of this Act, and within 3 months after the completion of the valuation under subsection (a), the National Railroad Passenger Corporation shall redeem all common stock in Amtrak issued prior to the date of enactment of this Act at the fair market value of such stock, based on the valuation performed under subsection (a).

(2) No provision of this Act, or amendments made by this Act, provide to the owners of the common stock a priority over holders of indebtedness or other stock of Amtrak.

(c) ACQUISITION THROUGH EMINENT DOMAIN.—In the event that the National Railroad Passenger Corporation and the owners of the Amtrak common stock have not completed the redemption of such stock within 3 months after the completion of the valuation under subsection (a), the National Railroad Passenger Corporation shall exercise its right of eminent domain under section 24311 of title 49, United States Code, to acquire that stock. The value assigned to the common stock under subsection (a) shall be deemed to constitute just compensation except to the extent that the owners of the common stock demonstrate that the valuation is less than the constitutional minimum value of the stock.

(d) AMENDMENT OF SECTION 24311.—Section 24311(a)(1) is amended—

(1) by striking ''or'' at the end of subparagraph (A);

(2) by striking ''Amtrak.'' in subparagraph (B) and inserting ''Amtrak; or''; and

(3) by adding at the end the following:

''(C) necessary to redeem Amtrak's common stock from any holder thereof, including a rail carrier.''.

(e) CONVERSION OF PREFERRED STOCK TO COMMON.—

(1) Subsequent to the redemption of the common stock in the corporation issued prior to the date of enactment of this Act, the Secretary of Transportation shall convert the one share of the preferred stock of the corporation retained under section 110 of this Act for 10 shares of common stock in the National Railroad Passenger Corporation.

(2) The National Railroad Passenger Corporation may not issue any other common stock, and may not issued preferred stock, without the express written consent of the Secretary.

(f) TERMINATION OF SECTION 24907 NOTE AND MORTGAGE AUTHORITY.—Section 24907 is amended by adding at the end the following:

''(d) TERMINATION OF AUTHORITY.—The authority of the Secretary to obtain a note of indebtedness from, and make a mortgage agreement with, the American Passenger Railway Corporation under subsection (a) is terminated as of the date of the transfer of assets under section 110 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act.''.

SEC. 110. RETIREMENT OF PREFERRED STOCK; TRANSFER OF ASSETS.

(a) TRANSFER.—Not later than 30 days after the redemption or acquisition of stock under section 109 of this Act, the National Railroad Passenger Corporation shall, in return for the consideration specified in subsection (c), transfer to the Secretary of Transportation title to—

(1) the portions of the Northeast Corridor currently owned or leased by the Corporation as well as any improvements made to these assets, including the rail right-of-way, stations, track, signal equipment, electric traction facilities, bridges, tunnels, repair facilities, and all other improvements owned by the Corporation between Boston, Massachusetts, and Washington, District of Columbia (including the route through Springfield, Massachusetts, and the routes to Harrisburg, Pennsylvania, and Albany, New York, from the Northeast Corridor mainline);

(2) Chicago Union Station and rail-related assets in the Chicago Metropolitan area; and

(3) all other track and right-of-way, stations, repair facilities, and other real property owned or leased by the Corporation.

(b) EXISTING ENCUMBRANCES.—

(1) ASSUMPTION BY FEDERAL GOVERNMENT.—Any outstanding debt on the mainline of the Northeast Corridor (other than debt associated with rolling stock) shall become a debt obligation of the United States as of the date of transfer of title under subsection (a)(1).

(2) RESTRUCTURING.—Except as provided in paragraph (1), the obligation of the American Passenger Railway Corporation or its successors or assigns to repay in full any indebtedness to the United States incurred since January, 1990, is not affected by this Act or an amendment made by this Act.

(c) CONSIDERATION.—In consideration for the assets transferred to the United States under subsection (a), the Secretary shall—

(1) deliver to the National Passenger Railroad Corporation all but one share of the preferred stock of the corporation held by the Secretary and forgive the corporation's legal obligation to pay any dividends, including accrued but unpaid dividends as of the date of transfer, evidenced by the preferred stock certificates; and

(2) release the National Railroad Passenger Corporation from all mortgages and liens held by the Secretary that were in existence on January 1, 1990.

(d) AGREEMENT.—Prior to accepting title to the assets transferred under this section, the Secretary shall enter into a contract with American Passenger Railway Corporation under which American Passenger Railway Corporation will exercise care, custody, maintenance, and operational control of the assets to be transferred. The term of the contract shall be for 1 year, which shall be renewed annually without action on the part of either party unless canceled by either party with 90 days notice.

(e) FURTHER TRANSFERS.—

(1) The Secretary may, for appropriate consideration, transfer title to all or part of Chicago Union Station and rail-related assets in the Chicago metropolitan area acquired under this section to a regional public transportation agency that has significant operations in Chicago Union Station on the date of enactment of this Act.

(2) The Secretary may, for appropriate consideration, transfer to the underlying States title to real estate properties owned by the Corporation between Boston, Massachusetts, and Washington, District of Columbia, that constitute the route through Springfield, Massachusetts, and the routes to Harrisburg, Pennsylvania, and Albany, New York, from the Northeast Corridor mainline.

(3) The Secretary may, for appropriate consideration, transfer title to all or part of the assets acquired under subsection (a)(3) to a State, a public agency, a railroad, or other entity deemed appropriate by the Secretary.

(f) USE OF PROCEEDS.—Notwithstanding section 3302 of title 31, United States Code, any proceeds from the transfer of the assets described subsection (e) shall be credited as off-setting collections to the account that finances debt and interest payments to the American Passenger Railway Corporation. Funds available for corridor development under chapter 244 of title 49, United States Code, shall be increased by an amount equal to the amounts credited under the preceding sentence.

SEC. 111. REAL ESTATE AND ASSET SALES; OTHER.

(a) IN GENERAL.—Within 3 years after the date of enactment of this Act, the Secretary of Transportation shall transfer all stations, track, and other fixed facilities outside the Northeast Corridor mainline to which the Secretary has assumed title under section 110 of this Act, other than equipment repair facilities, to States, municipalities, railroads, or other entities for maximum consideration.

(b) USE OF PROCEEDS.—Notwithstanding section 3302 of title 31, United States Code, any proceeds from the transfer of assets under this section shall be credited as offsetting collections to the account that finances debt and interest payments to the American Passenger Railway Corporation. Funds available for corridor development under chapter 244 of title 49, United States Code, shall be increased by an amount equal to the amounts credited under the preceding sentence.

SUBTITLE B—NORTHEAST CORRIDOR

SEC. 131. INTERSTATE COMPACT FOR THE NORTHEAST CORRIDOR.

(a) CONSENT TO COMPACT.—

(1) IN GENERAL.—The States and the District of Columbia that constitute the Northeast Corridor, as defined in section 24102 of title 49, United States Code, may enter into a multistate compact, not in conflict with any other law of the United States, to be known as the Northeast Corridor Compact, to manage railroad operations and rail service and conduct related activities on the Northeast Corridor mainline between Boston, Massachusetts, and Washington, District of Columbia.

(2) CONGRESSIONAL APPROVAL REQUIRED.—The Northeast Corridor Compact shall be submitted to Congress for its consent. It is the sense of the Congress that rapid consent to the Compact is a priority matter for the Congress.

(b) COMPACT COMMISSION.—

(1) IN GENERAL.—There is hereby established a commission to be known as the Northeast Corridor Compact Commission. The Commission shall be composed of—

(A) 2 members (or their designees), to be selected by the Secretary of Transportation;

(B) 2 members (or their designees), to be selected by agreement of—

(i) the governors of Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, and Massachusetts (hereinafter referred to as the ''participating States''); and

(ii) the mayor of the District of Columbia; and

(C) 1 member to be selected by the 4 members selected under subparagraphs (A) and (B).

(2) ADMINISTRATIVE PROVISIONS.—

(A) Members of the Commission shall be appointed for the life of the Commission.

(B) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(C) Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(D) The Chairman of the Commission shall be elected by the members.

(E) The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(F) Upon the request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(G) Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(c) FUNCTIONS.—The Commission shall prepare for the consideration of and adoption by participating States, the District of Columbia, and the Secretary of Transportation an interstate compact that provides for—

(1) full authority for 99 years to succeed to the responsibilities of the National Railroad Passenger Corporation as manager of the Northeast Corridor, subject to the provisions of a lease from the Department of Transportation, including responsibility for—

(A) Corridor maintenance and improvement;

(B) the operation of intercity passenger rail service;

(C) making arrangements for operation of freight railroad operations and commuter operations;

(D) the use of the Corridor for non-rail purposes; and

(E) the Northeast Corridor financial operations;

(2) execution of a lease of the Northeast Corridor from the Department of Transportation, for a period of 99 years, subject to appropriate provisions protecting the lessor's interests, including reversion of all lease interests to the lessor in the event the lessee fails to meet its financial obligations or otherwise assume financial responsibility for Northeast Corridor functions; and

(C) participation by the Department of Transportation, as the non-voting representative of the United States.

(d) FINAL COMPACT PROPOSAL.—

(1) The Commission shall submit a final compact proposal to participating States, the District of Columbia, and the Federal Government not later than 18 months after the date of enactment of this Act.

(2) The Commission shall terminate on the 180th day following the date of transmittal of the final compact proposal under this subsection.

(e) GOVERNANCE AND FUNDING REQUIREMENTS FOR COMPACT.—

(1) The governance provisions of the compact shall provide a mechanism to ensure voting representation for the participating States and the District of Columbia and for non-voting representation for the Secretary of Transportation and a freight railroad that conducts operations on the Northeast Corridor as ex officio members participating in all Compact affairs.

(2) The provisions of the compact shall establish the financial obligations of each compact member and shall provide for each member's management of rail services in the Northeast Corridor.

(f) FEDERAL INTEREST REQUIREMENTS FOR COMPACT.—The provisions of the Compact shall hold the United States Government harmless as to the actions of the Compact under the lease of rights to the Northeast Corridor by the United States Government.

(g) COMPACT BORROWING AUTHORITY.—

(1) The borrowing authority provisions of the Compact may authorize it to issue bonds or other debt instruments from time to time at its discretion for purposes that include paying any part of the cost of rail service improvements, construction, and rehabilitation and the acquisition of real and personal property, including operating equipment, except that debt issued by the Compact may be secured only by revenues to the Compact and may not be a debt of a participating State, the District of Columbia, or the Federal Government.

(2) The debt authorized by this subsection shall under no circumstances be backed by the full faith and credit of the United States, and a grant made under the authority of this Act or under the authority of part C of subtitle V of title 49, United States Code, shall include an express acknowledgement by the grantee that the debt does not constitute an obligation of the United States.

(h) ADOPTION OF COMPACT; TURNOVER.—

(1) IN GENERAL.—The participating States and the District of Columbia shall adopt a final compact agreement within 5 years after the date of enactment of this Act, and the Compact shall thereafter assume responsibility for the Northeast Corridor operations on a date that is not later than 6 months after adoption of the Compact.

(2) OPERATIONS.—Upon leasing the Northeast Corridor to the Compact, the Secretary shall assign to the Compact and the Compact shall assume the then-current contract for operation of the Northeast Corridor. Upon the termination of that contract, the Compact may make such arrangements for operation of the Northeast Corridor as it sees fit consistent with its lease and this Act. If the Compact chooses to use a contractor other than the American Passenger Railway Corporation to operate trains on the Northeast Corridor, the contract shall be awarded competitively.

(3) MAINTENANCE.—Upon leasing the Northeast Corridor to the Compact, the Secretary shall assign to the Compact and the Compact shall assume the then-current contract for maintenance of the Northeast Corridor. Upon the termination of that contract, the Compact may make such arrangements for maintenance of the Northeast Corridor as it sees fit consistent with its lease and this Act. If the Compact chooses to use a contractor other than the American Passenger Railway Corporation to maintain the Northeast Corridor and provide related services, the contract shall be awarded competitively.

(4) NON-COMPACT ALTERNATIVE.—If the participating States and the District of Columbia do not adopt the final compact agreement and make it operational under the schedule set forth in this section, the Secretary of Transportation, through a competitive bidding process, shall contract with another public or private entity to manage the Northeast Corridor, with a goal of maximizing the return to the Federal government from such operations.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation to carry out this section—

(1) $3,000,000 for fiscal year 2005, and

(2) $2,000,000 for fiscal year 2006,

such sums to remain available until expended.

SEC. 132. SHUT-DOWN OF COMMUTER OR FREIGHT OPERATIONS.

(a) IN GENERAL.—Section 11123 is amended by striking ''National Railroad Passenger Corporation'' each place it appears and inserting ''American Passenger Railway Corporation''.

(b) AUTHORIZATION OF APPROPRIATIONS.—From the funds made available for the American Passenger Railway Corporation for fiscal years 2005 through 2010, the Secretary of Transportation shall in each fiscal year hold in reserve from the amounts authorized by section 24402(g) of title 49, United States Code, such sums as may be necessary to carry out directed service orders issued under section 1123 of title 49, United States Code, to respond to the shut-down of commuter rail operations or freight operations due to a shut-down of operations by the American Passenger Railway Corporation. The Secretary shall make the reserved funds available through an appropriate grant instrument during the fourth quarter of each fiscal year to the extent that no grant orders have been issued by the Surface Transportation Board during that fiscal year prior to the date of transfer of the reserved funds or there is a balance of reserved funds not needed by the Board to pay for any directed service order in that fiscal year.

(c) EFFECTIVE DATE FOR SUBSECTION (a).—The amendment made by subsection (a) shall take effect on the date, determined by the Secretary of Transportation, on which the restructuring required by sections 24300 of title 49, United States Code, is completed.

SEC. 133. CAPITAL GRANTS FOR NORTHEAST CORRIDOR.

(a) IN GENERAL.—Chapter 243, as amended by section 105, is amended by adding at the end the following:

"§ 24318. Capital authorizations for the Northeast Corridor

''(a) IN GENERAL.—The Secretary of Transportation, in consultation with the American Passenger Railway Corporation, shall develop and implement a capital program to restore the mainline of the Northeast Corridor between Boston, Massachusetts, and Washington, District of Columbia, to a state of good repair, as defined by the Secretary.

''(b) AUTHORIZATION OF APPROPRIATIONS FOR CAPITAL PROJECTS ON THE NORTHEAST CORRIDOR.—There are authorized to be appropriated to the Secretary of Transportation to make capital grants under this section $200,000,000 for fiscal year 2005 and $300,000,000 for each of fiscal years 2006 through 2010.

''(c) ACHIEVEMENT OF STATE-OF-GOOD-REPAIR ON NORTHEAST CORRIDOR.—

''(1) USE OF FUNDS.—Sums authorized for the Northeast Corridor under subsection (b) may be used solely for the purpose of funding deferred maintenance and safety projects, including the negotiated Federal share for life-safety improvements in the New York Penn Station tunnels.

''(2) STATE OF GOOD REPAIR.—The Northeast Corridor shall be considered to be in a state of good repair upon the completion of the capital program developed under subsection (a).''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243, as amended by section 105, is amended by adding at the end thereof the following:

''24318. Capital authorizations for the Northeast Corridor''.

SUBTITLE C—RELATED MATTERS

SEC. 151. FAIR AND OPEN COMPETITION.

(a) IN GENERAL.—The Secretary of Transportation shall consult with States that competitively bid intercity passenger rail services to ensure their bidding practices provide for fair and open competition for all bidders, including the American Passenger Railway Corporation. The Secretary may withhold all or a portion of a grant under this Act if the Secretary determines that the State's bidding processes do not treat all competitors fairly.

(b) USE OF FEDERAL OR STATE FUNDS.—The Secretary shall ensure that the American Passenger Railway Corporation may not use Federal or State financial support for a passenger rail route to subsidize a competitive bid to operate intercity passenger rail service on another route.

SEC. 152. ACCESS TO OTHER RAILROADS.

(a) TERMS AND CONDITIONS FOR ACCESS TO OTHER RAILROADS.—

(1) EXISTING ROUTES AND FREQUENCIES.—

(A) IN GENERAL.—The National Railroad Passenger Corporation shall be responsible for negotiating the terms and conditions under which—

(i) the American Passenger Railway Corporation, a State, or other entity may access the property of a rail carrier to provide intercity passenger rail service over routes operated by Amtrak on the day before the date, determined by the Secretary of Transportation, on which the restructuring required by sections 24300 of title 49, United States Code, is completed at the frequencies in effect on that day; and

(ii) the American Passenger Railway Corporation, freight railroads, commuter authorities, and other entities may obtain access to property owned by the United States Government to provide intercity, commuter, freight rail and other services, except that the National Railroad Passenger Corporation shall delegate its authority under this clause to the interstate compact authorized by section 131 after that compact has been adopted.

(B) PRESERVATION OF RAILROAD BENEFITS.—The access and liability terms and conditions of the contracts between the National Railroad Passenger Corporation and other rail carriers following the restructuring required by section 24300 of title 49, United States Code, shall be no less favorable to the railroads than the access and liability terms and conditions under contracts in effect on the day before the date, as so determined by the Secretary, on which the restructuring is completed.

(C) INCENTIVE PAYMENTS; PENALTIES.—The National Railroad Passenger Corporation shall retain a system of incentive payments and performance penalties in negotiating compensation payments to other rail carriers under subparagraph (A) that encourages on-time performance.

(3) CONDITIONS FOR NEW ROUTES AND TRAIN FREQUENCIES.—

(A) IN GENERAL.—The terms and conditions for the operation of a new intercity passenger rail route or frequency added after the date of enactment of this Act shall, except for the rental charge compensation to another rail carrier, be determined by negotiation and mutual agreement between the host railroad and the operator or sponsor of the route or frequency to be added.

(B) STANDARD OF COMPENSATION.—The standard of compensation for the rental change shall be fully allocated costs, excluding capital investments associated with an added route or frequency, when the on-time performance of the new route or train frequency meets or exceeds 95 percent of the goal set by the parties, net of delays not within the host railroad's control.

(C) FAILURE OF NEGOTIATION.—If the parties cannot agree on the terms of the rental charge, either party may petition the Surface Transportation Board to prescribe the terms under section 24308 of title 49, United States Code.

(b) FITNESS QUALIFICATIONS FOR PASSENGER RAIL.—

(1) IN GENERAL.—No person may operate intercity passenger rail service unless that person demonstrates to the satisfaction of the Secretary of Transportation that—

''(A) its intercity passenger rail operations will meet all applicable Federal safety rules and regulations;

''(B) it will operate the service on a sound financial basis; and

''(C) it has the technical expertise to operate intercity passenger rail service.''.

(2) MINIMUM STANDARDS.—Within 6 months after the date of enactment of this Act, the Secretary of Transportation shall by regulation establish minimum safety and financial qualifications for operators of intercity passenger rail service.

SEC. 153. LIMITATIONS ON RAIL PASSENGER TRANSPORTATION LIABILITY.

Section 28103 is amended by striking ''Amtrak shall maintain a total'' in subsection (c) and inserting ''each operator of intercity passenger rail service shall maintain''.

SEC. 154. TRAIN OPERATIONS INSURANCE POOL.

(a) IN GENERAL.—Chapter 281 is amended by adding at the end the following:

''§ 28104. Train operations insurance pool

''(a) IN GENERAL.—The Secretary of Transportation is authorized to encourage and otherwise assist insurance companies and other insurers that meet the requirements prescribed under subsection (b) of this section to form, associate, or otherwise join together in a pool—

''(1) to provide the insurance coverage required by section 28103; and

''(2) for the purpose of assuming, on such terms and conditions as may be agreed upon, such financial responsibility as will enable such companies and other insurers to assume a reasonable proportion of responsibility for the adjustment and payment of claims under section 28103.

''(b) REGULATIONS TO ESTABLISH INSURER QUALIFICATION REQUIREMENTS.—In order to promote the effective administration of the intercity rail passenger program, and to assure that the objectives of this chapter are furthered, the Secretary is authorized to prescribe requirements for insurance companies and other insurers participating in an insurance pool under subsection (a), including minimum requirements for capital or surplus or assets.

''(c) AUTHORITY TO COLLECT AND PAY PREMIUMS AND OTHER COSTS.—In order to provide adequate insurance coverage at affordable cost to operators of intercity passenger rail service at no cost to the United States, the Secretary is authorized to divide the insurance premiums and all other costs of forming and operating the insurance pool created pursuant to this section, including the costs of any contractors or consultants the Secretary may hire, among all the operators of intercity passenger rail service (including the American Passenger Railway Corporation) and collect from each operator of intercity passenger rail service the insurance premiums and other costs the Secretary has allocated to it. Notwithstanding any other provision of law, the Secretary may receive funds collected under this section directly from each operator of intercity passenger rail service, credit the appropriation charged for the insurance premiums and other costs of forming and operating the insurance pool, and use those funds to pay insurance premiums and other costs of forming and operating the insurance pool, including the costs of any contractors or consultants the Secretary may hire. The Secretary may advance such sums as may be necessary to pay insurance premiums and other costs of forming and operating the insurance pool from unobligated balances available to the Federal Railroad Administration for intercity passenger rail service, to be reimbursed from payments received from operators of intercity passenger rail service. Where the Secretary is making a grant of operating funds for a route, the Secretary may collect the insurance premiums and other costs the Secretary has allocated to it by withholding those funds from the grant and crediting them to the appropriation charged for the insurance premiums and other costs of forming and operating the insurance pool.

''§ 28105. Use of insurance pool, companies, or other private organizations for certain payments

''(a) AUTHORIZATION TO ENTER INTO CONTRACTS FOR CERTAIN RESPONSIBILITIES.—The Secretary of Transportation may enter into contracts with the pool formed or otherwise created under section 28104, or any insurance company or other private organizations, for the purpose of securing performance by such pool, company, or organization of any or all of the following responsibilities:

''(1) Estimating and later determining any amounts of payments to be made from the pool.

''(2) Receiving from the Secretary, disbursing, and accounting for payments of insurance premiums.

''(3) Making such audits of the records of any insurance company or other insurer, insurance agent or broker, or insurance adjustment organization as may be necessary to assure that proper payments are made.

''(4) Otherwise assisting in such manner as the contract may provide to further the purposes of this chapter.

''(b) TERMS AND CONDITIONS OF CONTRACT.—Any contract with the pool or an insurance company or other private organization under this section may contain such terms and conditions as the Secretary finds necessary or appropriate for carrying out responsibilities under subsection (a) of this section, and may provide for payment of any costs which the Secretary determines are incidental to carrying out such responsibilities which are covered by the contract.

''(c) COMPETITIVE BIDDING.—Any contract entered into under subsection (a) of this section may be entered into without regard to section 5 of title 41 or any other provision of law requiring competitive bidding.

''(d) FINDINGS OF SECRETARY.—No contract may be entered into under this section unless the Secretary finds that the pool, company, or organization will perform its obligations under the contract efficiently and effectively, and will meet such requirements as to financial responsibility, legal authority, and other matters as the Secretary finds pertinent.

''(e) TERM OF CONTRACT; RENEWALS; TERMINATION.—Any contract entered into under this section shall be for a term of 1 year, and may be made automatically renewable from term to term in the absence of notice by either party of an intention to terminate at the end of the current term; except that the Secretary may terminate any such contract at any time (after reasonable notice to the pool, company, or organization involved) if the Secretary finds that the pool, company, or organization has failed substantially to carry out the contract, or is carrying out the contract in a manner inconsistent with the efficient and effective administration of the intercity rail passenger program.''.

(b) CONFORMING AMENDMENTS.—

(1) Chapter 281 is amended by striking ''LAW ENFORCEMENT'' in the chapter heading and inserting ''LAW ENFORCEMENT; LIABILITY; INSURANCE''.

(2) The part analysis of subtitle V is amended by striking the item relating to chapter 281 and inserting the following:

''281. Law enforcement; liability; insurance .....28101''.

(3) The table of contents of the title is amended by striking the item relating to chapter 281 and inserting the following:

''281. Law enforcement; liability; insurance .....28101''.

(4) The chapter analysis for chapter 281 is amended by adding at the end the following:

''28104. Train operations insurance pool

''28105. Use of insurance pool, companies, or other private organizations for certain payments''.

SEC. 155. COLLECTIVE BARGAINING ARRANGEMENTS.

(a) STATUS AS EMPLOYER OR CARRIER.—

(1) IN GENERAL.—Any entity providing intercity passenger railroad transportation (within the meaning of section 20102 of title 49, United States Code) that begins operations after the date of enactment of this Act shall be considered an employer for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.) and considered a carrier for purposes of the Railway Labor Act (45 U.S.C. 151 et seq.).

(2) COLLECTIVE BARGAINING AGREEMENT.—Any entity providing intercity passenger railroad transportation (within the meaning of section 20102 of title 49, United States Code) that begins operations after the date of enactment of this Act and replaces intercity rail passenger service that was provided by another entity as of the date of enactment of this Act, shall enter into an agreement with the authorized bargaining agent or agents for employees of the predecessor provider that—

(A) gives each employee of the predecessor provider priority in hiring according to the employee's seniority on the predecessor provider for each position with the replacing entity that is in the employee's craft or class and is available within three years after the termination of the service being replaced;

(B) establishes a procedure for notifying such an employee of such positions;

(C) establishes a procedure for such an employee to apply for such positions; and

(D) establishes rates of pay, rules, and working conditions.

(3) REPLACEMENT OF EXISTING RAIL PASSENGER SERVICE.—

(A) NEGOTIATIONS.—An entity providing replacement intercity rail passenger service under paragraph (2) shall give written notice of its plan to replace existing rail passenger service to the authorized collective bargaining agent or agents for the employees of the predecessor provider at least 90 days prior to the date it plans to commence service. Within 5 days after the date of receipt of

such written notice, negotiations between the replacing entity and the collective bargaining agent or agents for the employees of the predecessor provider shall commence for the purpose of reaching agreement with respect to all matters set forth in subparagraphs (A) through (D) of paragraph (2). The negotiations shall continue for 30 days or until an agreement is reached, whichever is sooner. If at the end of 30 days the parties have not entered into an agreement with respect to all such matters, the unresolved issues shall be submitted for arbitration in accordance with the procedure set forth in subparagraph (B).

(B) ARBITRATION.—If an agreement has not been entered into with respect to all matters set forth in subparagraphs (A) through (D) of paragraph (2) as provided in subparagraph (A) of this paragraph, the parties shall select an arbitrator. If the parties are unable to agree upon the selection of such arbitrator within 5 days, either or both parties shall notify the National Mediation Board, which shall provide a list of 7 arbitrators with experience in arbitrating rail labor protection disputes. Within 5 days after such notification, the parties shall alternately strike names from the list until only one name remains, and that person shall serve as the neutral arbitrator. Within 45 days after selection of the arbitrator, the arbitrator shall conduct a hearing on the dispute and shall render a decision with respect to the unresolved issues set forth in subparagraphs (A) through (D) of paragraph (2). This decision shall be final, binding, and conclusive upon the parties. The salary and expenses of the arbitrator shall be borne equally by the parties, but all other expenses shall be paid by the party incurring them.

(C) SERVICE COMMENCEMENT.—An entity providing replacement intercity rail passenger service under paragraph (2) shall commence service only after an agreement is entered into with respect to the matters set forth in subparagraphs (A) through (D) of paragraph (2) or the decision of the arbitrator has been rendered.

(b) REGULATIONS.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations for carrying out this section.

TITLE II—RAIL DEVELOPMENT

SEC. 201. CAPITAL ASSISTANCE FOR INTERCITY PASSENGER RAIL SERVICE.

(a) IN GENERAL.—Part C of subtitle V is amended by inserting after chapter 243 the following:

''CHAPTER 244—INTERCITY PASSENGER RAIL SERVICE CORRIDOR CAPITAL ASSISTANCE

''Sec.
''24401. Definitions
''24402. Capital investment grants to support intercity passenger rail service
''24403. Project management oversight
''24404. Inclusion of projects in Budget
''24405. Local share and maintenance of effort
''24406. Grants for maintenance and modernization

''§ 24401. Definitions

''In this chapter:

''(1) APPLICANT.—The term 'applicant' means a State, a group of States, including an interstate compact formed under section 410 of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 note) or section 131 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, or a public corporation, board, commission, or agency established by one or more States designated as the lead agency of a State for providing intercity passenger rail service.

''(2) CAPITAL PROJECT.—The term 'capital project' means a project for—

''(A) acquiring or constructing equipment or a facility for use in intercity passenger rail service, expenses incidental to the acquisition or construction (including designing, inspecting, supervising, engineering, location surveying, mapping, environmental studies, and acquiring rights-of-way), alternatives analysis related to the development of such train services, capacity improvements on the property over which the service will be conducted, passenger rail-related intelligent transportation systems, highway-rail grade crossing improvements or closures on routes used for intercity passenger rail service, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

''(B) rehabilitating or remanufacturing rail rolling stock and associated facilities used primarily in intercity passenger rail service;

''(C) leasing equipment or a facility for use in intercity passenger rail service, subject to regulations (to be prescribed by the Secretary of Transportation) limiting such leasing arrangements to arrangements that are more cost-effective than purchase or construction;

''(D) modernizing existing intercity passenger rail service facilities and information systems;

''(E) the introduction of new technology, through innovative and improved products, other than magnetic levitation; or

''(F) defraying, with respect to new service established under section 24402, the cost of rental charges to freight railroads.

''(3) INTERCITY CORRIDOR PASSENGER RAIL SERVICE.—The term 'intercity corridor passenger rail service' means the transportation of passengers between major metropolitan areas by rail, including high-speed rail (as defined in section 26105(2) of this title), at multiple daily frequencies in corridors of 300 miles or less in length or with trip times of 4 hours or less.

''(4) NET PROJECT COST.—The term 'net project cost' means that portion of the cost of a project than cannot be financed from revenues reasonably expected to be generated by the project.

''§ 24402. Capital investment grants to support new intercity passenger rail service

''(a) GENERAL AUTHORITY.—

''(1) GRANTS.—The Secretary of Transportation may make grants under this section to an applicant to assist in financing capital investments to establish or add additional train frequencies for new intercity corridor passenger rail service.

''(2) TERMS AND CONDITIONS.—The Secretary shall require that a grant under this section be subject to the terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section.

''(3) APPLICATION WITH CHAPTER 53.—A grant under this section may not be made for a project or program of projects that qualifies for financial assistance under chapter 53 of this title.

''(b) PROJECT AS PART OF APPROVED PROGRAM.—

''(1) IN GENERAL.—The Secretary may not approve a grant for a project under this section unless the Secretary finds that the project is part of an approved corridor plan and program developed under section 135 of title 23 and that the applicant or recipient has or will have the legal, financial, and technical capacity to carry out the project (including safety and security aspects of the project), satisfactory continuing control over the use of the equipment or facilities, and the capability and willingness to maintain the equipment or facilities.

''(2) ELIGIBILITY INFORMATION.—An applicant shall provide sufficient information upon which the Secretary can make the findings required by this subsection.

''(3) PROPOSED OPERATOR JUSTIFICATION.—If an applicant has not selected the proposed operator of its service competitively, the applicant shall provide written justification to the Secretary showing why the proposed operator is preferred, taking into account price and other factors, and that use of the proposed operator will not increase the capital cost of the project.

''(4) RAIL AGREEMENT.—The Secretary of Transportation may not approve a grant under this section unless the applicant demonstrates that the railroad over which the intercity passenger rail service will operate concurs with the applicant's operating plans and infrastructure improvement requirements.

''(c) CRITERIA FOR GRANTS FOR INTERCITY CORRIDOR PASSENGER RAIL PROJECTS.—

''(1) IN GENERAL.—The Secretary may approve a grant under this section for a capital project only if the Secretary determines that the proposed project is—

''(A) justified, based on—

''(i) the results of an alternatives analysis and preliminary engineering; and

''(ii) a comprehensive review of its mobility improvements, environmental benefits, cost effectiveness, and operating efficiencies; and

''(B) supported by an acceptable degree of State and local financial commitment, including evidence of stable and dependable financing sources to construct, maintain, and operate the system or extension.

''(2) ALTERNATIVES ANALYSIS AND PRELIMINARY ENGINEERING.—In evaluating a project under paragraph (1)(A), the Secretary shall analyze and consider the results of the alternatives analysis and preliminary engineering for the project.

''(3) PROJECT JUSTIFICATION.—In evaluating a project under paragraph (1)(B), the Secretary shall consider—

''(A) the direct and indirect benefits and costs of relevant alternatives;

''(B) the ability of the service to compete with other modes of transportation;

''(C) the extent to which the project fills an unmet transportation need;

''(D) the ability of the service to fund its operating expenses from fare revenues;

''(E) population density in the corridor;

''(F) the technical capability of the grant recipient to construct the project;

''(G) factors such as congestion relief, improved mobility, air pollution, noise pollution, energy consumption, and all associated ancillary and mitigating cost increases necessary to carry out each alternative analyzed;

''(H) the level of private sector financial participation and risk sharing in the project;

''(I) differences in local land, construction, and operating costs in evaluating project justification; and

''(J) other factors that the Secretary determines appropriate to carry out this chapter.

''(4) LOCAL FINANCIAL COMMITMENT.—

''(A) EVALUATION OF PROJECT.—In evaluating a project under paragraph (1)(C), the Secretary shall require that—

''(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;

''(ii) each proposed State or local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

''(iii) State or local resources are available to operate the proposed service.

''(B) CONSIDERATIONS.—In assessing the stability, reliability, and availability of proposed sources of local financing under subparagraph (A), the Secretary shall consider—

''(i) existing grant commitments;

''(ii) the degree to which financing sources are dedicated to the purposes proposed;

''(iii) any debt obligation that exists or is proposed by the applicant for the proposed project or other intercity passenger rail service purpose; and

''(iv) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project.

''(5) PROJECT EVALUATION AND RATING.—A proposed project may advance from alternatives analysis to preliminary engineering, and may advance from preliminary engineering to final design and construction, only if the Secretary finds that the project meets the requirements of this section and there is a reasonable likelihood that the project will continue to meet such requirements. In making such findings, the Secretary shall evaluate and rate the project as 'highly recommended', 'recommended', or 'not recommended', based on the results of alternatives analysis, the project justification criteria, and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established under the regulations issued under paragraph (5).

''(6) FULL FUNDING GRANT AGREEMENT.—A project financed under this subsection shall be carried out through a full funding grant agreement. The Secretary shall enter into a full funding grant agreement based on the evaluations and ratings required under this subsection. The Secretary shall not enter into a full funding grant agreement for a project unless that project is authorized for final design and construction.

''(d) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—

''(1) LETTER OF INTENT.—

''(A) The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.

''(B) At least 60 days before issuing a letter under subparagraph (A) of this paragraph or entering into a full funding grant agreement, the Secretary shall notify in writing the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives and Senate Committees on Appropriations of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

''(C) The issuance of a letter is deemed not to be an obligation under sections 1108(c) and (d), 1501, and 1502(a) of title 31, or an administrative commitment.

''(D) An obligation or administrative commitment may be made only when amounts are appropriated.

''(2) FULL FUNDING AGREEMENT.—

''(A) The Secretary may make a full funding grant agreement with an applicant. The agreement shall—

''(i) establish the terms of participation by the United States Government in a project under this section;

''(ii) establish the maximum amount of Government financial assistance for the project, which, with respect to a high-speed rail project, shall be sufficient to complete at least an operable segment;

''(iii) cover the period of time for completing the project, including a period extending beyond the period of an authorization; and

''(iv) make timely and efficient management of the project easier according to the law of the United States.

''(B) An agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law. The agreement shall state that the contingent commitment is not an obligation of the Federal Government and is subject to subject to the availability of appropriations made by Federal law and to Federal laws in force on or enacted after the date of the contingent commitment. Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

''(3) EARLY SYSTEMS WORK AGREEMENT.—

''(A) The Secretary may make an early systems work agreement with an applicant if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe—

''(i) a full funding grant agreement for the project will be made; and

''(ii) the terms of the work agreement will promote ultimate completion of the project more rapidly and at less cost.

''(B) A work agreement under this paragraph obligates an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary decides are appropriate to make efficient, long-term project management easier. A work agreement shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization. Interest and other financing costs of efficiently carrying out the work agreement within a reasonable time are a cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms. If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Government payments made under the work agreement plus reasonable interest and penalty charges the Secretary establishes in the agreement.

''(4) LIMIT ON TOTAL OBLIGATIONS AND COMMITMENTS.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent, full funding grant agreements, and early systems work agreements under this section, when combined with obligations under section 5309 of this title, may be not more than the amount authorized under section 5338(b) of this title, less an amount the Secretary reasonably estimates is necessary for grants under this section not covered by a letter. The total amount covered by new letters and contingent commitments included in full funding grant agreements and early systems work agreements may be not more than a limitation specified in law.

''(e) FEDERAL SHARE OF NET PROJECT COST.—

''(1) IN GENERAL.—

''(A) Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net project cost.

''(B) A grant for the project may be for up to 50 percent of the net project cost. The remainder shall be provided in cash from non-Federal sources.

''(f) UNDERTAKING PROJECTS IN ADVANCE.—

''(1) IN GENERAL.—The Secretary may pay the Federal share of the net capital project cost to an applicant that carries out any part of a project described in this section according to all applicable procedures and requirements if—

''(A) the applicant applies for the payment;

''(B) the Secretary approves the payment; and

''(C) before carrying out a part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under this section.

''(2) INTEREST COSTS.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the applicant to the extent proceeds of the bonds are expended in carrying out the part. The amount of interest includable as cost under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financial terms.

''(3) USE OF COST INDICES.—The Secretary shall consider changes in capital project cost indices when determining the estimated cost under paragraph (2) of this subsection.

''(g) FUNDING.—THERE ARE AUTHORIZED TO BE APPROPRIATED TO THE SECRETARY OF TRANSPORTATION FOR PURPOSES OF THIS SECTION—

''(1) $525,000,000 for fiscal year 2006,

''(2) $525,000,000 for fiscal year 2007,

''(3) $650,000,000 for fiscal year 2008,

''(4) $750,000,000 for fiscal year 2009, and

''(5) $800,000,000 for fiscal year 2010,

such sums to remain available until expended.

''§ 24403. Project management oversight

''(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—To receive Federal financial assistance for a major capital project under this chapter, an applicant shall prepare and carry out a project management plan approved by the Secretary of Transportation. The plan shall provide for—

''(1) adequate recipient staff organization with well-defined reporting relationships, statements of functional responsibilities, job descriptions, and job qualifications;

''(2) a budget for the project, including the project management organization, appropriate consultants, property acquisition, utility relocation, systems demonstration staff, audits, and miscellaneous payments the recipient may be prepared to justify;

''(3) a construction schedule for the project;

''(4) a document control procedure and recordkeeping system;

''(5) a change order procedure that includes a documented, systematic approach to handling the construction change orders;

''(6) organizational structures, management skills, and staffing levels required throughout the construction phase;

''(7) quality control and quality assurance functions, procedures, and responsibilities for construction, system installation, and integration of system components;

''(8) material testing policies and procedures;

''(9) internal plan implementation and reporting requirements;

''(10) criteria and procedures to be used for testing the operational system or its major components;

''(11) annual updates of the plan, especially related to project budget and project schedule, financing, and ridership estimates; and

''(12) the recipient's commitment to submit a project budget and project schedule to the Secretary each month.

''(b) PLAN APPROVAL.—

''(1) 60-DAY DECISION.—The Secretary shall approve or disapprove a plan not later than 60 days after it is submitted. If the approval process cannot be completed within 60 days, the Secretary shall notify the recipient, explain the reasons for the delay, and estimate the additional time that will be required.

''(2) EXPLANATION OF DISAPPROVAL.—If the Secretary disapproves a plan, the Secretary shall inform the applicant of the reasons for disapproval of the plan.

''(c) SECRETARIAL OVERSIGHT.—

''(1) IN GENERAL.—The Secretary may use no more than 0.5 percent of amounts made available in a fiscal year for capital projects under this chapter to enter into contracts to oversee the construction of such projects.

''(2) USE OF FUNDS.—The Secretary may use amounts available under paragraph (1) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under paragraph (1).

''(3) FEDERAL SHARE.—The Federal Government may pay the entire cost of carrying out a contract under this subsection.

''(d) ACCESS TO SITES AND RECORDS.—Each recipient of assistance under this chapter shall provide the Secretary and a contractor the Secretary chooses under subsection (b) of this section with access to the construction sites and records of the recipient when reasonably necessary.

''§ 24404. Inclusion of projects in Budget

''Beginning with fiscal year 2005, the Secretary of Transportation shall transmit to the Office of Management and Budget for inclusion in the President's budget submission for the fiscal year a list of projects recommended for funding under section 24402 for the fiscal year.

''§ 24405. Local share and maintenance of effort

''(a) IN GENERAL.—Notwithstanding any other provision of law, a recipient of assistance under section 24402 may use, as part of the local matching funds for a capital project, the proceeds from the issuance of revenue bonds.

''(b) MAINTENANCE OF EFFORT.—The Secretary of Transportation shall approve the use of proceeds from the issuance of revenue bonds for the non-Federal share of the net project cost only if the aggregate amount of financial support for intercity passenger rail service from the State is not less than the average annual amount provided by the State during the preceding 3 years.

''§ 24406. Grants for maintenance and modernization

''(a) IN GENERAL.—The Secretary of Transportation may make capital grants for renewal and modernization of intercity passenger rail services to—

''(1) the American Passenger Railway Corporation for services it operates under contract with the Secretary of Transportation; or

''(2) to States for intercity passenger rail services operated under a contract with the American Passenger Railway Corporation or another train operator.

''(b) USE OF FUNDS.—Grants under this section may be used—

''(1) to purchase, lease, rehabilitate, or remanufacture rolling stock and associated facilities used primarily in intercity passenger rail service;

''(2) to modernize existing intercity passenger rail service facilities and information systems; or

''(3) to defray the cost of rental charges to freight railroads for the addition of train frequencies.

''(c) FEDERAL SHARE.—For fiscal years 2005 through 2010, the Federal share for a capital grant under this section may be 100 percent, except that the Federal share for a grant made under subsection (b)(3) may not exceed 50 percent. After fiscal year 2010, the Federal share for a capital grant under this section may not exceed 80 percent.

''(d) ALLOCATION FORMULA.—Funds made available by this section shall be allocated equitably among the States based on a formula to be determined by the Secretary.

''(e) SLEEPING AND DINING CARS.—Pending the restructuring of long distance routes under sections 106 through 108 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act, capital grants may be made to the American Passenger Railway Corporation for sleeping and dining cars only to the extent necessary to maintain the equipment in working order and not for the purpose of refurbishing, rebuilding, or renewing such equipment to extend the equipment's useful life.

''(f) LONG DISTANCE RESTRUCTURING PLAN.—Unless the restructuring plan submitted by the Long Distance Route Restructuring Commission under section 106 of the Rail Passenger Service Restructuring, Reauthorization, and Development Act is disapproved by Congress, from the sums authorized for capital projects outside of the Northeast Corridor, the Secretary may reserve up to $20,000,000 in each of fiscal years 2007 through 2010 to assist in the restructuring of long distance routes as linked corridors, and the Federal share of such assistance shall be 100 percent.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $200,000,000 for each of fiscal years 2005 through 2010 to carry out this section.''.

SEC. 202. REGULATIONS IMPLEMENTING CHAPTER 244.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue final regulations under chapter 244 of title 49, United States Code.

''(b) SPECIFIC REQUIREMENTS.—The regulations under chapter 244 of title 49, United States Code, shall include—

''(1) the manner in which the Secretary will evaluate and rate projects based on the results of alternatives analysis, project justification, and the degree of local financial commitment, as required by section 24402 of that title;

''(2) a definition of 'major capital project' for purposes of section 24403;

''(3) a requirement that project oversight begin during the preliminary engineering stage of a project, unless the Secretary finds it more appropriate to begin oversight during another stage of a project, to maximize the transportation benefits and cost savings associated with project management oversight;

''(4) a deadline by which all grant applications for a fiscal year shall be submitted that is early enough to permit the Secretary to evaluate all timely applications thoroughly before making grants;

''(5) a formula based on infrastructure ownership, boardings, and passenger-miles traveled in the prior fiscal year by which the funds authorized for modernization of existing services will be allocated among the States; and

''(6) a requirement that, if a State does not apply for its share of formula grant funds under paragraph (5) of this subsection in a timely manner, those funds will be made available to other States.

TITLE III—REFORMS

SEC. 301. MANAGEMENT OF SECURED DEBT.

Except as approved by the Secretary of Transportation to refinance existing secured debt, Amtrak (until the American Passenger Railway Corporation is established) and the American Passenger Railway Corporation thereafter, may not enter into any obligation secured by assets after the date of enactment of this Act. This section does not prohibit unsecured lines of credit used for working capital purposes.

SEC. 302. EMPLOYEE ASSISTANCE.

(a) TRANSITION FINANCIAL INCENTIVES.—

(1) IN GENERAL.—To reduce operating expenses in preparation for competition from other rail carriers, the American Passenger Railway Corporation may institute a program under which it may, at its discretion, provide financial incentives to employees who voluntarily terminate their employment with the Corporation and relinquish any legal rights to receive termination-related payments under any contractual agreement with the Corporation.

(2) CONDITIONS FOR FINANCIAL INCENTIVES.—As a condition for receiving financial assistance grants under this section, the American Passenger Railway Corporation shall certify to the Secretary of Transportation that—

(A) the financial assistance results in a net reduction in the total number of employees equal to the number receiving financial incentives;

(B) the financial assistance results in a net reduction in total employment expense equivalent to the total employment expenses associated with the employees receiving financial incentives; and

(C) the total number of employees eligible for termination-related payments will not be increased without the express written consent of the Secretary.

(3) AMOUNT OF FINANCIAL INCENTIVES.—The financial incentives authorized under this section may not exceed 1 year's base pay.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $25,000,000 for each of fiscal years 2005, 2006, and 2007 to make grants to the American Passenger Railway Corporation to fund financial incentive payments to employees under this subsection.

(b) LABOR PROTECTION FOR EMPLOYEES OF THE AMERICAN PASSENGER RAILWAY CORPORATION.—

(1) IN GENERAL.—The American Passenger Railway Corporation shall be responsible for obligations imposed by law or collective bargaining agreement for compensation and benefits payable to its employees terminated in connection with the restructuring of passenger rail service under this Act and the amendments made by this Act. The responsibility of the American Passenger Railway Corporation under the preceding sentence,

and the obligations for which it is responsible under that sentence, may not be transferred to any other entity in connection with such restructuring by contract or otherwise.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the use of the American Passenger Railway Corporation in meeting its responsibility under paragraph (1) $75,000,000 for each of fiscal years 2007 through 2010.

(3) NOT AN OBLIGATION OF THE UNITED STATES.—Notwithstanding paragraph (2), nothing in paragraph (1) shall be construed to mean that any labor protection obligation of the American Passenger Railway Corporation under that paragraph is an obligation of the United States Government.

SEC. 303. TERMINATION OF AUTHORITY FOR GSA TO PROVIDE SERVICES TO AMTRAK.

Section 1110 of division A of H.R. 5666 (114 Stat. 2763A-202), as enacted by section 1(a)(4) of the Consolidated Appropriations Act, 2001, is repealed.

SEC. 304. AMTRAK REFORM BOARD OF DIRECTORS.

Section 24302 is amended by adding at the end the following:

''(d) ASSET TRANSITION COMMITTEE.—

''(1) IN GENERAL.—The Reform Board shall form an asset transition committee comprised of the Secretary or the Secretary's designee, and 2 other members, or 1 other member if 2 other members are not lawfully appointed.

''(2) POWERS AND DUTIES.—In addition to other powers and duties assigned by the board, the Asset Transition Committee has the duty to ensure that the public interest is served in board decisions and Amtrak management actions that change the use of or status of—

''(A) the contractual right of access of Amtrak to rail lines of other railroads;

''(B) Amtrak's secured debt;

''(C) Northeast Corridor real property and assets; and

''(D) rolling stock.

''(3) APPROVAL REQUIRED.—The board may not take an action with regard to the assets or secured debt specified in paragraph (2), or permit Amtrak management action with regard to those assets, that is not approved by the asset transition committee.''.

SEC. 305. LIMITATIONS ON AVAILABILITY OF GRANTS.

(a) IN GENERAL.—Chapter 243, as amended by section 136 of this Act is amended by inserting after section 24318 the following:

''§ 24319. Limitations on availability of grants

''(a) IN GENERAL.—In addition to any other requirement imposed under this title, grants under this subtitle are subject to the following conditions:

''(1) The Secretary of Transportation may approve funding to cover operating losses or operating expenses (including advance purchase orders) only after receiving and approving a grant request for each specific train route to which the grant relates.

''(2) Each such grant request shall be accompanied by a detailed financial analysis, revenue projection, and capital expenditure program justifying the Federal support to the Secretary's satisfaction.

''(3) Not later than December 31st prior to each fiscal year in which a grant under this subtitle is to be made, the grant recipient shall transmit a business plan for operating and capital improvements to be funded in the fiscal year under section 24104(a) to the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the House of Representatives and Senate Committees on Appropriations.

''(4) The business plan shall include—

''(A) targets, as applicable, for ridership, revenues, and capital and operating expenses;

''(B) a separate accounting for such targets—

''(i) on the Northeast Corridor;

''(ii) each intercity train route;

''(iii) as a group for long distance trains and corridor services; and

''(iv) commercial activities, including contract operations and mail and express; and

''(C) a description of the work to be funded, along with cost estimates and an estimated timetable for completion of the projects covered by the business plan.

''(5) Each month of each fiscal year in which grants are made under this subtitle, the grant recipient shall submit a supplemental report in electronic format regarding the business plan, which shall describe the work completed to date, any changes to the business plan, and the reasons for such changes, to the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the House of Representatives and Senate Committees on Appropriations.

''(6) None of the funds authorized by this subtitle or the Rail Passenger Service Restructuring, Reauthorization, and Development Act may be disbursed for operating expenses, including advance purchase orders and capital projects not approved by the Secretary nor in the business plan submitted by the grant recipient under paragraph (3).

''(7) The grant recipient shall display the business plan required by paragraph (3) and all subsequent supplemental plans required by paragraph (5) on its website within a reasonable time after they are submitted to the Secretary and the Congress under this section.

''(8) The Secretary may not make any grant under this subtitle, until the grant recipient agrees to continue abiding by the provisions of paragraphs (1), (2), (5), (9), and (11) of the summary of conditions on the direct loan agreement of June 28, 2002, until the loan is repaid.

''(9) With respect to any route on which intercity passenger rail service is provided on the day before the date on which the restructuring required by section 24300 is completed (as determined by the Secretary), the American Passenger Railway Corporation shall make available to any replacement operator the legacy equipment that is associated with the service on the route. The equipment shall be made available on such terms as the National Railroad Passenger Corporation determines are fair, reasonable, and in the public interest.

''(10) The American Passenger Railway Corporation shall provide interline reservations services to any other provider of intercity passenger rail transportation on the same basis and at the same rates as those services were provided to the operating entities that provide passenger rail service within Amtrak as of the date of enactment of the Rail Passenger Service Restructuring, Reauthorization, and Development Act.

''(b) GRANT RECIPIENT.—In this section, the term 'grant recipient' means—

''(1) Amtrak, until the date on which the American Passenger Railway Corporation is established; and

''(2) the American Passenger Railway Corporation, after it is established.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 is amended by inserting after the item relating to section 24318 the following:

''24319. Limitations on availability of grants''.

SEC. 306. REPEAL OF OBSOLETE AND EXECUTED PROVISIONS OF LAW.

(a) IN GENERAL.—The following sections are repealed:

(1) Section 24701.

(2) Section 24706.

(3) Section 24901.

(4) Section 24902.

(5) Section 24904.

(6) Section 24906.

(7) Section 24909.

(b) AMENDMENT OF SECTION 24305.—Section 24305 is amended—

(1) by striking paragraph (2) of subsection (a) and redesignating paragraph (3) as paragraph (2); and

(2) by inserting ''With regard to items acquired with funds provided by the Federal Government,'' before ''Amtrak'' in subsection (f)(2).

(c) CONFORMING AMENDMENTS.—The chapter analyses for chapters 243, 247, and 249 are amended, as appropriate, by striking the items relating to sections 24307, 24701, 24706, 24901, 24902, 24904, 24906, 24908, and 24909.

SEC. 307. ESTABLISHMENT OF FINANCIAL ACCOUNTING SYSTEM.

(a) IN GENERAL.—The Inspector General of the Department of Transportation shall employ an independent financial consultant—

(1) to assess Amtrak's financial accounting and reporting system and practices as of the date of enactment of this Act;

(2) to design and assist the American Passenger Railway Corporation in implementing a modern financial accounting and reporting system, on the basis of the assessment, that will produce accurate and timely financial information in sufficient detail—

(A) to enable the American Passenger Railway Corporation to assign revenues and expenses appropriately to each of its lines of business and to each major activity within each line of business activity, including train operations, equipment maintenance, ticketing, and reservations;

(B) to aggregate expenses and revenues related to infrastructure and distinguish them from expenses and revenues related to rail operations; and

(C) to provide ticketing and reservation information on a real-time basis.

(b) VERIFICATION OF SYSTEM; REPORT.—The Inspector General of the Department of Transportation shall review the accounting system designed and implemented under subsection (a) to ensure that it accomplishes the purposes for which it is intended. The Inspector General shall report his findings and conclusions, together with any recommendations, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(c) SEPARATE FINANCIAL STATEMENTS FOR NORTHEAST CORRIDOR INFRASTRUCTURE.—Beginning with fiscal year 2006, the American Passenger Railway Corporation shall issue separate financial statements for activities related to the infrastructure of the Northeast Corridor.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $2,500,000 for fiscal year 2005 to carry out subsection (a), such sums to remain available until expended.

SEC. 308. RESTRUCTURING OF LONG-TERM DEBT AND CAPITAL LEASES.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Secretary of Transportation and Amtrak, shall restructure Amtrak's indebtedness as of the date of enactment of this Act.

(b) DEBT REDEMPTION.—The Secretary of Transportation, in consultation with the Secretary of the Treasury, shall enter into negotiations with the holders of Amtrak

debt, including leases, that is outstanding on the date of enactment of this Act for the purpose of restructuring that debt. The Secretary, in consultation with the Secretary of the Treasury, shall secure agreements for repayment on such terms as the Secretary deems favorable to the interests of the Government.

(c) CRITERIA.—In redeeming or restructuring Amtrak's indebtedness, the Secretaries and Amtrak—

(1) shall ensure that the restructuring imposes the least practicable burden on taxpayers; and

(2) take into consideration repayment costs, the term of any loan or loans, and market conditions.

(d) EARLY REDEMPTION PLAN.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation and the Secretary of the Treasury shall transmit to the Congress—

(1) a plan for the early redemption of Amtrak debt; and

(2) a proposal for covering the costs associated with the early redemption.

(e) AMTRAK PRINCIPAL AND INTEREST PAYMENTS.—

(1) PRINCIPAL ON DEBT SERVICE.—Unless the Secretary of Transportation and the Secretary of the Treasury restructure or redeem the debt, there are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak (before the date, determined by the Secretary of Transportation, on which the restructuring required by section 24300 of title 49, United States Code, is completed) and the American Passenger Railway Corporation (after that date) for retirement of principal on loans for capital equipment, or capital leases, not more than the following amounts:

(A) For fiscal year 2005, $110,000,000.

(B) For fiscal year 2006, $115,000,000.

(C) For fiscal year 2007, $205,000,000.

(D) For fiscal year 2008, $165,000,000.

(E) For fiscal year 2009, $155,000,000.

(F) For fiscal year 2010, $150,000,000.

(2) INTEREST ON DEBT.—Unless the Secretary of Transportation and the Secretary of the Treasury restructure or redeem the debt, there are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak (before the date, determined by the Secretary of Transportation, on which the restructuring required by section 24300 of title 49, United States Code, is completed) and the American Passenger Railway Corporation (after that date) for the payment of interest on loans for capital equipment, or capital leases, the following amounts:

(A) For fiscal year 2005, $155,000,000.

(B) For fiscal year 2006, $150,000,000.

(C) For fiscal year 2007, $140,000,000.

(D) For fiscal year 2008, $130,000,000.

(E) For fiscal year 2009, $125,000,000.

(F) For fiscal year 2010, $115,000,000.

(3) REDUCTIONS IN AUTHORIZATION LEVELS.—Whenever action taken by the Secretary of the Treasury under subsection (c) results in reductions in amounts of principle and interest that Amtrak must service on existing debt, Amtrak shall submit to the Senate Committee on Commerce, Science and Transportation, the House of Representatives Committee on Transportation and Infrastructure, the Senate Committee on Appropriations, and House of Representatives Committee on Appropriations revised requests for amounts authorized by paragraphs (1) and (2) that reflect the such reductions.

(g) LEGAL EFFECT OF PAYMENTS UNDER THIS SECTION.—The payment of principal and interest secured debt with the proceeds of grants under subsection (f) shall not—

(1) modify the extent or nature of any indebtedness of the National Railroad Passenger Corporation to the United States in existence of the date of enactment of this Act;

(2) change the private nature of Amtrak's or its successors' liabilities; or

(3) imply any Federal guarantee or commitment to amortize Amtrak's outstanding indebtedness.

SEC. 309. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Transportation for the benefit of Amtrak for fiscal year 2005 $750,000,000 for operating expenses.

By Mr. GRASSLEY:

S. 2307. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs by importers, and by individuals for personal use, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I would like to pose a question to the Chamber today.

What would you call it if Americans were paying up to 300 percent more for the same product as consumers from other countries were paying? Back in Iowa, we would call that ''highway robbery.'' Yet, highway robbery is what is happening every day in this country, and it is happening over prescription drugs.

Yes, prescription drugs are being sold at prices that are 30 to 300 percent higher in the United States than in places like Canada or Europe.

Here are some examples.

The price in Canada of Nexium which is for heart burn and ulcers, is about 40 percent of the price in the U.S. Nexium would cost about $120 for 28 20-milligram capsules if you bought it here in the States. If you order the same Nexium from Canada, you'd pay about $51.

Here is another example: The price in Canada for Vioxx which is for arthritis pain, is also about 40 percent of the price in the U.S. If you purchased 30 12.5-milligram tablets in Canada, you would pay about $36 and here in a U.S. pharmacy, you would pay about $86.

And why is that, Mr. President? The reason is the importation of prescription drugs, those very same drugs that patients are using in Canada, and Australia, and Japan, is illegal in this country. So consumers in other countries get price breaks from the drug manufacturers and the American public doesn't.

One way to look at this is that by paying those higher prices, the American public is paying more than its fair share for the cost of research and development for future new drugs. That is not fair.

This means when a new drug comes on the market, the American consumer has paid for the research but consumers in other countries benefit from the new therapy.

I have supported amendments to permit Canadian drug purchases before. We have had numerous votes in this Chamber on legalizing importation. We had a vote most recently during the Medicare debate.

Last year, the House overwhelmingly passed a drug reimportation bill by a vote of 243 to 186. But, in the end, the conference report for the Medicare bill watered down the possibility of legal importation such that it was meaningless.

I was very disappointed about that. I think it was victory by subterfuge for the pharmaceutical industry.

So, I decided to roll up my sleeves and go to work on drafting my own bill that would address the problems surrounding importation. In fact, I was working very closely since the beginning of the year with my friend and colleague from Massachusetts, Senator KENNEDY. We were working together until 3 weeks ago to create a bipartisan piece of legislation. We made a lot of progress. We still had some issues to work out but we were very close to having a final agreement.

With my leadership on the Finance Committee, and Senator KENNEDY's leadership on the HELP Committee, let alone his expertise on the Food, Drug, and Cosmetics Act, I figured we had a good shot at getting something done.

Our discussions certainly created a lot of buzz around town. I had reporters and all manner of interest groups asking me and my staff about the bill and when we would introduce it. But those discussions have since evaporated. Apparently, the Democratic caucus was concerned that things were moving too quickly or that too much momentum was building behind a bipartisan effort. What I do know is that our bipartisan product was no longer the priority.

I was disappointed about that too. Senator KENNEDY and I work well together. In fact, we are joining forces even now to get the Family Opportunity Act to the floor and passed out of the Senate.

You can understand why I was discouraged to learn that Senator DASCHLE had determined lowering the costs of prescription drugs through importation was going to be a partisan issue.

Members can understand why I was discouraged to learn that Senator DASCHLE determined lowering the cost of prescription drugs through importation was going to be a partisan issue. This reminded me of what happened in the year 2002 with the Medicare prescription drug debate. There, too, Senator DASCHLE became concerned that the Finance Committee—then chaired by my friend, Senator BAUCUS—would report a bipartisan prescription drug benefit for seniors.

Senator DASCHLE, in 2002, as the majority leader, bypassed the Finance Committee and took the prescription drug bill straight to the floor. That is not how we get legislation passed in the Senate, and everyone around here knows it. As I say so often to my colleagues, nothing gets done in the Senate if it is not bipartisan or at least somewhat bipartisan.

In the year 2002, it resulted in a very partisan debate in the Senate over

competing Medicare drug benefit proposals. There were multiple partisan proposals by the Senator from Florida, Mr. GRAHAM. I had a proposal supported by both Republicans and Democrats. The Democratic caucus fought our bill, which was dubbed the tripartisan bill because one of the key authors, Senator JEFFORDS from Vermont, sits in the body as an Independent.

What happened in the final analysis in 2002? The Senate did not pass a Medicare drug benefit proposal that year. The debate fell apart in partisan bickering in the Senate. That happened because partisan politics intervened to prevent a bipartisan compromise.

It looks to me that this is what is happening now on the issue of the importation of drugs into the United States to help our seniors. When we go to the pharmacist to pick up a prescription, I don't remember the pharmacist asking if you are a Republican or a Democrat. When you pay your health insurance premium, I don't think the insurance company looks for an ''R'' or a ''D'' by your name before they accept your payment.

No, I don't see the importation of drugs as a partisan issue. Being forced to pay higher prescription prices because there is a lack of competition in the global pharmaceutical industry is not a partisan issue. That is why I decided to move ahead and introduce the bill I am introducing today.

This bill I am introducing today in a large degree is the bill on which I worked very closely with Senator KENNEDY when our efforts got superseded by the Democratic caucus. I made a few changes, but this bill is basically what Senator KENNEDY and I were working on together before partisan politics got in the way. I thought what we had was a good proposal. We were close to having all the details worked out. I am going ahead and introducing that bill today by myself.

Let me explain the bill. Quite simply, it would legalize immediately the importation of prescription drugs from Canada. After 2 years, consumers would be able to order their drugs from other countries, as well. It creates a practical and safe system to do it.

Today the law prohibits the importation of prescription drugs until the Secretary of Health and Human Services certifies that importation can be done safely. Under current resources and under current authority, the Food and Drug Administration has not been able to provide such assurance on the safety of drugs coming in from other countries. We have had Health and Human Service Secretaries in both the Clinton administration and the Bush administration. This is not Republicans protecting pharmaceuticals, if you want to look at it this way. It is both Democrat Presidents and Republican Presidents making a decision that the certification and safety of drug importation was not legally permitted.

Even though the law says you can import drugs, because of the lack of certification, they cannot come into the country. More and more people have been getting prescriptions filled in Canada, regardless of what the law says. Technically, that is illegal today.

The Food and Drug Administration and our customs officials have been looking the other way. The Food and Drug Administration has said there are serious safety issues with drug importation from other countries. They say this because no public health authority is overseeing many of the prescriptions coming in from other countries. In fact, the Canadian Government has said it will not take responsibility for assuring the safety of drugs being shipped to the United States from Canada. They have basically told the U.S. consumer: You are on your own from the standpoint of safety—I suppose, as far as the Food and Drug Administration, efficacy as well as safety.

Today, importation is no longer limited to organized bus trips across the border to pharmacies in Canada. Instead, it is becoming a booming mail-order pharmacy operation with customers all over the United States. We see press accounts on a regular basis describing Americans who log on to the Internet to purchase drugs from Canada and elsewhere.

The Permanent Subcommittee on Investigations of the Senate Committee on Governmental Affairs conducted an investigation into drug importation. They found about 40,000 parcels containing prescription drugs come through JFK Airport every day. JFK Airport houses the largest international mail branch in the United States. From Miami, 30,000 packages of drugs come into the United States; 20,000 packages come into Chicago each day of the year. About 28 percent of the drugs coming in are controlled substances. These are addictive drugs that require close supervision from physicians.

From where are most of these drugs coming? I was surprised to hear it was not only Canada, but also Brazil, India, Pakistan, the Netherlands, Spain, Portugal, Mexico, and Romania.

My bill immediately halts unsafe importation from rogue operators but permits individuals to obtain prescriptions from licensed Canadian pharmacies on an interim basis while the Food and Drug Administration gets a new drug importation system up and it runs well.

The American public is tired of waiting for the Federal Government to take action to legalize importation and to assure the safety of imported drugs. Under my bill, the Food and Drug Administration is required to issue final regulations for the new drug importation system within 90 days of enactment. Under the new importation system, individuals and pharmacies could purchase qualified drugs for import into the United States from foreign exporters that register with the Food and Drug Administration. To be registered, the foreign exporters must demonstrate compliance with safety measures, must submit to the jurisdiction of U.S. courts, and take other steps to assure the safety of imported drugs.

A user fee charged to registered exporters would provide the financing needed for the Food and Drug Administration to register and oversee foreign drug exporters and assure the state of imported drugs.

The drugmakers do not want to see their lower priced products from other countries coming into the United States. That is certain because the present laws do not permit this competition to them. They would say it undermines their profits here. They will want to do everything they can to stop drug importation.

Even though this bill might pass, these companies will find some way to keep these drugs out of the country. So I have to deal with that fact in this legislation.

So under my bill, drugmakers that take steps to prevent importation of their products from these registered drug importers will lose their tax deduction for their advertising costs.

Now, that is going to upset the trade associations that deal with advertising. That is going to upset TV and newspapers and magazines that get a lot of money from advertising. I have had a long history of supporting the deductibility of advertising expenses as a legitimate business expense. I have not changed my mind in regard to that, not at all. In fact, I have a history of voting against amendments that are offered on the floor of the Senate that would make advertising not deductible.

But we are not talking about not allowing the deductibility of advertising costs. Only if a company tries to do something illegal and keep drugs from coming in from out of this country, then they will pay the penalty of not having their advertising costs deducted. But I assume, when we pass this bill, these drug companies are going to abide by this law. There will not be one cent of advertising that cannot be deducted as a legitimate expense, so I do not want the advertising fraternity to get upset with this legislation, when I have been a backer of the legitimate writeoff of advertising expenses.

Now, this not only has the stick that I just described, but we have a carrot as well, to encourage companies to abide by this law and not try to keep imported drugs from coming into this country by some sort of requirement they would put on supplies outside the country not to ship drugs into this country; and that is, they will get a 20-percent benefit—a 20-percent benefit—by having an increase in their R&D tax credit.

I am going to discuss that further, but going back to the advertising costs, I do sense, from my people in Iowa—at every town meeting some person complains about the advertising of

drugs on TV. I defend the advertising of drugs on TV because that is commercial free speech. I think our citizenry ought to be as educated about drugs as they can be, so they are not beholden to their own doctor or doctors for what might be applied. I think we ought to have an educated patient group, so this advertising is very good. But I still have to say that my Iowa constituents are pretty fed up with all those drug ads they see on TV, and how they are probably adding to the cost of prescription drugs.

I am fully in favor of this free speech, and I do not, in any way, want to prohibit companies from running the ads they want to run. But if drug companies are not going to allow U.S. consumers to have access to these lower prices in other countries, then, under this legislation, they would lose the tax deduction for the cost of those advertisements.

Now, on the other hand, I said there is a carrot out there. The drugmakers complain to us that these lower prices might take money from research and development. They would rightly say: Where are we going to get the money to have the next generation of ''magic'' drugs that we have? We want that to happen, because when I buy a drug today, my mother or grandmother, when they bought pills, paid for that research for the generation of drugs I take. I want my children and grandchildren to have a new generation of drugs for the future. So we do not want to hurt research and development.

So my bill, then, creates an incentive for drug companies that do not fight this importation of drugs. Companies that do not prevent importation from registered exporters will get a 20-percent increase in their R&D tax credit. I hope everybody will think that is very fair.

I have a more detailed summary of this bill that I am going to put in the RECORD. I ask unanimous consent that this summary and a question and answer document be printed in the RECORD following my statement.

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

(See exhibit 1.)

Mr. GRASSLEY. I believe that free trade principles argue in favor of permitting the importation from Canada and perhaps from other developed countries as long as we can implement a system for safe importation.

Today, there is no assurance of safety—no one is watching the store—and products are coming in from all over the world.

My legislation has two objectives. First, it will put an immediate end to the unregulated and unsafe situations of drug imports that we have today by default. This is key because the situation today threatens the safety of our Nation's drug supply and puts patients who obtain these drugs at risk of harm.

Second, the legislation will provide the Food and Drug Administration with the resources and authority to ensure the safety of imported drugs, and importation will only be permitted by registered exporters who submit to the Food and Drug Administration authority.

Now, this bill will get referred to the Finance Committee because it has tax provisions in it, but the bulk of my bill falls under the jurisdiction of the HELP Committee, and my friend, Senator GREGG, as chairman of that committee, has announced he will hold a markup this year on a drug importation bill.

I do not intend to assert jurisdiction over this proposal, and I believe we should rely upon that regular committee process to work. That is how we get legislation passed in the Senate. Because that is where bipartisanship is formulated, at the committee level.

I hope my colleagues will look at this bill. I wanted to get these ideas out here for discussion. I hope some of my colleagues will want to cosponsor this bill. It is time we got this done, and this is the year to get it done, particularly following upon the vote that was in the House of Representatives last year.

We must not let partisan politics get in the way, and I think it is getting a little bit in the way right now. I hope we overcome that. I hope I am able to develop a relationship with Democrats, once again, to work on this bill in a bipartisan way. If we do not do this, I think there is going to be a penalty paid at the ballot box in November.

The American consumers are waiting. Let's get the job done.

I ask unanimous consent that a summary be printed in the RECORD.

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

EXHIBIT 1

OVERVIEW OF KEY ELEMENTS

Legalizes reimportation (or importation) of prescription drugs from FDA approved exporters. To be approved, registered exporters must agree to meet safety requirements and to permit FDA inspectors on their premises full time to ensure compliance.

Creates a ''fast-track'' regulatory process for FDA to implement the importation system quickly.

Importation of qualified prescription drugs from Canada is immediately legalized while the new importation system is developed and implemented by FDA.

Under the new system, individuals, pharmacies, and drug wholesalers are permitted to legally import prescription drugs from registered foreign exporters:

Individuals may order drugs from a registered exporter pursuant to a valid prescription issued by a U.S. doctor and filled by a pharmacist whose licensing requirements are equivalent to those required in the U.S. or by a dispensing pharmacist duly licensed by a state.

Commercial shipments are permitted only to licensed pharmacists for resale directly to consumers and by drug wholesalers who can sell to pharmacies as they do today.

Drugs imported to U.S. pharmacies and drug wholesalers must be FDA approved drugs produced in the United States or in FDA inspected manufacturing facilities in other counties. FDA is required to provide the proper labeling for drugs for importation.

The FDA through its inspectors is responsible for tracing all drugs exported to the U.S. back to their original manufacturing plant and ensuring that they have been stored and transported safely from that plant.

Individuals may also purchase drugs that are bioequivalent to FDA-approved brand name drugs that are produced by the same brand-name manufacturer.

These drugs are drugs not technically approved by the FDA but the foreign government has approved the drug and that drug has the same active ingredient or ingredients as the FDA-approved drug and the same route of administration, dosage form, and strength.

If a drug manufacturer believes, however, that the non-FDA approved drug is not bioequivalent to the FDA approved drug, then it must submit a petition to the FDA to show that (a) the differences result in a product that is not bioequivalent to the drug approved in the U.S., and (b) that such differences are due to scientifically and legally valid differences in the regulatory requirements of the U.S. and the country(ies) in which the apparently similar drug is marketed. The manufacturer is required to pay a user fee sufficient to cover the cost of the FDA's review of the petition and supporting documentation.

A User Fee charged to registered exporters provides the financing to provide the resources to FDA to ensure the safety of imported drugs.

User fees charged to registered exporters would be sufficient to cover all costs including those incurred for inspection and verification within the United States, at the exporter's premises and any other location where the drugs have been stored prior to entry into the U.S.

The FDA would be required to verify the source and inspect the intermediate handlers of all drugs intended for export into the United States.

FDA would also be required to determine by a statistically significant sample that the recipients held valid prescriptions (individuals ordering 90-day supply or less) or verify that recipient was a licensed pharmacy that only dispensed drugs to individuals.

The FDA would also be required to supply valid U.S. labeling upon request of the registered exporter and affix or supervise the affixing of seals, markings or tracking technology that would inform border personnel that such imports were lawful to be entered as labeled.

Drugs not permitted for importation include controlled substances and certain other drugs not appropriate for importation because of storage, significant safety concerns, or drugs that are more likely to be counterfeited.

Provisions to Protect Safety of the Public

Unauthorized imports would be treated as contraband and would be seized and destroyed upon entry without notice.

For the first two years, importation would be limited to Canada. The Department of Health and Human Services would submit a report to Congress in the second year, and unless Congress changed the law, countries from which importation is permitted would be expanded to include, the European Union, the European Free Trade Association, Japan, Australia, and New Zealand. Other countries meeting statutory criteria could also be added to the list by the Secretary.

The legislation continues to prohibit the import or reimport of drugs supplied free or at nominal cost to charitable or humanitarian organizations including the United

Nations or a government of a foreign country.

Requires pedigrees from the manufacturer to the dispensing pharmacist for all prescription drugs sold within the U.S. or to an exporter authorized to export drugs into the U.S.

Requires the automatic suspension of an exporter's registration for any attempted entry of non-qualified or unsafe drugs with restricted ability to seek re-instatement in the future.

Requires that registered exporters submit to the jurisdiction of the U.S. federal court system and provides a mechanism for civil actions against the property of persons that import non-qualified drugs.

Repeals the provision in the Controlled Substances Act that permits the personal import of scheduled drugs, which is a significant source of illegal drug trade in the U.S.

Tax Incentives for Manufacturers to Facilitate Reimportation

Incentive To Not Prevent Reimportation: Manufacturers that do not take any action, directly or indirectly, to prevent reimportation receive a 20% increase in R&D tax credit for that year.

Penalty For Preventing Reimportation: Manufacturers that take any action, directly or indirectly, to prevent authorized reimportation lose the business expense deduction for advertising expenses.

QUESTIONS AND ANSWERS ABOUT THE BILL

Question. What are the goals of the legislation?

Answer. The legislation has two objectives. First, it would put an immediate end to the unregulated and unsafe situation with drug imports that exists today. Second, the legislation would provide the Food and Drug Administration (FDA) with the resources and authority to ensure the safety of imported drugs.

Question. How does the bill work?

Answer. Current law prohibits the importation of prescription drugs until the Secretary of Health and Human Services (HHS) certifies that importation can be done safely. Using current resources and authority, the FDA has not been able to provide an assurance of safety of imported drugs.

The bill immediately halts unsafe importation but permits individuals to obtain prescriptions from Canadian pharmacies on an interim basis while FDA gets the new drug importation system up and running.

Under the bill, the FDA is required to issue final regulations for the new system within 90 days of enactment. Under the new importation system, individuals, pharmacies, and drug wholesalers could purchase qualified drugs for import into the U.S. from foreign exporters that register with the FDA. To obtain a registration, a foreign exporter must demonstrate compliance with safety measures, must submit to jurisdiction of U.S. courts, and take others steps to assure safety of imported drugs. A user fee charged to registered exporters would provide the financing needed for FDA to register and oversee foreign drug exporters and ensure the safety of imported drugs.

Question. How will patients get their prescriptions filled at an overseas drug exporter?

Answer. First of all, consumers that want to have their prescriptions filled at an overseas prescription drug exporter will be able to go to the FDA website and find a list of companies that have passed FDA's requirements to become a registered exporter. Just as for filling a prescription in the U.S. today, the patient must have a valid prescription written by a health care professional licensed in a state to prescribe drugs. The patient will then compare drug prices at the different registered exporters to find the best price available. To get the prescription filled, the patient will have to contact that exporter and either mail or fax the prescription to them.

Alternatively, the registered exporter could call the patient's prescriber and get the prescription over the phone. This is the same process as mail order pharmacies in the U.S. use today.

A pharmacist at the registered exporter would fill the prescription according to the prescriber's instructions. The registered exporter may only fill the prescription with brand-name drugs, meaning these are the same drugs as those approved by the FDA and manufactured by the same company as approved by the FDA for sale in the U.S.

Individuals can also have a prescription filled that is technically not an FDA-approved drug, but the drug has the same active ingredients, dosage form, strength, and route of administration as the FDA-approved drug and is made by the same manufacturer as the FDA-approved drug. These drugs are manufactured by the same brand-name manufacturer and are made for sale in the market of the approved country.

The registered exporter is required to verify that the drug can be traced back to the original manufacturer and the drug must have been stored and handled properly. The FDA, through its on-site inspectors, will also be verifying that the prescription drugs being dispensed to patients meet FDA's criteria.

Once the prescription is filled, the registered exporter will place a label or other markings on the package for shipping that identify the shipment as being in compliance with FDA's safety requirements and all registration conditions. These markings will be designed by FDA and may include track-and-trace technologies and anti-counterfeiting measures. When the package enters the U.S., that marking will signify to Customs officials that the product was dispensed from a registered exporter and can therefore be permitted to enter the country. Packages with drugs that lack this marking will be seized by Customs and destroyed.

Question. Can the importation of prescription drugs from other countries be expanded?

Answer. Yes. In the second year of the importation program, HHS would be required to submit a report to Congress on the safety of the program and its impact on trade. Unless Congress acted, the program would be expanded in year three to include importation from the European Union, the European Free Trade Association, Japan, Australia and New Zealand. Other countries that meet specific statutory criteria may also be added to the list.

Question. What is the complete list of countries that would be permitted in the third year of the program?

Answer. There are currently 15 members of the European Union: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Portugal, Spain, Sweden, The Netherlands, and the United Kingdom. Beginning on May 1, 2004, there will be 10 new member states in the European Union: Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, and Slovenia. There are 4 member countries in the European Free Trade Association: Iceland, Liechtenstein, Norway, and Switzerland.

Question. How much does this program cost?

Answer. The infrastructure needed to guarantee the safety of the imported prescriptions would be financed through user fees. User fees would be paid by registered exporters, which could be the overseas pharmacies or prescription drug wholesalers, for example. Congressional Budget Office has not yet officially scored the bill.

Question. Now that the bill is introduced, what comes next?

Answer. Because the bill contains tax provisions, it has been referred to the Finance Committee. Senate leadership has expressed an interest in developing legislation this year to allow the importation of prescription drugs. Because the bulk of the legislation falls within the jurisdiction of the Health, Education, Labor & Pensions (HELP) Committee, it is expected that HELP will take the lead in reporting any legislation.

Question. How is this bill different than other legislation on importation?

Answer. While the idea of importation of prescription drugs from foreign countries enjoys broad bipartisan support, the issue of safety continues to remain a major barrier to allowing importation to move forward. Secretaries of HHS from both the Clinton and Bush Administrations have determined that safe importation of prescription drugs cannot be guaranteed with the authority and resources the FDA has today. Many bills presume that importation is safe and that FDA and the public should not be overly alarmed. However, there is a legitimate concern about unsafe pharmaceuticals entering the U.S. every day. Hundreds of thousands of packages enter our country on a daily basis, with little or no ability for the U.S. Customs Service or the FDA to guarantee these drugs are safe and effective. Rather than ignore the safety issue, this bill responds to the concerns raised by FDA and others and creates a way to ensure safe access to lower cost prescriptions.

Question. How does this bill lower the costs of prescription drugs Americans have to pay?

Answer. United States consumers pay 30 to 300 percent more for their prescriptions drugs than those in other countries. Drug manufacturers are forced to sell their products at lower prices in other countries and try to re-coup their profits by making Americans pay higher prices for the same products. This bill recognizes that competition in the global marketplace can work to lower prescription drug costs. If lower cost pharmaceuticals are made available to Americans, drug companies will be forced to rethink their pricing strategy and won't be able to gouge consumers in the United States.

Question. What mechanisms does the bill propose to guarantee safety?

Answer. The bill would allow importation of qualified drugs only from registered exporters, whose actions will be held accountable in U.S. Federal courts.

Registered exporters must have an FDA-approved compliance plan that demonstrates they are meeting the safety requirements established in the bill or by FDA. Exporters must permit FDA inspectors to be present onsite on a continuous day-to-day basis and FDA is required to have assigned inspectors to that exporter. FDA will conduct day-to-day onsite monitoring of the exporter at the place of business for the exporter including any warehouses owned or operated by the exporter and FDA will have access to inspect the exporters records to ensure compliance. Only where an exporter has demonstrated a track record of compliance will FDA be permitted to perform periodic inspections. The FDA must verify the chain of custody for each qualifying drug from the manufacturer of the drug to the exporter.

Only licensed pharmacists at the registered exporter will be allowed to dispense prescriptions with a valid U.S. prescription from a U.S. physician. Commercial shipments can only be received and resold by licensed pharmacists. Unauthorized imports

would be treated as contraband and would be seized and destroyed upon entry without notice. Under the bill, an exporter's registration would automatically be suspended for any attempted entry of non-qualified or unsafe drugs and these exporters can be barred from seeking re-instatement in the future. The bill would allow for importation first from Canada in order to test the safety of the system and determine whether additional controls are needed before expansion to additional counties.

Question. How does the bill prevent drug manufacturers from gaming the system?

Answer. Drug manufacturers that take any action, directly or indirectly, to prevent authorized importation will see a loss of their tax deduction for advertising expenses. Drug manufacturers that do NOT take action, directly or indirectly, to prevent importation will see a 20 percent increase in their research and development tax credit for that year.

By Mr. CORZINE (for himself, Mr. REED, Mr. BINGAMAN, Mr. LAUTENBERG, and Ms. CANTWELL):

S. 2308. A bill to provide for prompt payment and interest on late payments of health care claims; to the Committee on Health, Education, Labor, and Pensions.

Mr. CORZINE. Mr. President, I rise today to introduce legislation to ensure that managed care plans and other private health insurers pay health care claims in a timely fashion. I thank my colleagues Senators LAUTENBERG, REED, BINGAMAN and CANTWELL for joining me in introducing this bill.

This legislation seeks to address the very serious backlog of HMO payments that hospitals and physicians are facing in my State of New Jersey and across the country. Specifically, the legislation requires private health plans to pay manually filed claims within 30 days and electronically filed claims within 14 days. Insurers that fail to meet these time frames would be required to pay interest for every day the claims went unpaid. Insurers that knowingly violate these prompt payment requirements would be subject to monetary penalties.

A Federal prompt pay law is critical to ensuring that our health care providers maintain adequate cash flows and are able to continue functioning. The need for such a law cannot be understated. In my State of New Jersey, almost half of all hospitals are operating in the red, and that number is growing. Physicians and hospitals are experiencing a severe medical malpractice crisis, which is further limiting their resources. Untimely payment of claims has only compounded this problem.

According to a survey of 50 New Jersey hospitals, only 39 percent of manually-filed clean claims are paid within 40 days. These institutions cannot afford to wait indefinitely for reimbursement for services they have provided. Each year, hundreds of millions of dollars in HMO payments to hospitals are held up for months at a time, worsening provider fiscal woes.

The problem of late payments has reached such a crisis that 47 States, including New Jersey, have enacted ''prompt pay'' laws to require insurers to pay their bills within a specific time frame. Unfortunately, New Jersey's law, like most similar State laws, is largely ineffective because it lacks strong enforcement provisions and offers no incentives for private insurers to comply. Furthermore, State prompt-pay laws only apply to non-ERISA regulated plans, which only cover approximately 50 percent of New Jersey insureds.

Shouldn't we hold private insurers to the same standards that regular citizens must adhere to? If you don't pay your health insurance premium when it's due, the company will simply cancel your policy. If you're late making your credit care payments, your credit care company charges you interest. Why shouldn't private health insurers also be penalized for making late payments?

In my view, it only makes sense to hold insurance companies to the same type of standards to which we hold Medicare. Medicare must pay claims within thirty days of receiving them. Why should private insurers be immune from any such time limits?

The bottom line is that patients, hospitals and other health care providers should not have to shoulder the burden of unpaid claims. My legislation will ensure that private insurers assume the financial responsibilities for the health coverage they are being paid to provide.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 2308

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 ''Prompt Payment of Health Benefits Claims Act of 2004''.

SEC. 2. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

''SEC. 714. PROMPT PAYMENT OF HEALTH BENEFITS CLAIMS.

''(a) TIMEFRAME FOR PAYMENT OF COMPLETE CLAIM.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall pay all complete claims and uncontested claims—

''(1) in the case of a claim that is submitted electronically, within 14 days of the date on which the claim is submitted; or

''(2) in the case of a claim that is not submitted electronically, within 30 days of the date on which the claim is submitted.

''(b) PROCEDURES INVOLVING SUBMITTED CLAIMS.—

''(1) IN GENERAL.—Not later than 10 days after the date on which a complete claim is submitted, a group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall provide the claimant with a notice that acknowledges receipt of the claim by the plan or issuer. Such notice shall be considered to have been provided on the date on which the notice is mailed or electronically transferred.

''(2) CLAIM DEEMED TO BE COMPLETE.—A claim is deemed to be a complete claim under this section if the group health plan or health insurance issuer involved does not provide notice to the claimant of any deficiency in the claim within 10 days of the date on which the claim is submitted.

''(3) INCOMPLETE CLAIMS.—

''(A) IN GENERAL.—If a group health plan or health insurance issuer determines that a claim for health care expenses is incomplete, the plan or issuer shall, not later than the end of the period described in paragraph (2), notify the claimant of such determination. Such notification shall specify all deficiencies in the claim and shall list all additional information or documents necessary for the proper processing and payment of the claim.

''(B) DETERMINATION AFTER SUBMISSION OF ADDITIONAL INFORMATION.—A claim is deemed to be a complete claim under this paragraph if the group health plan or health insurance issuer involved does not provide notice to the claimant of any deficiency in the claim within 10 days of the date on which additional information is received pursuant to subparagraph (A).

''(C) PAYMENT OF UNCONTESTED PORTION OF A CLAIM.—A group health plan or health insurance issuer shall pay any uncontested portion of a claim in accordance with subsection (a).

''(3) OBLIGATION TO PAY.—A claim for health care expenses that is not paid or contested by a group health plan or health insurance issuer within the timeframes set forth in this subsection shall be deemed to be a complete claim and paid by the plan or issuer in accordance with subsection (a).

''(c) DATE OF PAYMENT OF CLAIM.—Payment of a complete claim under this section is considered to have been made on the date on which full payment is received by the health care provider.

''(d) INTEREST SCHEDULE.—

''(1) IN GENERAL.—With respect to a complete claim, a group health plan or health insurance issuer that fails to comply with subsection (a) shall pay the claimant interest on the amount of such claim, from the date on which such payment was due as provided in this section, at the following rates:

''(A) 1½ percent per month from the 1st day of nonpayment after payment is due through the 15th day of such nonpayment;

''(B) 2 percent per month from the 16th day of such nonpayment through the 45th day of such nonpayment; and

''(C) 2½ percent per month after the 46th day of such nonpayment.

''(2) CONTESTED CLAIMS.—With respect to claims for health care expenses that are contested by the plan or issuer, once such claim is deemed complete under subsection (b), the interest rate applicable for noncompliance under this subsection shall apply consistent with paragraphs (1) and (2).

''(e) PRIVATE RIGHT OF ACTION.—Nothing in this section shall be construed to prohibit or limit a claim or action not covered by the subject matter of this section that any claimant has against a group health plan, or a health insurance issuer.

''(f) ANTI-RETALIATION.—Consistent with applicable Federal or State law, a group health plan or health insurance issuer shall not retaliate against a claimant for exercising a right of action under this section.

''(g) FINES AND PENALTIES.—

''(1) FINES.—

''(A) IN GENERAL.—If a group health plan or health insurance issuer offering group health insurance coverage, willfully and knowingly violates this section or has a pattern of repeated violations of this section, the Secretary shall impose a fine not to exceed $1,000 per claim for each day a response is delinquent beyond the date on which such response is required under this section.

''(B) REPEATED VIOLATIONS.—If 3 separate fines under subparagraph (A) are levied within a 5-year period, the Secretary is authorized to impose a penalty in an amount not to exceed $10,000 per claim.

''(2) REMEDIAL ACTION PLAN.—Where it is established that the group health plan or health insurance issuer willfully and knowingly violated this section or has a pattern of repeated violations, the Secretary shall require the group health plan or health insurance issuer to—

''(A) submit a remedial action plan to the Secretary; and

''(B) contact claimants regarding the delays in the processing of claims and inform claimants of steps being taken to improve such delays.

''(h) DEFINITIONS.—In this section:

''(1) CLAIMANT.—The term 'claimant' means a participant, beneficiary or health care provider submitting a claim for payment of health care expenses.

''(2) COMPLETE CLAIM.—The term 'complete claim' is a claim for payment of covered health care expenses that—

''(A) in the case of a claim involving a health care provider that is an institution or other facility or agency that provides health care services, is a properly completed billing instrument that consists of—

''(i) the Health Care Financing Administration 1450 (UB–92) paper form, or its successor, as adopted by the NUBC, with data element usage consistent with the usage prescribed in the UB–92 National Uniform Billing Data Elements Specification Manual, and, for claims submitted before October 1, 2002, any State-designated data requirements that are determined and approved by the State uniform billing committee of the State in which the health care service or supply is furnished; or

''(ii) the electronic format for institutional claims (and accompanying implementation guide) adopted as a standard by the Secretary of Health and Human Services pursuant to section 1173 of the Social Security Act (42 U.S.C. 1320d–2); and

''(B) in the case of claim involving a health care provider that is a physician or other individual who is licensed, accredited, or certified under State law to provide specified health care services, is a properly completed billing instrument that—

''(i) the Health Care Financing Administration 1500 paper form, or its successor, as adopted by the NUCC and further defined by data element specifications contained in the NUCC implementation guide or, if such specifications are not issued by the NUCC, the data element specifications contained in the Medicare Carriers Manual Part 4 (HCFA–Pub 14–4) sections 2010.1 through 2010.4; or

''(ii) the electronic format for professional claims (and accompanying implementation guide) adopted as a standard by the Secretary of Health and Human Services pursuant to section 1173 of the Social Security Act (42 U.S.C. 1320d–2).

''(3) CONTESTED CLAIM.—The term 'contested claim' means a claim for health care expenses that is denied by a group health plan or health insurance issuer during or after the benefit determination process.

''(4) HEALTH CARE PROVIDER.—The term 'health care provider' includes a physician or other individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating with the scope of such licensure, accreditation, or certification, as well as an institution or other facility or agency that provides health care services and is licensed, accredited, or certified to provide health care items and services under applicable State law.

''(5) INCOMPLETE CLAIM.—The term 'incomplete claim' means a claim for health care expenses that cannot be adjudicated because it fails to include all of the required data elements necessary for adjudication.

''(6) NUBC.—The term 'NUBC' means the National Uniform Billing Committee.

''(7) NUCC.—The term 'NUCC' means the National Uniform Claim Committee.''.

SEC. 3. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

(a) GROUP MARKET.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–4 et seq.) is amended by adding at the end the following:

''SEC. 2707. PROMPT PAYMENT OF HEALTH BENEFITS CLAIMS.

''(a) TIMEFRAME FOR PAYMENT OF COMPLETE CLAIM.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall pay all complete claims and uncontested claims—

''(1) in the case of a claim that is submitted electronically, within 14 days of the date on which the claim is submitted; or

''(2) in the case of a claim that is not submitted electronically, within 30 days of the date on which the claim is submitted.

''(b) PROCEDURES INVOLVING SUBMITTED CLAIMS.—

''(1) IN GENERAL.—Not later than 10 days after the date on which a complete claim is submitted, a group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall provide the claimant with a notice that acknowledges receipt of the claim by the plan or issuer. Such notice shall be considered to have been provided on the date on which the notice is mailed or electronically transferred.

''(2) CLAIM DEEMED TO BE COMPLETE.—A claim is deemed to be a complete claim under this section if the group health plan or health insurance issuer involved does not provide notice to the claimant of any deficiency in the claim within 10 days of the date on which the claim is submitted.

''(3) INCOMPLETE CLAIMS.—

''(A) IN GENERAL.—If a group health plan or health insurance issuer determines that a claim for health care expenses is incomplete, the plan or issuer shall, not later than the end of the period described in paragraph (2), notify the claimant of such determination. Such notification shall specify all deficiencies in the claim and shall list all additional information or documents necessary for the proper processing and payment of the claim.

''(B) DETERMINATION AFTER SUBMISSION OF ADDITIONAL INFORMATION.—A claim is deemed to be a complete claim under this paragraph if the group health plan or health insurance issuer involved does not provide notice to the claimant of any deficiency in the claim within 10 days of the date on which the additional information is received pursuant to subparagraph (A).

''(C) PAYMENT OF UNCONTESTED PORTION OF A CLAIM.—A group health plan or health insurance issuer shall pay any uncontested portion of a claim in accordance with subsection (a).

''(3) OBLIGATION TO PAY.—A claim for health care expenses that is not paid or contested by a group health plan or health insurance issuer within the timeframes set forth in this subsection shall be deemed to be a complete claim and paid by the plan or issuer in accordance with subsection (a).

''(c) DATE OF PAYMENT OF CLAIM.—Payment of a complete claim under this section is considered to have been made on the date on which full payment is received by the health care provider.

''(d) INTEREST SCHEDULE.—

''(1) IN GENERAL.—With respect to a complete claim, a group health plan or health insurance issuer that fails to comply with subsection (a) shall pay the claimant interest on the amount of such claim, from the date on which such payment was due as provided in this section, at the following rates:

''(A) 1½ percent per month from the 1st day of nonpayment after payment is due through the 15th day of such nonpayment;

''(B) 2 percent per month from the 16th day of such nonpayment through the 45th day of such nonpayment; and

''(C) 2½ percent per month after the 46th day of such nonpayment.

''(2) CONTESTED CLAIMS.—With respect to claims for health care expenses that are contested by the plan or issuer, once such claim is deemed complete under subsection (b), the interest rate applicable for noncompliance under this subsection shall apply consistent with paragraphs (1) and (2).

''(e) PRIVATE RIGHT OF ACTION.—Nothing in this section shall be construed to prohibit or limit a claim or action not covered by the subject matter of this section that any claimant has against a group health plan, or a health insurance issuer.

''(f) ANTI-RETALIATION.—Consistent with applicable Federal or State law, a group health plan or health insurance issuer shall not retaliate against a claimant for exercising a right of action under this section.

''(g) FINES AND PENALTIES.—

''(1) FINES.—

''(A) IN GENERAL.—If a group health plan or health insurance issuer offering group health insurance coverage willfully and knowingly violates this section or has a pattern of repeated violations of this section, the Secretary shall impose a fine not to exceed $1,000 per claim for each day a response is delinquent beyond the date on which such response is required under this section.

''(B) REPEATED VIOLATIONS.—If 3 separate fines under subparagraph (A) are levied within a 5-year period, the Secretary is authorized to impose a penalty in an amount not to exceed $10,000 per claim.

''(2) REMEDIAL ACTION PLAN.—Where it is established that the group health plan or health insurance issuer willfully and knowingly violated this section or has a pattern of repeated violations, the Secretary shall require the health plan or health insurance issuer to—

''(A) submit a remedial action plan to the Secretary; and

''(B) contact claimants regarding the delays in the processing of claims and inform claimants of steps being taken to improve such delays.

''(h) DEFINITIONS.—In this section:

''(1) CLAIMANT.—The term 'claimant' means an enrollee or health care provider submitting a claim for payment of health care expenses.

''(2) COMPLETE CLAIM.—The term 'complete claim' is a claim for payment of covered health care expenses that—

''(A) in the case of a claim involving a health care provider that is an institution or other facility or agency that provides health care services, is a properly completed billing instrument that consists of—

''(i) the Health Care Financing Administration 1450 (UB–92) paper form, or its successor, as adopted by the NUBC, with data element usage consistent with the usage prescribed in

the UB–92 National Uniform Billing Data Elements Specification Manual, and, for claims submitted before October 1, 2002, any State-designated data requirements that are determined and approved by the State uniform billing committee of the State in which the health care service or supply is furnished; or

''(ii) the electronic format for institutional claims (and accompanying implementation guide) adopted as a standard by the Secretary of Health and Human Services pursuant to section 1173 of the Social Security Act (42 U.S.C. 1320d–2); and

''(B) in the case of claim involving a health care provider that is a physician or other individual who is licensed, accredited, or certified under State law to provide specified health care services, is a properly completed billing instrument that—

''(i) the Health Care Financing Administration 1500 paper form, or its successor, as adopted by the NUCC and further defined by data element specifications contained in the NUCC implementation guide or, if such specifications are not issued by the NUCC, the data element specifications contained in the Medicare Carriers Manual Part 4 (HCFA–Pub 14–4) sections 2010.1 through 2010.4; or

''(ii) the electronic format for professional claims (and accompanying implementation guide) adopted as a standard by the Secretary of Health and Human Services pursuant to section 1173 of the Social Security Act (42 U.S.C. 1320d–2).

''(3) CONTESTED CLAIM.—The term 'contested claim' means a claim for health care expenses that is denied by a group health plan or health insurance issuer during or after the benefit determination process.

''(4) HEALTH CARE PROVIDER.—The term 'health care provider' includes a physician or other individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating with the scope of such licensure, accreditation, or certification, as well as an institution or other facility or agency that provides health care services and is licensed, accredited, or certified to provide health care items and services under applicable State law.

''(5) INCOMPLETE CLAIM.—The term 'incomplete claim' means a claim for health care expenses that cannot be adjudicated because it fails to include all of the required data elements necessary for adjudication.

''(6) NUBC.—The term 'NUBC' means the National Uniform Billing Committee.

''(7) NUCC.—The term 'NUCC' means the National Uniform Claim Committee.''.

(b) INDIVIDUAL MARKET.—Part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–41 et seq.) is amended—

(1) by redesignating the first subpart 3 (relating to other requirements) as subpart 2; and

(2) by adding at the end of subpart 2 the following:

''SEC. 2753. STANDARDS RELATING TO PROMPT PAYMENT OF HEALTH BENEFITS CLAIMS.

''The provisions of section 2707 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.''.

SEC. 4. AMENDMENTS TO THE SOCIAL SECURITY ACT.

(a) MEDICARE.—

(1) MEDICARE ADVANTAGE PLANS.—Section 1857(f) of the Social Security Act (42 U.S.C. 1395w–27(f)) is amended—

(A) in paragraph (1), by striking ''consistent with the provisions of sections 1816(c)(2) and 1842(c)(2)'' and inserting ''consistent with the provisions of section 2707 of the Public Health Service Act''; and

(B) in paragraph (2)—

(i) in the second sentence, by inserting ''and to reflect the amount of any fines or penalties imposed pursuant to the provisions of section 2707(g) of the Public Health Service Act'' before the period at the end; and

(ii) by inserting before the second sentence the following new sentence: ''Payment of such amounts shall include any interest due pursuant to the provisions of section 2707(d) of the Public Health Service Act.''.

(2) PRESCRIPTION DRUG PLANS.—Section 1860D–12(b)(3) of the Social Security Act (42 U.S.C.1395w–112(b)(3)) is amended—

(A) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(B) by inserting after subparagraph (D) the following new subparagraph:

''(E) PROMPT PAYMENT BY MEDICARE ADVANTAGE ORGANIZATION.—Section 1857(f).''.

(b) MEDICAID.—Section 1932(f) of the Social Security Act (42 U.S.C. 1396u–2(f)) is amended by striking ''the claims payment procedures described in section 1902(a)(37)(A), unless the health care provider and the organization agree to an alternate payment schedule'' and inserting ''section 2707 of the Public Health Service Act''.

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

SEC. 5. PREEMPTION.

The provisions of this Act shall not supersede any contrary provision of State law if the provision of State law imposes requirements, standards, or implementation specifications that are equal to or more stringent than the requirements, standards, or implementation specifications imposed under this Act, and any such requirements, standards, or implementation specifications under State law that are equal to or more stringent than the requirements, standards, or implementation specifications under this Act shall apply to group health plans and health insurance issuers as provided for under State law.

SEC. 7. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in this section, the amendments made by this Act shall apply with respect to group health plans and health insurance issuers for plan years beginning after December 31, 2004.

(b) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this Act shall not apply to plan years beginning before the later of—

(1) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(2) January 1, 2005.

For purposes of paragraph (1), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement of the amendments made by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. 7. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, is held by a court to be invalid, such invalidity shall not affect the remaining provisions of this Act, or amendments made by this Act.

By Mr. DORGAN:

S. 2309. A bill to amend the Internal Revenue Code of 1986 to provide for a refundable wage differential credit for activated military reservists; to the Committee on Finance.

Mr. DORGAN. Mr. President, I rise today to introduce legislation to provide a financial safety net for the families of our young men and women who proudly serve in the Nation's military Reserve and National Guard.

Our country is demanding that our military reservists and members of the National Guard play a more crucial and sustained role in supplementing the activities of our traditional armed forces than at any other time in our recent history. In response to the Iraq War and homeland security needs, the country has called up hundreds of thousands of our Reserve and National Guard members for extended tours of duty of up to 18 months.

Today, roughly 175,000 members of the reserve components are on active duty. About 40 percent of the troops now going into Iraq are reservists. Reserve component leaders expect the total number of guardsmen and reservists on active duty for the war on terrorism to remain above 100,000 for the next two years.

Since September 11, 2001, more than 60 percent of North Dakota's guardsmen and reservists have been called to duty. One of the issues I hear most often about from those service members and their families is how hard it is for them to make ends meet on their military incomes.

When Guard members or reservists are mobilized, it has an enormous impact not only on their lives, but also on the lives of their loved ones. In many cases when an individual is mobilized, his or her family may experience a significant loss of income. This is because active duty military compensation often falls below what reservists earn in civilian income. These income losses are often exacerbated by the additional family expenses that are associated with military activation, such as the cost of long distance phone calls and the need for extra day care.

Clearly this is a major financial problem for many reservists and their families. The Pentagon's Reserve Forces Policy Board says that a significant number of mobilized Reserve component members earn less than their private sector and civilian salaries while on active duty. The most recent information provided on mobilization income loss comes from a Pentagon survey in the year 2000. Some 41 percent of guardsmen and reservists who were mobilized that year reported income losses ranging from $350 per month to more than $3,000 per month. Self-employed reservists reported an average income loss of $1,800 per month. Physicians and registered nurses in private practice reported an average income loss of as much as $7,000 per month.

Those were big losses. But when that survey was conducted in 2000, reservists were mobilized for an average of

only 3.6 months. Today mobilizations of 14 to 18 months are common. So the annual losses in wages are much, much bigger.

The loss of income that reservists and guardsmen incur when they are ordered to leave their good-paying private sector or civilian jobs to serve their country often creates an unmanageable financial burden. This further disrupts the lives of their families who are already trying to cope with the emotional stress and hardship caused by the departure of a beloved spouse, or parent who has been ordered to active duty.

In the mid-1990s the Pentagon tried to address this problem by offering members of the National Guard and Reserve the opportunity to buy insurance to protect against income loss upon mobilization. The program sold coverage for income losses of up to $5,000 per month. Unfortunately, the program was poorly planned and executed, and Congress had to appropriate substantial money to bail out the program before it was terminated. Since then the private sector has shown little interest in reviving the mobilization income insurance program.

We need to find another way to deal with the issue. I believe that the federal government should try to help alleviate the financial havoc created for activated reservists, guardsmen, and their families. The bill I am introducing today will help in this endeavor.

Specifically, my legislation provides a fully refundable, 100-percent income tax credit of up to $20,000 annually to a military reservist on active duty based upon the difference in wages paid in his or her private sector or civilian job and the military wages paid upon mobilization. For this purpose, a qualified military reservist is a member of the National Guard or Ready Reserve who is mobilized and serving for more than 90 days. The benefit of this activated military reservist tax credit is available for tax years beginning after December 31, 2003.

We owe a great deal to those Americans who put on their uniforms and serve in the military in the most difficult of circumstances. We can never fully repay that debt. However, we can do much more to remove the immediate financial burden that many National Guard and Reserve families experience when a family member is ordered to active duty. This legislation will provide those families with some much-needed financial assistance. I urge my colleagues in the Senate to support my efforts to get this tax relief measure enacted into law as soon as possible.

By Mrs. FEINSTEIN (for herself, Mr. NELSON of Florida, and Mr. REED):

S. 2310. A bill to promote the national security of the United States by facilitating the removal of potential nuclear weapons materials from vulnerable sites around the world, and for other purposes; to the Committee on Armed Services.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce legislation to address one of the critical security issues in the post 9/11 world: the existence of hundreds of vulnerable facilities around the world with nuclear materials. If keeping weapons of mass destruction, WMD, out of the hands of terrorists is at the top of our foreign policy agenda, then removing weapons-usable material from facilities where it is susceptible to terrorist theft or should diversion be a top priority for U.S. national security policy.

Yet, currently, there is no single, integrated U.S. government program, with a defined budget and resources, to facilitate the removal of these materials. The legislation I introduce today with Senators BILL NELSON, and REED will: establish a presidential task force in the Department of Energy on nuclear removal; provide a specific mandate for a program to remove nuclear materials from vulnerable sites around the world as quickly as possible; provide specific direction to allow the use of flexible incentives, tailored to each site, to secure host-country cooperation in removing the nuclear materials, and; authorize $40 million in Fiscal Year 2005 to carry out the functions of this bill.

There are hundreds of facilities around the world that store from kilograms to tons of plutonium or highly enriched uranium, HEU. The State Department has identified 24 of these locations as high priority sites.

President Bush singled out terrorist nuclear attacks on the United States as the defining threat our nation will face in the future. In making the case against Saddam Hussein, he argued: ''If the Iraqi regime is able to produce, buy, or steal an amount of uranium a little bigger than a softball, it could have a nuclear weapon in less than a year.''

What he did not mention is that with the same amount of uranium, al Qaeda, Hezbollah, Hamas, or any terrorist organization could do the same and smuggle the weapon across U.S. borders. And the fact that AQ Khan's network put actual bomb designs on the black market only heightens the need to make sure the ingredients are not available.

In response to this threat, the Administration has focused its efforts on removing vulnerable international nuclear materials through four projects: the take-back to Russia of HEU fuels from Soviet-supplied reactors; the on-going effort to convert Soviet-designed research reactors from HEU to non-bomb-grade fuels; the decades-long effort to convert U.S.-supplied research reactors from HEU to LEU, and; the on-going effort to take back U.S.-supplied HEU.

This represents an important first step, but I am deeply concerned that these efforts are not sufficient and do not adequately address the seriousness of the issue.

The current approach will take 10–20 years to complete at the current rate of about 1 facility per year. This is a time frame out of synch with near-term dangers.

Under the current approach to the take-back of Soviet-supplied HEU, there have been only two successful HEU removals in more than two years, at Vinca and at Pitesti. But the Vinca operation also required the contribution of $5 million from the Nuclear Threat Initiative to complete, because of the administration's claim of inadequate authority to pursue various activities to facilitate Serbian cooperation.

The U.S.-Russian bilateral agreement on a broader take-back effort has taken years to complete—and even once final Russian government approval is secured, there are a wide range of other issues delaying progress within Russia, including the need to prepare environmental assessments of types that have never before been done in Russia, that will require sustained, high-level pressure to overcome.

U.S. efforts to convert HEU-fueled reactors within Russia are still moving slowly on the technical front, in part because of insufficient funding, and we are only now beginning to take the first steps toward providing incentives directly to facilities to give up their HEU.

The scope of the HEU conversion effort in Russia is inadequate. It covers only research reactors. Outside the scope of current efforts are critical assemblies, pulsed powered reactors, and civilian and military naval fuels. This leaves numerous vulnerable HEU stockpiles scattered across the FSU.

Under the current U.S. HEU take-back effort, the return of U.S.-origin HEU fuels, if no new incentives are offered, tons of U.S.-supplied HEU will remain abroad when the program is complete, this is DOE's official projection.

Under the current U.S. HEU reactor conversion effort, if no new incentives are offered, scores of U.S.-supplied reactors may continue to use HEU indefinitely.

A report released last year from the John F. Kennedy School of Government at Harvard University described a scenario in which a 10 kiloton nuclear bomb is smuggled into Manhattan and detonated resulting in the loss of 500,000 people and causing $1 trillion in direct economic damage.

We must do everything in our power to prevent such an event from ever occurring.

We need a presidential task force in the Department of Energy on nuclear removal. We must provide a specific mandate for a program to remove nuclear materials from vulnerable sites around the world as quickly as possible and provide specific direction to allow the use of flexible incentives, tailored to each site, to secure host-country cooperation in removing the nuclear materials.

And, yes, we need additional funding to get the job done.

This legislation will give our government the direction, tools, and resources necessary to remove nuclear materials from vulnerable sites around the world in an expeditious manner. We have little time to spare. I urge my colleagues to support this bill.

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. 2310

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REMOVAL OF POTENTIAL NUCLEAR WEAPONS MATERIALS FROM VULNERABLE SITES WORLDWIDE.

(a) SENSE OF CONGRESS.—It is the sense of Congress that removing potential nuclear weapons materials from vulnerable sites around the world would reduce the possibility that such materials could fall into the hands of al Qaeda or other groups and states hostile to the United States, and should be a top priority for achieving the national security of the United States.

(b) TASK FORCE ON NUCLEAR MATERIAL REMOVAL.—(1) The President shall establish in the Department of Energy a task force to be known as the Task Force on Nuclear Material Removal (in this section referred to as the ''Task Force'').

(2) The head of the Task Force shall be the Director of the Task Force on Nuclear Material Removal, who shall be appointed by the President for that purpose.

(3) The Director of the Task Force shall report directly to the Deputy Administrator for Defense Nuclear Nonproliferation of the National Nuclear Security Administration regarding the activities of the Task Force under this section.

(4)(A) The Secretary of Energy, the Administrator for Nuclear Security, and the Deputy Administrator for Defense Nuclear Nonproliferation shall assign to the Task Force personnel having such experience and expertise as is necessary to permit the Task Force to carry out its mission under this section.

(B) The Secretary of Energy and the Administrator for Nuclear Security shall jointly consult with the Assistant to the President for National Security Affairs, the Secretary of State, the Secretary of Defense, the Chairman of the Nuclear Regulatory Commission, the heads of other appropriate departments and agencies of the Federal Government, and appropriate international organizations in order to identify and establish mechanisms and procedures to ensure that the Task Force is able to draw quickly on the capabilities of the departments and agencies of the Federal Government and such international organizations to carry out its mission under this section.

(C) Mechanisms under subparagraph (B) may include the assignment to the Task Force of personnel of the Department of Energy and of other departments and agencies of the Federal Government.

(5) The President may establish within the Executive Office of the President a mechanism for coordinating the activities of the Task Force under this section.

(c) MISSION.—The mission of the Task Force shall be to ensure that potential nuclear weapons materials are entirely removed from the most vulnerable sites around the world as soon as practicable after the date of the enactment of this Act.

(d) ASSISTANCE.—To assist the Task Force in carrying out its mission under this section, the Secretary of Energy may—

(1) provide funds to remove potential nuclear weapons materials from vulnerable sites, including funds to cover the costs of—

(A) transporting such materials from such sites to secure facilities;

(B) providing interim security upgrades for such materials pending their removal from their current sites;

(C) managing such materials after their arrival at secure facilities;

(D) purchasing such materials;

(E) converting such sites to the use of low-enriched uranium fuels;

(F) assisting in the closure and decommissioning of such sites; and

(G) providing incentives to facilitate the removal of such materials from vulnerable facilities;

(2) arrange for the shipment of potential nuclear weapons materials to the United States, or to other countries willing to accept such materials and able to provide high levels of security for such materials, and dispose of such materials, in order to ensure that United States national security objectives are accomplished as quickly and effectively as possible; and

(3) provide funds to upgrade security and accounting at sites where, as determined by the Secretary, potential nuclear weapons materials will remain for an extended period in order to ensure that such materials are secure against plausible potential threats, and will remain so in the future.

(e) REPORT.—(1) Not later than 30 days after the submittal to Congress of the budget of the President for fiscal year 2006 pursuant to section 1105(a) of title 31, United States Code, the Secretary of Energy, in coordination with other relevant Federal Government and international agencies, shall submit to Congress a report that includes the following:

(A) A list of the sites determined by the Task Force to be of the highest priorities for removal of potential nuclear weapons materials, based on the quantity and attractiveness of such materials at such sites and the risk of theft or diversion of such materials for weapons purposes.

(B) An inventory of all sites worldwide where highly-enriched uranium or separated plutonium is located, including, to the extent practicable, a prioritized assessment of the terrorism and proliferation risk posed by such materials at each such site, based on the quantity of such materials, the attractiveness of such materials for use in nuclear weapons, the current level of security and accounting for such materials, and the level of threat (including the effects of terrorist or criminal activity and the pay and morale of personnel and guards) in the country or region where such sites are located.

(C) A strategic plan, including measurable milestones and metrics, for accomplishing the mission of the Task Force under this section.

(D) An estimate of the funds required to complete the mission of the Task Force under this section, set forth by year until anticipated completion of the mission.

(E) The recommendations of the Secretary on whether any further legislative actions or international agreements are necessary to facilitate the accomplishment of the mission of the Task Force.

(F) Such other information on the status of activities under this section as the Secretary considers appropriate.

(2) The report shall be submitted in unclassified form, but may include a classified annex.

(f) POTENTIAL NUCLEAR WEAPONS MATERIAL DEFINED.—In this section, the term ''potential nuclear weapons material'' means plutonium, highly-enriched uranium, or other material capable of sustaining an explosive nuclear chain reaction, including irradiated materials if the radiation field from such materials is not sufficient to prevent the theft and use of such materials for an explosive nuclear chain reaction.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Energy for fiscal year 2005 for activities of the National Nuclear Security Administration in carrying out programs necessary for national security for purposes of defense nuclear nonproliferation activities, $40,000,000 to carry out this section.

By Ms. SNOWE (for herself, Mrs. FEINSTEIN, Mr. BINGAMAN, and Ms. CANTWELL):

S. 2311. A bill to provide for various energy efficiency programs and tax incentives, and for other purposes; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today, along with Senators FEINSTEIN, BINGAMAN, and CANTWELL, to introduce the Efficient Energy through Certified Technologies and Electricity Reliability Act, or EFFECTER Act of 2004. This legislation is urgently needed to help prevent the painful disruption of electric power blackouts, to save American consumers billions of dollars in wasted energy costs, to create jobs, and eventually, to avoid the needless emission of more greenhouse gas pollution than comes from our Nation's entire automotive fleet. According to a vast majority of the international scientific community, these anthropogenic, or manmade gases, especially carbon dioxide, are triggering dramatic changes in the Earth's climate system.

This legislation will increase the security and reliability of the electric grid, while reducing natural gas and electricity prices though a gradual reduction in demand. Targeted tax incentives and standards for energy efficiency in commercial buildings, both new and retrofitted, will support the reduction in demand, as will the construction of new and retrofitted homes, including rental housing, and the use of more energy efficient appliances.

Last March 4, 2003, I introduced, along with Senator FEINSTEIN and others, the EFFECT Act of 2003, legislation that provided tax incentives for advanced levels of energy efficiency and peak power savings technologies in the buildings in which we live, work, and learn. Buildings consume some 35 percent of energy nationwide and are responsible for the emissions of a comparable percentage of pollution; very importantly, they account for more than one-half of the Nation's energy cost. I am pleased that many of these provisions were incorporated into the Senate energy bill that passed the Senate last fall, as I believe incentives provided through the tax system are necessary to complement existing energy efficiency policies at the Federal and State levels.

The EFFECTER Act of 2004 that we are introducing today goes even further to encourage the EFFECT Act's tax incentives provided in the Senate's energy bill. It encourages administrative improvements, cost-efficiencies, and it also reflects a number of consensus provisions from H.R. 6, the Omnibus Energy Conference Report. These provisions mirror simple, common sense solutions, such as the mandatory electricity reliability provisions that have been held hostage to the ineffective ideas in the energy bill for some 4 years. We provide requirements for electric generating and transmission companies that encourage them to cooperate with each other on a mandatory basis, since—as we discovered last summer—relying on ''a gentleman's agreement'' doesn't work.

The legislation also includes the Energy Savings Performance Contracts program, whose authorization expired in October of 2003. The ESPC program promotes consensus energy efficiency standards and reforms in Government contracting that save the taxpayers money. This bill requires the Federal Government, through its agencies, to acquire the most cost-effective as well as energy efficient products and to design buildings that can also save the Government money. Through what many characterized as an arcane scoring method, the CBO had incorporated a $3 billion cost increase into the program. However, in its wisdom, the Senate, in the FY05 Budget Resolution, appropriately directed the ESPS to score at zero. The result is a zero cost to this provision.

The EFFECTER Act of 2004 addresses some of our largest energy problems head-on. Its incentives for energy efficiency are more effective and expedient than those in the energy bills currently being debated, yet they cost less to the Government. Indeed, over the long-term, they save the Federal Government money.

Last August our country suffered a costly and harmful blackout that affected some 40 million Americans. Now, more than 6 months later, we have take little effective action to reduce the likelihood that additional blackouts could threaten lives and damage our economy again this year or any time in the near future. Our country currently has a need for more electric power plants, but we also need to protect our present electricity system from overload caused by wasted power use. By not pulling power from the grid at peak times in the next 10 years, the EFFECTER Act of 2004 will help America's building owners save more electricity—electriicty equivalent to the amount that would be produced by 350 new power plants of 400 MW capacity.

Since last summer, natural gas and oil prices have skyrocketed. These high prices hurt Americans two ways: jobs are lost when high fuel prices force industry to cut back on production, and high heating bills strain family and business budgets. Saving wasted energy is one of the easiest and least costly ways to save money and save jobs. This legislation will save American families and business owners over $30 billion dollars annually by 2015, and prevent the waste of over 3.3 quads of natural gas annually—over 12 percent of total gas use.

We all recognize the importance of increasing employment. Energy efficiency creates jobs both through manufacturing, designing and installing efficiency measures and through additional consumer and business spending—spending consumers can afford when their energy bills are lower. The EFFECTER Act of 2004 will produce over a half million new jobs in the American economy.

As a Nation, we are engaged in a difficult debate about reducing greenhouse gas emissions, an effort we believe will protect the world's climate while assuring continued productivity for our economy. By reducing energy use that otherwise would be wasted in inefficient buildings, this legislation will reduce greenhouse gas pollution in an amount equivalent to the reduction that would occur if we took 25 percent of the cars off America's roads.

These energy, money, and pollution saving solutions focus first on promoting fast acting energy efficiency both for natural gas and for peak electricity, which in turn also contributes to natural gas demand. Dramatic energy savings can be obtained by a carefully crafted package of low cost market-based incentives and consensus efficiency standards. I believe we have crafted just such a package and I urge my colleagues to support this bipartisan bill that uses tested, performance-based and cost-effective approaches that truly help solve our most immediate energy problems.

By Mr. GRAHAM of Florida (for himself, Mrs. CLINTON, Mrs. BOXER, Mr. NELSON of Florida, Mr. SCHUMER, Mr. LAUTENBERG, Mr. HOLLINGS, and Mrs. LINCOLN):

S. 2313. A bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes; to the Committee on Rules and Administration.

Mr. GRAHAM of Florida. Mr. President, the people of the United States learned many things from the election of 2000. I believe the most important lesson was that voting equipment should produce a clear paper record of each voter's intentions for use in a manual recount. Americans remember well that the outcome of the 2000 presidential election was determined by whether a ''chad'' was hanging, pregnant, or dimpled.

More recently we have found that, despite the passage of election reform legislation in 2002 called the Help America Vote Act, our electoral system is still experiencing difficulties. The 2004 presidential primaries have produced accounts of voting irregularities. This is especially distressing considering another national election is just months away. Voters in several States, including California, Maryland, Georgia and my own State of Florida have experienced problems casting their votes and seeing them accurately counted.

On the Tuesday, March 9, 2004, presidential primary in Palm Beach County, FL, the ''oops factor'' again reared its ugly head, casting doubt in the minds of many Floridians about whether or not their votes actually counted. An error on the part of poll workers—pressing the wrong button to activate voting machines—prevented many from voting in the Democratic primary. A technological error in the tabulation of ballots in Bay County, FL showed Congressman DICK GEPHARDT winning the primary by a 2-to-1 margin. Fortunately, Bay County uses a paper ballot system so they could refer to their paper trail to rectify the error.

This is not the first election since 2000 where the value of a paper record has been apparent. Just this past January, victory in a South Florida Republican primary election for a vacant seat in the State legislature was determined by just 12 votes. In that election, 137 blank ballots were cast on electronic voting machines that do not produce a paper record. A candidate requested a manual recount, only to find such a recount impossible without paper records verifying the intent of those 137 voters.

In Georgia's Presidential Primary, ''smart cards'' containing ballot information for electronic machines were left unprogrammed. Technical irregularities in Maryland elections prevented at least one voter form voting—and he wrote about it in the Washington Post.

These incidents and many others are clear evidence that we need voting machines that produce an individual paper record for all votes cast. While the Help America Vote Act (HAVA) included provisions requiring paper records for manual audits, we have come to find out that voting jurisdictions are not interpreting these provision the way Congress intended.

I am pleased to join Senators CLINTON and BOXER in introducing the Restore Elector Confidence in Our Representative Democracy Act (RECORD Act). This legislation will ensure that all voting jurisdictions will have machines that produce voter-verifiable paper records, so that they will be as prepared as they can be to count every vote come this November. It is critical that Congress take every possible step to prevent any resemblance between Election Day 2000 and Election Day 2004.

Once a month I spend a day working side-by-side with the people of Florida. On Saturday, March 6, 2003, I spent my 399th Workday as an elections worker for the Miami-Dade County Division of Elections. Veteran Supervisor of Elections Connie Kaplan assured me that

electronic voting machines are accurate. The things I learned on the job reinforced that assessment. But several voters expressed confusion about the layout of the electronic ballots, and uncertainty about whether or not their votes had been cast. It was clear to me that voters would be more confident that their votes would be counted if there were a paper record of those votes. In light of reported irregularities and security concerns, this voter apprehension is legitimate. In order to be certain about the accuracy and security of computer voting systems we need a paper record to confirm every vote cast.

Modern society is replete with electronic machines that provide the most basic services: ATMs, train ticket vending machines, gasoline pay-at-the-pump stations. All of these machines produce paper records. The votes of America's citizens are at least as important as these transactions. People do not and should not blindly trust the accuracy of computer voting technologies. Congress must pass the RECORD Act so that Americans can have confidence that their votes will be counted.

Mrs. CLINTON. Mr. President, I am pleased to join Senator GRAHAM in introducing the ''Restore Elector Confidence in Our Representative Democracy Act of 2004'' (''RECORD'' Act) because there is no civic action more important in a democracy than voting. Yet right now, many Americans have concerns about the integrity of the electoral system. We must restore trust in our voting, and we must do it now.

Electronic voting systems, specifically touch-screen voting machines, are being increasingly used across the nation. Indeed, according to Election Data Services, it is estimated that this November, at least 50 million voters this year will vote on touch-screen voting machines.

These machines have benefits but there are major concerns with the security of these machines and the current ability of voters to verify their votes through a paper record. This legislation effectively addresses both of these vitally important issues.

In New York, electronic voting is on the horizon. Some machines will be used next year in the New York City mayoral race. As New Yorkers start to use this new technology, I want them to be absolutely certain their right to elect the leaders of their choice won't be at risk for want of a simple fix like this.

When you use an ATM, you get a paper receipt. Right now, when you cast an electronic vote, you get nothing. You have no way of knowing that the selections you've made on the touch screen will be recorded and counted.

This legislation will ensure that voters will be able to verify a paper ballot that accurately reflects their intentions and that will be locked away and will be the official ballot in a recount. This legislation will also address the security issues surrounding electronic voting systems.

Why is this so critical? Because we know from computer experts that these systems are vulnerable to hacking—and that with just a push of a button, hackers could turn Kerry votes to Bush votes. Think about that.

Indeed, a number of recent studies, including the July 2001 study by Caltech/MIT, the July 2003 study by Johns Hopkins and Rice universities, the September 2003 study by Science Applications International, and the two November 2003 studies conducted by Compuware corporation and InfoSENTRY, pointed to significant and disturbing security risks in electronic voting systems and related administrative procedures and processes.

According to the Johns Hopkins study, these voting machines are incapable of detecting their own mistakes. Specifically, as one of the authors noted, there is no way to validate the outcome of an election using the current crop of machines. Errors can't be detected and, in my opinion, that is a threat to all of us.

There were also problems with these machines in the recent presidential primaries. Counties in California, Georgia, and Maryland reported problems with encoders, the devices that allow touch-screen voting machines to display the candidate and ballot measures specific to one county.

We already know of stories from Florida in which there was a special election for one office, and the computer election system recorded 120 people as there but not voting.

These security concerns have only been inflamed by statements from people like Walden O'Dell—the CEO of Diebold, a major electronic voting machine manufacturer—who said he would do anything to ensure that President Bush would be re-elected.

So we have a system that is vulnerable to attack, that provides no real accountability to ensure accuracy and, to add to our concerns, an e-voting manufacturer demonstrating his tremendous partisanship. This should give us all pause.

This legislation will require the use of voter verifiable paper ballots so that each and every voter will be able to confirm that his or her vote was accurately cast and recorded. The verified paper ballot will be deemed the official record for purposes of a recount and at least 2 percent of all ballots in all jurisdictions in each State and 2 percent of the ballots of military and overseas voters will be counted at random.

One hundred and fifty million will also be appropriated to the Election Assistance Commission in order to help States implement the paper ballot system.

To ensure greater security of electronic voting systems, the Act authorizes the use of only open source software. Manufacturers will also have to satisfy a number of security standards concerning the development, maintenance, and transfer of software used in electronic voting systems.

This legislation also provides $10 million to the Election Assistance Commission to help it administer the implementation of verification systems and improved security measures nationally, and $2 million to the National Institute of Standards and Technology for consultation services to State and local governments regarding voter verification and the security of their electronic voting machines.

The Commission must receive this additional administrative funding because unfortunately, even though the Help America Vote Act of 2002 authorized $10 million annually to help the Commission do its work, Congress in the fiscal year 2004 omnibus appropriations legislation appropriated less than $2 million to the Commission, making it that much more difficult for the Commission to do its work.

Lastly, the Act requires the Election Assistance Commission to report to Congress within 3 months of enactment on operational and management systems that should be used in Federal elections and within 6 months of enactment on a proposed security review and certification process for all voting systems.

Our Nation is the greatest nation on earth and it is the leading democracy in the world. In fact, the Bush Administration takes pride in promoting democracy around the world—and they should. But we also have to do everything in our power to ensure democracy here. Central to our democracy is the ability of Americans to have confidence in the voting system used to register and record their votes. This is a fundamental standard that must be met. We are currently, however, falling short of that standard.

And let me say one more thing. The election this November is going to be one of the most important of my lifetime. And every pundit in America says it will be close, because we are still so divided. If we have huge problems again, if we have another debacle like Palm Beach voting for Buchanan, people will fundamentally lose confidence in our democracy and in their vote. We cannot let that happen.

This legislation is good insurance against that risk. For all of those who believe that in a democracy, there is no more important task than assuring the sanctity of votes, this should be an easy step to take to assure it. I ask all of my colleagues to support this legislation.

By Mr. BURNS:

S. 2315. A bill to amend the Communications Satellite Act of 1962 to extend the deadline for the INTELSAT initial public offering; to the Committee on Commerce, Science, and Transportation.

Mr. BURNS. Mr. President, I rise to introduce a bill that would make a

technical change to the ORBIT Act's IPO provision.

As you may recall, I sponsored the ORBIT Act in 1999 with strong bipartisan support. Since that time, I have worked with Senators MCCAIN, HOLLINGS and others to pass technical amendments to the Act by unanimous consent when needed. And it is my hope and expectation that we can pass this small technical change as quickly as before.

Congress passed the ORBIT Act to enhance competition in the global satellite communications market. I am proud to say that ORBIT has achieved all of its objectives. Since its enactment, the FCC has found that positive change has occurred in the satellite services market as a result of the ORBIT Act. The FCC has declared that the pro-competitive objectives of the ORBIT Act have been achieved—including the complete transformation of Intelsat from what used to be a highly bureaucratic, intergovernmental organization into a fully privatized, U.S. licensed company that is headquartered and operates in the U.S., and is now subject to U.S. laws and U.S. regulations.

Another important benefit produced by the ORBIT Act has been the infusion of U.S. capital and other private investment into the former intergovernmental organizations. American and other private investors have made significant investments in Intelsat and Inmarsat following enactment of the ORBIT Act. The only piece of unfinished business from the ORBIT Act that remains is the requirement that an IPO occur by a date certain.

I have always had serious reservations with the very idea that Congress would impose a date certain for an IPO, rather than letting market forces determine the appropriate time for such an event. If I had my preference, we would get rid of the mandatory IPO requirement altogether. But since the Intelsat IPO deadline is June 30, 2004, we don't have a lot of time to get back into the substance of that issue.

The pressing matter at hand is that Intelsat's IPO deadline is fast approaching, and the market is simply not conducive for a successful IPO. This is the same situation we encountered in 2002 when my good friend Senator HOLLINGS and I worked together to provide a time extension for conducting the IPO. I would say to my colleagues that the telecom market isn't much better now than it was in 2002. So we again need to provide Intelsat with an extension on its IPO deadline because market conditions are not favorable at this time.

If Congress does not quickly pass legislation extending the June 30, 2004 IPO deadline, several U.S. entities who are major investors in Intelsat stand to lose hundreds of millions of dollars because the telecom market for IPOs is far from ideal. This will be extremely harmful to U.S. interests and it will damage Intelsat, an important communications asset for the U.S.

For these reasons, I urge my colleagues and the leadership to quickly move the passage of this legislation. The bill would simply extend Intelsat's IPO deadline for 12 months and give the FCC discretionary authority to further extend this deadline another 6 months if market conditions warrant.

I urge my colleagues to support quick passage of this legislation so that it can be enacted into law well before June 30, 2004.

I ask by 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 REORD, as follows:

S. 2315

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF IPO DEADLINE.

Section 621(5)(A)(i) of the Communications Satellite Act of 1962 (47 U.S.C. 763(5)(A)(i)) is amended—

(1) by striking ''December 31, 2003,'' and inserting ''June 30, 2005,''; and

(2) by striking ''June 30, 2004;'' and inserting ''December 31, 2005;''.

By Ms. MURKOWSKI (for herself and Ms. LANDRIEU):

S. 2316. A bill to amend the Internal Revenue Code of 1986 to allow penalty-free withdrawals from individual retirement plans for adoption expenses; to the Committee on Finance.

Ms. MURKOWSKI. Mr. President, today I am pleased to introduce legislation along with Senator LANDRIEU to help bring adoption within reach for more Americans. Today in the United States there are literally thousands of children waiting to be adopted. The average child has been waiting in foster care for about four years.

One of the major barriers to adoption for many Americans is cost. I'm not sure that people understand that adopting a child can sometimes cost more than $50,000. That's just the adoption process itself!

The $10,000 per child adoption tax credit does help some, but it helps after the fact when you have the receipts. The problem is that many times the money for adoption has to be given beforehand—it requires up-front money. The tax credit doesn't help out there.

The legislation we are introducing today is one way the Federal Government can help with the initial costs of adoption. Many Americans place money for their retirement in IRA accounts, but you generally can't touch this money until you're 59½ years old, and if you do, you'll pay not only your marginal tax rate on the withdrawal, you'll also be forced to pay an additional 10 percent penalty to the IRS.

There are exceptions to this, however. Under current law, you can make penalty-free early withdrawals from your IRA to help you buy your first home, pay for excessive medical costs, or for qualifying education expenses. The idea is certainly to encourage savings for retirement, but also to allow you to use your own money—penalty free—if there's a compelling need.

I would make the case on behalf of the thousands of children who desperately want a loving family, and on behalf of the thousands of parents who dream of becoming parents, that adoption is a compelling need. And, the majority of Americans agree. Fully 78 percent of Americans said in a poll that they believe the government should be doing more to promote adoption.

Our bill would prohibit the IRS from penalizing Americans who want to use a portion of their retirement savings to adopt a child. It would allow Americans to withdraw up to $10,000 penalty-free from their IRA to help with adoption expenses. This is money that can be used up-front to pay for travel, court costs, attorney fees and all of the little surprises that add up to make adoption unaffordable for many.

We need to continue to promote adoption in America to the extent that we can. We owe it to these children and to families across our country to break down the barriers that keep kids from becoming a part of a permanent loving family. I urge my colleagues' support.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 334—DESIGNATING MAY 2004 AS NATIONAL ELECTRICAL SAFETY MONTH

Mr. FITZGERALD (for himself and Mrs. FEINSTEIN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 334

Whereas hundreds of individuals die and thousands are injured each year in electrical accidents;

Whereas there are on average 870 civilian deaths annually related to home fires caused by electrical distribution, appliances and equipment, and heating and air conditioning systems;

Whereas more than 2 people are electrocuted in the home, and 4 more in the workplace, each week;

Whereas property damage due to home fires caused by electrical distribution, appliances and equipment, and heating and air conditioning systems amounts to nearly $1,600,000,000 annually;

Whereas following basic electrical safety precautions can help prevent injury or death to thousands of individuals each year;

Whereas citizens are encouraged to check their home and workplace for possible electrical hazards to help protect lives and property;

Whereas citizens are encouraged to test their smoke detectors and ground fault circuit interrupters monthly and after every major electrical storm; and

Whereas the efforts of the Electrical Safety Foundation International (ESFI) and the United States Consumer Product Safety Commission (CPSC) promote and educate the public about the importance of respecting electricity and practicing electrical safety in the home, school, and workplace: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 2004 as ''National Electrical Safety Month''; and

(2) requests that the President issue a proclamation calling upon the people of the

United States to observe the month with appropriate programs and activities.

SENATE RESOLUTION 335—EXPRESSING THE SENSE OF THE SENATE THAT MAJOR LEAGUE BASEBALL CLUBS AND THEIR PLAYERS SHOULD TAKE IMMEDIATE ACTION TO ADOPT A DRUG-TESTING POLICY THAT EFFECTIVELY DETERS MAJOR LEAGUE BASEBALL PLAYERS FROM USING ANABOLIC STEROIDS AND ANY OTHER PERFORMANCE-ENHANCING SUBSTANCES THAT CREATE A COMPETITIVE ADVANTAGE FOR, AND POSE A SERIOUS HEALTH RISK TO, SUCH PLAYERS AND THE CHILDREN AND TEENAGERS WHO EMULATE THEM

Mr. MCCAIN (for himself, Mr. BIDEN, Mr. FITZGERALD, Mr. BREAUX, Mr. ALLEN, and Mr. DORGAN) submitted the following resolution; which was considered and agreed to:

S. RES. 335

Whereas, the sport of baseball is widely considered America's pastime and an institution inextricably interwoven into the fabric of our culture;

Whereas, anabolic steroids are substances that are chemically and pharmacologically related to testosterone and promote muscle growth;

Whereas, anabolic steroids are Schedule III controlled substances under the Controlled Substances Act (21 U.S.C. 801 et seq.);

Whereas, certain products are sold legally in the United States that promote muscle growth in a manner similar to anabolic steroids;

Whereas, medical experts warn that the health consequences associated with the human use of anabolic steroids or other similar performance-enhancing substances can be dire;

Whereas, medical experts warn that anabolic steroids and other similar performance-enhancing substances can have particularly serious adverse health effects on children and teenagers;

Whereas, these adverse health effects include stunted growth, scarring acne, hair loss, dramatic mood swings, hormonal imbalances, liver and kidney damage, a higher risk of heart disease and stroke later in life, as well as an increased propensity to demonstrate aggressive behavior, commit suicide, and commit crimes;

Whereas, the dangerous and anti-competitive effects of anabolic steroids when used by Major League Baseball players were acknowledged but not adequately addressed by the 30 Major League Baseball clubs and the Major League Baseball Players Association in their September 30, 2002, Collective Bargaining Agreement;

Whereas, the September 2002 Collective Bargaining Agreement does not allow for the imposition of a suspension or fine for a first-time violation of the League steroids policy;

Whereas, the September 2002 Collective Bargaining Agreement does not allow Major League Baseball players to be subjected to more than one unannounced drug test per season;

Whereas, the September 2002 Collective Bargaining Agreement does not prohibit the use of certain performance-enhancing substances that, although legal, promote muscle growth and pose a serious health risk to users;

Whereas, notwithstanding the 2002 Collective Bargaining Agreement, the prevalence of the use by Major League Baseball players of anabolic steroids and other performance-enhancing substances that promote muscle growth and pose a serious health risk, at the very least, appears to be significant; and

Whereas, the use of anabolic steroids and other performance-enhancing substances that promote muscle growth and pose a serious health risk to children and teenagers continues to rise: Now, therefore, be it

Resolved, That—

(1) the use of performance-enhancing substances such as anabolic steroids poses a health risk, especially to children and teenagers;

(2) the use of athletic performance-enhancing substances such as anabolic steroids to gain a competitive advantage is tantamount to cheating;

(3) there is sufficient evidence that children and teenagers tend to emulate professional athletes;

(4) the effectiveness of the 2002 Collective Bargaining Agreement to deter Major League Baseball players from using performance-enhancing substances such as anabolic steroids has been called into question;

(5) Major League Baseball and its players should exercise their collective bargaining authority to negotiate and adopt a more stringent drug-testing policy that is sufficient to effectively deter Major League Baseball players from using anabolic steroids or other similar performance-enhancing substances to gain a competitive advantage; and

(6) taking such a step would help—

(A) to preserve the integrity of the game of professional baseball;

(B) to protect the health of Major League Baseball players; and

(C) to discourage the use of performance-enhancing substances such as anabolic steroids by children and teenagers who seek to emulate professional athletes.

SENATE RESOLUTION 336—EXPRESSING THE SENSE OF THE SENATE THAT PUBLIC SERVANTS SHOULD BE COMMENDED FOR THEIR DEDICATION AND CONTINUED SERVICE TO THE NATION DURING PUBLIC SERVICE RECOGNITION WEEK, MAY 3 THROUGH 9, 2004

Mr. AKAKA (for himself, Mr. FITZGERALD, Ms. COLLINS, Mr. LIEBERMAN, Mr. VOINOVICH, Mr. DURBIN, Mr. COLEMAN, and Mr. LEVIN) submitted the following resolution; which was referred to the Committee on Governmental Affairs:

S. RES. 336

Whereas Public Service Recognition Week provides an opportunity to honor and celebrate the commitment of men and women who meet the needs of the Nation through work at all levels of government;

Whereas over 18,000,000 individuals work in government service in every city, county, and State across America and in hundreds of cities abroad;

Whereas Federal, State, and local officials perform essential services the Nation relies upon every day;

Whereas the United States of America is a great and prosperous nation, and public service employees contribute significantly to that greatness and prosperity;

Whereas the Nation benefits daily from the knowledge and skills of these highly trained individuals;

Whereas public servants—

(1) help the Nation recover from natural disasters and terrorist attacks;

(2) provide vital strategic support functions to our military and serve in the National Guard and Reserves;

(3) fight crime and fire;

(4) deliver the United States mail;

(5) deliver social security and medicare benefits;

(6) fight disease and promote better health;

(7) protect the environment and the Nation's parks;

(8) defend and secure critical infrastructure;

(9) teach and work in our schools and libraries;

(10) improve and secure our transportation systems;

(11) keep the Nation's economy stable; and

(12) defend our freedom and advance United States interests around the world;

Whereas public servants at every level of government are hard-working men and women, committed to doing their jobs regardless of the circumstances;

Whereas members of the uniformed services and civilian employees at all levels of government make significant contributions to the general welfare of the United States, and are on the front lines in the fight against terrorism and in maintaining homeland security;

Whereas public servants work in a professional manner to build relationships with other countries and cultures in order to better represent America's interests and promote American ideals;

Whereas Federal, State, and local government employees have risen to the occasion and demonstrated professionalism, dedication, and courage while fighting the war against terrorism;

Whereas public servants alert Congress and the public to government waste, fraud, abuse, and dangers to public health;

Whereas the men and women serving in the Armed Forces of the United States, as well as those skilled trade and craft Federal employees who provide support to their efforts, contribute greatly to the security of the Nation and the world;

Whereas government workers have much to offer, as demonstrated by their expertise, and serve as examples by passing on institutional knowledge to train the next generation of public servants;

Whereas May 3 through 9, 2004, has been designated Public Service Recognition Week to honor America's Federal, State, and local government employees;

Whereas the theme for Public Service Recognition Week 2004 is Celebrating Government Workers Nationwide to highlight the important work civil servants perform throughout the Nation; and

Whereas Public Service Recognition Week is celebrating its 20th anniversary through job fairs, student activities, and agency exhibits: Now, therefore, be it

Resolved, That the Senate—

(1) commends public servants for their outstanding contributions to this great Nation;

(2) salutes their unyielding dedication and spirit for public service;

(3) honors those government employees who have given their lives in service to their country;

(4) calls upon a new generation of workers to consider a career in public service as an honorable profession; and

(5) encourages efforts to promote public service careers at all levels of government.

SENATE RESOLUTION 337—EXPRESSING THE APPRECIATION OF THE SENATE FOR THE PARALYZED VETERANS OF AMERICA

Ms. MURKOWSKI (for herself, Mr. SPECTER, Mr. GRAHAM of Florida, Mr. MILLER, Mr. CAMPBELL, Mrs. MURRAY, Mr. GRAHAM of South Carolina, Mr. AKAKA, Mr. NELSON of Nebraska, Mr. BOND, Mr. COLEMAN, Mr. BUNNING, and Mr. STEVENS) submitted the following resolution; which was considered and agreed to:

S. RES. 337

Whereas for 58 years Paralyzed Veterans of America (PVA), a veterans service organization chartered by Congress, has served the needs of its members, veterans of the Armed Forces who have experienced spinal cord injury or dysfunction;

Whereas Paralyzed Veterans of America, with 34 chapters and 6 subchapters, has a stated mission to be a leading advocate for quality health care for its members through the health care system of the Department of Veterans Affairs, the Department network of Spinal Cord Injury Centers, and other private and public health care providers;

Whereas Paralyzed Veterans of America, with 57 service offices and a network of service officers, has helped its members and hundreds of thousands of other veterans receive the benefits and health care they have earned through service in the Armed Forces;

Whereas Paralyzed Veterans of America is a leader in medical and prosthetic research, funding two research foundations that investigate a broad spectrum of neurological science to seek a cure for spinal cord injury as well as breakthroughs in rehabilitation to improve the quality of life of all Americans with spinal cord injury or dysfunction;

Whereas Paralyzed Veterans of America is a leading advocate within the veterans community in the Nation's capital, making certain the needs of its members are recognized by Congress and the Executive Branch of the Federal Government;

Whereas the Advocacy Program of Paralyzed Veterans of America joins the disability community in seeking to ensure civil rights and access to transportation, housing, and the physical environment for individuals with disabilities in order to maximize the independence of all Americans with disabilities;

Whereas through its architecture programs, Paralyzed Veterans of America is a leading force in barrier-free design, serving as consultant in the public and private sector to ensure a barrier-free physical environment for all Americans with disabilities;

Whereas Paralyzed Veterans of America has one of the Nation's largest wheelchair sports programs, fostering a wide range of sporting, indoor, and outdoor recreational events to encourage physical activity and comradeship so vital to the ongoing rehabilitation of its members;

Whereas Paralyzed Veterans of America is designating the week of April 11 through 17, 2004, as Paralyzed Veterans of America Awareness Week in order to support a wide variety of programs designated to highlight the services it provides nationwide and promote recognition of the sacrifice its members have made on behalf of a grateful Nation: Now therefore be it

Resolved, That the Senate—

(1) salutes Paralyzed Veterans of America (PVA) during Paralyzed Veterans of America Awareness Week, the week of April 11 through 17, 2004; and

(2) encourages all Americans to acknowledge and express their appreciation for the past and on-going contributions of Paralyzed Veterans of America to disabled veterans and to all other Americans with disabilities.

SENATE RESOLUTION 338—CALLING ON THE PRESIDENT TO DESIGNATE APRIL 16, 2004, AS NATIONAL YOUTH SERVICE DAY, AND FOR OTHER PURPOSES

Ms. MURKOWSKI (for herself, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLEN, Mr. BAYH, Mr. BUNNING, Mr. CAMPBELL, Mrs. CLINTON, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CONRAD, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DURBIN, Mr. KERRY, Ms. LANDRIEU, Ms. MIKULSI, Mrs. MURRAY, Mr. SCHUMER, Ms. SNOWE, Ms. STABENOW, Mr. STEVENS, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. CRAIG, and Mr. JOHNSON) submitted the following resolution; which was considered and agreed to:

S. RES. 338

Whereas National Youth Service Day is an annual public awareness and education campaign that highlights the amazing contributions that young people make to their communities throughout the year;

Whereas the goals of National Youth Service Day are to mobilize youths as leaders to identify and address the needs of their communities through service and service-learning, to support youth on a lifelong path of service and civic engagement, and to educate the public, the media, and policymakers about the year-round contributions of young people as community leaders;

Whereas young people in the United States are volunteering more than has any generation in American history;

Whereas the ongoing contributions young people make to their communities throughout the year should be recognized and encouraged;

Whereas young people should be viewed as the hope not only of tomorrow, but of today, and should be valued for the inherent idealism, energy, creativity, and commitment that they employ in addressing the needs of their communities;

Whereas there is a fundamental and absolute correlation between youth service and lifelong adult volunteering and philanthropy;

Whereas a sustained investment by the Federal Government and commitment by corporate partners fuels the positive, long-term cultural change that will make service and service-learning the common expectation and common experience of all youth;

Whereas, through volunteer service and related learning opportunities, young people build character and learn valuable skills, including time management, teamwork, needs-assessment, and leadership, that are sought by employers;

Whereas service-learning, an innovative teaching method combining service to the community with a classroom curriculum, is a proven strategy to increase academic achievement;

Whereas private foundations and corporations support youth service and service-learning because they believe that strong communities begin with strong schools and a community investment in the lives and futures of youth;

Whereas National Youth Service Day is a program of Youth Service America, and is being observed in 2004 for the 16th consecutive year;

Whereas Youth Service America continues to expand National Youth Service Day, now engaging millions of young people nationwide with 50 Lead Agencies in nearly every State to organize activities across the United States;

Whereas Youth Service America has expanded National Youth Service Day to involve over 90 national partners;

Whereas National Youth Service Day has inspired Global Youth Service Day, which occurs concurrently in 127 countries and is now in its fifth year; and

Whereas young people will benefit greatly from expanded opportunities to engage in meaningful volunteer service: Now, therefore, be it

Resolved,

SECTION 1. RECOGNITION AND ENCOURAGEMENT OF YOUTH COMMUNITY SERVICE.

The Senate recognizes and commends the significant contributions of American youth and encourages the cultivation of a common civic bond among young people dedicated to serving their neighbors, their communities, and the Nation.

SEC. 2. NATIONAL YOUTH SERVICE DAY.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the President should designate April 16, 2004, as ''National Youth Service Day''.

(b) PROCLAMATION.—The Senate requests that the President issue a proclamation—

(1) designating April 16, 2004, as ''National Youth Service Day''; and

(2) calling on the people of the United States to—

(A) observe the day by encouraging and engaging youth to participate in civic and community service projects;

(B) recognize the volunteer efforts of our Nation's young people throughout the year; and

(C) support these efforts as an investment in the future of our Nation.

SENATE RESOLUTION 339—URGING THE PRESIDENT TO IMMEDIATELY INSTRUCT THE SECRETARY OF STATE AND THE SECRETARY OF DEFENSE TO RESPECTIVELY BEGIN INITIATING CONSULTATIONS WITH OTHER MEMBERS OF THE UNITED NATIONS SECURITY COUNCIL CONCERNING A UNITED NATIONS SECURITY COUNCIL RESOLUTION FOR IRAQ, AND WITH THE SECRETARY GENERAL OF THE NORTH ATLANTIC TREATY ORGANIZATION (NATO) CONCERNING A MANDATE FOR A NATO COMMITMENT FOR SECURITY IN IRAQ, WITH THE GOAL OF SECURING BOTH NOT LATER THAN MAY 15, 2004

Mr. DODD (for himself, Mr. CORZINE, and Mrs. BOXER) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 339

Whereas there are currently as many as 150,000 military personnel stationed in Iraq, including more than 100,000 from the United States and approximately 24,000 from coalition member nations;

Whereas United States military personnel in Iraq continue to perform their duties with the highest degree of professionalism, patriotism, and heroism;

Whereas more than 600 United States military service members have lost their lives and more than 2,988 have been wounded in action in Iraq since the beginning of military action in March 2003;

Whereas since March 2003, the United States has allocated at least $110,000,000,000 for military action, relief, reconstruction, and security operations in Iraq;

Whereas on June 30, 2004, the United States is scheduled to turn over control of Iraq to a Transitional Iraqi Government;

Whereas the creation of a stable, secure, and democratic Iraq will strengthen regional, international, and United States national security;

Whereas following recent violent unrest in Baghdad and Fallujah, the United States Central Command Chief, General John Abizaid, asked United States military staff to examine options for sending more troops to Iraq;

Whereas a significant North Atlantic Treaty Organization (NATO) security presence in Iraq would greatly reduce the threat to United States service members currently stationed in that country;

Whereas a United Nations and a NATO presence in Iraq would lessen the financial burden on the United States;

Whereas NATO has played an integral role in efforts to restore and maintain order in Bosnia, Kosovo, and Afghanistan;

Whereas a comprehensive NATO mandate for peacekeeping operations and a comprehensive United Nations mandate for nation-building in Iraq would greatly increase the legitimacy of the presence of the United States and other members of the international community in that country, as well as the chances of success in establishing a democratic and stable nation for the Iraqi people; and

Whereas such a United Nations mandate will not be achievable without the adoption of a United Nations Security Council Resolution establishing such mandate: Now, therefore be it

Resolved, That the Senate—

(1) applauds the dedication, professionalism, and patriotism of United States military service members serving in Iraq, Afghanistan, and around the world, and remains committed to providing them with all the resources that they need to return home safely when their missions are complete;

(2) reaffirms its commitment to the creation of a stable, secure, and democratic Iraq;

(3) recognizes the important role that a United Nations mandate to assist the new Iraqi Government and a North Atlantic Treaty Organization (NATO) mandate for peacekeeping in Iraq could play in achieving these goals;

(4) urges the President to immediately instruct the Secretary of State to begin initiating consultations with other members of the United Nations Security Council concerning the United Nations mandate for Iraq, with the goal of securing a United Nations Security Council Resolution authorizing such mandate not later than May 15, 2004; and

(5) urges the President to immediately instruct the Secretary of Defense to initiate consultations with the Secretary General of NATO and other NATO members with the goal of securing a decision by NATO not later than May 15, 2004, to deploy forces in Iraq beginning June 30, 2004, in order to assist Iraqi military and security forces and to establish and maintain a security umbrella to facilitate the work of the United Nations and the interim Iraqi government in building democratic institutions and preparing for nationwide elections in 2005.

Mr. DODD. Mr. President, I know that all of my colleagues have been reading the recent reports of increasing violence in Iraq. What once seemed to be a small insurgency could possibly be developing into a larger revolt. And this rapidly growing and violent opposition to the United States presence in that country is placing American service members at great risk. It is also threatening our goal of securing a stable and democratic Iraq. Taken together, I believe that this situation makes it all the more clear what many of us have been urging all along—that we need to internationalize our efforts in Iraq now. Today, I am submitting a Sense of the Senate resolution urging the President to do just that.

As my colleagues know, there are well over 100,000 United States servicemen and -women currently stationed in Iraq. And while our troops are going through rotations that are scheduled to leave this number somewhere around 100,000, I would point out that the recent upsurge in violence in that country has prompted U.S. Central Command Chief General John Abizaid to ask his military staff to examine options for sending more U.S. troops to Iraq.

Despite claims by some in the Bush administration that this is not a necessity, it is certain that with this increasing instability, the demands on our troops will continue to grow. That could very well mean that at some point we will need to send more troops to Iraq.

This is all coming at a time when arguably, the dangers to our troops have never been greater. Twelve Marines were killed in a single day of hostile action last weekend. Four American contractors were brutally slain and mutilated last week. And the situation appears to be getting worse.

Let me be clear. This is not a statement on the abilities of the United States military. Our troops—and I know there is complete consensus about this—have and continue to perform with the utmost professionalism, patriotism, and heroism. Nobody can dispute that. And this Senator, for one, remains committed to ensuring that they have every tool at their disposal, every resource that they need, to come home safely and as expeditiously as possible. My resolution, first and foremost, reaffirms these facts.

But with more than 600 U.S. service members killed and more than 2,988 wounded since March 2003, the time has come for us to be honest about our needs in Iraq. We need an international security presence in that country. NATO would be the ideal body to provide such an international presence. It has played an important role in efforts to restore and maintain order in Bosnia, Kosovo, and Afghanistan. And plain and simple, the presence of international troops would reduce the risk to U.S. military personnel. My resolution would urge the President to instruct the Secretary of Defense to begin consultations with NATO with this goal in mind.

My resolution would also urge the President to instruct the Secretary of State to begin consultations with the United Nations Security Council concerning a UN Security Council Resolution for Iraq. While NATO can help handle the security concerns in Iraq, we need a UN presence in that country with respect to efforts to build stable and democratic institutions.

After all, let's be honest, we have a serious lack of international credibility for being in Iraq right now. This lack of credibility is impeding our abilities to secure our political goals in that country. It is preventing the international community from rallying behind us in our attempt to build a stable and democratic Iraq—a goal that we all share. And it is preventing us from gaining the legitimacy we need among average Iraqis which is so vital to the success of our efforts.

Some might even argue that with the June 30th deadline approximately 12 weeks away, we are moving backwards in terms of our readiness to hand over control to an interim Transitional Iraqi Government.

This fear was illustrated perfectly by an official from the Coalition Provisional Authority (CPA) in an article in today's New York Times. Let me quote from that article, which occurs in the context of allied and Iraqi security forces' loss of control in the southern Iraqi cities of Najaf and Kufa: ''An official in the occupation authority said Wednesday that . . . months of efforts to win over the population with civil projects and promises of jobs have failed with segments of the population.''

That same official was quoted in the article as saying that ''Six months of work is completely gone . . . there is nothing to show for it.'' According to the same article, ''government buildings, police stations, civil defense garrisons, and other police installations built up by Americans had been overrun and stripped bare'' in those cities. I ask unanimous consent that this article be printed in the RECORD.

This all highlights an important fact—that without getting the legitimacy we need to function in Iraq, we will be lacking the most basic foundations for ensuring the success of our efforts—efforts for which we have already allocated more than $110 billion American taxpayer dollars.

The answer for all of this is simple, and I believe that it has been from the beginning. We must engage NATO and the UN with the goal of their playing significant roles in Iraq. And we must do it now. NATO can help immensely with sharing the security burden. And a UN mandate will grant us the legitimacy we need to function in Iraq. It will also grant our long time allies, with whom we have been at odds over this war, the domestic legitimacy they need to play a part in building Iraq's future.

We now have a choice. We can continue to argue whether these steps should have been taken before the war. Or, we can join together in urging these steps be taken now. Our men and

women in uniform deserve it. The American taxpayer deserves it. The Iraqi people deserve it. And our national security and the security of the world deserve it.

I urge my colleagues to support this amendment.

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

[From the New York Times, Apr. 8, 2004]

U.S. VOWS TO RETAKE 2 SOUTHERN CITIES IN HANDS OF MILITANTS

(By Christine Hauser)

BAGHDAD, IRAQ, APR. 8.—The Sunni and Shiite uprisings against the American-led occupation forces in Iraq continued today throughout the country as the high command of the American military acknowledged that militant fighters had at least partial control of two southern cities.

Lt. Gen. Ricardo S. Sanchez, the American commander in Iraq, said at a news conference here that Shiite rebels had full control of Kut and partial control in Najaf, but he vowed that American forces would retake the cities.

''We are conducting offensives across the battle space to eliminate'' the rebels, he said.

American troops are confronting resistance by Sunni militants in a volatile region west of Baghdad and by Shiite insurgents in Baghdad and southern Iraq. The two fronts do not appear to be formally linked but seem to be finding and exploiting common ground in their shared opposition to the foreign occupation.

General Sanchez said today that there may be links between the Shiite and Sunni insurgents at low levels of the resistance movements but offered no further analysis.

In Baghdad, thousands of Sunni and Shiite protesters held a rally outside the Um al-Qura mosque in solidarity with Sunni countrymen in Falluja, Karbala and other conflict zones, Reuters reported. Similar rallies took place in Mosul and Baquba, north of the capital.

Militant Shiites were seen delivering food aid to a Sunni mosque in Baghdad as part of a relief effort for the residents of Sunni-dominated Falluja.

''We will carry our swords and strike the Americans on their heads,'' a Sunni cleric yelled, Reuters reported.

The most likely explanation for the coincident eruptions of violence, many Iraqis believe, is that Sunnis and Shiites are each watching the other's assaults, first in Falluja last week and then in other places over the weekend—the Sadr City neighborhood of Baghdad, Kufa, Najaf and at least three other southern cities—sensing that the American forces were overstretched.

The eruption of violence across the country has also had a wide impact on American allies there, with forces from other nations coming under direct attack, forcing some countries to rethink their commitments to Iraq.

Among the latest challenges to foreign resolve was a mysterious militant group claiming responsibility for the kidnapping of three Japanese citizens. Al Jazeera television showed images today of the three wearing blindfolds and civilian clothes, a group of men armed with assault rifles surrounding them. The group, which called itself Saraya al-Mujahideen, said it would kill the hostages unless Japan withdrew its forces within three days.

Japan has about 530 ground troops in Iraq, part of a total planned deployment of 1,100 soldiers for a mission to purify water and carry out other reconstruction tasks.

Reuters, quoting the South Korean foreign ministry, reported that seven South Korean members of a church group had also been kidnapped by an armed group in Iraq. About 460 South Korean medical personnel and military engineers have been in Iraq for nearly a year but are scheduled to return to South Korea after Seoul's planned deployment of up to 3,600 troops to the Kurdish region of northern Iraq later this year.

And an official from the Foreign Office confirmed today that a 37-year-old Briton had been kidnapped, Reuters reported.

In fighting today, American-led coalition forces in Baghdad destroyed a building used as a base of operations for the militant followers of rebel Shiite cleric, Moktada al-Sadr, CNN reported, quoting an American military official. American troops suffered no casualties and insurgent casualties were ''minimal,'' the official said.

In Falluja in the Sunni heartland west of Baghdad, where some of the most intense battles have occurred this week, fighting raged between American troops and Sunni rebels loyal to the fallen regime of Saddam Hussein. The director of the main hospital there told Reuters that as many as 300 Iraqis had been killed and at least 400 wounded since Sunday.

Hospital officials said on Wednesday that several dozen people were killed after Americans fired rockets at a mosque compound in Falluja. American officials said their troops were retaliating against militia members who were firing from the mosque. The mosque itself remained largely intact.

Mosque loudspeakers broadcast instructions to townspeople to take their dead to a sports stadium for burial, Reuters reported. Fighting has made the town's cemeteries inaccessible.

Pentagon officials in Washington signaled on Wednesday that they would probably delay bringing home some 25,000 troops as scheduled and probably move reinforcements to the south.

''We're facing a test of will, and we will meet that test,'' Defense Secretary Donald H. Rumsfeld said, adding that the plan to postpone the troop return was part of a plan ''to systematically address the situations we are facing.''

The intensification of the combat is sapping efforts to lay the foundations for a largely ceremonial transfer of political sovereignty to the Iraqis on June 30.

An official in the occupation authority said Wednesday that allied and Iraqi security forces had lost control of the key southern cities of Najaf and Kufa to the Shiite militia, conceding that months of effort to win over the population with civil projects and promises of jobs have failed with segments of the population.

''Six months of work is completely gone,'' the official said. ''There is nothing to show for it.''

He cited reports that government buildings, police stations, civil defense garrisons and other installations built up by the Americans had been overrun and then stripped bare, of files, furnishings and even toilet fixtures.

For the first time since the fall of Saddam Hussein a year ago, the Americans found themselves fighting intensely against two main segments of the population, using warplanes, attack helicopters and armored units against the groups the United States had said it came to liberate when it invaded in March last year.

In a further indication of widening opposition to the allies' presence, Bulgaria has asked the United States to send troops to reinforce its 450-member battalion in Karbala.

In Falluja, the Marines said they had waged a six-hour battle around the Abdel-Aziz al-Samarri mosque before calling in a Cobra helicopter, which fired a missile. An F–16 dropped a laser-guided bomb, Lt. Col. Brennan Byrne said.

Elsewhere in Falluja, American forces seized a second place of prayer, the Muadidi mosque, according to The Associated Press. A marine climbed the minaret and fired on guerrilla gunmen, witnesses told the agency. Insurgents fired back, hitting the minaret with rocket-propelled grenades and causing it to partly collapse, the A.P. added.

Brig. Gen. Mark Kimmitt, the chief military spokesman in Iraq, said the Marines did not attack the mosque until it became clear that enemy fighters were inside and using it to cover their attacks.

He told CNN that under the Geneva Convention, the mosque was protected but that once attacks originated from it, its protected status was moot.

Much of the Iraqi anger among the Shiites has been fanned by what many here see as a heavy-handed crackdown by American occupation forces on Mr. Sadr, with the closing of his mouthpiece newspaper last week and the announcement of an arrest warrant in connection with a cleric's murder last year.

''What is going on now is a huge popular uprising,'' Qais al-Khazali, a spokesman for Mr. Sadr, said in Najaf on Tuesday.

''This is a reaction from the Iraqi people, not just from the Shiites,'' he said. ''It is for the Sunni people, too. This intifada unites us.'' Intifada, Arabic for shaking off, is the word used by Palestinians for their struggle against Israel.

American officials have to balance their security aims without appearing to interfere with a Shiite pilgrimage holiday called Arbaeen, which starts Friday, when millions of Shiites pray at shrines in Najaf and Karbala.

''We are weighing our options, thinking very carefully about the way to restore order to Najaf,'' General Kimmitt said. ''But at the same time, doing it in such a manner that does not alienate the pilgrims who are celebrating one of the most important observances of the Muslim calendar.''

SENATE CONCURRENT RESOLUTION 99—CONDEMNING THE GOVERNMENT OF THE REPUBLIC OF THE SUDAN FOR ITS PARTICIPATION AND COMPLICITY IN THE ATTACKS AGAINST INNOCENT CIVILIANS IN THE IMPOVERISHED DARFUR REGION OF WESTERN SUDAN

Mr. BROWNBACK (for himself and Mr. FEINGOLD) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 99

Whereas, since early 2003, a conflict between forces of the Government of the Republic of the Sudan, including militia forces backed by the Government, and rebel forces in the impoverished Darfur region of western Sudan has resulted in attacks by ground and air forces of the Government of Sudan against innocent civilians and undefended villages in the region;

Whereas the militia forces backed by the Government of Sudan have also engaged in the use of rape as a weapon of war, the abduction of children, the destruction of food and water sources, and the deliberate and systematic manipulation and denial of humanitarian assistance for the people of the Darfur region;

Whereas United Nations officials and nongovernmental organizations have indicated

that the humanitarian situation in the Darfur region is extremely urgent, particularly in light of restrictions by the Government of Sudan on the delivery of humanitarian assistance for the people of the region;

Whereas, on December 18, 2003, United Nations Undersecretary General for Humanitarian Affairs Jan Egeland declared that the Darfur region was probably ''the world's worst humanitarian catastrophe'';

Whereas, on February 17, 2004, Amnesty International reported that it ''continues to receive details of horrifying attacks against civilians in villages by government warplanes, soldiers, and pro-government militia'';

Whereas, on February 18, 2004, United Nations Special Envoy for Humanitarian Affairs in Sudan Tom Eric Vraalsen declared, following a trip to the Darfur region, that ''aid workers are unable to reach the vast majority [of the displaced]'';

Whereas Doctors Without Borders, the Nobel Peace Prize-winning medical humanitarian relief organization and one of the few aid groups on the ground in the Darfur region, reported that the region is the scene of ''catastrophic mortality rates''; and

Whereas nearly 3,000,000 people affected by the conflict in the Darfur region have remained beyond the reach of aid agencies trying to provide essential humanitarian assistance, and United Nations aid agencies estimate that they have been able to reach only 15 percent of people in need and that more than 700,000 people have been displaced within Sudan in the past year: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) strongly condemns the Government of the Republic of the Sudan for its attacks against innocent civilians in the impoverished Darfur region of western Sudan and for its failure to take effective actions to stop militia attacks on civilians in the region, and demands that the Government of Sudan immediately take actions to cease these attacks;

(2) calls on the international community to strongly condemn the Government of Sudan for its participation and complicity in these attacks and demand that such attacks cease;

(3) urges the Government of Sudan to allow the delivery of humanitarian assistance to people in the Darfur region; and

(4) urges the President to direct the United States Representative to the United Nations to seek an official investigation by the United Nations to determine if crimes against humanity have been committed by the Government of Sudan in the Darfur region.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3044. Mr. FRIST (for Mr. NELSON, of Florida) proposed an amendment to the resolution S. Res. 328, expressing the sense of the Senate regarding the continued human rights violations committed by Fidel Castro and the Government of Cuba.

SA 3045. Mr. FRIST (for Mr. VOINOVICH) proposed an amendment to the bill S. 129, to provide for reform relating to Federal employment, and for other purposes.

SA 3046. Mr. ALEXANDER (for himself and Mr. CONRAD) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3044. Mr. FRIST (for Mr. NELSON of Florida) proposed an amendment to the resolution S. Res. 328, expressing the sense of the Senate regarding the continued human rights violations committed by Fidel Castro and the Government of Cuba; as follows:

On page 7, line 20, strike ''commission'' and insert ''committee''.

SA 3045. Mr. FRIST (for Mr. VOINOVICH) proposed an amendment to the bill S. 129, to provide for reform relating to Federal employment, and for other purposes; as follows:

On page 48, line 19, insert ''in the first sentence,'' after ''paragraph (2),''.

SA 3046. Mr. ALEXANDER (for himself and Mr. CONRAD) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, add the following:

SEC. ____. CREDIT FOR QUALIFYING POLLUTION CONTROL EQUIPMENT.

(a) ALLOWANCE OF QUALIFYING POLLUTION CONTROL EQUIPMENT CREDIT.—Section 46 (relating to amount of credit) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end the following new paragraph:

''(4) the qualifying pollution control equipment credit.''.

(b) AMOUNT OF QUALIFYING POLLUTION CONTROL EQUIPMENT CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following new section:

''SEC. 48A. QUALIFYING POLLUTION CONTROL EQUIPMENT CREDIT.

''(a) IN GENERAL.—For purposes of section 46, the qualifying pollution control equipment credit for any taxable year is an amount equal to 15 percent of the basis of the qualifying pollution control equipment placed in service at a qualifying facility during such taxable year.

''(b) QUALIFYING POLLUTION CONTROL EQUIPMENT.—For purposes of this section, the term 'qualifying pollution control equipment' means any technology installed in or on a qualifying facility to reduce air emissions of any pollutant regulated by the Environmental Protection Agency under the Clean Air Act, including thermal oxidizers, regenerative thermal oxidizers, scrubber systems, evaporative control systems, vapor recovery systems, flair systems, bag houses, cyclones, continuous emissions monitoring systems, and low nitric oxide burners.

''(c) QUALIFYING FACILITY.—For purposes of this section, the term 'qualifying facility' means any facility which produces not less than 1,000,000 gallons of ethanol during the taxable year.

''(d) SPECIAL RULE FOR CERTAIN SUBSIDIZED PROPERTY.—Rules similar to section 48(a)(4) shall apply for purposes of this section.

''(e) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this subsection.''.

(c) RECAPTURE OF CREDIT WHERE EMISSIONS REDUCTION OFFSET IS SOLD.—Paragraph (1) of section 50(a) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) SPECIAL RULE FOR QUALIFYING POLLUTION CONTROL EQUIPMENT.—For purposes of subparagraph (A), any investment property which is qualifying pollution control equipment (as defined in section 48A(b)) shall cease to be investment credit property with respect to a taxpayer if such taxpayer receives a payment in exchange for a credit for emission reductions attributable to such qualifying pollution control equipment for purposes of an offset requirement under part D of title I of the Clean Air Act.''.

(d) SPECIAL RULE FOR BASIS REDUCTION; RECAPTURE OF CREDIT.—Paragraph (3) of section 50(c) (relating to basis adjustment to investment credit property) is amended by inserting ''or qualifying pollution control equipment credit'' after ''reforestation credit''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2003, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. SPECTER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 8, 2004 at 2:30 p.m. to hold a closed business meeting.

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

SUBCOMMITTEE ON NATIONAL PARKS

Mr. SPECTER. Mr. President, I ask unanimous consent that the subcommittee on National Parks of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, April 8, 2004 at 2:30 p.m.

The purpose of the hearing is to review the National Park Service Concessions Program, including implementation of the National Park Service Concessions Management Improvement Act of 1998.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia, be authorized to meet on Thursday, April 8

at 9:30 a.m. for a hearing entitled, ''Does CMS Have the Right Prescription? Implementing the Medicare Prescription Drug Program.''

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

COMMITTEE ON ARMED SERVICES

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on April 8, 2004, at 10:30 a.m., in open and closed session to receive testimony on the Military Implications of the United Nations Convention on the law of the sea.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, April 8, 2004, at 10 a.m., to conduct a hearing on ''Review of Current Investigations and Regulatory Actions Regarding the Mutual Fund Industry.''

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet on Thursday, April 8, 2004, at 11 a.m., in SR–253, for a hearing to consider pending committee business.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 8, 2004 at 2:30 p.m., to hold a hearing on Anti-Semitism.

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

COMMITTEE ON THE JUDICIARY

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Thursday, April 8, 2004, at 10 a.m. on Judicial Nominations in the Dirksen Senate Office Building Room 226.

Witness List

Panel I: Senators.

Panel II: William Duane Benton, to be United States Circuit Judge for the Eighth Circuit.

Panel III: Robert Bryan Harwell, to be United States District Judge for the District of South Carolina; George P. Schiavelli, to be United States District Judge for the Central District of California; Curtis V. Gomez, to be Judge for the District Court of the Virgin Islands.

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

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Thursday, April 8, 2004, at 2:30 p.m. on ''Keeping America's Mass Transportation System Safe: Are the Laws Adequate?'' in the Dirksen Senate Office Building Room 226.

Witness List

Panel I: Harry S. Mattice, Jr., United States Attorney, Eastern District of Tennessee, Chattanooga, TN; S. Mark Lindsey, Chief Counsel, Federal Rail Administration, United States Department of Transportation, Washington, DC.

Panel II: Ernest R. Frazier, Sr., Chief, System Security and Safety, National Railroad Passenger Corporation (Amtrak), Washington, DC; Brian Jenkins, Director, National Transportation Security Center, Mineta Transportation Institute, San Jose, CA.

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

PRIVILEGE OF THE FLOOR

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that Karen Volker, a foreign policy fellow in my office, be granted privileges of the floor for the remainder of the day.

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

EXECUTIVE CALENDAR

EXECUTIVE SESSION

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. 581, 585, and 597.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed are as follows:

DEPARTMENT OF COMMERCE

Rhonda Keenum, of Mississippi, to be Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service, vice Maria Cino, resigned.

DEPARTMENT OF THE TREASURY

Brian Carlton Roseboro, of New Jersey, to be an Under Secretary of the Treasury.

DEPARTMENT OF ENERGY

Susan Johnson Grant, of Virginia, to be Chief Financial Officer, Department of Energy.

DEPARTMENT OF THE TREASURY

Donald Korb, of Ohio, to be Chief Counsel for the Internal Revenue Service and an Assistant General Counsel in the Department of the Treasury.

Mr. DASCHLE. Mr. President, I might just say for the RECORD that I have appreciated the opportunity to work through some of these nominations. This has been a matter of concern and interest to us for some time. This first installment accommodates some of our needs and I know some of the needs the White House has as well.

I hope we can do more in the coming weeks. This is one indication that we are making some progress.

I am pleased to note that we were able to do this prior to the recess.

I yield the floor.

LEGISLATIVE SESSION

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

MEASURE PLACED ON THE CALENDAR—S. 2290

Mr. FRIST. Mr. President, I understand there is a bill at the desk which is due for its second reading.

The PRESIDING OFFICER. The clerk will read the bill by title for a second time.

The legislative clerk read as follows:

A bill (S. 2290) to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes.

Mr. FRIST. I object to further proceedings on the measure at this time in order to place the bill on the Calendar under the provisions of rule XIV.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the calendar.

Mr. DASCHLE. Mr. President, many Members have been troubled by the fact that we are, apparently, after all of the work we have made to get to a point where we have a finite list, more extensive perhaps than either of us would like on the FSC bill, we are actually not going to go to the FSC bill; we are going to the asbestos bill.

As the majority leader knows from conversations I have had with him, it is unlikely this legislation will be able to move—not because we do not want to work on a bill that ultimately can become law to address the very legitimate concerns both of us have, all of us have with regard to asbestos, but as we have seen with malpractice, this is not the way to do it.

One would think that perhaps this is just another effort politically that will not have any result legislatively. I am not ascribing motives, but I hope there could be a real bona fide effort to work through the issues prior to the time we force votes on the floor, especially when we have other legislation for which many of us have been working hard to move, including the FSC bill.

Having said that, obviously, I am not in a position to stop the majority leader from moving as he has parliamentarily, and I will continue to express the hope that we can find some constructive solutions that reflect a

real compromise as we address this very important issue.

I yield the floor.

Mr. FRIST. I will respond to both of these issues. Asbestos is an issue the Senator from Delaware and I know the Democratic leader feel strongly about. It is an important bill, a bill we should address. We need to figure out the way to best address it.

The introduction of the bill is an attempt to advance the law so we can address it. We will continue discussions as the best way to address it.

Regarding the FSC/ETI, the JOBS bill, as he said, we have more amendments than either of us would like. It has been difficult to get it to the point we did. But it, too, is a bill we absolutely must address and we will continue to address.

I am hopeful over the recess, regarding both of these bills, Members will look at, spend time with, and discuss and debate them in a bipartisan way.

NATIONAL CYSTIC FIBROSIS AWARENESS MONTH

Mr. FRIST. I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 298, and the Senate proceed to its immediate consideration.

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

The clerk will read the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 298) designating May 2004 as National Cystic Fibrosis Awareness Month.

Mr. FRIST. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid on the table en bloc.

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

The resolution (S. Res. 298) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 298

Whereas cystic fibrosis, characterized by chronic lung infections and digestive disorders, is a fatal lung disease;

Whereas cystic fibrosis is 1 of the most common genetic diseases in the United States and 1 for which there is no known cure;

Whereas more than 10,000,000 Americans are unknowing carriers of the cystic fibrosis gene;

Whereas 1 of every 3,500 babies born in the United States is born with cystic fibrosis;

Whereas newborn screening for cystic fibrosis has been implemented by 11 States and facilitates early diagnosis and treatment which improves health and longevity;

Whereas approximately 30,000 people in the United States have cystic fibrosis, many of them children;

Whereas the average life expectancy of an individual with cystic fibrosis is in the early thirties, an improvement from a life expectancy of 10 years in the 1960s, but still unacceptably short;

Whereas prompt, aggressive treatment of the symptoms of cystic fibrosis can extend the lives of people who have the disease;

Whereas recent advances in cystic fibrosis research have produced promising leads in gene, protein, and drug therapies beneficial to people who have the disease;

Whereas this innovative research is progressing faster and is being conducted more aggressively than ever before, due in part to the establishment of a model clinical trials network by the Cystic Fibrosis Foundation; and

Whereas education of the public on cystic fibrosis, including the symptoms of the disease, increases knowledge and understanding of cystic fibrosis and promotes early diagnosis: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 2004 as ''National Cystic Fibrosis Awareness Month'';

(2) requests that the President issue a proclamation—

(A) designating the month of May 2004 as ''National Cystic Fibrosis Awareness Month''; and

(B) calling on the people of the United States to promote awareness of cystic fibrosis and actively participate in support of research to control or cure cystic fibrosis, by observing the month with appropriate ceremonies and activities; and

(3) supports the goals of—

(A) increasing the quality of life for individuals with cystic fibrosis by promoting public knowledge and understanding in a manner that will result in earlier diagnoses;

(B) encouraging increased resources for research; and

(C) increasing levels of support for people who have cystic fibrosis and their families.

EXPRESSING SENSE OF THE SENATE REGARDING HUMAN RIGHTS VIOLATIONS COMMITTED BY FIDEL CASTRO AND CUBA

Mr. FRIST. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of S. Res. 328 and that the Senate proceed to its immediate consideration.

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

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 328) expressing the sense of the Senate regarding the continued human rights violations committed by Fidel Castro and the Government of Cuba.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that an amendment from Senator NELSON of Florida, which is at the desk, be agreed to, the resolution, as amended, and the preamble be agreed to en bloc, the motion to reconsider be laid upon the table with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

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

The amendment (No. 3044) was agreed to, as follows:

On page 7, line 20 strike ''commission'' and insert ''committee''.

The resolution (S. Res. 328), as amended, was agreed to.

The preamble was agreed to.

The resolution, as amended, with its preamble, is as follows:

S. RES. 328

Whereas, one year ago, in March 2003, Fidel Castro and the Government of Cuba led a nationwide campaign to arrest and jail dozens of prominent democracy activists and critics of the repressive regime in Cuba;

Whereas credible nongovernmental observers report that the imprisoned democracy activists include—

(1) Osvaldo Alfonso Valdes, sentenced for 18 years;

(2) Librado Linares Garcia, sentenced for 20 years;

(3) Raul Rivero Castaneda, sentenced for 20 years;

(4) Martha Beatriz Roque Cabello, sentenced for 20 years;

(5) Victor Rolando Arroyo Carmona, sentenced for 26 years;

(6) Mijail Barzaga Lugo, sentenced for 15 years;

(7) Oscar Elias Biscet, sentenced for 25 years;

(8) Margarito Broche Espinosa, sentenced for 25 years;

(9) Dr. Marcelo Cana Rodriguez, sentenced for 18 years;

(10) Roberto de Miranda Hernandez, sentenced for 20 years;

(11) Carmelo Diaz Fernandez, sentenced for 18 years;

(12) Eduardo Diaz Fleitas, sentenced for 21 years;

(13) Antonio Diaz Sanchez, sentenced for 20 years;

(14) Alfredo Dominguez Batista, sentenced for 14 years;

(15) Oscar Espinosa Chepe, sentenced for 20 years;

(16) Alfredo Felipe Fuentes, sentenced for 26 years;

(17) Efren Fernandez Fernandez, sentenced for 12 years;

(18) Adolfo Fernandez Sainz, sentenced for 15 years;

(19) Jose Daniel Ferrer Garcia, sentenced for 25 years;

(20) Luis Enrique Ferrer Garcia, sentenced for 28 years;

(21) Orlando Fundora Alvarez, sentenced for 20 years;

(22) Prospero Gainza Aguero, sentenced for 25 years;

(23) Miguel Galban Gutierrez, sentenced for 26 years;

(24) Julio Cesar Galvez Rodriguez, sentenced for 15 years;

(25) Jose Luis Garcia Paneque, sentenced for 24 years;

(26) Edel Jose Garcia Diaz, sentenced for 16 years;

(27) Ricardo Gonzalez Alfonso, sentenced for 20 years;

(28) Diosdado Gonzalez Marrero, sentenced for 20 years;

(29) Lester Gonzalez Penton, sentenced for 20 years;

(30) Alejandro Gonzalez Raga, sentenced for 14 years;

(31) Jorge Luis Gonzalez Tanquero, sentenced for 20 years;

(32) Leonel Grave de Peralta Almenares, sentenced for 20 years;

(33) Ivan Hernandez Carrillo, sentenced for 25 years;

(34) Normando Hernandez Gonzalez, sentenced for 25 years;

(35) Juan Carlos Herrera Acosta, sentenced for 20 years;

(36) Regis Iglesias Ramirez, sentenced for 18 years;

(37) Jose Ubaldo Izquierdo Hernandez, sentenced for 16 years;

(38) Reinaldo Labrada Pena, sentenced for 6 years;

(39) Nelson Alberto Aguiar Ramirez, sentenced for 13 years;

(40) Marcelo Lopez Banobre, sentenced for 15 years;
(41) Jose Miguel Martinez Hernandez, sentenced for 13 years;
(42) Hector Maseda Gutierrez, sentenced for 20 years;
(43) Mario Enrique Mayo Hernandez, sentenced for 20 years;
(44) Dr. Luis Milan Fernandez, sentenced for 13 years;
(45) Nelson Moline Espino, sentenced for 20 years;
(46) Angel Juan Moya Acosta, sentenced for 20 years;
(47) Jesus Mustafa Felipe, sentenced for 25 years;
(48) Felix Navarro Rodriguez, sentenced for 25 years;
(49) Jorge Olivera Castillo, sentenced for 18 years;
(50) Pablo Pacheco Avila, sentenced for 20 years;
(51) Hector Palacios Ruiz, sentenced for 25 years;
(52) Arturo Perez de Alejo Rodriguez, sentenced for 20 years;
(53) Omar Pernet Hernandez, sentenced for 25 years;
(54) Horacio Julio Pina Borrego, sentenced for 20 years;
(55) Fabio Prieto Llorente, sentenced for 20 years;
(56) Alfredo Pulido Lopez, sentenced for 14 years;
(57) Jose Gabriel Ramon Castillo, sentenced for 20 years;
(58) Arnaldo Ramos Lauzerique, sentenced for 18 years;
(59) Blas Giraldo Reyes Rodriguez, sentenced for 25 years;
(60) Pedro Pablo Alvarez Ramos, sentenced for 25 years;
(61) Alexis Rodriguez Fernandez, sentenced for 15 years;
(62) Omar Rodriguez Saludes, sentenced for 27 years;
(63) Pedro Arguelles Moran, sentenced for 20 years;
(64) Omar Ruiz Hernandez, sentenced for 18 years;
(65) Claro Sanchez Albtarriba, sentenced for 15 years;
(66) Ariel Sigler Amaya, sentenced for 20 years;
(67) Guido Sigler Amaya, sentenced for 20 years;
(68) Ricardo Enrique Silva Gual, sentenced for 10 years;
(69) Fidel Suarez Cruz, sentenced for 20 years;
(70) Manuel Ubals Gonzalez, sentenced for 20 years;
(71) Julio Antonio Valdes Guevara, sentenced for 20 years;
(72) Miguel Valdes Tamayo, sentenced for 15 years;
(73) Hector Raul Valle Hernandez, sentenced for 12 years;
(74) Manuel Vazquez Portal, sentenced for 18 years; and
(75) Antonio Augusto Villarreal Acosta, sentenced for 15 years;

Whereas the imprisoned political opponents of Castro include librarians, journalists, poets, and others who have supported the Varela Project, which seeks to bring free speech, open elections, and democracy to Cuba;

Whereas Fidel Castro seized the opportunity to expand his brutal oppression of the people of Cuba while the attention of the United States and other nations around the world was focused on the war in Iraq;

Whereas the failure to condemn the Government of Cuba's continued political repression of democracy activists will further undermine the opportunity for freedom on the island; and

Whereas the international community missed an opportunity to speak against such brutal repression in a meaningful manner during the 59th Session of the United Nations Commission on Human Rights held in Geneva, Switzerland, from March 17, 2003, through April 23, 2003: Now, therefore, be it

Resolved, That the Senate—

(1) reaffirms—

(A) Senate Resolution 272, 107th Congress, unanimously agreed to June 10, 2002, calling for, among other things, amnesty for all political prisoners in Cuba;

(B) Senate Resolution 97, 108th Congress, unanimously agreed to April 7, 2003, condemning the crackdown on democracy activists in Cuba; and

(C) Senate Resolution 62, 108th Congress, unanimously agreed to June 27, 2003, calling upon the Organization of American States Inter-American Commission on Human Rights, the United Nations High Commissioner for Human Rights, the European Union, and human rights activists throughout the world to take certain actions in regard to the human rights situation in Cuba;

(2) calls on the Government of Cuba to immediately release individuals imprisoned for political purposes;

(3) praises the bravery of those Cubans who, because they practiced free speech and signed the Varela Project petition, have been targeted in this most recent government crackdown;

(4) calls on foreign governments to—

(A) increase the pressure on the Government of Cuba to improve its record on human rights in Cuba; and

(B) invite civil society leaders and democracy activists in Cuba to official events;

(5) calls upon the 60th Session of the United Nations Commission on Human Rights in Geneva from March 15, 2004, to April 23, 2004, to—

(A) condemn Cuba for its human rights abuses; and

(B) demand that inspectors from the International Committee of the Red Cross be allowed to visit and inspect the conditions of prisons to assess for the international community the extent of human rights abuses and the current situation in Cuba; and

(6) urges the President to direct United States Representatives at the 60th Session of the Commission on Human Rights to make the strong condemnation of the human rights situation in Cuba a top priority.

EXPRESSION OF APPRECIATION FOR PARALYZED VETERANS OF AMERICA

Mr. FRIST. I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 337, submitted by Senator MURKOWSKI earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 337) expressing the appreciation of the Senate for the Paralyzed Veterans of America.

There being no objection, the Senate proceeded to consider the resolution.

Ms. MURKOWSKI. Mr. President, today it is my distinct honor to rise and submit a Senate resolution recognizing the Paralyzed Veterans of America Awareness Week, which is April 11–17, 2004.

Many of my colleagues may not be aware what an outstanding civic-minded organization the PVA is in our country. But first let me tell you that these are not just ordinary citizens—they are veterans who sacrificed for our Nation in ways we can never fully repay. The PVA is composed of veterans of the Armed Forces who have spinal cord injuries. They are veterans who honorably and nobly served their country and continue to serve on a daily basis.

The PVA provides invaluable services to veterans' families and to our own Department of Veterans Affairs—ensuring that civil rights and access to viable transportation and affordable housing will always be provided to those with spinal cord injuries. PVA does this so their members may have the same opportunities as the rest of us—for whom these brave members fought—that they may have the independence that we all are blessed with in this country.

The PVA is a leader in medical and prosthetic research, funding two research foundations that investigate a broad spectrum of neurological sciences to seek a cure for spinal cord injury as well as breakthroughs in rehabilitation to improve the quality of life of all Americans with spinal cord injuries.

I would like to also remind my fellow Senators that the PVA is the sponsor of the Nation's largest wheelchair sports programs, fostering a wide range of sporting, and indoor, and outdoor recreational events to encourage physical activity and comradeship so vital to the ongoing rehabilitation of its members.

I encourage all of you, indeed all Americans, to take time next week to thank those who have made such tremendous sacrifices in order for us to enjoy the freedoms we now posses. And please take time from your day and find out how you can help and volunteer with your local PVA chapter.

Mr. FRIST. I ask consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table en bloc, and any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 337) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 337

Whereas for 58 years Paralyzed Veterans of America (PVA), a veterans service organization chartered by Congress, has served the needs of its members, veterans of the Armed Forces who have experienced spinal cord injury or dysfunction;

Whereas Paralyzed Veterans of America, with 34 chapters and 6 subchapters, has a stated mission to be a leading advocate for quality health care for its members through the health care system of the Department of Veterans Affairs, the Department network of Spinal Cord Injury Centers, and other private and public health care providers;

Whereas Paralyzed Veterans of America, with 57 service offices and a network of service officers, has helped its members and hundreds of thousands of other veterans receive

the benefits and health care they have earned through service in the Armed Forces;

Whereas Paralyzed Veterans of America is a leader in medical and prosthetic research, funding two research foundations that investigate a broad spectrum of neurological science to seek a cure for spinal cord injury as well as breakthroughs in rehabilitation to improve the quality of life of all Americans with spinal cord injury or dysfunction;

Whereas Paralyzed Veterans of America is a leading advocate within the veterans community in the Nation's capital, making certain the needs of its members are recognized by Congress and the Executive Branch of the Federal Government;

Whereas the Advocacy Program of Paralyzed Veterans of America joins the disability community in seeking to ensure civil rights and access to transportation, housing, and the physical environment for individuals with disabilities in order to maximize the independence of all Americans with disabilities;

Whereas through its architecture programs, Paralyzed Veterans of America is a leading force in barrier-free design, serving as consultant in the public and private sector to ensure a barrier-free physical environment for all Americans with disabilities;

Whereas Paralyzed Veterans of America has one of the Nation's largest wheelchair sports programs, fostering a wide range of sporting, indoor, and outdoor recreational events to encourage physical activity and comradeship so vital to the ongoing rehabilitation of its members;

Whereas Paralyzed Veterans of America is designating the week of April 11 through 17, 2004, as Paralyzed Veterans of America Awareness Week in order to support a wide variety of programs designated to highlight the services it provides nationwide and promote recognition of the sacrifice its members have made on behalf of a grateful Nation: Now therefore be it

Resolved, That the Senate—

(1) salutes Paralyzed Veterans of America (PVA) during Paralyzed Veterans of America Awareness Week, the week of April 11 through 17, 2004; and

(2) encourages all Americans to acknowledge and express their appreciation for the past and on-going contributions of Paralyzed Veterans of America to disabled veterans and to all other Americans with disabilities.

FEDERAL WORKFORCE FLEXIBILITY ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 428, S. 129.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 129) to provide for reform relating to Federal employment, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

[(a) SHORT TITLE.—This Act may be cited as the ''Federal Workforce Flexibility Act of 2003''.

[(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

[Sec. 1. Short title; table of contents.

[TITLE I—FEDERAL HUMAN RESOURCES MANAGEMENT INNOVATIONS

[Sec. 101. Streamlined personnel management demonstration projects.

[Sec. 102. Effective date.

[TITLE II—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

[Sec. 201. Recruitment, relocation, and retention bonuses.

[Sec. 202. Streamlined critical pay authority.

[Sec. 203. Civil service retirement system computation for part-time service.

[Sec. 204. Corrections relating to pay administration.

[TITLE III—REFORMS RELATING TO FEDERAL EMPLOYEE CAREER DEVELOPMENT AND BENEFITS

[Sec. 301. Agency training.

[Sec. 302. Annual leave enhancements.

[TITLE I—FEDERAL HUMAN RESOURCES MANAGEMENT INNOVATIONS

[SEC. 101. STREAMLINED PERSONNEL MANAGEMENT DEMONSTRATION PROJECTS.

[Chapter 47 of title 5, United States Code, is amended—

[(1) in section 4701—

[(A) in subsection (a)—

[(i) by striking ''(a)'';

[(ii) by striking paragraph (1) and inserting the following:

[''(1) 'agency' means an Executive agency and any entity that is subject to any provision of this title that could be waived under section 4703, but does not include—

[''(A) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, the National Security Agency, and, as determined by the President, any Executive agency or unit thereof which is designated by the President and which has as its principal function the conduct of foreign intelligence or counterintelligence activities; or

[''(B) the General Accounting Office;'';

[(iii) in paragraph (4), by striking ''and'' at the end;

[(iv) by redesignating paragraph (5) as paragraph (6); and

[(v) by inserting after paragraph (4) the following:

[''(5) 'modification' means a significant change in 1 or more of the elements of a demonstration project plan as described in section 4703(b)(1); and''; and

[(B) by striking subsection (b); and

[(2) in section 4703—

[(A) in subsection (a)—

[(i) by striking ''conduct and evaluate demonstration projects'' and inserting ''conduct, modify, and evaluate demonstration projects'';

[(ii) by striking '', including any law or regulation relating to—'' and all that follows and inserting a period; and

[(iii) by adding at the end the following: ''The decision to initiate or modify a project under this section shall be made by the Office.'';

[(B) by striking subsection (b) and inserting the following:

[''(b) Before conducting or entering into any agreement or contract to conduct a demonstration project, the Office shall ensure—

[''(1) that each project has a plan which describes—

[''(A) its purpose;

[''(B) the employees to be covered;

[''(C) its anticipated outcomes and resource implications, including how the project relates to carrying out the agency's strategic plan, including meeting performance goals and objectives, and accomplishing its mission;

[''(D) the personnel policies and procedures the project will use that differ from those otherwise available and applicable, including a specific citation of any provisions of law, rule, or regulation to be waived and a specific description of any contemplated action for which there is a lack of specific authority;

[''(E) the method of evaluating the project; and

[''(F) the agency's system for ensuring that the project is implemented in a manner consistent with merit system principles;

[''(2) notification of the proposed project to employees who are likely to be affected by the project;

[''(3) an appropriate comment period;

[''(4) publication of the final plan in the Federal Register;

[''(5) notification of the final project at least 90 days in advance of the date any project proposed under this section is to take effect to employees who are likely to be affected by the project;

[''(6) publication of any subsequent modification in the Federal Register; and

[''(7) notification of any subsequent modification to employees who are included in the project.'';

[(C) in subsection (c)—

[(i) by striking paragraph (1) and inserting the following:

[''(1) any provision of chapter 63 or subpart G of part III of this title;'';

[(ii) by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively;

[(iii) by inserting after paragraph (3) the following:

[''(4) section 7342, 7351, or 7353;

[''(5) the Ethics in Government Act of 1978 (5 U.S.C. App.);''; and

[(iv) in paragraph (6) as redesignated, by striking ''paragraph (1), (2), or (3) of this subsection; or'' and inserting ''paragraphs (1) through (5);'';

[(D) by striking subsections (d) and (e) and inserting the following:

[''(d)(1) Unless terminated at an earlier date in accordance with this section, each demonstration project shall terminate at the end of the 10-year period beginning on the date on which the project takes effect.

[''(2) Before the end of the 5-year period beginning on the date on which a demonstration project takes effect, the Office shall submit a recommendation to Congress on whether Congress should enact legislation to make that project permanent.

[''(e) The Office may terminate a demonstration project under this chapter if the Office determines that the project—

[''(1) is not consistent with merit system principles set forth in section 2301, veterans' preference principles, or the provisions of this chapter; or

[''(2) otherwise imposes a substantial hardship on, or is not in the best interests of, the public, the Government, employees, or eligibles.''; and

[(E) by striking subsections (h) and (i) and inserting the following:

[''(h) Notwithstanding section 2302(e)(1), for purposes of applying section 2302(b)(11) in a demonstration project under this chapter, the term 'veterans' preference requirement' means any of the specific provisions of the demonstration project plan that are designed to ensure that the project is consistent with veterans' preference principles.

[''(i) The Office shall ensure that each demonstration project is evaluated. Each evaluation shall assess—

[''(1) the project's compliance with the plan developed under subsection (b)(1); and

[''(2) the project's impact on improving public management.

[''(j) Upon request of the Director of the Office of Personnel Management, agencies shall cooperate with and assist the Office in any evaluation undertaken under subsection (i) and provide the Office with requested information and reports relating to the conducting of demonstration projects in their respective agencies.''.

[SEC. 102. EFFECTIVE DATE.

[This title shall take effect 180 days after the date of enactment of this Act.

[TITLE II—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

[SEC. 201. RECRUITMENT, RELOCATION, AND RETENTION BONUSES.

[(a) BONUSES.—

[(1) IN GENERAL.—Chapter 57 of title 5, United States Code, is amended by striking sections 5753 and 5754 and inserting the following:

["§ 5753. Recruitment and relocation bonuses

[''(a) In this section, the term 'employee' has the meaning given that term under section 2105, except that such term also includes an employee described under subsection (c) of that section.

[''(b)(1) The Office of Personnel Management may authorize the head of an agency to pay a bonus to an individual appointed or moved to a position that is likely to be difficult to fill in the absence of such a bonus, if the individual—

[''(A)(i) is newly appointed as an employee of the Federal Government; or

[''(ii) is currently employed by the Federal Government and moves to a new position in the same geographic area under circumstances described in regulations of the Office; or

[''(B) is currently employed by the Federal Government and must relocate to accept a position stationed in a different geographic area.

[''(2) Except as provided by subsection (h), a bonus may be paid under this section only to an employee covered by the General Schedule pay system established under subchapter III of chapter 53.

[''(c)(1) Payment of a bonus under this section shall be contingent upon the employee entering into a written service agreement to complete a period of employment with the agency, not to exceed 4 years. The Office may, by regulation, prescribe a minimum service.

[''(2)(A) The agreement shall include—

[''(i) the length of the required service period;

[''(ii) the amount of the bonus;

[''(iii) the method of payment; and

[''(iv) other terms and conditions under which the bonus is payable, subject to subsections (d) and (e) and regulations of the Office.

[''(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—

[''(i) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

[''(ii) the effect of the termination.

[''(3) The agreement shall be made effective upon employment with the agency or movement to a new position or geographic area, as applicable, except that a service agreement with respect to a recruitment bonus may be made effective at a later date under circumstances described in regulations of the Office, such as when there is an initial period of formal basic training.

[''(d)(1) Except as provided in subsection (e), a bonus under this section shall not exceed 25 percent of the annual rate of basic pay of the employee at the beginning of the service period multiplied by the number of years (or fractions thereof) in the service period, not to exceed 4 years.

[''(2) A bonus under this section may be paid as an initial lump sum, in installments, as a final lump sum upon the completion of the full service period, or in a combination of these forms of payment.

[''(3) A bonus under this section is not part of the basic pay of an employee for any purpose.

[''(4) Under regulations of the Office, a recruitment bonus under this section may be paid to an eligible individual before that individual enters on duty.

[''(e) The Office may authorize the head of an agency to waive the limitation under subsection (d)(1) based on a critical agency need, subject to regulations prescribed by the Office. Under such a waiver, the amount of the bonus may be up to 50 percent of the employee's annual rate of basic pay at the beginning of the service period multiplied by the number of years (or fractions thereof) in the service period, not to exceed 100 percent of the employee's annual rate of basic pay at the beginning of the service period.

[''(f) The Office shall require that, before paying a bonus under this section, an agency shall establish a plan for paying recruitment bonuses and a plan for paying relocation bonuses, subject to regulations prescribed by the Office.

[''(g) The Office may prescribe regulations to carry out this section, including regulations relating to the repayment of a recruitment or relocation bonus in appropriate circumstances when the agreed-upon service period has not been completed.

[''(h)(1) At the request of the head of an Executive agency, the Office may extend coverage under this section to categories of employees within the agency who otherwise would not be covered by this section.

[''(2) The Office shall not extend coverage to the head of an Executive agency, including an Executive agency headed by a board or other collegial body composed of 2 or more individual members.

["§ 5754. Retention bonuses

[''(a) In this section, the term 'employee' has the meaning given that term under section 2105, except that such term also includes an employee described in subsection (c) of that section.

[''(b) The Office of Personnel Management may authorize the head of an agency to pay a retention bonus to an employee, subject to regulations prescribed by the Office, if—

[''(1) the unusually high or unique qualifications of the employee or a special need of the agency for the employee's services makes it essential to retain the employee; and

[''(2) the agency determines that, in the absence of a retention bonus, the employee would be likely to leave—

[''(A) the Federal service; or

[''(B) for a different position in the Federal service under conditions described in regulations of the Office.

[''(c) The Office may authorize the head of an agency to pay retention bonuses to a group of employees in 1 or more categories of positions in 1 or more geographic areas, subject to the requirements of subsection (b)(1) and regulations prescribed by the Office, if there is a high risk that a significant portion of employees in the group would be likely to leave in the absence of retention bonuses.

[''(d) Except as provided in subsection (j), a bonus may be paid only to an employee covered by the General Schedule pay system established under subchapter III of chapter 53.

[''(e)(1) Payment of a retention bonus is contingent upon the employee entering into a written service agreement with the agency to complete a period of employment with the agency.

[''(2)(A) The agreement shall include—

[''(i) the length of the required service period;

[''(ii) the amount of the bonus;

[''(iii) the method of payment; and

[''(iv) other terms and conditions under which the bonus is payable, subject to subsections (f) and (g) and regulations of the Office.

[''(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—

[''(i) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

[''(ii) the effect of the termination.

[''(3)(A) Notwithstanding paragraph (1), a written service agreement is not required if the agency pays a retention bonus in biweekly installments and sets the installment payment at the full bonus percentage rate established for the employee with no portion of the bonus deferred.

[''(B) If an agency pays a retention bonus in accordance with subparagraph (A) and makes a determination to terminate the payments, the agency shall provide written notice to the employee of that determination. Except as provided in regulations of the Office, the employee shall continue to be paid the retention bonus through the end of the pay period in which such written notice is provided.

[''(4) A retention bonus for an employee may not be based on any period of such service which is the basis for a recruitment or relocation bonus under section 5753.

[''(f)(1) Except as provided in subsection (g), a retention bonus, which shall be stated as a percentage of the employee's basic pay for the service period associated with the bonus, may not exceed—

[''(A) 25 percent of the employee's basic pay if paid under subsection (b); or

[''(B) 10 percent of an employee's basic pay if paid under subsection (c).

[''(2) A retention bonus may be paid to an employee in installments after completion of specified periods of service or in a single lump sum at the end of the full period of service required by the agreement. An installment payment may not exceed the product derived from multiplying the amount of basic pay earned in the installment period by a percentage not to exceed the bonus percentage rate established for the employee. If the installment payment percentage is less than the bonus percentage rate, the accrued but unpaid portion of the bonus is payable as part of the final installment payment to the employee after completion of the full service period under the terms of the service agreement.

[''(3) A retention bonus is not part of the basic pay of an employee for any purpose.

[''(g) Upon the request of the head of an agency, the Office may waive the limit established under subsection (f)(1) and permit the agency head to pay an otherwise eligible employee or category of employees retention bonuses of up to 50 percent of basic pay, based on a critical agency need.

[''(h) The Office shall require that, before paying a bonus under this section, an agency shall establish a plan for paying retention bonuses, subject to regulations prescribed by the Office.

[''(i) The Office may prescribe regulations to carry out this section.

[''(j)(1) At the request of the head of an Executive agency, the Office may extend coverage under this section to categories of employees within the agency who otherwise would not be covered by this section.

[''(2) The Office shall not extend coverage under this section to the head of an Executive agency, including an Executive agency headed by a board or other collegial body composed of 2 or more individual members.''.

[(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 57 of title 5, United States Code, is amended by striking the item relating to section 5754 and inserting the following:

[''5754. Retention bonuses.''.

[(b) RELOCATION PAYMENTS.—Section 407 of the Federal Employees Pay Comparability Act of 1990 (5 U.S.C. 5305 note; 104 Stat. 1467) is repealed.

[(c) EFFECTIVE DATE AND APPLICATION.—

[(1) EFFECTIVE DATE.—Except as provided under paragraphs (2) and (3), this section shall take effect on the first day of the first applicable pay period beginning on or after 180 days after the date of enactment of this Act.

[(2) APPLICATION TO AGREEMENTS.—A recruitment or relocation bonus service agreement that was authorized under section 5753 of title 5, United States Code, before the effective date under paragraph (1) shall continue, until its expiration, to be subject to section 5753 as in effect on the day before such effective date.

[(3) APPLICATION TO ALLOWANCES.—Payment of a retention allowance that was authorized under section 5754 of title 5, United States Code, before the effective date under paragraph (1) shall continue, subject to section 5754 as in effect on the day before such effective date, until the retention allowance is reauthorized or terminated (but no longer than 1 year after such effective date).

[SEC. 202. STREAMLINED CRITICAL PAY AUTHORITY.

[Section 5377 of title 5, United States Code, is amended—

[(1) by striking subsection (c) and inserting the following:

[''(c) The Office of Personnel Management, in consultation with the Office of Management and Budget, may, upon the request of the head of an agency, grant authority to fix the rate of basic pay for 1 or more positions in such agency in accordance with this section.'';

[(2) in subsection (e)(1), by striking ''Office of Management and Budget'' and inserting ''Office of Personnel Management'';

[(3) by striking subsections (f) and (g) and inserting the following:

[''(f) The Office of Personnel Management may not authorize the exercise of authority under this section with respect to more than 800 positions at any 1 time, of which not more than 30 may, at any such time, be positions the rate of basic pay for which would otherwise be determined under subchapter II.

[''(g) The Office of Personnel Management shall consult with the Office of Management and Budget before making any decision to grant or terminate any authority under this section.''; and

[(4) in subsection (h), by striking ''The Office of Management and Budget shall report to the Committee on Post Office and Civil Service'' and inserting ''The Office of Personnel Management shall report to the Committee on Government Reform.''.

[SEC. 203. CIVIL SERVICE RETIREMENT SYSTEM COMPUTATION FOR PART-TIME SERVICE.

[Section 8339(p) of title 5, United States Code, is amended by adding at the end the following:

[''(3) In the administration of paragraph (1)—

[''(A) subparagraph (A) of such paragraph shall apply to any service performed before, on, or after April 7, 1986;

[''(B) subparagraph (B) of such paragraph shall apply to all service performed on a part-time or full-time basis on or after April 7, 1986; and

[''(C) any service performed on a part-time basis before April 7, 1986, shall be credited as service performed on a full-time basis.''.

[SEC. 204. CORRECTIONS RELATING TO PAY ADMINISTRATION.

[(a) IN GENERAL.—Chapter 53 of title 5, United States Code, is amended—

[(1) in section 5302, by striking paragraph (8) and inserting the following:

[''(8) the term 'rates of pay under the General Schedule', 'rates of pay for the General Schedule', or 'scheduled rates of basic pay' means the unadjusted rates of basic pay in the General Schedule as established by section 5332, excluding additional pay of any kind; and'';

[(2) in section 5305—

[(A) by striking subsection (a) and inserting the following:

[''(a)(1) Whenever the Office of Personnel Management finds that the Government's recruitment or retention efforts with respect to 1 or more occupations in 1 or more areas or locations are, or are likely to become, significantly handicapped due to any of the circumstances described in subsection (b), the Office may establish for the areas or locations involved, with respect to individuals in positions paid under any of the pay systems referred to in subsection (c), higher minimum rates of pay for 1 or more grades or levels, occupational groups, series, classes, or subdivisions thereof, and may make corresponding increases in all rates of pay range for each such grade or level. However, a minimum rate so established may not exceed the maximum rate of basic pay (excluding any locality-based comparability payment under section 5304 or similar provision of law) for the grade or level by more than 30 percent, and no rate may be established under this section in excess of the rate of basic pay payable for level IV of the Executive Schedule. In the case of individuals not subject to the provisions of this title governing appointment in the competitive service, the President may designate another agency to authorize special rates under this section.

[''(2) The head of an agency may determine that a category of employees of the agency will not be covered by a special rate authorization established under this section. The head of an agency shall provide written notice to the Office of Personnel Management (or other agency designated by the President to authorize special rates) which identifies the specific category or categories of employees that will not be covered by special rates authorized under this section. If the head of an agency removes a category of employees from coverage under a special rate authorization after that authorization takes effect, the loss of coverage will take effect on the first day of the first pay period after the date of the notice.'';

[(B) in subsection (b), by striking paragraph (4) and inserting the following:

[''(4) any other circumstances which the Office of Personnel Management (or such agency as the President may designate) considers appropriate.'';

[(C) in subsection (d)—

[(i) by striking ''President'' and inserting ''Office of Personnel Management''; and

[(ii) by striking ''he'' and inserting ''the President'';

[(D) in subsection (e), by striking ''basic pay'' and inserting ''pay'';

[(E) by striking subsection (f) and inserting the following:

[''(f) When a schedule of special rates established under this section is adjusted under subsection (d), a covered employee's special rate will be adjusted in accordance with conversion rules prescribed by the Office of Personnel Management or by such agency as the President may designate.'';

[(F) in subsection (g)(1)—

[(i) by striking ''basic pay'' and inserting ''pay''; and

[(ii) by striking ''President (or his designated agency)'' and inserting ''Office of Personnel Management (or such agency as the President may designate)'';

[(G) by striking subsection (h) and inserting the following:

[''(h) An employee's entitlement to a rate of pay established under this section terminates when the employee is entitled to a higher rate of pay (including basic pay as adjusted to include any locality-based comparability payment under section 5304 or similar provision of law).''; and

[(H) by adding at the end the following:

[''(i) When an employee who is receiving a rate of pay established under this section moves to a new official duty station at which different pay schedules apply, the employee shall be entitled to the rates of pay applicable in the new pay area based on the employee's position, grade, and step (or relative position in the rate range) before the movement, as determined under regulations prescribed by the Office of Personnel Management or other agency designated by the President under subsection (a). Such pay conversion upon geographic movement shall be effected before processing any other simultaneous pay action (other than a general pay adjustment).

[''(j) A rate established under this section shall be considered to be part of basic pay for purposes of subchapter III of chapter 83, chapter 84, chapter 87, subchapter V of chapter 55, section 5941, and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe.'';

[(3) in section 5334—

[(A) in subsection (b), by adding at the end the following:

[''If an employee's rate after promotion or transfer is greater than the maximum rate of basic pay for the employee's grade, that rate shall be treated as a retained rate under section 5363. The Office of Personnel Management shall prescribe by regulation the circumstances under which and the extent to which special rates under section 5305 (or similar provision of law) or locality-adjusted rates under section 5304 (or similar provision of law) are considered to be basic pay in applying this subsection.''; and

[(B) by adding at the end the following:

[''(g) When an employee moves to a new official duty station at which different pay schedules apply, the employee shall be entitled to the rates of pay applicable in the new pay area based on the employee's position, grade, and step (or relative position in the rate range) before the movement. Such pay conversion upon geographic movement shall be effected before processing any other simultaneous pay action (other than a general pay adjustment).'';

[(4) in section 5361—

[(A) by striking paragraphs (3) and (4) and redesignating paragraphs (5) through (7) as paragraphs (3) through (5), respectively;

[(B) in paragraph (4), as redesignated, by striking ''and'' at the end;

[(C) in paragraph (5), as redesignated, by striking the period and inserting a semicolon; and

[(D) by adding at the end the following:

[''(6) 'rate of basic pay' means—

[''(A) the rate of pay prescribed by law (including regulations) for the position held by an employee before any deductions or additions of any kind, but including—

[''(i) any applicable locality-based payment under section 5304 or similar provision of law;

[''(ii) any applicable special salary rate under section 5305 or similar provision of law; and

[''(iii) any applicable existing retained rate of pay established under section 5363 or similar provision of law; and

[''(B) in the case of a prevailing rate employee, the scheduled rate of pay determined under section 5343;

[''(7) 'former highest applicable rate of basic pay' means the highest applicable rate of basic pay payable to the employee immediately before the action that triggers pay retention under section 5363; and

[''(8) 'highest applicable basic pay rate range' means the range of rates of basic pay for the grade or level of the employee's current position with the highest maximum rate, except as otherwise provided in regulations prescribed by the Office of Personnel Management in cases where another rate range provides higher rates only in the lower portion of the range.'';

[(5) in section 5363—

[(A) in subsection (a), by amending the matter following paragraph (4) to read as follows:

[''is entitled to pay retention under the conditions set forth in this section. Notwithstanding any other provision of law, this section may not be applied to employees whose rate of basic pay is reduced solely because of the recomputation of pay upon movement to a new official duty station at which different pay schedules apply. When a geographic move is accompanied by a simultaneous pay action that reduces the employee's rate of basic pay after the employee's pay has been recomputed to reflect the geographic move, this section shall be applied, if otherwise applicable.''; and

[(B) by striking subsections (b) and (c) and inserting the following:

[''(b)(1) If an employee is entitled to pay retention under subsection (a), paragraphs (2) and (3) shall apply in determining the employee's rate of pay:

[''(2) If the employee's former highest applicable rate of basic pay is less than or equal to the maximum rate of the highest applicable basic pay rate range for the employee's current position, the employee is entitled to the lowest payable rate of basic pay in that rate range that equals or exceeds the former rate, and pay retention ceases to apply.

[''(3) If the employee's former highest applicable rate of basic pay exceeds the maximum rate of the highest applicable basic pay rate range for the employee's current position, the employee is entitled to a retained rate equal to the lesser of—

[''(A) the employee's former highest applicable rate of basic pay; or

[''(B) 150 percent of the maximum rate of the highest applicable basic pay rate range for the employee's position.

[''(c) An employee's retained rate shall be increased at the time of any increase in the maximum rate of the highest applicable basic pay rate range for the employee's position by 50 percent of the dollar increase in that maximum rate.

[''(d) The rate of pay for an employee who is receiving a retained rate under this section and who is moved to a new official duty station at which different pay schedules apply shall be determined under regulations prescribed by the Office of Personnel Management consistent with the purposes of this section.

[''(e) A retained rate shall be considered part of basic pay for purposes of this subchapter and for purposes of subchapter III of chapter 83, chapters 84 and 87, subchapter V of chapter 55, section 5941, and for such other purposes as may be expressly provided for by law or as the law or as the Office of Personnel Management may by regulation prescribe. For other purposes, the Office shall prescribe by regulation what constitutes basic pay for employees receiving a retained rate.

[''(f) Subsections (a) through (e) do not apply (or shall cease to apply) to an employee who—

[''(1) has a break in service of 1 workday or more;

[''(2) is entitled by operation of this subchapter or chapter 51 or 53 to a rate of basic pay which is equal to or higher than, or declines a reasonable offer of a position the rate of basic pay for which is equal to or higher than, the rate to which the employee is entitled under this section; or

[''(3) is demoted for personal cause or at the employee's request.''; and

[(6) in section 5365(b) by inserting after ''provisions of this subchapter'' the following: ''(subject to any conditions or limitations the Office may establish)''.

[(b) SPECIAL RATES FOR LAW ENFORCEMENT OFFICERS.—Section 403(c) of the Federal Employees Pay Comparability Act of 1990 (5 U.S.C. 5305 note; Public Law 101–509) is amended by striking all after ''provision of law)'' and inserting ''and shall be basic pay for all purposes. The rates shall be adjusted at the time of adjustments in the General Schedule to maintain the step linkage set forth in subsection (b)(2).''.

[(c) PAY RETENTION.—Subject to any regulations the Office of Personnel Management may prescribe, any employee in a covered pay schedule who is receiving a retained rate under section 5363 of title 5, United States Code, or similar authority on the effective date of this Act shall have the pay of that employee converted on that date. The newly applicable retained rate shall equal the formerly applicable retained rate as adjusted to include any applicable locality-based payment under section 5304 of title 5, United States Code, or similar provision of law. Any employee in a covered pay system receiving a rate that exceeds the maximum rate of the highest applicable basic pay rate range for the employee's position (as defined under section 5361(8) of that title, as amended by this Act) under any authority shall be considered to be receiving a retained rate under section 5363 of that title.

[TITLE III—REFORMS RELATING TO FEDERAL EMPLOYEE CAREER DEVELOPMENT AND BENEFITS

[SEC. 301. AGENCY TRAINING.

[(a) TRAINING TO ACCOMPLISH PERFORMANCE PLANS AND STRATEGIC GOALS.—Section 4103 of title 5, United States Code, is amended by adding at the end the following:

[''(c) The head of each agency shall—

[''(1) evaluate each program or plan established, operated, or maintained under subsection (a) with respect to accomplishing specific performance plans and strategic goals in performing the agency mission; and

[''(2) modify such program or plan to accomplish such plans and goals.''.

[(b) AGENCY TRAINING OFFICER; SPECIFIC TRAINING PROGRAMS.—

[(1) IN GENERAL.—Chapter 41 of title 5, United States Code, is amended by adding after section 4119 the following:

["§ 4120. Agency training officer

[''Each agency shall appoint or designate a training officer who shall be responsible for developing, coordinating, and administering training for the agency.

["§ 4121. Specific training programs

[''In consultation with the Office of Personnel Management, each head of an agency shall establish—

[''(1) a comprehensive management succession program to provide training to employees to develop managers for the agency; and

[''(2) a program to provide training to managers on actions, options, and strategies a manager may use in—

[''(A) relating to employees with unacceptable performances; and

[''(B) mentoring employees and improving employee performance and productivity.''.

[(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 41 of title 5, United States Code, is amended by adding at the end the following:

[''4120. Agency training officer.

[''4121. Specific training programs.''.

[SEC. 302. ANNUAL LEAVE ENHANCEMENTS.

[(a) ACCRUAL OF LEAVE FOR NEWLY HIRED FEDERAL EMPLOYEES WITH QUALIFIED EXPERIENCE.—

[(1) IN GENERAL.—Section 6303 of title 5, United States Code, is amended by adding at the end the following:

[''(e)(1) In this subsection, the term 'period of qualified non-Federal service' means any equal period of service performed by an individual that—

[''(A) except for this subsection would not otherwise be service performed by an employee for purposes of subsection (a); and

[''(B) was performed in a position—

[''(i) the duties of which were directly related to the duties of the position in an agency that such individual holds; and

[''(ii) which meets such other conditions as the Office of Personnel Management shall prescribe by regulation.

[''(2) For purposes of subsection (a), the head of an agency may deem a period of qualified non-Federal service performed by an individual to be a period of service performed as an employee.''.

[(2) EFFECTIVE DATE.—This section shall take effect 120 days after the date of enactment of this Act and shall only apply to an individual hired on or after that effective date.

[(b) SENIOR EXECUTIVE SERVICE ANNUAL LEAVE ENHANCEMENTS.—

[(1) IN GENERAL.—Section 6303(a) of title 5, United States Code, is amended—

[(A) in paragraph (2), by striking ''and'' at the end;

[(B) in paragraph (3), by striking the period at the end and inserting ''; and''; and

[(C) by adding after paragraph (3) the following:

[''(4) one day for each full biweekly pay period for an employee in a position paid under section 5376 or 5383, or for an employee in an equivalent category for which the minimum rate of basic pay is greater than the rate payable at GS–15, step 10.''.

[(2) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Office of Personnel Management shall prescribe regulations to carry out the amendments made by this subsection.

[(3) EFFECTIVE DATES.—

[(A) IN GENERAL.—Paragraph (1) shall take effect 120 days after the date of enactment of this Act.

[(B) REGULATIONS.—Paragraph (2) shall take effect on the date of enactment of this Act.]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Federal Workforce Flexibility Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

Sec. 101. Recruitment, relocation, and retention bonuses.

Sec. 102. Streamlined critical pay authority.

Sec. 103. Civil service retirement system computation for part-time service.
Sec. 104. Retirement service credit for cadet or midshipman service.
Sec. 105. Senior Executive Service authority for White House Office of Administration.
TITLE II—REFORMS RELATING TO FEDERAL EMPLOYEE CAREER DEVELOPMENT AND BENEFITS
Sec. 201. Agency training.
Sec. 202. Annual leave enhancements.
Sec. 203. Compensatory time off for travel.

TITLE I—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

SEC. 101. RECRUITMENT, RELOCATION, AND RETENTION BONUSES.

(a) BONUSES.—

(1) IN GENERAL.—Chapter 57 of title 5, United States Code, is amended by inserting after section 5754 the following:

"§ 5754a. Recruitment and relocation bonuses

''(a) In this section, the term 'employee' has the meaning given that term under section 2105, except that such term also includes an employee described under subsection (c) of that section.

''(b)(1) The Office of Personnel Management may authorize the head of an agency to pay a bonus to an individual appointed or moved to a position that is likely to be difficult to fill in the absence of such a bonus, if the individual—

''(A)(i) is newly appointed as an employee of the Federal Government; or

''(ii) is currently employed by the Federal Government and moves to a new position in the same geographic area under circumstances described in regulations of the Office; or

''(B) is currently employed by the Federal Government and must relocate to accept a position stationed in a different geographic area.

''(2) Except as provided by subsection (h), a bonus may be paid under this section only to an employee covered by the General Schedule pay system established under subchapter III of chapter 53.

''(c)(1) Payment of a bonus under this section shall be contingent upon the employee entering into a written service agreement to complete a period of employment with the agency, not to exceed 4 years. The Office may, by regulation, prescribe a minimum service.

''(2)(A) The agreement shall include—

''(i) the length of the required service period;

''(ii) the amount of the bonus;

''(iii) the method of payment; and

''(iv) other terms and conditions under which the bonus is payable, subject to subsections (d) and (e) and regulations of the Office.

''(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—

''(i) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

''(ii) the effect of the termination.

''(3) The agreement shall be made effective upon employment with the agency or movement to a new position or geographic area, as applicable, except that a service agreement with respect to a recruitment bonus may be made effective at a later date under circumstances described in regulations of the Office, such as when there is an initial period of formal basic training.

''(d)(1) Except as provided in subsection (e), a bonus under this section shall not exceed 25 percent of the annual rate of basic pay of the employee at the beginning of the service period multiplied by the number of years (or fractions thereof) in the service period, not to exceed 4 years.

''(2) A bonus under this section may be paid as an initial lump sum, in installments, as a final lump sum upon the completion of the full service period, or in a combination of these forms of payment.

''(3) A bonus under this section is not part of the basic pay of an employee for any purpose.

''(4) Under regulations of the Office, a recruitment bonus under this section may be paid to an eligible individual before that individual enters on duty.

''(e) The Office may authorize the head of an agency to waive the limitation under subsection (d)(1) based on a critical agency need, subject to regulations prescribed by the Office. Under such a waiver, the amount of the bonus may be up to 50 percent of the employee's annual rate of basic pay at the beginning of the service period multiplied by the number of years (or fractions thereof) in the service period, not to exceed 100 percent of the employee's annual rate of basic pay at the beginning of the service period.

''(f) The Office shall require that, before paying a bonus under this section, an agency shall establish a plan for paying recruitment bonuses and a plan for paying relocation bonuses, subject to regulations prescribed by the Office.

''(g) The Office may prescribe regulations to carry out this section, including regulations relating to the repayment of a recruitment or relocation bonus in appropriate circumstances when the agreed-upon service period has not been completed.

''(h)(1) At the request of the head of an Executive agency, the Office may extend coverage under this section to categories of employees within the agency who otherwise would not be covered by this section.

''(2) A bonus may not be paid under this section to an individual who is appointed to, or who holds—

''(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

''(B) a position in the Senior Executive Service as a noncareer appointee (as such term is defined under section 3132(a)); or

''(C) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

''(i)(1) The Office of Personnel Management shall submit an annual report on bonuses paid under this section to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

''(2) Each report submitted under this subsection shall include the use by each agency of recruitment and relocation bonuses, including, with respect to each agency and each type of bonus, the number and amount of bonuses by grade (including the General Schedule, the Senior Executive Service, and positions on the Executive Schedule).

''(j)(1) An individual may not be paid a recruitment bonus under this section and a recruitment bonus under section 5753.

''(2) An individual may not be paid a relocation bonus under this section and a relocation bonus under section 5753.

"§ 5754b. Retention bonuses

''(a) In this section, the term 'employee' has the meaning given that term under section 2105, except that such term also includes an employee described in subsection (c) of that section.

''(b) The Office of Personnel Management may authorize the head of an agency to pay a retention bonus to an employee, subject to regulations prescribed by the Office, if—

''(1) the unusually high or unique qualifications of the employee or a special need of the agency for the employee's services makes it essential to retain the employee; and

''(2) the agency determines that, in the absence of a retention bonus, the employee would be likely to leave—

''(A) the Federal service; or

''(B) for a different position in the Federal service under conditions described in regulations of the Office.

''(c) The Office may authorize the head of an agency to pay retention bonuses to a group of employees in 1 or more categories of positions in 1 or more geographic areas, subject to the requirements of subsection (b)(1) and regulations prescribed by the Office, if there is a high risk that a significant portion of employees in the group would be likely to leave in the absence of retention bonuses.

''(d) Except as provided in subsection (j), a bonus may be paid only to an employee covered by the General Schedule pay system established under subchapter III of chapter 53.

''(e)(1) Payment of a retention bonus is contingent upon the employee entering into a written service agreement with the agency to complete a period of employment with the agency.

''(2)(A) The agreement shall include—

''(i) the length of the required service period;

''(ii) the amount of the bonus;

''(iii) the method of payment; and

''(iv) other terms and conditions under which the bonus is payable, subject to subsections (f) and (g) and regulations of the Office.

''(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—

''(i) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

''(ii) the effect of the termination.

''(3)(A) Notwithstanding paragraph (1), a written service agreement is not required if the agency pays a retention bonus in biweekly installments and sets the installment payment at the full bonus percentage rate established for the employee with no portion of the bonus deferred.

''(B) If an agency pays a retention bonus in accordance with subparagraph (A) and makes a determination to terminate the payments, the agency shall provide written notice to the employee of that determination. Except as provided in regulations of the Office, the employee shall continue to be paid the retention bonus through the end of the pay period in which such written notice is provided.

''(4) A retention bonus for an employee may not be based on any period of such service which is the basis for a recruitment or relocation bonus under section 5753 or 5754a.

''(f)(1) Except as provided in subsection (g), a retention bonus, which shall be stated as a percentage of the employee's basic pay for the service period associated with the bonus, may not exceed—

''(A) 25 percent of the employee's basic pay if paid under subsection (b); or

''(B) 10 percent of an employee's basic pay if paid under subsection (c).

''(2) A retention bonus may be paid to an employee in installments after completion of specified periods of service or in a single lump sum at the end of the full period of service required by the agreement. An installment payment may not exceed the product derived from multiplying the amount of basic pay earned in the installment period by a percentage not to exceed the bonus percentage rate established for the employee. If the installment payment percentage is less than the bonus percentage rate, the accrued but unpaid portion of the bonus is payable as part of the final installment payment to the employee after completion of the full service period under the terms of the service agreement.

''(3) A retention bonus is not part of the basic pay of an employee for any purpose.

''(g) Upon the request of the head of an agency, the Office may waive the limit established under subsection (f)(1) and permit the agency head to pay an otherwise eligible employee or category of employees retention bonuses of up to 50 percent of basic pay, based on a critical agency need.

''(h) The Office shall require that, before paying a bonus under this section, an agency shall establish a plan for paying retention bonuses, subject to regulations prescribed by the Office.

''(i) The Office may prescribe regulations to carry out this section.

''(j)(1) At the request of the head of an Executive agency, the Office may extend coverage under this section to categories of employees within the agency who otherwise would not be covered by this section.

''(2) A bonus may not be paid under this section to an employee who holds—

''(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

''(B) a position in the Senior Executive Service as a noncareer appointee (as such term is defined under section 3132(a)); or

''(C) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

''(k)(1) The Office of Personnel Management shall submit an annual report on bonuses paid under this section to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

''(2) Each report submitted under this subsection shall include the use by each agency of retention bonuses, including, with respect to each agency, the number and amount of bonuses by grade (including the General Schedule, the Senior Executive Service, and positions on the Executive Schedule).

''(l) An employee may not be paid a retention bonus under this section and a retention allowance under section 5754.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5754 the following:

''5754a. Recruitment and relocation bonuses.
''5754b. Retention bonuses.''.

(b) EFFECTIVE DATE AND APPLICATION.—This section shall take effect on the first day of the first applicable pay period beginning on or after 180 days after the date of enactment of this Act.

SEC. 102. STREAMLINED CRITICAL PAY AUTHORITY.

Section 5377 of title 5, United States Code, is amended—

(1) by striking subsection (c) and inserting the following:

''(c) The Office of Personnel Management, in consultation with the Office of Management and Budget, may, upon the request of the head of an agency, grant authority to fix the rate of basic pay for 1 or more positions in such agency in accordance with this section.'';

(2) in subsection (e)(1), by striking ''Office of Management and Budget'' and inserting ''Office of Personnel Management'';

(3) by striking subsections (f) and (g) and inserting the following:

''(f) The Office of Personnel Management may not authorize the exercise of authority under this section with respect to more than 800 positions at any 1 time, of which not more than 30 may, at any such time, be positions the rate of basic pay for which would otherwise be determined under subchapter II.

''(g) The Office of Personnel Management shall consult with the Office of Management and Budget before making any decision to grant or terminate any authority under this section.''; and

(4) in subsection (h), by striking ''The Office of Management and Budget shall report to the Committee on Post Office and Civil Service'' and inserting ''The Office of Personnel Management shall report to the Committee on Government Reform.''.

SEC. 103. CIVIL SERVICE RETIREMENT SYSTEM COMPUTATION FOR PART-TIME SERVICE.

Section 8339(p) of title 5, United States Code, is amended by adding at the end the following:

''(3) In the administration of paragraph (1)—

''(A) subparagraph (A) of such paragraph shall apply to any service performed before, on, or after April 7, 1986;

''(B) subparagraph (B) of such paragraph shall apply to all service performed on a part-time or full-time basis on or after April 7, 1986; and

''(C) any service performed on a part-time basis before April 7, 1986, shall be credited as service performed on a full-time basis.''.

SEC. 104. RETIREMENT SERVICE CREDIT FOR CADET OR MIDSHIPMAN SERVICE.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8331(13) of title 5, United States Code, is amended by striking ''but'' and inserting ''and includes service as a cadet at the United States Military Academy, the United States Air Force Academy, or the United States Coast Guard Academy, or as a midshipman at the United States Naval Academy, but''.

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8401(31) of title 5, United States Code, is amended by striking ''but'' and inserting ''and includes service as a cadet at the United States Military Academy, the United States Air Force Academy, or the United States Coast Guard Academy, or as a midshipman at the United States Naval Academy, but''.

(c) EFFECTIVE DATE AND APPLICATION.—The amendments made by this section shall apply to—

(1) any annuity, eligibility for which is based upon a separation occurring before, on, or after the date of enactment of this Act; and

(2) any period of service as a cadet or midshipman at the military service academy of the Army, Air Force, Coast Guard, or Navy, occurring before, on, or after the date of enactment of this Act.

SEC. 105. SENIOR EXECUTIVE SERVICE AUTHORITY FOR WHITE HOUSE OFFICE OF ADMINISTRATION.

Chapter 2 of title 3, United States Code, is amended—

(1) in section 107(b)—

(A) in paragraph (2), by striking ''section 3101'' and inserting ''sections 3101 and 3132''; and

(B) by adding at the end the following:

''(3) Any permanent Senior Executive Service position established under paragraph (2) shall be a career reserved position.'';

(2) in section 114—

(A) by redesignating that section as subsection (a);

(B) by amending that subsection, as so redesignated, by striking ''minimum rate of basic pay then currently paid for GS–16'' and inserting ''maximum rate of basic pay then currently paid for GS–15''; and

(C) by adding at the end the following:

''(b) The limitation established in subsection (a) shall not apply to an individual appointed under the authority in section 107(b)(2), in accordance with section 3132 of title 5.''.

TITLE II—REFORMS RELATING TO FEDERAL EMPLOYEE CAREER DEVELOPMENT AND BENEFITS

SEC. 201. AGENCY TRAINING.

(a) TRAINING TO ACCOMPLISH PERFORMANCE PLANS AND STRATEGIC GOALS.—Section 4103 of title 5, United States Code, is amended by adding at the end the following:

''(c) The head of each agency shall—

''(1) evaluate each program or plan established, operated, or maintained under subsection (a) with respect to accomplishing specific performance plans and strategic goals in performing the agency mission; and

''(2) modify such program or plan to accomplish such plans and goals.''.

(b) AGENCY TRAINING OFFICER; SPECIFIC TRAINING PROGRAMS.—

(1) IN GENERAL.—Chapter 41 of title 5, United States Code, is amended by adding after section 4119 the following:

''§ 4120. Agency training officer

''Each agency shall appoint or designate a training officer who shall be responsible for developing, coordinating, and administering training for the agency.

''§ 4121. Specific training programs

''In consultation with the Office of Personnel Management, each head of an agency shall establish—

''(1) a comprehensive management succession program to provide training to employees to develop managers for the agency; and

''(2) a program to provide training to managers on actions, options, and strategies a manager may use in—

''(A) relating to employees with unacceptable performances; and

''(B) mentoring employees and improving employee performance and productivity.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 41 of title 5, United States Code, is amended by adding at the end the following:

''4120. Agency training officer.
''4121. Specific training programs.''.

SEC. 202. ANNUAL LEAVE ENHANCEMENTS.

(a) ACCRUAL OF LEAVE FOR NEWLY HIRED FEDERAL EMPLOYEES WITH QUALIFIED EXPERIENCE.—

(1) IN GENERAL.—Section 6303 of title 5, United States Code, is amended by adding at the end the following:

''(e)(1) In this subsection, the term 'period of qualified non-Federal career experience' means any equal period of service performed by an individual that—

''(A) except for this subsection would not otherwise be service performed by an employee for purposes of subsection (a); and

''(B) was performed in a position—

''(i) the duties of which were directly related to the duties of the position in an agency that such individual holds; and

''(ii) which meets such other conditions as the Office of Personnel Management shall prescribe by regulation.

''(2) For purposes of subsection (a), the head of an agency may deem a period of qualified non-Federal career experience performed by an individual to be a period of service performed as an employee.''.

(2) EFFECTIVE DATE.—This section shall take effect 120 days after the date of enactment of this Act and shall only apply to an individual hired on or after that effective date.

(b) SENIOR EXECUTIVE SERVICE ANNUAL LEAVE ENHANCEMENTS.—

(1) IN GENERAL.—Section 6303(a) of title 5, United States Code, is amended—

(A) in paragraph (2), by striking ''and'' at the end;

(B) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(C) by adding after paragraph (3) the following:

''(4) one day for each full biweekly pay period for an employee in a position paid under section 5376 or 5383, or for an employee in an equivalent category for which the minimum rate of basic pay is greater than the rate payable at GS–15, step 10.''.

(2) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Office of Personnel Management shall prescribe regulations to carry out the amendments made by this subsection.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Paragraph (1) shall take effect 120 days after the date of enactment of this Act.

(B) REGULATIONS.—Paragraph (2) shall take effect on the date of enactment of this Act.

SEC. 203. COMPENSATORY TIME OFF FOR TRAVEL.

(a) IN GENERAL.—Subchapter V of chapter 55 of title 5, United States Code, is amended by adding at end the following:

''§ 5550b. Compensatory time off for travel

''(a) Notwithstanding section 5542(b)(2), each hour spent by an employee in travel status

away from the official duty station of the employee, that is not otherwise compensable, shall be treated as an hour of work or employment for purposes of calculating compensatory time off.

''(b) An employee who has any hours treated as hours of work or employment for purposes of calculating compensatory time under subsection (a), shall not be entitled to payment for any such hours that are unused as compensatory time.

''(c) Not later than 30 days after the date of enactment of this section, the Office of Personnel Management shall prescribe regulations to implement this section.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5550a the following:

''5550b. Compensatory time off for travel.''.

Mr. FRIST. Mr. President, I ask unanimous consent that the amendment at the desk be agreed to, the committee substitute, as amended, be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 3045) was agreed to, as follows:

AMENDMENT NO. 3045

(Purpose: To make a technical correction)

On page 48, line 19, insert ''in the first sentence,'' after ''paragraph (2),''.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 129), as amended, was read the third time and passed, as follows:

S. 129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Federal Workforce Flexibility Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

Sec. 101. Recruitment, relocation, and retention bonuses.

Sec. 102. Streamlined critical pay authority.

Sec. 103. Civil service retirement system computation for part-time service.

Sec. 104. Retirement service credit for cadet or midshipman service.

Sec. 105. Senior Executive Service authority for White House Office of Administration.

TITLE II—REFORMS RELATING TO FEDERAL EMPLOYEE CAREER DEVELOPMENT AND BENEFITS

Sec. 201. Agency training.

Sec. 202. Annual leave enhancements.

Sec. 203. Compensatory time off for travel.

TITLE I—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

SEC. 101. RECRUITMENT, RELOCATION, AND RETENTION BONUSES.

(a) BONUSES.—

(1) IN GENERAL.—Chapter 57 of title 5, United States Code, is amended by inserting after section 5754 the following:

''§ 5754a. Recruitment and relocation bonuses

''(a) In this section, the term 'employee' has the meaning given that term under section 2105, except that such term also includes an employee described under subsection (c) of that section.

''(b)(1) The Office of Personnel Management may authorize the head of an agency to pay a bonus to an individual appointed or moved to a position that is likely to be difficult to fill in the absence of such a bonus, if the individual—

''(A)(i) is newly appointed as an employee of the Federal Government; or

''(ii) is currently employed by the Federal Government and moves to a new position in the same geographic area under circumstances described in regulations of the Office; or

''(B) is currently employed by the Federal Government and must relocate to accept a position stationed in a different geographic area.

''(2) Except as provided by subsection (h), a bonus may be paid under this section only to an employee covered by the General Schedule pay system established under subchapter III of chapter 53.

''(c)(1) Payment of a bonus under this section shall be contingent upon the employee entering into a written service agreement to complete a period of employment with the agency, not to exceed 4 years. The Office may, by regulation, prescribe a minimum service.

''(2)(A) The agreement shall include—

''(i) the length of the required service period;

''(ii) the amount of the bonus;

''(iii) the method of payment; and

''(iv) other terms and conditions under which the bonus is payable, subject to subsections (d) and (e) and regulations of the Office.

''(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—

''(i) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

''(ii) the effect of the termination.

''(3) The agreement shall be made effective upon employment with the agency or movement to a new position or geographic area, as applicable, except that a service agreement with respect to a recruitment bonus may be made effective at a later date under circumstances described in regulations of the Office, such as when there is an initial period of formal basic training.

''(d)(1) Except as provided in subsection (e), a bonus under this section shall not exceed 25 percent of the annual rate of basic pay of the employee at the beginning of the service period multiplied by the number of years (or fractions thereof) in the service period, not to exceed 4 years.

''(2) A bonus under this section may be paid as an initial lump sum, in installments, as a final lump sum upon the completion of the full service period, or in a combination of these forms of payment.

''(3) A bonus under this section is not part of the basic pay of an employee for any purpose.

''(4) Under regulations of the Office, a recruitment bonus under this section may be paid to an eligible individual before that individual enters on duty.

''(e) The Office may authorize the head of an agency to waive the limitation under subsection (d)(1) based on a critical agency need, subject to regulations prescribed by the Office. Under such a waiver, the amount of the bonus may be up to 50 percent of the employee's annual rate of basic pay at the beginning of the service period multiplied by the number of years (or fractions thereof) in the service period, not to exceed 100 percent of the employee's annual rate of basic pay at the beginning of the service period.

''(f) The Office shall require that, before paying a bonus under this section, an agency shall establish a plan for paying recruitment bonuses and a plan for paying relocation bonuses, subject to regulations prescribed by the Office.

''(g) The Office may prescribe regulations to carry out this section, including regulations relating to the repayment of a recruitment or relocation bonus in appropriate circumstances when the agreed-upon service period has not been completed.

''(h)(1) At the request of the head of an Executive agency, the Office may extend coverage under this section to categories of employees within the agency who otherwise would not be covered by this section.

''(2) A bonus may not be paid under this section to an individual who is appointed to, or who holds—

''(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

''(B) a position in the Senior Executive Service as a noncareer appointee (as such term is defined under section 3132(a)); or

''(C) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

''(i)(1) The Office of Personnel Management shall submit an annual report on bonuses paid under this section to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

''(2) Each report submitted under this subsection shall include the use by each agency of recruitment and relocation bonuses, including, with respect to each agency and each type of bonus, the number and amount of bonuses by grade (including the General Schedule, the Senior Executive Service, and positions on the Executive Schedule).

''(j)(1) An individual may not be paid a recruitment bonus under this section and a recruitment bonus under section 5753.

''(2) An individual may not be paid a relocation bonus under this section and a relocation bonus under section 5753.

''§ 5754b. Retention bonuses

''(a) In this section, the term 'employee' has the meaning given that term under section 2105, except that such term also includes an employee described in subsection (c) of that section.

''(b) The Office of Personnel Management may authorize the head of an agency to pay a retention bonus to an employee, subject to regulations prescribed by the Office, if—

''(1) the unusually high or unique qualifications of the employee or a special need of the agency for the employee's services makes it essential to retain the employee; and

''(2) the agency determines that, in the absence of a retention bonus, the employee would be likely to leave—

''(A) the Federal service; or

''(B) for a different position in the Federal service under conditions described in regulations of the Office.

''(c) The Office may authorize the head of an agency to pay retention bonuses to a group of employees in 1 or more categories of positions in 1 or more geographic areas, subject to the requirements of subsection (b)(1) and regulations prescribed by the Office, if there is a high risk that a significant portion of employees in the group would be likely to leave in the absence of retention bonuses.

''(d) Except as provided in subsection (j), a bonus may be paid only to an employee covered by the General Schedule pay system established under subchapter III of chapter 53.

''(e)(1) Payment of a retention bonus is contingent upon the employee entering into a written service agreement with the agency

to complete a period of employment with the agency.

''(2)(A) The agreement shall include—

''(i) the length of the required service period;

''(ii) the amount of the bonus;

''(iii) the method of payment; and

''(iv) other terms and conditions under which the bonus is payable, subject to subsections (f) and (g) and regulations of the Office.

''(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—

''(i) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

''(ii) the effect of the termination.

''(3)(A) Notwithstanding paragraph (1), a written service agreement is not required if the agency pays a retention bonus in biweekly installments and sets the installment payment at the full bonus percentage rate established for the employee with no portion of the bonus deferred.

''(B) If an agency pays a retention bonus in accordance with subparagraph (A) and makes a determination to terminate the payments, the agency shall provide written notice to the employee of that determination. Except as provided in regulations of the Office, the employee shall continue to be paid the retention bonus through the end of the pay period in which such written notice is provided.

''(4) A retention bonus for an employee may not be based on any period of such service which is the basis for a recruitment or relocation bonus under section 5753 or 5754a.

''(f)(1) Except as provided in subsection (g), a retention bonus, which shall be stated as a percentage of the employee's basic pay for the service period associated with the bonus, may not exceed—

''(A) 25 percent of the employee's basic pay if paid under subsection (b); or

''(B) 10 percent of an employee's basic pay if paid under subsection (c).

''(2) A retention bonus may be paid to an employee in installments after completion of specified periods of service or in a single lump sum at the end of the full period of service required by the agreement. An installment payment may not exceed the product derived from multiplying the amount of basic pay earned in the installment period by a percentage not to exceed the bonus percentage rate established for the employee. If the installment payment percentage is less than the bonus percentage rate, the accrued but unpaid portion of the bonus is payable as part of the final installment payment to the employee after completion of the full service period under the terms of the service agreement.

''(3) A retention bonus is not part of the basic pay of an employee for any purpose.

''(g) Upon the request of the head of an agency, the Office may waive the limit established under subsection (f)(1) and permit the agency head to pay an otherwise eligible employee or category of employees retention bonuses of up to 50 percent of basic pay, based on a critical agency need.

''(h) The Office shall require that, before paying a bonus under this section, an agency shall establish a plan for paying retention bonuses, subject to regulations prescribed by the Office.

''(i) The Office may prescribe regulations to carry out this section.

''(j)(1) At the request of the head of an Executive agency, the Office may extend coverage under this section to categories of employees within the agency who otherwise would not be covered by this section.

''(2) A bonus may not be paid under this section to an employee who holds—

''(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

''(B) a position in the Senior Executive Service as a noncareer appointee (as such term is defined under section 3132(a)); or

''(C) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

''(k)(1) The Office of Personnel Management shall submit an annual report on bonuses paid under this section to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

''(2) Each report submitted under this subsection shall include the use by each agency of retention bonuses, including, with respect to each agency, the number and amount of bonuses by grade (including the General Schedule, the Senior Executive Service, and positions on the Executive Schedule).

''(l) An employee may not be paid a retention bonus under this section and a retention allowance under section 5754.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5754 the following:

''5754a. Recruitment and relocation bonuses.
''5754b. Retention bonuses.''.

(b) EFFECTIVE DATE AND APPLICATION.—This section shall take effect on the first day of the first applicable pay period beginning on or after 180 days after the date of enactment of this Act.

SEC. 102. STREAMLINED CRITICAL PAY AUTHORITY.

Section 5377 of title 5, United States Code, is amended—

(1) by striking subsection (c) and inserting the following:

''(c) The Office of Personnel Management, in consultation with the Office of Management and Budget, may, upon the request of the head of an agency, grant authority to fix the rate of basic pay for 1 or more positions in such agency in accordance with this section.'';

(2) in subsection (e)(1), by striking ''Office of Management and Budget'' and inserting ''Office of Personnel Management'';

(3) by striking subsections (f) and (g) and inserting the following:

''(f) The Office of Personnel Management may not authorize the exercise of authority under this section with respect to more than 800 positions at any 1 time, of which not more than 30 may, at any such time, be positions the rate of basic pay for which would otherwise be determined under subchapter II.

''(g) The Office of Personnel Management shall consult with the Office of Management and Budget before making any decision to grant or terminate any authority under this section.''; and

(4) in subsection (h), by striking ''The Office of Management and Budget shall report to the Committee on Post Office and Civil Service'' and inserting ''The Office of Personnel Management shall report to the Committee on Government Reform.''.

SEC. 103. CIVIL SERVICE RETIREMENT SYSTEM COMPUTATION FOR PART-TIME SERVICE.

Section 8339(p) of title 5, United States Code, is amended by adding at the end the following:

''(3) In the administration of paragraph (1)—

''(A) subparagraph (A) of such paragraph shall apply to any service performed before, on, or after April 7, 1986;

''(B) subparagraph (B) of such paragraph shall apply to all service performed on a part-time or full-time basis on or after April 7, 1986; and

''(C) any service performed on a part-time basis before April 7, 1986, shall be credited as service performed on a full-time basis.''.

SEC. 104. RETIREMENT SERVICE CREDIT FOR CADET OR MIDSHIPMAN SERVICE.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8331(13) of title 5, United States Code, is amended by striking ''but'' and inserting ''and includes service as a cadet at the United States Military Academy, the United States Air Force Academy, or the United States Coast Guard Academy, or as a midshipman at the United States Naval Academy, but''.

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8401(31) of title 5, United States Code, is amended by striking ''but'' and inserting ''and includes service as a cadet at the United States Military Academy, the United States Air Force Academy, or the United States Coast Guard Academy, or as a midshipman at the United States Naval Academy, but''.

(c) EFFECTIVE DATE AND APPLICATION.—The amendments made by this section shall apply to—

(1) any annuity, eligibility for which is based upon a separation occurring before, on, or after the date of enactment of this Act; and

(2) any period of service as a cadet or midshipman at the military service academy of the Army, Air Force, Coast Guard, or Navy, occurring before, on, or after the date of enactment of this Act.

SEC. 105. SENIOR EXECUTIVE SERVICE AUTHORITY FOR WHITE HOUSE OFFICE OF ADMINISTRATION.

Chapter 2 of title 3, United States Code, is amended—

(1) in section 107(b)—

(A) in paragraph (2), in the first sentence, by striking ''section 3101'' and inserting ''sections 3101 and 3132''; and

(B) by adding at the end the following:

''(3) Any permanent Senior Executive Service position established under paragraph (2) shall be a career reserved position.'';

(2) in section 114—

(A) by redesignating that section as subsection (a);

(B) by amending that subsection, as so redesignated, by striking ''minimum rate of basic pay then currently paid for GS–16'' and inserting ''maximum rate of basic pay then currently paid for GS–15''; and

(C) by adding at the end the following:

''(b) The limitation established in subsection (a) shall not apply to an individual appointed under the authority in section 107(b)(2), in accordance with section 3132 of title 5.''.

TITLE II—REFORMS RELATING TO FEDERAL EMPLOYEE CAREER DEVELOPMENT AND BENEFITS

SEC. 201. AGENCY TRAINING.

(a) TRAINING TO ACCOMPLISH PERFORMANCE PLANS AND STRATEGIC GOALS.—Section 4103 of title 5, United States Code, is amended by adding at the end the following:

''(c) The head of each agency shall—

''(1) evaluate each program or plan established, operated, or maintained under subsection (a) with respect to accomplishing specific performance plans and strategic goals in performing the agency mission; and

''(2) modify such program or plan to accomplish such plans and goals.''.

(b) AGENCY TRAINING OFFICER; SPECIFIC TRAINING PROGRAMS.—

(1) IN GENERAL.—Chapter 41 of title 5, United States Code, is amended by adding after section 4119 the following:

''§ 4120. Agency training officer

''Each agency shall appoint or designate a training officer who shall be responsible for developing, coordinating, and administering training for the agency.

"§ 4121. Specific training programs

"In consultation with the Office of Personnel Management, each head of an agency shall establish—

"(1) a comprehensive management succession program to provide training to employees to develop managers for the agency; and

"(2) a program to provide training to managers on actions, options, and strategies a manager may use in—

"(A) relating to employees with unacceptable performances; and

"(B) mentoring employees and improving employee performance and productivity.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 41 of title 5, United States Code, is amended by adding at the end the following:

"4120. Agency training officer.

"4121. Specific training programs.".

SEC. 202. ANNUAL LEAVE ENHANCEMENTS.

(a) ACCRUAL OF LEAVE FOR NEWLY HIRED FEDERAL EMPLOYEES WITH QUALIFIED EXPERIENCE.—

(1) IN GENERAL.—Section 6303 of title 5, United States Code, is amended by adding at the end the following:

"(e)(1) In this subsection, the term 'period of qualified non-Federal career experience' means any equal period of service performed by an individual that—

"(A) except for this subsection would not otherwise be service performed by an employee for purposes of subsection (a); and

"(B) was performed in a position—

"(i) the duties of which were directly related to the duties of the position in an agency that such individual holds; and

"(ii) which meets such other conditions as the Office of Personnel Management shall prescribe by regulation.

"(2) For purposes of subsection (a), the head of an agency may deem a period of qualified non-Federal career experience performed by an individual to be a period of service performed as an employee.".

(2) EFFECTIVE DATE.—This section shall take effect 120 days after the date of enactment of this Act and shall only apply to an individual hired on or after that effective date.

(b) SENIOR EXECUTIVE SERVICE ANNUAL LEAVE ENHANCEMENTS.—

(1) IN GENERAL.—Section 6303(a) of title 5, United States Code, is amended—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3), by striking the period at the end and inserting "; and"; and

(C) by adding after paragraph (3) the following:

"(4) one day for each full biweekly pay period for an employee in a position paid under section 5376 or 5383, or for an employee in an equivalent category for which the minimum rate of basic pay is greater than the rate payable at GS–15, step 10.".

(2) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Office of Personnel Management shall prescribe regulations to carry out the amendments made by this subsection.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Paragraph (1) shall take effect 120 days after the date of enactment of this Act.

(B) REGULATIONS.—Paragraph (2) shall take effect on the date of enactment of this Act.

SEC. 203. COMPENSATORY TIME OFF FOR TRAVEL.

(a) IN GENERAL.—Subchapter V of chapter 55 of title 5, United States Code, is amended by adding at end the following:

"§ 5550b. Compensatory time off for travel

"(a) Notwithstanding section 5542(b)(2), each hour spent by an employee in travel status away from the official duty station of the employee, that is not otherwise compensable, shall be treated as an hour of work or employment for purposes of calculating compensatory time off.

"(b) An employee who has any hours treated as hours of work or employment for purposes of calculating compensatory time under subsection (a), shall not be entitled to payment for any such hours that are unused as compensatory time.

"(c) Not later than 30 days after the date of enactment of this section, the Office of Personnel Management shall prescribe regulations to implement this section.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5550a the following:

"5550b. Compensatory time off for travel.".

CONDEMNING ETHNIC VIOLENCE IN KOSOVO

Mr. FRIST. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of S. Res. 326, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 326) condemning ethnic violence in Kosovo.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 326) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 326

Whereas ethnic violence erupted in Kosovo on March 17, 2004, claiming the lives of 20 individuals, including 8 Kosovo Serbs, 8 Kosovo Albanians, and 4 unidentified victims, injuring more than 600 others, and displacing more than 4,000 Kosovo Serbs and other minorities;

Whereas the violence also resulted in the destruction of more than 500 homes belonging to Kosovo Serbs, Ashkali, and other minorities, and in the destruction of, or damage to, more than 30 churches and monasteries belonging to the Serbian Orthodox Church;

Whereas historic mosques in Belgrade and Nis, and an Islamic center in Novi Sad, were also destroyed or damaged;

Whereas in response to the violence, Commander in Chief of the North Atlantic Treaty Organization (NATO) Allied Forces South, Admiral Gregory Johnson, concluded, "This kind of activity, which essentially amounts to ethnic cleansing, cannot go on.";

Whereas Supreme Allied Commander, Europe, General James Jones ordered the deployment of NATO's Strategic Reserve Force on March 19, 2004, to calm the violence and end the destruction;

Whereas Deputy Secretary of State Richard Armitage and Foreign Minister of Serbia and Montenegro Goran Svilanovic met in Washington on March 19, 2004, and called for an immediate end to the violence, concurring that no party in Kosovo can be allowed to profit or advance a political agenda through violent measures;

Whereas a stable, secure, and functioning multiethnic society is in the best interest of all people of Kosovo, the broader region of Southeast Europe, and the world;

Whereas it is essential that political leaders in Kosovo support efforts to establish an environment in which all people in Kosovo have freedom of movement and the ability to live free from fear;

Whereas the United States and members of the international community have called on the people of Kosovo to implement 8 standards outlined by the United Nations Interim Administration in Kosovo (UNMIK), which are to be met prior to the consideration of the question of final status for Kosovo, including: the existence of effective, representative, and functioning democratic institutions; enforcement of the rule of law; freedom of movement; sustainable returns of refugees and displaced persons, and respect for the rights of communities; creation of a sound basis for a market economy; fair enforcement of property rights; normalized dialogue with Belgrade; and transformation of the Kosovo Protection Corps (KPC) in line with its mandate; and

Whereas it is in the long-term interest of all people of Kosovo that the UNMIK standards are achieved in order to promote peace, stability, and economic development, and to ensure a better future for all people in Kosovo: Now, therefore, be it

Resolved, That the Senate—

(1) urges all people in Kosovo to immediately stop the violence, end the destruction of homes, churches, and other cultural and religious sites, and cooperate with North Atlantic Treaty Organization's Kosovo Force (KFOR), the United Nations Interim Administration in Kosovo (UNMIK), and the Kosovo Police in identifying for prosecution the perpetrators of violence and the destruction of property;

(2) expresses its deep condolences to the families of those who have been killed in the recent violence;

(3) strongly condemns the destruction of personal and religious property in Kosovo, including more than 500 homes belonging to Kosovo Serbs, Ashkali, and other minorities, and of 30 churches and monasteries belonging to the Serbian Orthodox Church, adding to the more than 100 churches that have been destroyed since June 1999;

(4) strongly condemns the destruction of historic mosques in the cities of Belgrade and Nis, and of an Islamic center in Novi Sad;

(5) recognizes the commitment made by the Kosovo Assembly to establish a fund for the reconstruction of property, including homes and churches, destroyed during the attacks;

(6) recognizes the commitment made by Serbian officials to provide funds for the reconstruction of mosques in Belgrade and Nis, and an Islamic center in Novi Sad;

(7) urges political leaders to fulfill their commitment to rebuild what has been destroyed and to take all possible action to allow the more than 4,000 Kosovo Serbs and other minorities displaced during the violence to return quickly and safely to their homes and communities;

(8) encourages all political leaders in Kosovo to renounce the use of violence, and to proceed with efforts to establish a secure, peaceful, multiethnic society, which protects the rights of all people in Kosovo, and to

take action to proceed with the implementation of the standards or ''benchmark goals'' outlined by UNMIK;

(9) strongly recommends that the United Nations review the structure and organization of UNMIK; and

(10) urges reinvigoration of dialogue between Belgrade and Pristina in an effort to move toward the establishment of a peaceful and secure environment guaranteeing freedom of movement and human rights for all people in Kosovo.

NATIONAL YOUTH SERVICE DAY

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 338, which was submitted earlier today by Senator MURKOWSKI.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 338) calling on the President to designate April 16, 2004, as National Youth Service Day, and for other purposes.

There being no objection, the Senate proceeded to consider the resolution.

Ms. MURKOWSKI. Mr. President, earlier today I submitted a Senate resolution that requests the President of the United States to designate April 16, 2004, as ''National Youth Service Day.'' I am proud to be submitting this Senate resolution for the second year. National Youth Service Day is the largest service event in the world with over 3 million participants. National Youth Service Day acknowledges the remarkable community service efforts of youth today, and encourages all people to recognize and support the significance of these contributions.

National Youth Service Day is a public awareness and education campaign that highlights the positive contributions that young people make to their communities throughout the year. On this day, youth from across the United States and the world will carry out community service projects in areas ranging from hunger to literacy to the environment. National Youth Service Day brings a diverse group of local, regional, and national partners together to support and promote youth service.

It is imperative to keep young people active and motivated and instilled with a sense of community responsibility. Volunteer work gives youth an outlet to gain this responsibility and to learn valuable skills that are essential to personal and academic achievement.

I thank my colleagues, Senators AKAKA, ALEXANDER, ALLEN, BAYH, BUNNING, CAMPBELL, CLINTON, COCHRAN, COLEMAN, COLLINS, CONRAD, DEWINE, DODD, DOMENICI, DURBIN, KERRY, LANDRIEU, MIKULSKI, MURRAY, SCHUMER, SNOWE, STABENOW, and STEVENS for cosponsoring this worthwhile legislation, which will ensure that youth across the country and the world know that all of their hard work is greatly appreciated.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

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

The resolution (S. Res. 338) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 338

Whereas National Youth Service Day is an annual public awareness and education campaign that highlights the amazing contributions that young people make to their communities throughout the year;

Whereas the goals of National Youth Service Day are to mobilize youths as leaders to identify and address the needs of their communities through service and service-learning, to support youth on a lifelong path of service and civic engagement, and to educate the public, the media, and policymakers about the year-round contributions of young people as community leaders;

Whereas young people in the United States are volunteering more than has any generation in American history;

Whereas the ongoing contributions young people make to their communities throughout the year should be recognized and encouraged;

Whereas young people should be viewed as the hope not only of tomorrow, but of today, and should be valued for the inherent idealism, energy, creativity, and commitment that they employ in addressing the needs of their communities;

Whereas there is a fundamental and absolute correlation between youth service and lifelong adult volunteering and philanthropy;

Whereas a sustained investment by the Federal Government and commitment by corporate partners fuels the positive, long-term cultural change that will make service and service-learning the common expectation and common experience of all youth;

Whereas, through volunteer service and related learning opportunities, young people build character and learn valuable skills, including time management, teamwork, needs-assessment, and leadership, that are sought by employers;

Whereas service-learning, an innovative teaching method combining service to the community with a classroom curriculum, is a proven strategy to increase academic achievement;

Whereas private foundations and corporations support youth service and service-learning because they believe that strong communities begin with strong schools and a community investment in the lives and futures of youth;

Whereas National Youth Service Day is a program of Youth Service America, and is being observed in 2004 for the 16th consecutive year;

Whereas Youth Service America continues to expand National Youth Service Day, now engaging millions of young people nationwide with 50 Lead Agencies in nearly every State to organize activities across the United States;

Whereas Youth Service America has expanded National Youth Service Day to involve over 90 national partners;

Whereas National Youth Service Day has inspired Global Youth Service Day, which occurs concurrently in 127 countries and is now in its fifth year; and

Whereas young people will benefit greatly from expanded opportunities to engage in meaningful volunteer service: Now, therefore, be it

Resolved,

SECTION 1. RECOGNITION AND ENCOURAGEMENT OF YOUTH COMMUNITY SERVICE.

The Senate recognizes and commends the significant contributions of American youth and encourages the cultivation of a common civic bond among young people dedicated to serving their neighbors, their communities, and the Nation.

SEC. 2. NATIONAL YOUTH SERVICE DAY.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the President should designate April 16, 2004, as ''National Youth Service Day''.

(b) PROCLAMATION.—The Senate requests that the President issue a proclamation—

(1) designating April 16, 2004, as ''National Youth Service Day''; and

(2) calling on the people of the United States to—

(A) observe the day by encouraging and engaging youth to participate in civic and community service projects;

(B) recognize the volunteer efforts of our Nation's young people throughout the year; and

(C) support these efforts as an investment in the future of our Nation.

AUTHORIZING THE MAJORITY LEADER TO SIGN ENROLLED BILLS AND RESOLUTIONS

Mr. FRIST. Mr. President, I ask unanimous consent that during the adjournment of the Senate, the majority leader be authorized to sign duly enrolled bills or joint resolutions.

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

AUTHORITY FOR COMMITTEES TO FILE

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding the Senate's adjournment on Thursday, April 15, committees be authorized to file legislative and executive matters from 10 a.m. to 12 noon.

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

AUTHORITY TO MAKE APPOINTMENTS

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding the upcoming recess or adjournment of the Senate, the President of the Senate, the President of the Senate pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

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

ORDERS FOR MONDAY, APRIL 19, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 1 p.m., Monday, April 19. I

further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate begin a period of morning business with Senators limited to speak for up to 10 minutes each.

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

PROGRAM

Mr. FRIST. Mr. President, on Monday, April 19, the Senate will be in a period of morning business. I have stated it is our intention at this juncture to proceed to the consideration of S. 2290, the asbestos bill. Although we don't have an agreement on proceeding to the bill, we will continue to have discussions with the Democratic leadership in an effort to move forward on this legislation.

A few moments ago we reached an agreement which limits amendments to the FSC/ETI bill or the JOBS legislation. I know the Democratic leader worked in good faith to limit amendments on his side, and he has witnessed firsthand that I have had my hands full throughout the day as well. The attempt was made to limit the number of amendments as much as we possibly could. I feel that is what we have done. But I am personally disappointed we can't get the list smaller, especially on amendments that are totally unrelated. The agreement we entered into is to define the universe of amendments, and I would expect and encourage the managers to continue to work to whittle down that list appropriately. I expect them to do so, and that was the nature of the discussion we had today.

All of us know the calendar is working against us and we absolutely must, with the sanctions having an impact today and increasing every month, find a way to get this bill done. I don't believe it should be necessary—I hope my colleagues agree—to consider four pages of amendments. Again, I encourage the managers to work with all of our colleagues to limit the number of amendments we ultimately consider.

As I previously announced, we will not be having rollcall votes on April 19. A number of colleagues will want to talk on the issues, including asbestos, and they will be able to do that on Monday.

Having said that, I wish all of our colleagues a safe and happy recess.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ADJOURNMENT UNTIL MONDAY, APRIL, 19, 2004, AT 1 P.M.

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the provisions of H. Con. Res. 404.

There being no objection, the Senate, at 6:52 p.m., adjourned until Monday, April 19, 2004, at 1 p.m.

NOMINATIONS

Executive nominations received by the senate April 8, 2004:

DEPARTMENT OF COMMERCE

BENJAMIN H. WU, OF MARYLAND, TO BE ASSISTANT SECRETARY OF COMMERCE FOR TECHNOLOGY POLICY, VICE BRUCE P. MEHLMAN, RESIGNED.

FEDERAL TRADE COMMISSION

JON D. LEIBOWITZ, OF MARYLAND, TO BE A FEDERAL TRADE COMMISSIONER FOR A TERM OF SEVEN YEARS FROM SEPTEMBER 26, 2003, VICE MOZELLE WILLMONT THOMPSON, TERM EXPIRED.

FEDERAL ENERGY REGULATORY COMMISSION

SUEDEEN G. KELLY, OF NEW MEXICO, TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION FOR THE TERM EXPIRING JUNE 30, 2009. (REAPPOINTMENT)

DEPARTMENT OF THE TREASURY

STUART LEVEY, OF MARYLAND, TO BE UNDER SECRETARY OF THE TREASURY FOR ENFORCEMENT, VICE JIMMY GURULE, RESIGNED.

SOCIAL SECURITY ADMINISTRATION

PATRICK P. O'CARROLL, JR., OF MARYLAND, TO BE INSPECTOR GENERAL, SOCIAL SECURITY ADMINISTRATION, VICE JAMES G. HUSE, JR., RETIRED.

DEPARTMENT OF STATE

JEFFREY D. FELTMAN, OF OHIO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF LEBANON.

PATRICIA M. HASLACH, OF OREGON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE LAO PEOPLE'S DEMOCRATIC REPUBLIC.

RICHARD LEBARON, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE STATE OF KUWAIT.

VICTOR HENDERSON ASHE, OF TENNESSEE, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF POLAND.

JAMES B. CUNNINGHAM, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE VIENNA OFFICE OF THE UNITED NATIONS, WITH THE RANK OF AMBASSADOR.

JAMES B. CUNNINGHAM, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE INTERNATIONAL ATOMIC ENERGY AGENCY, WITH THE RANK OF AMBASSADOR.

MERIT SYSTEMS PROTECTION BOARD

BARBARA J. SAPIN, OF MARYLAND, TO BE A MEMBER OF THE MERIT SYSTEMS PROTECTION BOARD FOR THE TERM OF SEVEN YEARS EXPIRING MARCH 1, 2007, VICE BENJAMIN LEADER ERDREICH, RESIGNED.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

ALLEN WEINSTEIN, OF MARYLAND, TO BE ARCHIVIST OF THE UNITED STATES, VICE JOHN W. CARLIN.

BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

RAQUEL EGUSQUIZA, OF MICHIGAN, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING OCTOBER 13, 2005, VICE LYNDA HARE SCRIBANTE, TERM EXPIRED.

JULIA L. WU, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING FEBRUARY 4, 2008, VICE JAMES ROGER ANGEL, TERM EXPIRED.

FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASS STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

ELIZA FERGUSON AL-LAHAM, OF MARYLAND
AMY E. ARCHIBALD, OF CALIFORNIA
JOSHUA C. ARCHIBALD, OF CALIFORNIA
STACY MARIE BARRIOS, OF LOUISIANA
KIMBERLY S. BARR, OF TEXAS
JOHN P. BARRY JR., OF NEW YORK
CHAD J. BERBERT, OF UTAH
RICHARD LEE BUANGAN, OF CALIFORNIA
AMY A. CARNIE, OF NEW HAMPSHIRE
DAVID L. CITRON, OF FLORIDA
JOHN DAVID COCKRELL, OF OHIO
THOMAS MCKINNEY COLEMAN, OF MISSISSIPPI
ROBERT A. COLLINS, OF TEXAS
CAROL ANNE COX, OF WASHINGTON
MICHAEL PATRICK CRAGUN, OF OREGON
JASON RICHARD CUBAS, OF FLORIDA
AIMEE CUTRONA, OF CALIFORNIA
CHARLES W. DAVIS JR., OF TEXAS
MARK DARYL ERICKSON, OF NEW HAMPSHIRE
AARON DAVID FISHMAN, OF THE DISTRICT OF COLUMBIA
JAMES H. FLOWERS, OF TEXAS
NINI JUN FORINO, OF NEW YORK
LYNNE B. GADKOWSKI, OF NORTH CAROLINA
GREGORY N. GARDNER, OF CALIFORNIA
GREGORY LAWRENCE GARLAND, OF FLORIDA
BRIAN JOSEPH GEORGE, OF MICHIGAN
ETHAN GLICK, OF MARYLAND
RICARDO N. GRAY, OF CALIFORNIA
SIMON R. HANKINSON, OF FLORIDA
LANCE KYLE HEGERLE, OF CALIFORNIA
JUSTIN HIGGINS, OF THE DISTRICT OF COLUMBIA
CHRISTOPHER W. HODGES, OF GEORGIA
ROBERT MORRIS HOLLISTER JR., OF TENNESSEE
CHING-HSIU SHERRY HONG, OF FLORIDA
AARON WAYNE JENSEN, OF OREGON
AMANDA CELESTE MORROW JENSEN, OF TEXAS
BRIAN D. JENSEN, OF CALIFORNIA
MICHELLE LYNNE JONES, OF OHIO
GABRIEL M. KAYPAGHIAN, OF CALIFORNIA
JONATHAN BENNETT KORACH, OF VIRGINIA
WILLIAM HENRY LAITINEN, OF THE DISTRICT OF COLUMBIA
DAVID MICHAEL LAMONTAGNE, OF NORTH CAROLINA
MICHAEL E. LATHAM, OF VIRGINIA
SARAH MICHELLE MATHAI, OF CONNECTICUT
KRISTOPHER WILLIAM MCCAHON, OF VIRGINIA
DANIEL F. MCCULLOUGH, OF VIRGINIA
JOHN ROSS MCGUIRE, OF VIRGINIA
GREGORY R. C. MORRISON, OF THE DISTRICT OF COLUMBIA
MARK EDWARD MOTLEY, OF NEW YORK
HERRO K. MUSTAFA, OF VIRGINIA
CONSTANTINOS C. NICOLAIDIS, OF WASHINGTON
HUGUES P. OGIER, OF HAWAII
MORGAN ANDREW PARKER, OF MISSOURI
LIZA PETRUSH, OF THE DISTRICT OF COLUMBIA
CHAHRAZED SIOUD, OF MARYLAND
MICHAEL J. SOLBERG, OF FLORIDA
MICHELLE A. SOLINSKY, OF VIRGINIA
DOUGLAS EUGENE SONNEK, OF CALIFORNIA
SHAYNA R. STEINGER, OF IOWA
TODD R. STONE, OF CALIFORNIA
BARBARA M. THOMAS, OF MINNESOTA
DU D. TRAN, OF THE DISTRICT OF COLUMBIA
VALDA MAIJA VIKMANIS, OF MINNESOTA
PAUL S. WATZLAVICK, OF TEXAS
JONATHAN K. WEBSTER, OF MARYLAND
JONATHAN CRAIG WEYER, OF NEW JERSEY
STEPHANIE A. WICKES, OF VIRGINIA
HENRY T. WOOSTER, OF VIRGINIA
HUGO YUE-HO YON, OF CALIFORNIA

PUBLIC HEALTH SERVICE

THE FOLLOWING CANDIDATES FOR PERSONNEL ACTION IN THE REGULAR COMPONENT OF THE PUBLIC HEALTH SERVICE SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW AND REGULATIONS:

To be medical director

TERENCE L. CHORBA
LAURA J. FEHRS
JAMES M. GALLOWAY
ALAN E. GREENBERG
EVAN C. HADLEY
THOMAS R. HALES
PETER M. HOUCK
MARGARET T. LEE
JOHN R. LIVENGOOD
NEIL J. MURPHY
BERNARD L. NAHLEN
PATRICK W. OCARROLL
LYLE R. PETERSEN
MARK H. SCHIFFMAN
JOSEPH E. SNIEZEK
KEVIN S. YESKEY

To be senior surgeon

MARY M. AGOCS
JAMES P. ALEXANDER JR.
M MILES BRAUN
MARTIN S. CETRON
THERESA DIAZ VARGAS
HAMID S. JAFARI
ERIC D. MINTZ
DIANE A. MITCHELL
CAROL A. PERTOWSKI
MICHAEL PRATT
LISA G. RIDER
STEVEN R. ROSENTHAL

JOHN C. WATSON

To be surgeon

THOMAS C. BONIN
MICHAEL A. FALLON
ANNA L. MILLER
MICHAEL G. WILCOX
LORI A. WILLINGHURST

To be dental director

ROBIN S. BERRIN
THOMAS B. BORNSTEIN
ROSEMARY E. DUFFY
ANDREA G. FEIGHT
CHARLES W. GRIM
KEVIN S. HARDWICK
SHAWNEEQUA M. HARRIS
ANGEL L. RODRIGUEZ-ESPADA
RICHARD B. TROYER

To be senior dental surgeon

DEAN J. COPPOLA
DAVID A. CRAIN
CLAY D. CROSSETT
CHRISTOPHER G. HALLIDAY
KATHY L. HAYES
LINDA A. JACKSON
MARK S. JACOBSON
THOMAS E. JORDAN
MICHAEL E. KORALE
TAD R. MABRY
RONALD J. NAGEL
REBECCA V. NESLUND
EDWARD E. NEUBAUER
MARY S. RUNNER
JAMES N. SUTHERLAND
JAMES H. TENNYSON
JEFFERY L. VIDRINE

To be dental surgeon

KIMBERLY A. LAFLEUR-NIGG
KIPPY G. MARTIN
PAUL S. WOOD

To be nurse director

DIANE P. HOLZEM
CHRISTOPHER J. JONES
MARY I. LAMBERT
KERRY P. NESSELER
LATRICIA C. ROBERTSON
SUSANNE R. ROHRER
VERONICA G. STEPHENS
MICHAEL L. VITCH

To be senior nurse officer

ROBIN E. ANDERSON
RUTH M. COLEMAN
REGENA DALE
FERN S. DETSOI
TERRI L. DODDS
THOMAS J. EDWARDS
MAUREEN Q. FARLEY
CLARICE GEE
SUSAN D. HILLIS
DAVID L. KERSCHNER
BARBARA W. KILBOURNE
ELLEN P. MADIGAN
SHERYL L. MEYERS
ERNESTINE MURRAY
BARBARA J. MYRICK
GLADYS V. PERKINS
JAMES M. POBRISLO
ANA M. PUENTE
CHRISTINE L. RUBADUE
GWETHLYN J. SABATINOS
KENNETH W. SIMPSON
TIMOTHY R. STOCKDALE
LAUREN C. TANCONA
DIANE R. WALSH
JANET L. WILDEBOOR

To be nurse officer

ERICA M. AVERY
PATRICK K. HOWE
LUCIENNE D. NELSON
SUSAN M. ORSEGA
SANDRA K. RODE
KEYSHA L. ROSS
JEANNE D. SHAFFER
JAMES M. SIMMERMAN
STEVEN M. WACHA

To be senior assistant nurse officer

BENJAMIN F. BROWN JR.
SERINA A. HUNTER-THOMAS
PATRICIA K. MITCHELL
CHANTAL N. MOUW
TODD A. RIDGE
WILLIAM RUIZ-COLON
TONIA L. SAWYER
THOMAS R. STANLEY
ROBBIE K. TAYLOR

To be engineer director

DENNIS A. BARBER
ROBERT W. FAALAND
RONALD C. FERGUSON
PAUL M. LAHR
RAO Y. SURAMPALLI

To be senior engineer officer

DAVID M. BIRNEY
DANIEL G. MCLAUGHLIN
PETER C. PIRILLO JR.
PHILIP E. RAPP
PAULA A. SIMENAUER

To be engineer officer

NATHAN D. GJOVIK
DALE M. MOSSEFIN
JACQUELINE M. PARKER
DENNIS J. WAGNER
MARY M. WEBER

To be scientist director

WILLIAM CIBULAS JR.
SARA DEE MCARTHUR
H. EDWARD MURRAY
CAROLYN STRETE
DAVID F. WILLIAMSON

To be senior scientist

S. LORI BROWN
DARCY E. HANES
JAMES E. HOADLEY
O'NEAL A. WALKER

To be scientist

MEHRAN S. MASSOUDI

To be environmental health director

EDWIN J. FLUETTE
BRUCE K. MOLLOY
KENNETH J. SECORD

To be senior environmental health officer

BYRON P. BAILEY
SHAWN W. GOOGINS
BARRY S. HARTFIELD
ROBERT F. HENNES
JOHN P. SARISKY
JEFFREY J. SMITH
FRANK H. WILLIAMS

To be environmental health officer

JEFFREY A. CHURCH
CALVIN W. EDWARDS
JOSEPH A. TERRA JR.
DAVID B. TIBBS
LINDA A. TIOKASIN

To be veterinary director

MARCIA L. HEADRICK
LEIGH A. SAWYER

To be senior veterinary officer

PETER B. BLOLAND
MARISSA A. MILLER

To be pharmacist director

JAMES D. BONA
MICHAEL J. CLAIRMONT
RICHARD M. FEJKA
DOUGLAS L. HERRING
THOMAS E. KRIZ
ROGER L. MCGHEE
CATHY L. SHAFFER
CYNTHIA P. SMITH
MARTIN L. SMITH

To be senior pharmacist

LAURIE B. BURKE
DIANE CENTENO-DESHIELDS
PAUL A. DAVID
JOSEPHINE E. DIVEL
STEVEN C. DOANE
MARY B. FORBES
MICHAEL J. MONTELLO
CECILIA-MARINA PRELA
ROBERT W. RIST
RENEE J. RONCONE
RAELENE W. SKERDA
MATTHEW A. SPATARO

To be pharmacist

LISA A. COHN
CINDY P. DOUGHERTY
JAMES A. GOOD
MICHAEL J. GOODIN
DANA L. HALL
HYE-JOO KIM
SHEILA K. NORRIS
EDWARD J. STEIN
PAMELA STEWART-KUHN
JULIE E. WARREN

To be senior assistant pharmacist

TINA M. SPENCE

To be dietitian director

JANICE M. HUY
JOYANNE P. MURPHY

To be senior dietitian

DIANE M. PRINCE
KENNETH W. SOUZA

To be dietitian

CHARLENE G. SANDERS

To be therapist director

DAVID E. NESTOR

To be senior therapist

TERRY T. CAVANAUGH
FRANKLIN D. KEEL

To be therapist

JEFFREY C. FULTZ
ERIC D. PAYNE

To be senior assistant therapist

COREY S. DAHL

To be health services director

LURA J. ABBOTT
HILDA P. DOUGLAS
NINA F. DOZORETZ
HOWARD A. GOLDSTEIN
CANDACE M. JONES
EUGENE A. MIGLIACCIO

To be senior health services officer

FRANCIS J. BEHAN
MARIA E. BURNS
PETER J. DELANY
JULIA A. DUNAWAY
ANNIE BRAYBOY FAIR
STEVEN M. GLOVER
BEVERLY A. ROTH
RACHEL E. SOLOMON

To be health services officer

DAWN M. CLARY
DANIEL M. KAVANAUGH
RICHARD D. KENNEDY
JANE MARTIN
LOU A. RECTOR
ANN M. TOLEDO
CRAIG S. WILKINS

To be senior assistant health services officer

AMANDA K. DUNNICK
PARMJEET S. SAINI

IN THE AIR FORCE

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. HENRY A. OBERING III, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

ARAM M. DONIGIAN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

VINCENT F. CARR, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

DANIEL J. COURTOIS, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

CHARLES G. STITT, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

RONALD E. RIKANSRUD, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be lieutenant colonel

JEFFREY A. BAILEY, 0000
TERRY G. HOEHNE, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

STEVEN M. HILL, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

JOHN J. DERESKY, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

HEIDI C. BERTRAM, 0000
BRETT J. CASSIDY, 0000
JEANNE M. HOLLAND, 0000

JENNIFER E. HORN, 0000
ROGER E. JONES, 0000
ANTHONY L. MITCHELL, 0000
PAUL R. MONCLA, 0000
EVAN B. MOSER, 0000
THOMAS C. WISLER JR., 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY DENTAL CORPS UNDER TITLE 10 U.S.C., SECTIONS 624 AND 3064:

To be colonel

HAROLD B. SNYDER III, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

DANNY L. MCGRAW, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

RICHARD A. STEBBINS, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

OTHA MYLES, 0000

DEPARTMENT OF HOMELAND SECURITY

DAVID M. STONE, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOMELAND SECURITY. (NEW POSITION)

CONFIRMATIONS

Executive nominations confirmed by the Senate April 8, 2004:

DEPARTMENT OF COMMERCE

RHONDA KEENUM, OF MISSISSIPPI, TO BE ASSISTANT SECRETARY OF COMMERCE AND DIRECTOR GENERAL OF THE UNITED STATES AND FOREIGN COMMERCIAL SERVICES.

DEPARTMENT OF THE TREASURY

BRIAN CARLTON ROSEBORO, OF NEW JERSEY, TO BE AN UNDER SECRETARY OF THE TREASURY.

DONALD KORB, OF OHIO, TO BE CHIEF COUNSEL FOR THE INTERNAL REVENUE SERVICE AND AN ASSISTANT GENERAL COUNSEL IN THE DEPARTMENT OF THE TREASURY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

WITHDRAWAL

Executive message transmitted by the President to the Senate on April 8, 2004, withdrawing from further Senate consideration the following nomination:

JAMES G. ROCHE, OF MARYLAND, TO BE SECRETARY OF THE ARMY, WHICH WAS SENT TO THE SENATE ON JULY 7, 2003.