United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 109th CONGRESS, FIRST SESSION

Vol. 151 WASHINGTON, THURSDAY, APRIL 21, 2005 No. 49

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHN ENSIGN, a Senator from the State of Nevada.

PRAYER

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

Let us pray.

Lord God Almighty, Maker of heaven and Earth, Creator of humanity in Your own image, we rejoice because of Your strength. Lord, from the quietness that heals, from the searching that reveals, guide Your Senators into channels of faithful service. Use them to bind up the wounds of the broken, the disinherited, and the rejected. Teach them to bring harmony from discord and hope from despair. Help them to daily celebrate life in all its myriad aspects. May they never lose their zeal in working to make our planet a place of peace.

Bless the men and women of our military as they sacrifice to keep us free. Shower them with eternal blessings. We praise You, Lord, for all Your glorious power. Let the works of our mouths and the meditations of our hearts bring glory to Your Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN ENSIGN 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 legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 21, 2005.

To the Senate:

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

TED STEVENS,
President pro tempore.

Mr. ENSIGN thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. FRIST. Mr. President, today we will begin with a 1-hour period for morning business. We will finish the emergency supplemental appropriations bill during today's session. The order from last night provides for up to three votes, including final passage, and those votes will be stacked for a time certain late this afternoon. We also have an agreement to consider the nomination of John Negroponte to be Director of National Intelligence. We will debate that nomination today and stack that vote to occur with the remaining votes on the emergency supplemental bill.

I thank Chairman COCHRAN and Senator BYRD for their hard work on the appropriations measure. That bill will go to conference next week, and we hope that we can have a conference report available in a reasonable period of time.

Again, we will alert Members when we have locked in the exact time of the stacked votes later today.

I yield the floor.

MORNING BUSINESS

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

The Senator from South Dakota.

JUDICIAL NOMINATIONS

Mr. THUNE. Mr. President, I rise today in morning business to speak about a matter of great importance, and that is our broken judicial nomination and confirmation process. As Senators, we have sworn to support and defend the Constitution, and on the issue of judicial nominations the Constitution is straightforward. It states that the President nominates judges and the Senate has the duty to give its advice and consent on those nominations. For over 200 years, that is exactly how it worked, regardless of which party was in power.

Over the past 2 years, the Democrat minority has attempted to change the rules and stand 200 years of Senate tradition on its head. The Democrat minority now thinks that 41 Senators should be able to dictate to the President which judges he can nominate. The minority also thinks that it should be able to prevent the rest of the Senate from fulfilling its constitutional duty of voting up or down on judicial nominees.

The Democrats' position is contrary to our Constitution, our Senate traditions, and the will of the American people as expressed at the ballot box this past November. It must stop.

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

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The advice and consent provision in the Constitution has served us for over 214 years up until the last Congress. That meant that the Senate should vote, and for over 200 years no nominee with majority support has been denied an up-or-down vote in this body, zero.

The Democrats have said that they have confirmed 98 percent of the President's nominees. The actual number is 89 percent. But even at that, are we to say that we are only going to follow the Constitution 89 percent of the time? Furthermore, this Senate's record on dealing with the President's appellate court nominees is the worst for any President in modern history. This President's record of having his appellate court nominees voted on is 69 percent, which ranks him lowest of any President in modern history.

It would be one thing if these nominees did not have the votes for confirmation, but they do. These nominees will have 54 or 55, 56, 57 votes for confirmation. It is wrong to deny them what the Constitution says they deserve and for us to ignore our constitutional responsibility to see that they have an up-or-down vote in this body.

The Democrats have said that it is their prerogative to debate. Well, that is great. Let us debate them on the floor of the Senate. But before they can be debated, a nomination has to be brought to the Senate floor for debate. We have a right to debate under the Constitution in the Senate.

They have also suggested that judges ought to have broad support; that they ought to have more than the necessary 51 votes for the simple majority that has traditionally been the case in the Senate. There is nothing in the Constitution about filibustering judges. There is nothing in the Constitution about requiring a super-majority to confirm judges. If the Founders had wanted judges to get a super-majority vote, they would have put that in there. They did it for treaties, for constitutional amendments, and for overriding a Presidential veto. Clearly, that was not the case with judges. It was the Founders' intention that the Senate dispose of them with a simple majority vote.

The Democrats in the Chamber have said that what we are trying to accomplish is ''the nuclear option,'' suggesting that somehow this is a radical process that we are trying to implement. Well, simply, that is not true. There is nothing nuclear about re-establishing the precedent that has been the case, the practice, and the pattern in this Senate for over 200 years.

What is nuclear is what is being discussed by the Democrats in this body, and that is shutting the Senate down over the issue of judicial nominees, which means important legislation to this country, such as passing a highway bill that will create jobs and growth in this economy, could get shut down, or an energy policy which is important in my State of South Dakota. We have gas prices at record levels, we have farmers going into the field, the tourism industry is starting its season, so we need to do something to help become energy independent. I am very interested in the issue of renewable fuels. I want to see as big a renewable fuels standard as we can get on the Energy bill, but we have to get it on the floor to debate it first. We cannot have these attempts, these threats—and I hope they are just that: threats—because it would be tragic, it would be nuclear, if the other side decided to shut this Senate down over the issue of judicial nominees.

The Democrats in this Chamber have tried to confuse the issue of legislative and judicial filibusters, clearly trying to confuse the public about what this means. Well, what we are talking about is simply the narrow issue of judicial nominees. It is part of this Senate's constitutional responsibility and duty, and we must take it very seriously. However, in the last Congress that became extremely politicized.

What we are talking about again is simply the issue of judicial filibusters. Incidentally, it was the Democrats who last voted on the filibuster in the Senate to do away with it back in 1995. It was a 76-to-19 vote. It had to do with the whole issue, not just judicial but legislative filibusters as well. Many of those Democrats who voted to end the filibuster still serve in this institution today.

The American people see this as an issue of fundamental fairness. They understand that this body's constitutional obligation, responsibility, and duty is to provide advice and consent, and that means an up-or-down vote in the Senate.

The Democrats in the Senate have said that this President's nominees are extreme. There are going to be a couple of them reported out of the Judiciary Committee today. Janice Rogers Brown received 76 percent of the vote the last time she faced the voters in California, which is not exactly a bastion of conservatism. Her nomination in this Senate has been stalled out for 21 months. Priscilla Owen will also be reported out today. She received 84 percent of the vote the last time she faced the voters in Texas. She has been waiting around for 4 years in the Senate to get an up-or-down vote on her nomination. She was endorsed by every major newspaper in the State of Texas. These nominees are not extreme. What is extreme is denying these good nominees a vote, and it betrays the role and responsibility the Founders gave the Senate.

So as we embark upon and engage in this debate that is forthcoming on judicial nominees, let us keep in sight and in focus the facts, and the role and responsibility this institution has to perform its duty. And that is to make sure that when good people put their names forward for public service, they at least are afforded the opportunity that every nominee with majority support throughout this Nation's history has had, and that is the chance to be voted on in the Senate.

I fully support what the other side is saying about wanting to debate these nominees. Let us do it. I am certainly willing and hopeful that we will be able to engage in a spirited and vigorous debate. Let us debate, but then let us vote.

I yield the floor.

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

JUDICIAL NOMINATIONS

Mr. REID. I understand we are in a period for morning business. I will use leader time.

Mr. President, I have the greatest respect for my friend from South Dakota, but his assertion of facts is simply without foundation. When the Democrats took the majority in the Senate, I, along with others, said that this was not payback time; we were not going to treat the Republicans the way they treated us during the Clinton years. During those years, they did not have the decency even to have hearings for judicial nominations; they simply left them, 60 in number, in the committee. We thought that was inappropriate, and that is the reason during the time that President Bush has been President—we were in the majority, and we are now in the minority—we have approved 205 judges for President Bush and turned down 10, which is a pretty good record.

For people to say there have not been judicial filibusters in the past is simply without historical foundation. In the early days of this Republic, there was no way to stop a filibuster. The only way one could stop a filibuster on judges or anything else was by virtue of agreeing to stop talking. Many judges were simply left by the wayside. They were talked out and they simply never came forward for a vote before the Senate.

The most noteworthy filibuster of a judge that would require a vote that failed was in 1881. There was a filibuster of a judge that went to a vote. Prior to that time, they never even went to a vote.

It was determined in the Senate in 1970 that it would be appropriate to figure out some way to break a filibuster—on judges, on Cabinet nominations, and on legislation. At that time the Senate changed its rules by a two-thirds vote and had filibusters broken, then, by 67 votes. In the 1960s it was determined that was a burden that was no longer necessary, and it was changed to 60 votes. From that time to today, there has been the ability to break a filibuster by 60 Senators voting.

There have been filibusters since that rule was changed in 1960, filibusters of judges. The most noteworthy, of course, was Abe Fortas. There was a filibuster, and there are wonderful statements in the CONGRESSIONAL

RECORD by Howard Baker at that time, who extolled the virtues of the filibuster.

During the time I have been in the Senate there have been filibusters of judges. I can name two that come to my mind: Berzon and Paez. We had a vote to break those here, on the filibuster. The majority leader voted against breaking those filibusters. So we have had votes on many occasions dealing with filibusters of judges. This is no new thing.

What we have to keep in mind is that we, the legislative branch of Government, are separate but equal. That is what checks and balances are all about. The President should not have, from the Senate, a rubberstamp for everything he wants. We have the advise and consent clause in the Constitution and we have the obligation to look at these judges. We have approved 205 and turned down 10. For people to suggest that you can break the rules to change the rules is un-American.

The only way you can change the rule in this body is through a rule that now says, to change a rule in the Senate rules to break a filibuster still requires 67 votes. You can't do it with 60. You certainly cannot do it with 51. But now we are told the majority is going to do the so-called nuclear option. We will come in here, having the Vice President seated where my friend and colleague from Nevada is seated. The Parliamentarian would acknowledge it is illegal, it is wrong, you can't do it, and they would overrule it. It would simply be: We are going to do it because we have more votes than you.

You would be breaking the rules to change the rules. That is very un-American. I ask my friends to look at what is going on in the press. In the Post today, David Broder, a nationwide columnist, talks about how bad it would be. Dick Morris, who certainly is no lapdog for the Democrats, has stated very clearly it would be the wrong thing to do. The political damage would be done to Republicans for many years to come.

This is something we should work out. This is something that should not cause the disruption and dysfunction of our family, the Senate family. If this is done, the Senator from South Dakota is absolutely right; we will be working off the Democrats' agenda. We will let things go forward. Of course, we will let things go forward to take care of the troops and let us make sure the Government is funded. We are not going to do the Gingrich plan.

But things around here work by unanimous consent. Maybe the majority wants an excuse not to complete business because most of their business is a little faulty anyway. But we have worked very hard and showed our good faith in the first quarter of this Congress. We have passed, for example, the class action bill; we passed the bankruptcy bill—both of which were 15 years in the making. These are bills the majority of the Senators on this side of the aisle opposed. But I thought it was appropriate that we do business the way we should be doing business: have people speak, debate the issue, and take your wins and losses as they come. We had a couple of losses. But the fact is, we believe the business of the Senate should be conducted in this manner.

I do not know what is going to happen in the Foreign Relations Committee as it relates to Bolton, but the fact is, that is how things should be decided. They should debate publicly and openly and then make a decision as to whether he is good or bad for the United Nations. They are going to have some more hearings in that regard. I think that is appropriate. But to think that just because you do not get your way that you are going to change the rules is wrong.

I have said once or twice on the Senate floor, when I was a little boy I took a big trip. My brother was 10 or 12 years older than I. He was working for Standard Stations in a place in Arizona. It was a little town. It seemed like a big town coming from Searchlight. It took quite a few hours to drive over there. I spent a week with my brother. I thought it was going to be a week, but he had a girlfriend and I didn't spend much time with him at all. I spent time with his girlfriend's brother. I could beat her brother in anything—all card games, board games, running, jumping, throwing. But I could never win because he kept changing the rules in the middle of the game. That is what is happening in the Senate. The majority can't get what they want so they break the rules to change the rules.

We believe the traditions of the Senate should be maintained. We believe if you are going to change the rules in the Senate, change them legally, not illegally.

I hope my friends, people of goodwill on the other side of the aisle, will take a very close look at this and see if it is the right thing to do. I think we do have people of goodwill on the other side of the aisle who understand the importance of maintaining the integrity of this body.

As Senator Dole said when asked on Public Radio last week what he thought about the so-called nuclear option, He said: Watch it because we are not going to be in the majority all the time. It will come back—these are my words, not his but the same meaning—it will come back to haunt us because the majority changes all the time.

I think it would be wrong for the Democrats to be able to do what the Republicans are talking about doing. I think it would be wrong for the Republicans to do what they are talking about doing. That is why we, Senator FRIST and I, working with our caucus, have to try to tamp down the emotions on this issue and do what we can to bring the Senate family together and do things the right way so we can continue to do legislation.

I spoke to the distinguished majority leader a few minutes ago. We want to do the highway bill. We have the Energy bill. Senator DOMENICI and Senator BINGAMAN are working hand in hand, more than they have in many years. They are going to come up with the Energy bill. The Senators are going to bring it to the floor and we will debate it.

As the President was told several days ago by Senator BAUCUS when they were called to the White House, Senator BAUCUS said: You do the nuclear option, there will be no Energy bill. That is the way things are and that is wrong.

(Ms. MURKOWSKI assumed the Chair.)

Mr. REID. Madam President, I hope we will be able to work our way through this issue and come up with something appropriate and move on. We have a number of judges who are pending now. They should not have to wait around.

In the situation we now have there is no question the committees are working so well together. Senator SPECTER and Senator LEAHY are working well together. I do not like the asbestos bill. I am not sure there is anything that can be done to make me happy about the asbestos bill because I have such strong feelings about the people who died of mesothelioma and asbestosis. But one of the things I did when I became leader, I told my ranking members that they were their committees. They could do whatever was appropriate in the confines of that committee.

Senator LEAHY did what he thought was appropriate. I may disagree with that asbestos bill, but he had every right to work with Senator SPECTER and come up with a bill. That bill is here at the desk right now. That is the way things should work.

Senators SPECTER and LEAHY have gotten so much done during the first few months they have been working together. There is a lot more we can do. That Judiciary Committee has some of the most interesting but controversial issues that we have. When you have two people working together as closely as LEAHY and SPECTER have been, we can expect some things on the floor of the Senate that will be interesting and controversial, but that is our job.

I repeat for the third time, I hope we can move forward and get the work of the American people done. That is what this is all about. We do not come here to please any particular constituency. We come here to please the people of our States and the people of this country. That is our job.

We need to recognize we have equal power to the judicial and executive branches of Government. A number of years ago, when President Kennedy was President, there was a chairman of the Rules Committee in the House by the name of Smith. He was a Democrat. President Kennedy was a Democrat. He called Mr. Smith because he

wanted an appropriate ruling from the Rules Committee of which Mr. SMITH was the chairman. And Smith wouldn't even return the President's call. He knew he did not have to. He stood for the legislative branch of Government. He didn't have to take orders or suggestions or even talk to the President.

He may have carried things a little too far, but that shows the strength of the legislative branch. We are as powerful as the judicial branch of Government and the executive branch of Government. When we come to the realization that we are not, it is not good for this country.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Madam President, I respect the Senator and I appreciate what he has to say about wanting to move the agenda. That is something I am very concerned about because of the Highway Bill, as well as the Energy Bill. Those are things that are lined up and need to be done. They are unfinished business from the last Congress. My concern from all this, and the Senator from Nevada has been here long enough, obviously, to know this, the Senate does set its rules and procedures. That is part of the Constitution. Back in 1980, of course, the Senate did the same things we are talking about doing here when the Democrats had control under Senator BYRD.

But more important, this needs to be based on facts. The facts are on our side in this debate. If you look back—the Senator from Nevada talked about historical precedents. The reality is what I said earlier is absolutely accurate, and that is there has not been a judicial nominee with majority support in the history of this Nation, up until the last Congress, who was denied an up-or-down vote in the Senate by a filibuster or by using the Standing Rules of the Senate to prevent that from happening. That simply is a fact.

It is also a fact that in the instance he referred to back in 1968, the Fortas nomination to the High Court, it was President Johnson's selection for Chief Justice. That was, I should say, a bipartisan attempt. It was a judge who did not have majority support in the Senate, and furthermore it was a judge about whom they were raising ethical issues.

The nominees we are referring to here are people of high quality. They are people who have been rated by the American Bar Association as being highly qualified to serve on the bench. They are not extreme, as the Democrats have suggested. They are judges who have been voted on in their States and won overwhelming majorities. These are people who deserve to be voted on in the Senate. This is about the tradition, it is about the precedent, it is about the history of the Senate, and it is about the Constitution. And it is about the responsibility, as Senators, that we have to see that these judicial nominees who are presented by the President for confirmation, for the Senate to perform its advise and consent role, are dealt with in an appropriate way.

I hope the Senator from Nevada will work with our leadership to try to fashion a way in which these judges can be voted on in the Senate. If they are not, we are setting an entirely new precedent for the future of how these judicial nominees are going to be considered in the Senate because this is unprecedented in the history of this Nation, what has happened in the last session of Congress, and what is being suggested by the Democrats in the Senate at this time. And that is that they will shut this institution down and keep other legislation from moving forward simply because they want to dictate to the majority and to the President of the United States about the kind of judges he ought to be submitting to the Senate for confirmation.

I have a couple of other colleagues here who want to speak to this issue, but it is important that this debate be about the facts. I hope we can have an opportunity to debate these judges. Then I hope we have the opportunity to vote on them.

I yield to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Madam President, I, too, rise this morning to speak about an issue of great importance to me as a freshman of this body; more important, to the Senate as an institution; and most important, to America as a Nation: that is, what is clearly our horribly broken and partisan judicial confirmation process.

Two years ago, the Members of the Senate freshman class of the 108th Congress called on all of their Senate colleagues, Democrats and Republicans, to take a careful look at the Senate's process of confirming judicial nominees. They were fresh from the campaign trail in their respective States, fresh from talking to citizens every day in their campaigns. They heard over and over how dissatisfied people were with the partisanship, the bitter partisanship and obstructionism that they found in Washington, particularly in the Senate. They heard over and over that the clearest example of that was the horribly broken, bitterly partisan judicial confirmation process.

Unfortunately, their valiant efforts did not succeed in fundamentally changing and improving the process. Because of that, as I was on the campaign trail to run for the Senate last year, I heard those same themes, those same concerns from voters all across Louisiana. I know my other freshman colleagues heard the same things from voters in their States. They heard over and over how tired and upset people were at the bitter partisanship in Washington, particularly in the Senate; the endless obstructionism, the endless filibusters. Again, the clearest example of that in citizens' minds was the horribly broken, bitterly partisan judicial confirmation process.

I heard over and over in every part of the State, folks from all walks of life, folks from both parties: Do the people's business. Get beyond all of that game playing. Get beyond that bitter partisanship. The obstructionism, the filibusters, that is not doing the people's business.

Yesterday, I joined with many other Members of my freshman class, the current Senate freshman class, in again calling for the Senate leadership to work together to address the judicial crisis—I use that word for good reason—the judicial crisis we are facing.

As we stated in our freshman letter to our colleagues from Tennessee and Nevada, progress often requires us to make difficult but fairminded decisions. The time has come to prepare our damaged, broken judicial confirmation process. We need a genuine commitment to upholding the equitable principles of our judicial system, a sense of respect for our deeply rooted traditions, and the willingness to compromise.

Several judicial vacancies have been lingering not for months but for years, as my colleague from South Dakota has said, causing more than one jurisdiction to formally declare a ''judicial emergency.'' Because of long-term vacancies, it is imperative we, as Senators, respond promptly to these emergencies. It is unacceptable we should have judicial vacancies in our courts for up to 6 or more years in some cases. It is time to put aside the grievances, the obstructionism, the partisanship that has been built up.

A recent case in point is the nomination of Janice Rogers Brown to the U.S. Court of Appeals for the DC Circuit. Judge Brown, whose nomination has been pending since July 2003, as my colleague from South Dakota noted, is a highly qualified judicial candidate, as evidenced by her background and her training. Justice Brown has 8 years of experience on the California appellate bench, and she has dedicated all but 2 years of her 26-year legal career to public service. Right now, she serves as associate judge of the California Supreme Court, a position she has held since May 1997.

Justice Brown is the first African-American to serve on that State's highest court and was retained with 76 percent of the vote in her last election. California is not exactly a rightwing State. In 2002, Justice Brown's colleagues relied on her to write the majority opinion for the California Supreme Court more times than any other justice.

The daughter of sharecroppers, Justice Brown was born in Greenville, AL, in 1949. She came of age in the South, tragically in the midst of Jim Crow policies, having attended segregated schools in her youth. She grew up listening to her grandmother's stories about the NAACP lawyer who defended Martin Luther King, Jr., and Rosa Parks. Her experiences as a child and

those stories from her grandmother moved her to become a lawyer. In her teens, she moved to California with her family. She earned a B.A. in economics from California State in 1974. She earned her law degree from UCLA Law School in 1977.

In 2003, a bipartisan group of 12 of Justice Brown's current and former judicial colleagues wrote then-Judiciary Committee Chairman ORRIN HATCH in support of her nomination—again, a fully bipartisan group. Another fully bipartisan group of 15 California law professors did the same, as did a dean of the appellate bar in California, and the California director of Minorities in Law Enforcement. What those who know her best say is Justice Brown is a superb judge, conscientious, hard-working, intelligent, sensible, open-minded.

Yet Justice Brown, like multiple other judicial nominees, has been waiting and waiting and waiting for an up-or-down vote in the Senate. It is unfair to her. More importantly, it is unfair to the citizens of this country.

Some, like the distinguished minority leader, argue that this is some longstanding venerable practice. That is simply not true. A few minutes ago, the minority leader said in the early days of the Republic, filibusters were common. I hope, in the midst of this very important debate, he will read the history carefully because in the early days of the Republic, the Senate rules had no such thing as a filibuster. The Senate rules were pure majority rule because there was a motion that no longer exists to call the question, to end debate by a majority vote. So in the early days of the Republic—and this is crystal clear in history—there was no opportunity for filibuster because the Senate, just like the House, then and now, operated by pure majority vote.

Certainly it is clear this practice of judicial filibusters for appellate court nominees is brand new. It has never, ever happened for a nominee with majority support before the last Congress. They are very clear, very well-known examples that prove the point. What about Robert Bork and Clarence Thomas—very controversial nominations opposed by many on the Democratic side but neither was filibustered. Both got up-or-down votes in the relatively recent past. One was confirmed. One was not. That is how the process is supposed to work. That is how it did work until the last Congress.

Others say, yes, these floor filibusters are new but nominees have been held up in the committee before. That has been the functional equivalent of these filibusters we now see when the majority party in the past held up certain nominees in committee.

My response is very simple and very direct. We should change the committee rules as part of this process to ensure every appellate court nominee, every Supreme Court nominee gets to the Senate floor for an up-or-down vote within a certain amount of time. That will fully respond to any legitimate concerns in that regard. That will fully respond to any of those grievances from the past. They can come to the Senate, within a certain amount of time, under a mandate which we can put in the committee or the full Senate rules, and the committee can send them to the Senate with a recommendation we confirm that judge, or that confirmation can come to the Senate with a negative report by a majority of the committee.

We face an impasse. We must do whatever is necessary to end it. Inaction is no longer accessible. Now is the time to resolve it.

Like the complicated policy issues we tackle every day, we cannot avoid the judicial crisis and its surrounding confirmation issues without expecting our inaction to have a major impact on our country. The integrity of our entire judicial system is at stake. Indeed, the integrity of the Federal Government and Congress is at stake as citizens again and again say: Put the people's business first. Take up the people's business. Get beyond this horrible partisanship, obstructionism, and these filibusters.

In closing, I encourage all of my colleagues to take a careful look at the Senate confirmation process. I ask we work together to refine our judicial confirmation process and to break down those partisan walls that have stood in the way of advancing judicial nominations.

There is one compelling reason we need to do this. That is doing the people's business. That is serving the people—not partisan political interests—and the people, across the Nation, all of our citizens, are demanding it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Madam President, I was one of those new Members of the Senate elected in the class of 2002 my friend and colleague from Louisiana talked about. We did lament the partisan divide that certainly has been growing in this body for a while but has been clearly reflected in the battle over judicial appointments.

The President has the constitutional authority to appoint judges. That is very clear. It is an authority that has never, in the history of this country, up until last year, when my colleague across the aisle decided to filibuster those appointees, it has never in the history of this country required anything more than a majority vote. We are talking about judicial appointments.

The President must appoint folks who are qualified. There are standards by which one can review that. The American Bar Association is involved in that process and they, in fact, grade nominees. In the case of the President's appointees, each of those nominees received the endorsement—in effect, the label, the standard—of ''qualified'' or ''highly qualified.'' They met the basic test that has to be met.

What has happened in the last year is now a new political test put in place, a political test that has then required a new standard, an unprecedented standard in the history of this country. I repeat, in the history of this country, nominees who could get a majority vote have not been filibustered until last year.

The other side has said: We have confirmed so many judges, hundreds of judges, but when it comes to appellate court judges, the level below the Supreme Court, last year I believe it was 30 percent of those were filibustered, were stopped, and a higher percentage then face that this year. Our obligation in the Constitution is to advise and consent. It is not to advise and construct. Nominees deserve simply an up-or-down vote. That has been the process that has served this country so well for nearly 250 years.

I support the right of filibuster. I love that movie ''Mr. Smith Goes to Washington.'' I thought Jimmy Stewart was fabulous. I watched that as a kid, and I thought being on the floor of the Senate, standing and not stepping down, fighting for what you believe, is part of the history of the Senate.

It is not, by the way, the history of the United States for its entire existence. It was not the history of the United States, contrary to the words of the distinguished and learned minority leader from Nevada, it is not the history when this country began. But it has been part of our history. I recognize that.

By the way, it has not always been as glorious as when Jimmy Stewart was in that movie, standing on the floor of the Senate. The history of the filibuster, which now is being paraded as this icon of protection of rights, this history, unfortunately, has a history of being used to block anti-lynching legislation. It was used to block civil rights legislation. That has been the history of the filibuster. But I respect that history. I respect that tradition of filibustering legislation even if I disagree with it.

But never before has there been a tradition of using that filibuster, that tool, to block judicial nominees. That is what is different today.

I do believe the last effort to limit the filibuster occurred when Republicans took control of the Senate about 1994 and 1995; there were efforts to limit the filibuster. There were 19 votes for that effort. Every one of them were Democrats. Every one of them were my colleagues across the aisle, some of whom still serve in this institution today. That has been the history of limiting the filibuster. But the history is clear that, up until last year, the filibuster has not been used to block a nominee who has majority support.

I am also deeply concerned about what we are doing to civics with this discussion. I think we are confusing young people. When I grew up and studied civics, I understood what checks

and balances were. I am watching commercials today that talk about the effort of the Democrats to block judicial appointees is somehow applying the concept of checks and balances. I have to gather my 15-year-old daughter Sarah and tell her that is not what checks and balances are about. The concept of checks and balances has to do with the wisdom of our Founders to balance the power of the executive branch against the power of the legislative branch and the power of the judicial branch. That is checks and balances—a magnificent concept.

But checks and balances does not mean, and has never meant, that somehow the minority can block the majority from governing in an Executive Calendar, where the President has the authority to appoint individuals who he thinks are qualified, and then we measure that qualification—not politics, not their views on certain political issues, but their competence, their integrity, their capacity to do the job—and we then advise and consent, we give the up-or-down vote.

But checks and balances have nothing to do with the attempt of the minority, right here, to block the majority from simply confirming Presidential appointees. We are not talking about changing the legislative calendar. We are not talking about interfering with the right to filibuster on legislative issues. We are talking about upholding the Constitution.

It is interesting, if you go back—and like the Presiding Officer, I have been here only a few years—we have learned from some of our colleagues about the history of what went on before. In the past, the Senate did not filibuster judicial nominees. There were times when you had very liberal judges coming up for confirmation by Democratic Presidents, and you had Republicans controlling the process, and you had majority leaders such as Trent Lott supporting cloture for liberal nominees who, on the basis of ideology, they would not support.

Judge Paez, in the Ninth Circuit, I believe was one of the judges involved in the decision that you cannot say ''one Nation under God.'' I know many of my colleagues felt Judge Paez's views were extreme. But they respected the power of the President to make an appointee, and they respected the history and tradition of this institution that says: Give nominees an up-or-down vote. Paez got that up or down vote and was confirmed.

So my deep concern is somehow we are involved in almost this Orwellian doublespeak today that we are talking about checks and balances in a process that has no relationship to what checks and balances have always meant. Again, our young people should understand that.

We have bent over backward to protect minority views in this Senate. When it comes to appointments, the majority has a right and a responsibility to act. Then all of us have the right to vote yes or no. Let's do the right thing. Let's uphold the tradition of this institution. Give people the right to get an up-or-down vote when they are nominated for a judicial office.

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

Mr. COLEMAN. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

JUDICIAL NOMINATIONS

Mr. SALAZAR. Madam President, I come to this Chamber this morning to make a few comments in response to my colleagues from Minnesota, South Dakota, and Louisiana, concerning the judicial nomination process.

Let me say at the outset, I believe the work of this body and this Congress should be getting about the people's business. I believe this issue concerning the filibuster rule is something that is distracting this country and this Congress from doing what we should be working on.

In the Washington Post this morning, the headline story talks about the economic worries of America. The first two paragraphs of the article in the Washington Post read as follows:

> Inflation and interest rates are rising, stock values have plunged, a tank of gas induces sticker shock, and for nearly a year, wages have failed to keep up with the cost of living.
>
> Yet in Washington, the political class has been consumed with the death of a brain-damaged woman in Florida, the ethics of the House majority leader, and the fate of the Senate filibuster.

I would submit that we as a body have a responsibility to address the issues the people of this country care about. Those issues are about passing a transportation bill for America. Those issues are about getting an energy bill passed for the people of America that helps us get rid of our overdependence on foreign oil. Those issues are about making sure we address the most crippling issue affecting America today—and that is business and people alike—the issue of health care, which is bankrupting this country and many families throughout our States.

We get into this discussion here about what is happening with respect to judges. The fact is, what the majority is attempting to do is to simply break the rules. They are simply attempting to break the rules because they have the power.

Now, I live in an America that strongly supports the fact we have a power that was created by our Founding Fathers, distributed between the executive, with checks and balances, and the Congress, and different rules for the Senate. Part of that is assuring a guarantee when we make decisions for the American people, especially with respect to judges who have lifetime appointments, that we are appointing the very best people to those positions. The debate that is underway today concerning the so-called filibuster rule, from my point of view, is an effort to try to change the rules in midstream. It also is reflective of the abuse of power we see in Washington today. To be sure, when you look at the history of what has happened with judicial appointments in the last decade and a half or so, there have been 60 Democratic nominees from President Clinton who were rejected by this Senate. On the other hand, if you look at what has happened with President Bush's nominees, we have had over 96 percent of all of his appointees confirmed by the Senate.

Now, under anybody's scorecard, if you get a 96-percent success rate, I think you have done pretty well. You can ask my daughters, who are stellar students in their school; getting a 96-percent grade is pretty good. That is a much higher rating for President Bush's appointees than we had for prior Presidents.

So I would say this is not about these particular nominees. I have not yet taken my own position with respect to what I will do with these seven nominees. I will study their records, and I will make my decision based on those records. But, at the end of the day, this is whether we will uphold the cherished traditions of this Senate that have provided the kinds of checks and balances that have been important for this Senate to be able to function.

In my view, those rules force us, as Republicans and Democrats, to come together to work through the issues that are most important for our country. I believe the way this issue has been presented to this body and to the American people has been destructive not only to this body but also destructive to the real agenda on which we as the elected representatives of the people should be working.

That real agenda is about roads. It is about transportation. It is about energy. It is about health care. It is about the issues that affect every person every day. They are the kinds of issues that affect people when they get out of bed in the morning and wonder what is going to happen to their families, their children, and their parents. Those are the kinds of issues we should be working on as opposed to working on these kinds of very divisive issues.

AFGHAN SECURITY FORCES STANDARDS AMENDMENT

Mr. SALAZAR. Madam President, I would like to speak a little bit about amendment No. 454, which was adopted unanimously by the Senate last night. I appreciate and thank Senators COCHRAN and BYRD for the time they have spent working with me on this amendment. I also note and appreciate the work of Senators MCCONNELL and LEAHY on this matter. Their staff members, Paul Grove and Tim Rieser, were very helpful.

It is clear that success in Iraq and Afghanistan is dependent on how well

and how fast we train security forces and police there. It is also clear that the faster and better we train these forces, the sooner our troops can come home.

This amendment is designed to ensure that the training in Afghanistan—for which this bill dedicates more than $600 million, including $44.5 million which is to be available only for the establishment of a pilot program to train local Afghan police forces—is handled well and is handled in an accountable fashion.

We have seen what happens when training is rushed or when accountability is ignored. The Haitian National Police, for which we spent hundreds of millions of dollars training in the 1990s, is all but disbanded. We are all familiar with the stories of mismanagement of police training in the Balkans. And just last week, Secretary Rumsfeld took an emergency trip to Baghdad to try to salvage some of the training we have done there as Shiite political leaders threaten to purge Sunni officials from the forces.

This amendment is meant to ensure that training in Afghanistan benefits from lessons learned and the mistakes of the past. It adds commonsense provisions to the $660 million appropriated for police and counternarcotics programs in Afghanistan. We need to take this step because the challenges we face in training a capable security and police force in Afghanistan are perhaps even more daunting than in Iraq.

First, Afghanistan is the world's largest producer of poppy, the raw material for heroine. It produces 80 percent of the world's heroine and, according to the United Nations, is currently producing dramatically more than it did under the control of the Taliban. Keep in mind that heroine use not only fuels crime throughout Europe and in the United States, but it funds terrorist organizations and is responsible for the looming AIDS crisis throughout eastern Europe.

Second, there are already several countries and organizations training forces in Afghanistan, including for the vitally important effort of counternarcotics. In fact, this difficult task of building a capable law enforcement system in that formerly ruler-less country is divided among the United States, Italy, Great Britain and several different international organizations.

And third, the way the administration has structured this program lends itself to confusion and competition among American agencies. The funding in the bill goes to the Department of Defense, but much of the police training will be handled by the State Department.

This amendment is an effort to make sure we can get the accountability our taxpayers deserve as well as the success that our national security demands.

I recognize good training will not be easy. I also understand that in post-conflict societies, it is often difficult to find good personnel. But I also recognize that we simply have to get better at how we train other people to take over security in their own countries.

The stress on our Armed Forces demands no less. The challenges facing U.S. taxpayers demand no less. And success in post-conflict societies demands no less.

Before coming to the U.S. Senate, I had the honor of serving our great State of Colorado as attorney general. In that job, I made homeland security my highest priority.

One of the responsibilities I had as attorney general was being chairman of the Peace Officers Standards and Training Board, POST. Given all that our police officers and their families give for us and for our State, the least I could do was to fight for additional training and support resources.

In 2003, we did that, and in exchange we asked for greater accountability. We did that, too, and the result has been a better trained and more accountable police force, not to mention a safer Colorado.

It has worked in Colorado and across this country. I believe with the adoption of this amendment we can start to make it happen in our police training overseas as well.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

POPE BENEDICT XVI

Mr. SALAZAR. Madam President, I want to take a moment this morning to discuss the election of Pope Benedict XVI as the leader of my church and the leader of the 1 billion Catholics in our world. I pray for him as he assumes this awesome responsibility for our church and for our world.

I have also been comforted by the comments we have heard from Pope Benedict XVI. We know we face some difficult challenges in the Catholic Church in the days and years ahead. We also know we as Catholics are not united on every issue. As I said on this floor after the passing of Pope John Paul the Great, we as Catholics are both comforted by our church's teachings and challenged by its demands. That will continue to be the case. And that is as it should be.

What is also true is what Pope Benedict XVI said yesterday. He said: Catholics ''look serenely at the past and do not fear the future.''

I was also touched by another thing the Pope said yesterday. In relation to John Paul the Great's efforts to reach out to other Christian faiths, Pope Benedict XVI said:

> I am fully determined to accept every initiative that seems opportune to promote contact and understanding.

''I am fully determined to accept every initiative that seems opportune to promote contact and understanding.''

I am praying for those kinds of efforts. I hope each of us will take a moment this Sunday, the very day of the Pope's inaugural mass, to pause and reflect on how we can best live up to this challenge from Pope Benedict XVI.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

JUDICIAL NOMINATIONS

Mr. JOHNSON. Madam President, as a Senator who has served in both the House of Representatives and the Senate, in both the majority and the minority in the House and both in the majority and the minority in the Senate, I am distressed at some of the rhetoric and debate that has gone forward relative to the role of the so-called filibuster rule or the nuclear option, as some people refer to it. It is my hope the debate can go forward in a more civil and thoughtful manner than has sometimes been the case up until now.

I have served—and it has been an honor to serve—in both bodies. Each of the bodies, the House and the Senate, has a respective and important role to play. One of the factors, however, that most distinguishes the Senate from the other body is the existence of the 60-vote rule, the so-called filibuster rule, which has the consequence of requiring both political parties to come to the center, to have some at least modicum of bipartisanship in the proposals they pursue, the nominees who are considered.

That is one of the great strengths of the Senate. I know it frustrates some who would like to see the Senate operate more as the other body does, where a one-vote margin is all that is essentially ever necessary. A rules committee further streamlines things. As a consequence, the other body tends to be and has been over the years most often a far more partisan body than the Senate.

The Founders designed the Senate with 6-year terms and a differing basis for selection as a body that would be the more thoughtful, more deliberative, would take the longer view of initiatives that are before the Congress. The Senate plays a very important role.

There is too much partisanship in Congress. I have the honor of representing South Dakota, a State some would describe as a dark red State that President Bush won by a large margin this last time. I am very proud of the

Republican support that has been extended to me over the years I have had the honor of serving in the House and the Senate. The people of South Dakota are tired and grow weary of the intensity of the partisanship that too often exists in Washington, DC. The people of South Dakota want to see both sides brought together to govern as Americans rather than as Republicans or Democrats. That is not asking too much, for the traditions and the historic rules that have existed in this body that encourage bipartisanship should remain.

This notion that somehow in the midst of Congress rules that have been in place for generations should be eliminated and the bipartisan mandate they allow for should be eliminated is a step in the wrong direction.

One of the consequences of the 60-vote rule is it takes both parties by the scruff of the neck, brings them together and says: You will have to reach across the aisle and cooperate, coordinate with your colleagues from the other political party, whether or not you like it. That has been a very valuable asset to the Senate and, again, one of the things that distinguishes the debate and deliberation and progress of legislation in the Senate from what transpires with our colleagues in the other body.

There is too much division in America today. There is too much partisanship. The rhetoric has grown far too bitter. It has grown far too extreme. What America wants, and what I believe my constituents want, is more governing from the center. Most South Dakotans and most Americans recognize neither party has all the answers, neither party has all the good or bad ideas, and we are governing best when we come together in the political center. That will leave the far left and the far right unhappy. They are unhappy most of the time, anyway. But I do think governing from the center, which the 60-vote rule requires, is one of the great strengths of the Senate.

It would be a horrible mistake for this body to discard that bipartisan mandate that rule imposes on this body. A loss of bipartisanship would not only affect the consideration of judges, but the precedent would certainly be in place to affect consideration of all other legislation as well.

Keeping in mind that this body, even with that rule in place, has approved some 205 Federal judges nominated by President Bush, has rejected roughly 10, and that we have one of the lowest judicial vacancy rates in American history right now—in fact, about 60 percent of all Federal appellate judges are appointees of Republican administrations over the last number of years—to suggest somehow there is a crisis with judges is a fabrication, frankly. It is simply untrue.

Judges are being considered, voted on, approved at a record rate. In fact, all of these judges have had up-or-down votes as opposed, sadly, to the experience during the Clinton administration where some 60 of his nominees never received a hearing or a vote. In this case every nominee has received a vote in committee and on the floor, albeit that vote on the floor is consistent with the 60-vote parliamentary rule of the Senate which does require both sides to come together in the center.

Clearly, President Bush can have the approval of 100 percent of his judges. All he has to do is to nominate conservative Republican judges who are part of the conservative mainstream of America, a very broad range of discretion that he has. Those judges will be confirmed, as have the 200 plus who have routinely been confirmed by this body.

The Senate does have a constitutional obligation of advice and consent on these lifetime appointments. That is one of the reasons why this issue is so profoundly important, because this is not simply a legislative matter that will come and go and be reconsidered at another time. We are considering the appointments of people to high office for a lifetime. It is imperative the Senate insist that each of these individuals, men and women, be part of the political and judicial mainstream of America, albeit we have a Republican President, and certainly he will nominate conservative Republican judges, as well he ought, and they will be approved in a routine manner as over 200 have already.

But there is an importance that the nominees do fall within the political mainstream, and the one test to see to it that is the case is the 60-vote margin rule where no judge, regardless of what their political background or judicial background might be, can be approved unless, in fact, there is some modest bipartisan support, not an overwhelming consensus.

Nobody is suggesting a 90-percent rule or 75-percent rule or even the 66-percent rule which used to be the case for filibusters some years ago but that there be a 60-vote margin. I don't think that is asking too much in the name of bipartisanship, in the name of requiring both parties to come together, and in the name of diminishing the level of partisan hardball that characterizes the other body and to some degree has infected the debate and the rhetoric even here in the Senate.

Having witnessed the political dynamic in both bodies, having had the honor to serve in both bodies, having been in both the majority and minority, because the rule we are talking about of bipartisanship should prevail regardless of whether Republicans or Democrats are in the majority or the minority, having witnessed all of that and knowing where my constituents come from in terms of growing weary of the partisanship and the political efforts in Washington, DC, to jam one idea past another without the need for deliberation, without the need for give and take between the two parties, I have to believe we ought to reject the strategies that will play into the hands of the far left or the far right and continue the historic rules that have been in place for the Senate which, in fact, not only encourage but require at least a modest level of bipartisanship and deliberative thinking when we consider legislation or lifetime appointments to the U.S. courts.

It is my hope cooler heads will prevail, that the historic rules of this body will prevail, and that the Senate will continue to play the incredibly important and unique role it has throughout 200 years of American history. That is a body where the hot rhetoric of the day is set aside and the two political parties are required to come together, to approach issues in a more thoughtful, more deliberative and bipartisan fashion. We would be a poorer nation, indeed, were it not for that kind of bipartisan mandate that the current rules of the Senate insist upon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, how much time is remaining?

The PRESIDING OFFICER. There is 4 minutes remaining.

Mr. DURBIN. Madam President, I ask unanimous consent for an additional 6 minutes—I believe the majority party had about that added to their morning business—if there is no objection.

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

Mr. DURBIN. Madam President, I thank my colleague from South Dakota who just spoke. I just left the Senate Judiciary Committee of which I have been a member for a number of years. It is not just an ordinary meeting of the committee today; it is a historic meeting. It is a meeting I am sure, when they chronicle this episode in the history of the Senate, they will point to as a catalyst for a constitutional confrontation, the likes of which the Senate has never seen in its history. Let me tell you what is going on.

Many times in the history of this country, a President with a popular mandate comes to Washington in their second term unhappy with the judiciary, unhappy with judges who do not see the world as they do. These Presidents come to the conclusion that with their popular mandate, with their majorities in Congress, they can change the Constitution, they can change the courts.

It is happening with President Bush, but he is not the first President who has been through this experience. President Thomas Jefferson, in the beginning of his second term, so angry over the opposition party that controlled judgeships, tried to impeach a member of the U.S. Supreme Court. He brought the issue to the floor of the Senate, to a floor that was dominated by his own political party, and said: Give me the power to get rid of these outrageous judges. His party turned on him and said: No, the Constitution, Mr. President, is more important than your

power. We reject your notion that you can pack the Supreme Court with friendly judges.

Thomas Jefferson was not the last. A President whom I honor and venerate, Franklin Delano Roosevelt, in the beginning of his second term came to the White House with this large popular mandate and, in frustration, said: I am sick and tired of the ideas of the New Deal being killed in that Supreme Court. Give me the power as President, Franklin Roosevelt said, and I will replace and add to the membership of that Supreme Court until we get Justices who think like I do.

He came to this Senate, this Chamber, dominated by Members of his own political party, and said: Stand with me. You voted for the New Deal, now stand with me. We are going to make sure the Supreme Court goes along. And his party said no. They said: Franklin Roosevelt, the Constitution is more important than your power as President. We will stand by the Constitution. You are wrong, Mr. President.

But look what is happening today. President Bush, not content to have 95 percent of his judicial nominees approved by this Senate, has now said: This Republican Party is going to change the rules of the Senate, change the constitutional principles that have guided us so that President Bush can have every single judicial nominee approved by the Senate, bar none.

So what will happen in a Senate dominated by the President's party? Will they rise in the tradition of Thomas Jefferson's Senate? Will they rise in the tradition of Franklin Delano Roosevelt's Senate? Will they, as the President's party, stand up and say: The Constitution is more important than the power of any President? Sadly, it appears they will not. They are lapdogs as the President is demanding this power. They will come to the Senate with the so-called nuclear option. It is a good name. It is a good name because it signifies the importance and gravity of what they will do.

The first thing they have to do is break the rules of the Senate. If you want to change a Senate rule, you need 67 votes. They do not have 67 votes to give President Bush this unbridled power, so they will break the rules of the Senate with a so-called point of order to change the rules of the Senate and to say that this President, unlike any other President in history, will not have his judicial nominees subject to the rules of the Senate as we know them.

Oh, they argue, this opposition to President Bush's nominees is unprecedented. Nobody has ever used the filibuster on a judicial nominee. That is what they say. But they are wrong. It has happened 11 times. Most recently the Republicans used the filibuster against President Clinton's nominees. They have done it. They have done it because the rules allowed them to do it. And now, in the middle of the game, they want to change the rules and diminish the power of the Senate and attack the principle of checks and balances.

The reason this great democracy has survived longer than any in history is that we have this tension between the branches of Government—the power of the Presidency checked by the power of Congress checked by the power of the judiciary—and this tension among the three branches of Government has given us this democracy that has survived while others have failed. Yet the majority party, the Republican Party in the Senate, would walk away from that fundamental principle, for what? For what? So that this President can have every single judicial nominee without fail? Madam President, 95 percent is not enough? And 205 out of 215 is not enough?

I have stood with my colleagues and voted against some of these nominees. I will do it again. These are men and women far outside the mainstream of American political thought. They have been pushed to the forefront by special interest groups demanding they get lifetime appointment on a court in America to make decisions that will affect everyone—every family, every worker, the air we breathe, and the privacy we revere.

What is the agenda? We hear this agenda. It is spelled out in detail by Congressman TOM DELAY of Texas. He threatens the judiciary: We are going to dismantle them if they don't agree with me, he says. TOM DELAY is going to set the standard for judges in America? This man who was pushing through the Terry Schiavo case, defying 15 years of court decisions, defying the wishes of that poor woman's family? He was so angry when the Federal judges did not agree with him, he said: We will get even with you. That is what this is about.

So judicial nominees will come to the floor who will be approved who will follow the TOM DELAY school of thinking, who will follow something far outside the mainstream of America.

We need to have bipartisanship. We need balance. We need fairness. We need to say to a President of any political party: As powerful as you may be, you are never more powerful than our Constitution. The Constitution, which is the one commonality in the Senate, of all the things we argue about and all the things on which we disagree, we—each and every one of us—stand proudly next to that well, raise our hands, and swear to uphold and defend the Constitution of the United States.

To my colleagues and friends who are following this debate, the constitutional crisis we are facing is unnecessary. If the President's own party has the courage that Thomas Jefferson's party had, that Franklin Roosevelt's party had, they would say to the President: You have gone too far. The Constitution is more important than any President. But, sadly, we are on a path to this crisis.

If it occurs—and I hope it does not—it is going to change this body. It is going to change it dramatically. The Senate is so much different from the House. The Senate is successful because each and every day you will hear said over and over, ''I ask unanimous consent.'' Unanimous consent is just as the phrase suggests—any Senator can object. But it seldom occurs because we agree to move forward together—Democrats on this side, Republicans on the other side—move forward with the people's business. But if the Republican majority pushes through this constitutional confrontation, destroys this tradition of the Senate, assaults the principle of checks and balances, then the courtesy, the comity, and the cooperation which makes this such a unique institution is in danger.

I hope that cooler minds will prevail. I am heartened by the fact that Senator JOHN MCCAIN, a leading Republican, has stood up and begged his fellow Republican colleagues: Don't do this. The Senate and its traditions and the Constitution, Senator MCCAIN says, are more important than any President or any party.

I am confident the Judiciary Committee will send this nomination of Priscilla Owen of Texas to the floor. I hope that once it reaches the calendar, cooler minds will prevail and all of us who have sworn to uphold this Constitution will honor it by our actions on the floor of the Senate.

EXTENSION OF MORNING BUSINESS

Mr. DURBIN. Madam President, I ask unanimous consent that the period for morning business be extended until 12 noon, with 45 minutes under the control of Senator SPECTER.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SPECTER. Mr. President, I thank the floor schedulers for reserving time for me this morning. I had hoped to be here at 11:15, but I have been chairing an executive business meeting of the Judiciary Committee where we voted on the nominations of Justice Owen and Justice Brown. Not unexpectedly, it went over the planned 11:15 conclusion, but I do appreciate the allocation of time. I asked for 45 minutes for a presentation, which I am about to make.

Mr. SPECTER. Mr. President, I seek recognition today to address the subject of Senators' independence and dissent. As members of political parties,

we owe loyalty to the party that helped get us elected and which enables us to join together to achieve broad policy objectives. Historically, we have found our system of Government functions best with a two-party system. But as part of that historical perspective, we have simultaneously seen loyalty to our Nation take precedence to loyalty to party. At certain junctures of American history, the fate of our system of Government has rested on the ability of Members of this body to transcend party loyalty for the national interest. I believe the Senate currently faces such a challenge between party line voting on filibusters and potential voting on the constitutional, or so-called nuclear option.

I have watched the issue on confirmation of Federal judges fester and become exacerbated as each party has racheted up the ante beginning with the last 2 years of President Reagan's administration when Democrats took control of the Senate and continuing to the present day.

In 1987, upon gaining control of the Senate and the Judiciary Committee, on which I have served since being elected in 1980, the Democrats denied hearings to seven of President Reagan's circuit court nominees and denied floor votes to two additional circuit court nominees. As a result, the confirmation rate for Reagan's circuit nominees fell from 89 percent prior to the Democratic takeover to 65 percent afterwards. While the confirmation rate decreased, the length of time it took to confirm judges increased. From the Carter administration through the first 6 years of the Reagan administration, the length of the confirmation process for both district and circuit court seats consistently hovered at approximately 50 days. For President Reagan's final Congress, after the Democrats took control, the number doubled to an average of 120 days for these nominees to be confirmed.

The pattern of delay and denial continued through 4 years of President George H.W. Bush's administration. President Bush's lower court nominees waited, on average, 100 days to be confirmed, which was about twice as long as had historically been the case. The Democrats also denied committee hearings for more nominees. President Carter had 10 nominees who did not receive hearings. For President Reagan, the number was 30. In the Bush Sr. administration, the number jumped to 58.

When we Republicans won the 1994 election and gained the Senate majority, we exacerbated the pattern of delaying and blocking nominees. Over the course of President Clinton's presidency, the average number of days for the Senate to confirm judicial nominees increased even further to 192 days for district court nominees and 262 days for circuit court nominees. Through blue slips and holds, 70 of President Clinton's nominees were blocked. When it became clear that the Republican-controlled Senate would not allow the nominations to move forward, President Clinton withdrew 12 of those nominations and chose not to renominate 16.

During that time I urged my Republican colleagues on the Judiciary Committee to confirm well-qualified Democratic nominees. For example, I broke ranks with many of my colleagues on the Republican side to speak and vote in favor of the confirmation of Marsha Berzon and Richard Paez, both to the Ninth Circuit Court of Appeals. While many of my Republican colleagues criticized me for voting for Berzon and Paez, I thoroughly reviewed their records and determined that both were qualified for the positions to which they had been nominated. While I did not agree with Ms. Berzon and Mr. Paez on every issue, I realized the importance of working toward solutions when the Senate is at an impasse on a nomination.

After the 2002 elections with control of the Senate returning to Republicans, the Democrats resorted to the filibuster on ten circuit court nominations, which was the most extensive use of the tactic in the Nation's history. The filibusters started with Miguel Estrada, one of the most talented and competent appellate lawyers in the country. The Democrats followed with filibusters against nine other circuit court nominees. During the 108th Congress, there were 20 cloture motions on ten nominations. All 20 failed.

To this unprecedented move, President Bush responded by making for the first time in the Nation's history two recess appointments of nominees who had been successfully filibustered by the Democrats. That impasse was broken when President Bush agreed to refrain from further recess appointments.

Against this background of bitter and angry recriminations with each party serially trumping the other party to ''get even'' or, really, to dominate, the Senate now faces dual threats, one called the filibuster and the other the ''constitutional'' or ''nuclear'' option, which rival the US/USSR confrontation of mutual assured destruction. Both situations are accurately described by the acronym ''MAD'', which was used for the confrontation between our Nation and the Soviet Union.

We Republicans are threatening to employ the ''constitutional'' or ''nuclear'' option to require only a majority vote to end filibusters. The Democrats are threatening to retaliate by stopping the Senate agenda on all matters except national security and homeland defense. Each ascribes to the other the responsibility for ''blowing the place up.''

The gridlock occurs at a time when we expect a U.S. Supreme Court vacancy within the next few months. If a filibuster would leave an 8-person court, we could expect many 4-to-4 votes since the Court now often decides cases with 5-to-4 votes. A Supreme Court tie vote would render the Court dysfunctional, leaving in effect the circuit court decision with many splits among the circuits, so the rule of law would be suspended on many major issues.

On these critical issues with these cataclysmic consequences, I urge my colleagues on both sides of the aisle to study the issues and to vote their consciences independent of party dictation. I have not rendered a decision on how I would vote on the constitutional/nuclear option, but instead have been working to break the impasse by confirming or rejecting the previously filibustered nominees by up or down votes.

As Chairman of the Judiciary Committee, I selected William Myers as the first of the filibustered judges to be reported out of Committee for Senate floor action. Two Democrats, Senator JOE BIDEN and Senator BEN NELSON, had voted in the 108th Congress to end the filibuster on Mr. Myers, and Senator KEN SALAZAR made a campaign promise to support an end to the Myers filibuster, although he has since equivocated on that commitment. Being only 2 or 3 votes shy of 60, 55 Republicans plus presumably two or three Democrats, I thought Myers had a realistic chance for confirmation.

With any judicial nominee, or any Senators for that matter, opponents can pick at their record. On the totality of his record, as demonstrated at two hearings and the Judiciary Committee Executive session, Myers is qualified for confirmation. Beyond the issue of his own qualifications, his conservative credentials would lend some balance to the Ninth Circuit.

The Democrats have signaled their intent not to filibuster Thomas Griffith or Judge Terrence Boyle which may help to diffuse the situation. In addition, intensive efforts are being made to clear three of President Bush's nominees for the 6th Circuit. If enough of the President's nominees can be confirmed, we may be able to deflate the controversy without a vote on the constitutional/nuclear option. That is what I am trying to do in my capacity as chairman of the Judiciary Committee.

In due course, I will have more to say about the other pending Bush nominees; but for now, I only urge my colleagues to be independent and to examine the nominees' records on the merits without having their votes determined by party loyalty.

The fact is that all, or almost all, Senators want to avoid the crisis. I have had many conversations with my Democrat colleagues about the filibuster of judicial nominees. Many of them have told me that they do not personally believe it is a good idea to filibuster President Bush's judicial nominees. They believe that this unprecedented use of the filibuster does damage to this institution and to the prerogatives of the President. Yet despite their concerns, they gave in to

party loyalty and voted repeatedly to filibuster Federal judges in the last Congress.

Likewise, there are many Republicans in this body who question the wisdom of the constitutional or nuclear option. They recognize that such a step would be a serious blow to the rights of the minority that have always distinguished this body from the House of Representatives. Knowing that the Senate is a body that depends upon collegiality and compromise to pass even the smallest resolution, they worry that the rule change will impair the ability of this institution to function.

The importance of independence was noted on November 3, 1774 in a speech of historical importance to the Electors of Bristol by Edmund Burke, a Member of the British Parliament:

> ''. . . his (the legislators) unbiased opinion, his mature judgment, his enlightened conscience, he ought not to sacrifice to you, to any man, or to any set of men living. Your representative owes you, not his industry only, but his judgment; and he betrays, instead of serving you, if he sacrifices it to your opinion.''

President John F. Kennedy, while a member of this body, wrote Profiles in Courage which cities the roles of courageous Senators who chose the national good over party loyalty. He summed it up on one of his famous quotations: ''Sometimes party loyalty asks too much.''

As President Kennedy wrote in the introduction to his book:

> Of course, both major parties today seek to serve the national interest. They would do so in order to obtain the broadest base of support, if for no nobler reason. But when party and officeholder differ as to how the national interest is to be served, we must place first the responsibility we owe not to our party or even to our constituents but to our individual consciences.

Kennedy further noted, in words which ring as true today as they did decades ago:

> Today the challenge of political courage looms larger than ever before. For our everyday life is becoming so saturated with the tremendous power of mass communications that any unpopular or unorthodox course arouses a storm of protests such as John Quincy Adams—under attack in 1807—could never have envisioned. Our political life is becoming so expensive, so mechanized and so dominated by professional politicians and public relations men that the idealist who dreams of independent statesmanship is rudely awakened by the necessities of election and accomplishment.

Continuing, Kennedy wrote:

> Of course, it would be much easier if we could all continue to think in traditional political patters—of liberalism and conservatism, as Republicans and Democrats, from the viewpoint of North and South, management and labor, business and consumer or some equally narrow framework. It would be more comfortable to continue to move and vote in platoons, joining whomever of our colleagues are equally enslaved by some current fashion, raging prejudice or popular movement. But today this nation cannot tolerate the luxury of such lazy political habits. Only the strength and progress and peaceful change that come from independent judgment and individual ideas—and even from the unorthodox, and the eccentric—can enable us to surpass that foreign ideology that fears free thought more than it fears hydrogen bombs.

Beyond his stirring words, Kennedy provides us examples. John Quincy Adams' faced such a controversy when English ships seized American ships and conscripted American sailors who could not ''prove'' that they were not British subjects. Adams, a Federalist, was incensed. Ultimately, he voted with President Jefferson and the Republicans to enact an embargo against Great Britain. Yet most other Federalists, including those in Adams' home state of Massachusetts, preferred to make excuses for the British behavior and urge caution. Realizing the political suicide he was committing, Adams remarked to a friend, ''This measure will cost you and me our seats but private interest must not be put in opposition to public good.'' His prediction was right. He lost his seat.

Kennedy recounts further in ''Profiles in Courage,'' how Senator Thomas Hart Benton, a Democrat from the slave-holding state of Missouri, elevated his love of the Union and his belief in manifest destiny over populist notions of secessionist Southern states. Though Benton owned slaves and was one of the few Senators to bring them with him to his Washington home, he refused to speak in favor of or against slavery in emergent states such as California and New Mexico, as they were added to the Union. Benton was known for his fiery rhetoric and independent streak throughout his thirty years in the Senate. In a prescient, foreboding statement, one of Benton's Missouri contemporaries remarked, ''[a]t an early period of [Benton's] existence, while reading Plutarch, he determined that if it should ever become necessary for the good of his country, he would sacrifice his own political existence.'' Senator Benton did exactly that.

Courageous Senators and this institution as a whole resisted great political pressure to reject steps that would have threatened the separation of judicial powers and the independence of the President. These instances were the 1804–1805 impeachment and trial of Associate Justice Samuel Chase and the 1868 impeachment of President Andrew Johnson.

Republicans under Thomas Jefferson sought to have Associate Justice Samuel Chase of the United States Supreme Court impeached in 1804. The outcome of Justice Chase's trial would largely determine whether the judiciary could remain independent or become a subordinate branch of government where justices looked to the legislature for patronage and job security.

It was Justice Chase's penchant for politicking and expressing Federalist views from the bench that got him in trouble.

Justice Chase was tried before the Senate. Aaron Burr, the controversial Vice President who was wanted in two states for his dueling homicide of Alexander Hamilton, presided at the hearing. During closing arguments, Justice Chase's counsel, Luther Martin, a Maryland delegate to the Constitutional Convention, predicted the outcome and noted the wisdom of the Founding Fathers in the constitutional provision giving the Senate the power to try and decide cases of impeachment. There were Senators in the Chase impeachment proceeding who transcended the pressures of their party, and bravely cast votes of ''not guilty'' for Justice Chase, thereby protecting the independence of the U.S. Judiciary.

A similar great example of Senate independence occurred in the impeachment trial of President Andrew Johnson. President Johnson achieved the ire of the Congress, and the public generally, when he suspended the Secretary of War, Edwin Stanton, in violation of the 10-year Oath-of-Office Act which passed over the President's veto. That legislation prevented the President from removing, without the consent of the Senate, all new officeholders whose appointments require confirmation of that body. Public opinion ran very high against President Johnson.

In ''Profiles in Courage,'' Senator KENNEDY again described the unfolding drama:

> To their dismay, at a preliminary Republican caucus, six courageous Republicans indicated that the evidence produced so far was not in their opinion sufficient to convict Johnson . . .

There were public outcries and party outcries against the deviation from their party loyalty. The party said: ''All must stand together!'' All but one Republican Senator announced their opinions. One who would not was Edmond G. Ross of Kansas.

> The Radicals were outraged that a Senator from such an anti-Johnson stronghold as Kansas could be doubtful. Indeed, despite public clamor and partisan outcry against him, Senator Ross was resolute in his unwillingness to signal his thoughts in advance of the ultimate vote on the Articles of Impeachment. As the impeachment trial droned on, he remained the only unknown voter among Republican Senators.

Ross ultimately voted not guilty, in defiance of party loyalty. Reflecting on what colored his odd voting pattern, given his disdain for President Johnson, and his near mechanical party loyalty until that single moment, Ross said, in historic words:

> In a large sense, the independence of the executive office as a coordinate branch of government was on trial. . . . If . . . the President must step down . . . a disgraced man and a political outcast . . . upon insufficient proofs and from partisan considerations, the office of President would be degraded, cease to be a coordinate branch of the government, and ever after subordinated to the legislative will. It would practically have revolutionized our splendid political fabric into a partisan Congressional autocracy. . . . This government had never faced so insidious a danger . . . control by the worst element of American politics.

Ross went on to say:

> If Andrew Johnson were acquitted by a nonpartisan vote . . . America would pass the danger point of partisan rule and that intolerance which so often characterizes the sway of great majorities and makes them dangerous.

Mr. President, I know morning business has expired. But in the absence of any other Senator seeking recognition, I ask unanimous consent to proceed for an additional 10 minutes.

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

Mr. SPECTER. Mr. President, independence and dissent from the majority view has a great tradition in our country, further exemplified by independent, thoughtful U.S. Supreme Court Justices who formulated important legal principles which were later embraced as the law of the land.

In a series of powerful and famous dissents, Justice Oliver Wendell Holmes and Justice Louis Brandeis, articulated a logic so compelling that it became the majority view within a generation. Their examples serve as a reminder of the importance of dissent and independence.

As a law student, I was inspired by Justice Holmes's dissent in Abrams v. United States, when he wrote:

> But when men have realized that time has upset many fighting faiths, they may come to believe even more than they believe the very foundations of their own conduct that the ultimate good desired is better reached by free trade in ideas—that the best test of truth is the power of the thought to get itself accepted in the competition of the market, and that truth is the only ground upon which their wishes can be successfully carried out. That, at any rate, is the theory of our constitution.

The theme of free-thought and independence, so artfully articulated by Justice Holmes, is also the foundation of ''Profiles in Courage.'' I think the essence of that theme was best summarized by then-Senator John Kennedy, when he said:

> Foreign ideology . . . fears free thought more than it fears hydrogen bombs.

Free thought is the ultimate road to truth. Free thought is the energy that drives the political machine that leads to good public policy in our society. Free thought, and its companion, freedom of speech and assembly and press, are the core attributes of democracy that are today taking root around the world.

''Free trade in ideas'' cannot flourish when Senators are constrained to follow a political party's edict. When the merits of individual judicial nominees are debated and considered, without the counter-marjoritarian filibuster preventing resolution, only then do we achieve Holmes's ''best test of truth.'' Similarly, if the constitutional/nuclear option is debated and considered without adherence to the party line, we will pursue the tested process to find the truth that is ''the only ground upon which [our] wishes can be successfully carried out.''

The value of independence, expressed in the dissenting opinions of Holmes and Brandeis, called public attention to values which later became the pillars of our democracy. Dissenting in Olmstead v. United States, Justice Brandeis said:

> The makers of our Constitution conferred, as against the Government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men. To protect that right, every unjustifiable intrusion by the Government upon the privacy of the individual, whatever the means employed, must be deemed a violation of the [Constitution].

That view of the most basic ''right to be let alone'' later became the pillar of civil rights in our society in many contexts. It is the foundation of today's debate on the Patriot Act where representatives of the political right and the political left reference that value as the barometer of the balance of governmental power to provide for our Nation's security.

The Holmes/Brandeis independent views, expressed in Supreme Court dissents, later became the law of the land on such important issues as freedom of speech, prohibiting child labor, limiting working hours, and peremptory challenges in criminal cases.

These illustrations of Senatorial and judicial independence demonstrate the value of free thinking in deciding what is best for our Nation's long-range interests. Central to the definition of deliberation is thought. And we pride ourselves on being the world's greatest deliberative body. And thought requires independence—not response to party loyalty or any other form of dictation. The lessons of our best days as a nation should serve as a model today for Senators to vote their consciences on the confirmation of judges and on the constitutional/nuclear option.

If we fail, then I fear this Senate will descend the staircase of political gamesmanship and division. But if we succeed, our Senate will regain its place as the world's preeminent deliberative body.

I thank the Chair and thank my colleagues and yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. GRAHAM). Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF JOHN D. NEGROPONTE TO BE DIRECTOR OF NATIONAL INTELLIGENCE

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session for the consideration of calendar No. 69, which the clerk will report.

The legislative clerk read the nomination of John D. Negroponte, of New York, to be Director of National Intelligence.

The PRESIDING OFFICER. Under the previous order, there will be 4 hours of debate equally divided between the two leaders or their designees, and the Democratic time will be equally divided between the Senator from West Virginia, Mr. ROCKEFELLER, and the Senator from Oregon, Mr. WYDEN.

The Senator from Kansas.

Mr. ROBERTS. Mr. President, I thank you.

Mr. President, as chairman of the Senate Select Committee on Intelligence, I rise today in strong support of the nomination of Ambassador John D. Negroponte to serve as our Nation's first Director of National Intelligence.

The committee held Ambassador Negroponte's confirmation hearing on Tuesday, April 12, and voted favorably to report his nomination to the full Senate on Thursday, April 14.

Now, the speed with which the committee acted upon this nomination and the nomination of LTG, soon to be four-star general, Michael Hayden, to be the Principal Deputy Director of National Intelligence, really underscores the importance the committee, and I believe the Senate, places on continuing and ensuring reform of our Nation's intelligence community and, as a result, our national security.

While our intelligence community has a great number of successes—let me emphasize that—of which intelligence professionals should be justifiably proud—and the problem here is that when we have successes in the intelligence community, many times either the community or those of us who serve on the committee or those who are familiar with those successes cannot say anything about them because it is classified—but the intelligence failures associated with the attacks of 9/11 and the intelligence community's flawed assessments of Iraq's WMD programs underscored the need for fundamental change across the intelligence community.

In my years on the Senate Intelligence Committee, I have met many of these hard-working men and women of the intelligence community who work day in and day out with one goal in mind; that is, to keep this Nation secure and our people safe.

They are held back, however, by a flawed system that does not permit them to work as a community to do their best work. So we need to honor their commitment and their sacrifices by giving them an intelligence community worthy of their efforts and capable of meeting their aspirations and our expectations of them.

So responding to that demonstrated need for reform, Congress really created the position of Director of National Intelligence with the intent of giving one person the responsibility and authority to provide the leadership that the Nation's intelligence apparatus has desperately needed and to exercise command and control across all the elements of the intelligence community.

In short, through legislation, we created the DNI, the Director of National Intelligence, to provide the intelligence community with a clear chain of command and the accountability that comes with that.

To facilitate that chain of command, and to foster accountability, the National Security Intelligence Reform Act of 2004 gave the DNI significant management authorities and tools, including expanded budget authority, acquisition, personnel, and tasking authorities.

These authorities, however, are limited in significant ways, and the legislation leaves certain ambiguities about the DNI's authorities.

As a result, there are questions about the DNI's ability to bring about the kind of change and true reform necessary to address the failures highlighted by the 9/11 attacks and the assessments of Iraq's WMD programs.

So the task of resolving these ambiguities and questions will fall to the first Director of National Intelligence. As the WMD Commission pointed out in its recent report, the DNI will have to be adept at managing more through resource allocation than through command.

Moreover, the first DNI will define the power and scope of future Directors of National Intelligence and will determine, in large measure, the success of our efforts to truly reform the intelligence community.

Bringing about that reform is not going to be easy. Numerous commissions—many commissions—have identified the same failings as those that resulted in the legislation that created the DNI. Yet previous reform efforts have proven largely fruitless.

So immune to reform is the intelligence community that the WMD Commission described it as a ''closed world'' with ''an almost perfect record of resisting external recommendations.''

Allow me to relay one example to demonstrate this point.

Over 3 years have passed since the September 11 attacks, and the elements of the community have not made the progress that we want in sharing intelligence data amongst the community. The distinguished vice chairman and I call that ''information access.''

Elements within the intelligence community, unfortunately, continue to act—some elements—as though they own the intelligence data they collect rather than treating that data as belonging to the U.S. Government.

As a result of the community's failure to repudiate outdated restrictions on information access, and its refusal to revisit legal interpretations and policy decisions that predate the threats now confronting the United States, impediments to information access are reemerging—reemerging, even today—in the very programs designed to address the problem.

Clearly, then, the Nation's first Director of National Intelligence will face tremendous challenges and will require unwavering support from both Congress and the White House.

I am pleased President Bush has made it very clear that the DNI will have strong authority in his administration. We in Congress must do our part, and we begin with the nomination of Ambassador Negroponte.

The President has made an excellent choice in choosing the Ambassador to serve as the first DNI. He has dedicated more than 40 years of service to our country. Over the course of his public service career, the Senate has confirmed him seven times, including five times for ambassadorial positions in Honduras, Mexico, the Philippines, the United Nations and, of course, most recently in Iraq. Ambassador Negroponte has also held a number of key positions within the executive branch, including serving as Deputy National Security Advisor.

In short, his career has been dedicated to intelligence and national security matters, and he has a great deal of experience to offer as the new Director of National Intelligence. He is well suited for this position. I look forward to working with him.

In my discussions with Ambassador Negroponte, I have made it clear that Congress and the American people expect him to make a difference in the intelligence community. I must say, on behalf of the Senate Select Committee on Intelligence and on behalf of my vice chairman and myself, we have promised to conduct aggressive, preemptive oversight in regard to helping the DNI answer the challenges he will face with regard to the capabilities we have or do not have with regard to the intelligence community.

We expect him to break down those barriers to information access I alluded to earlier. We expect him to improve the human intelligence capabilities we need. And ultimately, we expect him to provide leadership and accountability. In response to these questions, during his confirmation hearing, the Ambassador simply responded ''I will'' with conviction.

Clearly Ambassador Negroponte will face significant challenges. He is going to carry heavy burdens. I am convinced, however, he has the character, the expertise, and the leadership skills required to successfully meet these challenges and to shoulder these responsibilities.

I urge my colleagues to support this nomination, and I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I join with the chairman of the Intelligence Committee in what he has said. Today the Senate is considering the nomination of Ambassador John Negroponte to become the Nation's first Director of National Intelligence. Personally, I strongly support this nomination, and I will discuss the reasons why in a moment.

First, however, as the chairman did, I am going to take a few minutes to describe how critical this new position is to our country and its future, the magnitude of the challenges Ambassador Negroponte will face.

In 1947, Congress created the Central Intelligence Agency and the Director of Central Intelligence. The Cold War was upon us and the Nation needed intelligence about our new adversary. The structure we put in place at that time to keep tabs on the Soviet Union grew and took on additional missions over the next 40 years. But the intelligence community stayed primarily focused on that one target of the Soviet Union.

Then in 1990, the Soviet Union dissolved. The world changed dramatically, but our intelligence organizations for the most part did not. As a consequence, we have for the past 15 years made do with an intelligence system designed to penetrate and collect information about a single static adversary. There was no one in charge to force change from within, and before September 11 of 2001, there was little impetus for change from without.

The National Security Act of 1947, the genesis of all of this, designated the DCI to serve as the head of the Central Intelligence Agency, also the principal adviser to the President on intelligence matters, and the head of the U.S. intelligence community—all three of those assignments.

The Director of Central Intelligence ran the CIA, advised the President, but, frankly, never exercised the third responsibility, which is probably the most important other than advising the President, and that is managing the intelligence community itself.

Even after the events, tragic though they might have been, of 9/11, it took 3 years, two major investigations of those events, and the stunning intelligence failures prior to the Iraq war to break through the entrenched interests and to achieve reform that created the position of director of something called national intelligence, all of it.

The difficulty involved in the birth of this new office serves as a warning for the challenges that the Ambassador, if confirmed, as I hope he will be, will face. Bureaucracies are amazingly slow to change. That doesn't say anything bad about the people. That is the way the world works, whether it is corporate, private, or whatever. The bureaucracies are tenacious in defending their turf. Some of the stories are remarkable within the 15 intelligence agencies the Ambassador will have to oversee. Reform of the intelligence community will involve stepping on the turf of some of the most powerful bureaucracies in Washington. And first and foremost among those is the Department of Defense.

Eighty percent of our intelligence spending is in the DOD budget. The incoming Director of National Intelligence will have to quickly establish a close working relationship with the Secretary of Defense, but it must be a

relationship of equals, and Ambassador Negroponte must be willing to exercise the authority given him by the legislation and the President when he and the Secretary differ. In effect, the Director of National Intelligence supersedes the head of the Department of Defense.

Ambassador Negroponte also will encounter and need to manage the CIA, an organization accustomed to operating with tremendous autonomy, a world unto itself. Some of these agencies, such as the National Security Agency—they are called NSA—get acronyms, ''no such agency''—that is part of the way their world operates. That is not to denigrate them, their public service, their public commitment, their willingness to offer up their lives for their country. But bureaucracy of a huge magnitude it surely is.

Then there is the FBI, an agency which is dominated by its law enforcement history and struggling to make itself into a full partner in the intelligence community. Some question whether that can be done; my mind is still open to it. They are trying. Most people say it is working at the top but not in the middle, because if you are a lawyer, you have a yellow pad, you go arrest somebody for breaking the law. If you are an intelligence officer, you find somebody you are suspicious of, and you don't arrest that person. You surveil that person, you trail that person, maybe for weeks, months, to find out where that person takes you and what intelligence we can learn from that.

But these are powerful organizations with very proud histories. They are populated by dedicated and talented public servants who have contributed to our security for decades. But our needs are now different. All of these agencies now must change the way they do business.

Ambassador Negroponte takes charge at a time when the intelligence community is reeling from criticism for the lapses prior to 9/11 and the significant failures related to prewar intelligence on Iraq.

The chairman and I worry about that because it affects morale. One doesn't want to affect morale. But on the other hand, intelligence agencies have to reflect the current needs of this country and act accordingly.

The loose amalgam of 15 intelligence agencies needs a leader who can change not simply the boxes on an organizational chart but the way we do intelligence. The different agencies traditionally have collected intelligence from their sources, analyzed it, put it into their databases, and then shared it as they deemed appropriate. The chairman and I are very fond—both of us—of saying the word ''share'' is now outmoded. There is a need-to-know basis from time to time. But if you share something, that means you own it and that you make the decision you will share it with somebody. We prefer the modern word for intelligence which is going to have to be ''access,'' that anybody in that business has access to that intelligence automatically by definition unless there is a particular need-to-know restriction.

The Director of National Intelligence has to create a new culture where the process of producing intelligence is coordinated across agencies from the beginning. The collection strategies for various targets need to be unified, and the intelligence collected needs to be available to everyone with the proper clearance and the need to know that information.

That is the concept of jointness in operation that the Presiding Officer knows well because he is on the Armed Services Committee, as is my colleague, the chairman of the Intelligence Committee. Jointness is a concept the military has used and made work very effectively. It goes back to the Goldwater-Nichols Act almost 20 years ago, and it is something the Intelligence Committee is going to have to learn how to do. Making fundamental changes is absolutely essential in order to make sure our intelligence is timely, objective, and independent of political consideration.

The credibility of the intelligence community—and, by extension, the credibility of the United States—has suffered when key intelligence reports such as the prewar intelligence report on Iraq failed the test of being timely, objective, and independent as required by law. It is not something they just ought to be doing; it is required by the 1947 National Security Act.

Making major changes in the way the community operates and produces intelligence will be the first step for Ambassador Negroponte. He also must instill a sense of accountability. On this many of us feel strongly. The joint inquiry conducted by the Senate and the House Intelligence Committees into the events of 9/11 called for accountability for the mistakes made prior to the attack where thousands lost their lives. The WMD commission, which finished its work, also highlighted this issue.

But despite these findings and despite what one would think the country would assume and expect, no one has been held accountable for the numerous failures to share critical intelligence and act on intelligence warnings in the year and a half prior to the 9/11 attacks. Likewise there has been a lack of accountability over the failings in the collection, analysis, and use of intelligence prior to the Iraq war itself.

Accountability means people get fired or people get demoted or people get scolded or, concurrently, people are patted on the back, rewarded, encouraged, motivated further, held up before their colleagues as exemplary because they have done something particularly well.

So the Ambassador is not only going to have to deal with problems from the past, but he will have to face immediately the growing scandal surrounding the collection of intelligence through the detention, interrogation, and rendition of suspected terrorists and insurgents. We have been subjected to an almost daily deluge of accusations of abuse stemming from these operations.

The intelligence we gain through these interrogations is, frankly, too important to allow shortcomings in this program to continue, and the Director of National Intelligence will be the official responsible for ensuring we have a comprehensive, consistent, legal, and operational policy on the detention and interrogation of prisoners because there is enormous flux in that whole area right now. The lack of clarity in these areas has led to confusion and likely contributed to the abuse we have witnessed.

Dealing with the many challenges is a tall order. But if anybody can succeed in the position of DNI, Director of National Intelligence, an entirely new position in the U.S. Government, one of the three or four toughest jobs in Washington, that person is Ambassador Negroponte. He has a 40-year career of public service, as has been indicated, in some of most difficult and critical posts in the Foreign Service: Vietnam, the Paris peace talks, South and Central America, the U.N., and most recently in Baghdad.

He has been doing this for 40 years. One of the things I have appreciated particularly about him is that he is not a military person, not a political person, not an intelligence person. He is a diplomat. He is somebody who, through his entire career, has engaged in understanding the nuances of the cultures we have to deal with in the intelligence world and what follows intelligence across the world. But he also knows a great deal about intelligence and the military operations and the political aspects of life simply because you cannot be an ambassador and avoid those things.

He is a diplomat, a manager, a negotiator, which is crucial to bringing these agencies together and to go back and forth with the President and the Congress. He has extensive knowledge of the workings of the Government. That is a very prosaic statement, until one takes it at face value. Most people don't. They have extensive knowledge about certain parts of Government. He covers the ballfield. He has the temperament, standing, and self-confidence, frankly, to deal with the Washington bureaucracy. He has a great deal of confidence in himself, and he ought to—he has the backing of somebody called the President of the United States of America.

The Intelligence Reform Act provides the Director of National Intelligence with considerable authority. But in Washington, DC, the support of the President is invaluable in exercising authority. To put it another way, a person loses their stature pretty quickly if the President is not backing that

person in high-profile decisions, particularly in those instances when decisions meet resistance from the heads of other departments and other agencies which have full call on the President and his attention. The President's support will be absolutely critical to Ambassador Negroponte's success—and succeed he must, Mr. President.

The United States faces a period of enormous uncertainty and threat. The problems of international terrorism will be with us for many decades, and the proliferation of weapons of mass destruction poses a danger at this minute for the entire world and will for decades to come.

These are difficult targets for the intelligence community, but these are the things that threaten our security every moment. These are the issues the intelligence community must master. They are our front line of defense. The warfighter has not yet engaged properly until the intelligence has been collected and disseminated and policy is made from that. Ambassador Negroponte must lead all of us into a new era on intelligence. I think he is very well suited for the task, and I look forward to his swift confirmation.

In closing, I also hope the Senate moves very quickly to confirm the President's nominee to be Principal Deputy Director of National Intelligence, and that is LTG Michael Hayden. This is a tandem made in Heaven. General Hayden understands the military, the lifelong service of it. He understands intelligence. He is Director of the National Security Agency. He has a profound, intuitive, knowledge-based understanding of what is under the rocks and what is plainly in sight, what is plainly good or wrong about the intelligence profession. He has led the National Security Agency for the last 6 years. It is an interesting fact that in the National Security Agency, under their roof, is the largest collection of mathematicians in this world. That may be known or not; I suspect it is. But these people do incredibly important things. He has led them now, having been reappointed three times. Together, Ambassador Negroponte and General Hayden make a powerful team. I am very pleased to support them both.

I thank the Chair and yield the floor.

Mr. ROBERTS. Will the vice chairman yield?

Mr. ROCKEFELLER. Of course.

Mr. ROBERTS. Mr. President, I thank the Senator for a very comprehensive statement. I thank him for what I think is a very accurate statement, more especially with the history he has outlined of the intelligence community; more especially with the contributions of the men and women within the intelligence community who have successes that obviously you cannot talk about, but the obvious need for reform because of what we have gone through; especially for the Senator's comment in relationship to the new DNI in relation to the Department of Defense. That was right on target.

There has been a great deal of comment, as the vice chairman knows, that 80 percent of the funding of the intelligence budget goes to the military, and in terms of being the majority user of intelligence nobody would quarrel with that. I don't know of any Member of Congress who would say otherwise. I think we have made great progress between the intelligence and the military and the real-time analysis or real-time intelligence to the warfighter, even though our challenges in parts of the world are very great. But I point out—and I think the vice chairman agrees—that the principal user of intelligence—not majority but principal user of intelligence—is not the military, as important as they are; it is the President of the United States and the National Security Council and the Congress of the United States to determine policy.

I thank the Senator for bringing that out and I thank him for a very fine statement and also for being a fine vice chairman. We aggressively tried to provide insight and advice to the new DNI.

Mr. ROCKEFELLER. If my friend will yield, I further say that the President made an enormous contribution, which was sort of generally overlooked—not by those of us who work in this field of intelligence—when he made it very clear and made an executive decision that 80 percent of the budget that goes to the military, minus a few very specific tactical areas, and necessarily so, would be under the Director of National Intelligence. That was the President declaring that whoever is in that position will control the funding. Complications can arise, but the President has been clear about who is going to run this operation, and that is very important.

Mr. ROBERTS. Mr. President, I could ask for unanimous consent to lock in the order, but I think I can just make a suggestion with the few Senators we have here. I am sure more will come. Senator BOND has a time conflict and would like to be recognized for 10 minutes. Senator FEINSTEIN has been waiting, as has Senator WYDEN. And then Senator COLLINS will come to the floor very quickly, one of the coauthors of the Intelligence Reform Act. If we can have an understanding that that would be the order, I think that would be appropriate.

Also, I ask unanimous consent that the time consumed by any quorum calls be charged equally to both sides.

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

Mr. ROBERTS. Mr. President, I am more than happy to yield 10 minutes to a valued member of the committee, the Senator from Missouri, Mr. BOND.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I thank Chairman ROBERTS. As we all know, this February, President Bush nominated Ambassador John Negroponte to serve as the Nation's first Director of National Intelligence. I rise today in strong support of his confirmation for this demanding position. I agree with the chairman and vice chairman; I can think of few people as well suited by experience, intelligence, and dedication to tackle this assignment. I heard the remarks of the vice chairman, and I wish to associate myself with those very fine remarks—particularly his remarks about General Hayden who is nominated to be the Principal Deputy. We are not talking about his nomination today, but I associate myself with the high commendation that has been made of this gentleman, who also deserves prompt confirmation, so that we can get about the critically important work of providing intelligence. Ambassador Negroponte's wealth of experience and outstanding track record should be well known to all of us. A proven leader and manager in our national security establishment, he served five tours as chief of mission in U.S. Embassies. He has worked closely not only with frontline intelligence officers but himself served as Deputy National Security Adviser. He has solid experience working with the U.S. military, as well as representatives of Cabinet departments. Most telling, his recent experience as U.S. Ambassador to Iraq and the United Nations provide him with a unique view into the spectrum of national security challenges we now face and how best to construct an intelligence apparatus to meet those challenges. He understands that while collecting, analyzing, and disseminating good intelligence are not only requirements of a sound foreign policy and a secure homeland, they are key elements. Most important, these are processes in dire need of repair. The Ambassador is the right choice at the right time to take on these challenges.

As we continue our war on terror against those who would do us harm, our intelligence community must also work to stem the proliferation and prevent the use of weapons of mass destruction, maintain a watchful eye on global competitors and adversaries, be alert to emerging threats, and provide guidance to policymakers on how best to positively influence global change. Most importantly, they must be able to provide policymakers with timely, accurate, and authoritative intelligence to manage, instead of reacting to looming threats. In short, the Ambassador has his work cut out for him.

He will have to invigorate human intelligence capabilities. Our spies and agents must not only collect better intelligence, they must work to penetrate the governments of rogue states, terrorist and insurgent organizations, and closed societies where some of the most devious plots to attack America and its people and interests, as well as our allies, are hatched. We know we have fallen short in our human intelligence—or HUMINT—capabilities leading up to the conflicts in Afghanistan and Iraq. We are going to have to correct that and we look for the DNI's leadership to do that.

As DNI, the Ambassador will have to work diligently to ensure that signals intelligence and other technical collection means are continuously updated, expanded, and modified to not only provide strategic intelligence but also actionable information for our war fighters—something in which I am personally most interested.

Our intelligence community is home to some of the world's finest minds which have averted disaster and provided the highest quality information to consumers from the President down to the privates on the front line. However, inferential analysis and ''group think'' are practices against which the DNI must guard. The DNI must ensure that rigorously competitive analysis models and improved analytics tradecraft be implemented.

The problem of inaccurate information sharing amongst agencies has been a recurring theme during the review of the Senate Select Committee on Intelligence of our recent intelligence failures leading to 9/11 and U.S. assessments of Iraq WMD programs. We have seen, unfortunately, even since 9/11, far too recent incidents where agencies working on common problems did not share that information and those sources. In this day, that is totally unacceptable. The DNI will not only face the challenge of ensuring that information is passed up and down the chain of command, but that colleagues working for different agencies within the intelligence community can and do regularly share and exchange information and ideas.

The Senate Select Committee on Intelligence, under the wise, compassionate guidance of Chairman ROBERTS, has espoused the idea of not merely information sharing but of information access. It is a difficult task. Sensitive information must be protected from disclosure, and too often protecting it from disclosure means not sharing it with people who are working on the same project. Nonetheless, the Ambassador has assured me that an analyst with a need to know will have access to the information, regardless of who collects it and who is working on it.

In the end, no matter what means is used to collect intelligence, it is the fine, brave, and dedicated men and women of the intelligence community who will make it work on any given day on the ground. It will be not only a responsibility but a duty of the DNI to ensure that these men and women receive the proper education and training to discharge their duties. While substantive expertise and technical prowess are essential, leadership and management training, along with mentorship programs are key elements that will ensure that we attract, as well as retain, the talented, motivated, and dedicated personnel we need.

The men and women of the intelligence community are our first tripwire to help stave off disaster. They can advise us on prudent courses of action to advance our national security interests. They willingly take great risks and make great sacrifices daily. Accordingly, it is the solemn obligation of the DNI to ensure their ranks continue to be filled with competent visionaries, managers, and innovators who are willing to lead and care for them.

Over the years, this body has seen and even drafted recommendations to establish a DNI and/or a more accountable and powerful chief of our intelligence community. While the establishment of a DNI is historic, it was not established to the degree of budgetary and other powers that I, along with several of my colleagues, would have liked and thought would be very necessary. So the Ambassador will face challenges as he asserts his authority over the 15 intelligence agencies he will supervise. I hope he will use the implied powers of this position and the positive enforcement and support of the President to make sure the work that needs to be done is done and the DNI will have the power that, unfortunately, he was not given in the legislation but we believe he must exercise.

Reflecting on the recommendations of the 9/11 Commission, and the WMD Commission, as well as many pre-9/11 studies, and the work that has gone on in the Select Committee on Intelligence, I fully endorse and call on my colleagues to support Ambassador Negroponte as he establishes these powers to make sure our homeland is protected and our policymakers and warfighters on the ground are well informed.

Having met with Ambassador Negroponte at length and being well aware of his qualifications, I am confident he will not only meet these high standards but will set a fine precedent for all succeeding DNIs to follow.

I ask my colleagues to act quickly to confirm Ambassador Negroponte to lead our intelligence community so he may begin in earnest to make the difficult changes we believe are sorely needed.

I thank the Chair, I thank the managers of this nomination, and I urge prompt confirmation.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, as a member of the Intelligence Committee, I wish to make a few comments both about Ambassador John Negroponte and also LTG Michael Hayden. He is soon to be General Hayden, I understand.

Mr. ROCKEFELLER. Will the Senator allow me to yield to her such time as she may desire?

Mrs. FEINSTEIN. I certainly will. I thank the Senator from West Virginia.

I know General Hayden will be a four-star general very shortly. I think that is very good news. So we will have the first Director and Principal Deputy Director of National Intelligence.

I believe these are both excellent nominees. They will provide strong new overall management and leadership to the intelligence community as it finally adapts to post-Cold War realities.

Ambassador Negroponte has served with distinction, both in Washington and around the globe. He served as United States Ambassador to four nations and to the United Nations. As Deputy National Security Adviser, Ambassador Negroponte was intimately involved in the formation and use of intelligence. He is well suited to overseeing the collection of vital intelligence needed for the United States to protect itself. Ambassador Negroponte comes to this new position without strong ties or bias to any specific intelligence agency. That is an enormous strength, and I believe he will be an honest broker and manager for the community. He has pledged that he will be a neutral and apolitical provider of intelligence to Government policymakers.

Although General Hayden's nomination is not before us at this time, I wish to say I hold him in the highest regard. He is a skilled manager and an expert in the workings of our Nation's intelligence apparatus. General Hayden led a remarkable turnaround of an enormously complex and technical agency, the National Security Agency. He was first made Director of the NSA under President Clinton and has had his tour extended three times by President Bush. That is a true testament to his leadership. He has proven his ability to establish a skilled and dedicated workforce. In short, General Hayden is a strong choice to be the day-to-day manager of the intelligence community.

Both men have the strength, the vision, and the determination that is necessary to be successful in their new positions.

As my colleagues know, I introduced legislation to create a DNI in the 107th Congress and again in the 108th Congress. So I was pleased to see that with the support of the 9/11 Commission and the chairs and ranking members of the Intelligence and Governmental Affairs Committees, this position was finally established.

As Director and Deputy Director of National Intelligence, these appointees face daunting challenges. The 15 intelligence agencies are a community in name only. The fiefdoms and turf battles—the stovepipes—between agencies may have lessened since September 11, but they continue to hinder our intelligence operations.

Our technical means for collecting intelligence must be adapted to this new nonstate terrorist world and its challenges. The acquisition and development of new intelligence systems need better management.

The demands for better human intelligence are well documented by reports, including the Congressional Joint Inquiry, our Intelligence Committee's Iraq study, the 9/11 Commission, and the President's own WMD Commission. Each of these reports

spells out, in stark terms, the organizational, the leadership, and the capability challenges that await Director Negroponte and General Hayden.

The U.S. intelligence estimates of Iraq's weapons of mass destruction were, as the WMD Commission stated, ''dead wrong'' before the war. There was a lack of solid intelligence, made worse by fundamental and inexcusable lapses in tradecraft and judgment. The systematic failings will take sustained leadership and vigorous oversight to correct.

Our intelligence capabilities in other crucial areas—Iran and North Korea among them—are still inadequate and unacceptable. As the war and postwar operations in Iraq show dramatically and tragically, we cannot govern effectively and cannot make informed decisions without timely and accurate intelligence. We cannot afford to fail again. The stakes are very large, indeed.

Thankfully, the recent Commission and Senate reports have also made important recommendations. Both Ambassador Negroponte and General Hayden have expressed willingness to make important changes. They will take steps to integrate and bolster intelligence collection and to end ''group think'' and untested assumptions. They will use red teams and alternative analysis when intelligence conflicts. This was a substantial lacking that led to the wrong judgments made in the Iraq National Intelligence Estimate that so many of us relied upon to make our judgment on how to vote to authorize the President with use of force in Iraq.

The Director also has the authority to put in place a management team and implement changes, including new mission managers and new centers, to focus attention on the most pressing problems.

I believe strongly it is going to take a strong and authoritative Director of National Intelligence to put our intelligence community back on the right track. Equally important, it will take forthright and impeccably objective leaders to restore the credibility both to the American people and to the world that was destroyed by the assessments of Iraqi weapons of mass destruction.

The legislation that created the DNI last year, the Intelligence Reform and Terrorism Prevention Act, spells out the framework for a strong DNI, but it did not fill in the details. The authorities and responsibilities that should have been made clear in law, I believe, will have to be instead established in practice. I have discussed privately and through the confirmation hearing process with Ambassador Negroponte the need for him to assert authority by taking bold action to lead and manage the intelligence community, and I will support him in doing so.

I have confidence the new Director shares this vision and will take the necessary steps immediately after taking office. General Hayden, with his experience in fighting these battles as Director of NSA, will be a key adviser and ally in fulfilling this charge.

The men and women who work for the 15 intelligence agencies are skilled and dedicated, but they need innovative, new tools and ways of doing business to meet our future strategic intelligence needs. I am confident that Director Negroponte and Deputy Director Hayden will work to provide these needs.

I thank the President for forwarding such skilled, nonpartisan nominees, and I wholeheartedly support their confirmation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, I am delighted to yield 10 minutes to the distinguished chairman of the Homeland Security and Governmental Affairs Committee whose unflagging, untiring, persevering efforts, along with her coauthor, Senator LIEBERMAN, led to passage of the Intelligence Reform Act that has returned us to this whole process where we have Ambassador Negroponte and General Hayden, an outstanding team, not only to reform but to lead the intelligence community.

I thank the Senator for her leadership and her efforts. She persevered, and she was successful.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, first, I thank the distinguished chairman of the Senate Intelligence Committee and his extraordinary ranking member for all their work to improve the quality of the intelligence upon which our policymakers, our men and women who are on the front lines, and all of us rely.

Last July, the Senate leaders assigned the Homeland Security and Governmental Affairs Committee the task of developing legislation to implement the recommendations of the 9/11 Commission. The committee I am privileged to chair devoted more than 5 months to this important and complex issue that is so crucial to the safety and well-being of the American people. We successfully accomplished our assignment with the enactment of the Intelligence Reform and Terrorism Prevention Act of 2004, which the President signed into law in December.

During the committee's inquiry into how to fix the flaws in our Nation's intelligence capability that permitted so many dots to go unconnected for so long, one remedy emerged as being among the very highest priorities. Our intelligence community—15 disparate agencies and entities, each with its own expertise and experience—clearly needed one leader. The role of this leader has often been described as that of a CEO in business, a person with the ultimate authority over the operation and with the ultimate accountability for results. An even more succinct description was offered by former Secretary of State Powell at one of our committee's many hearings. He said what the intelligence community really needed was an empowered quarterback.

The new law creates the Director of National Intelligence as that empowered quarterback, with significant authority to manage the intelligence community and to transform it into, to use President Bush's term, a single unified enterprise.

I believe John Negroponte is the right person, the right leader to be that CEO, that empowered quarterback.

Ambassador Negroponte is an accomplished diplomat, which is a vital credential in the international war against terrorism. Having served very recently as our Ambassador in Iraq, he knows firsthand how important the intelligence provided is. He has been an intelligence consumer. Throughout his distinguished and varied career in service to our country, he has demonstrated strong, decisive leadership skills. These skills will be invaluable in exercising the Director of National Intelligence authorities and in carrying out the intelligence community transformation called for in our legislation.

The Ambassador's extensive experience in national security and foreign relations is a solid foundation for the weighty responsibilities he will have in this critical position. As the first DNI, Ambassador Negroponte will not only serve a critical role immediately, he will also establish the relationships and set the precedent for future DNIs. Thus, when I met with the Ambassador, I encouraged him to aggressively use the authorities we worked so hard to secure in the intelligence reform bill. One of those key authorities concerns the DNI's responsibility for determining the budget for the national intelligence program. He also will have significant authority to execute that budget and to transfer funds, if needed, to meet emerging threats and the greatest priorities.

Today, at a hearing before the Armed Services Committee on the nomination of General Hayden to be the No. 2 person to the DNI, I raised the issue with General Hayden about the need to aggressively exercise that budget authority. The law is very clear on this point, but already we have seen some signs from the Defense Department of a potential challenge to the new DNI in exercising that authority.

I think it should be very clear, through the legislative history and in our conversations today, that the DNI has a direct relationship to the heads of the National Security Agency and the other intelligence agencies that are housed within the Pentagon but serve not only the Department of Defense but all intelligence consumers. I was pleased to hear General Hayden's understanding of the extent of that authority.

Ambassador Negroponte will be the first intelligence CEO to set the community's budget, to establish community-wide intelligence gathering and analytical priorities, and to employ financial, technological, and human resources where and when they are most needed, or, as Secretary Powell might have put it, he will be calling the plays. This is an unprecedented challenge and unprecedented authority, and I am convinced John Negroponte will meet this challenge in an exemplary manner. I am convinced he understands the need to exercise that authority to the full extent of the law.

Ambassador Negroponte will provide our intelligence community with accomplished, experienced, dedicated, and needed leadership. I wholeheartedly urge my colleagues to approve this important nomination without any delay. Again, I commend the chairman and the ranking member for bringing this nominee so quickly to the Senate floor.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Oregon.

Mr. WYDEN. Mr. President, it is not easy for a member of the Senate Select Committee on Intelligence to oppose Ambassador Negroponte's nomination on the floor of this Senate. I am well aware that many do not share the concerns, and the views I will express this afternoon have not been arrived at casually.

The Ambassador is the consummate diplomat, a dedicated public servant, a well-liked person who is popular with Members of the Senate of both political parties. He has been confirmed by the Senate for a variety of posts. I have voted twice for those confirmations, but I am not convinced that Ambassador Negroponte is the right man for this job. I have reached this judgment based on my strong belief that a prerequisite for this position should be a willingness to be direct and forthcoming with policymakers even when the truth is difficult. Unfortunately, directness was nowhere in sight in the Ambassador's responses at his confirmation hearing last week.

At that hearing, the Ambassador was not even as direct and forthcoming in discussing controversial matters as he has been in the past. For example, at the hearing I discussed with the Ambassador his service in Honduras. I made it clear at the outset that I understand it makes no sense to relitigate a war that took place in Central America more than 20 years ago. In spite of the lengthy news accounts printed that morning, the morning of his confirmation hearing, providing new information documenting the Ambassador's continued backing of the Contras after the House had voted to halt U.S. support, I chose not to focus on those issues. I raised the Honduras issue last week and return to it this afternoon because I believe the record of the Ambassador's service there is particularly telling in terms of his judgment and his willingness to confront difficult facts, which I believe are two key requirements for the Director of National Intelligence.

For example, I find it especially troubling that the Ambassador's perception of the human rights situation in Honduras differs so dramatically from that expressed by the Central Intelligence Agency, the InterAmerican Court, the Honduras Human Rights Commission, and others. The Central Intelligence Agency released a report entitled ''Selected Issues Relating to CIA Activities in Honduras in the 1980s'' which found:

> Honduran military committed hundreds of human rights abuses since 1980, many of which were politically motivated and officially sanctioned.

The CIA report linked the Honduran military personnel to death squad activities.

Mr. Negroponte, on the other hand, said in a September 12, 1982, letter that was printed in the New York Times Magazine that:

> Honduras's increasingly professional armed forces are dedicated to defending the sovereignty and territorial integrity of the country, and they are publicly committed to civilian constitutional rule.

The InterAmerican Court for Human Rights heard cases concerning human rights abuses in Honduras. In 1989, the Court found:

> A practice of disappearances carried out or tolerated by Honduran officials existed between 1981 and 1984; and
>
> The Government of Honduras failed to guarantee the human rights affected by that practice.

In an October 23, 1982, letter printed in the Economist, Ambassador Negroponte wrote:

> Honduras's increasingly professional armed forces are fully supportive of this country's constitutional system.

The Honduran Human Rights Commissioner released a report on forced disappearances that occurred in Honduras during Ambassador Negroponte's tenure. The report states:

> [t]here existed within the Armed Forces a deliberate policy of kidnapping and forcibly disappearing persons.

Yet the introductory passage of the 1983 State Department Country Report issued while Mr. Negroponte was Ambassador stated:

> The Honduran military, which ruled the country for almost 20 years before 1982, supports the present civilian government and is publicly committed to national and local elections, which are scheduled in 1985, as well as the observance of human rights.

The fact is, when you read what the Ambassador has said about Honduras, and what the CIA and others have said about the same time period, it is as if John Negroponte was an ambassador to a different country.

Given these sharp differences, I asked the Ambassador last week to reconcile this very large gap between what he saw and what others reported. I expected an answer that would have at least acknowledged these very substantial differences and indicated that in hindsight the Ambassador would have been more outspoken about human rights practices.

Instead, the Ambassador tried to dismiss the issue altogether by simply saying the differences were not so great, something I thought was pretty hard to fathom, given the accounts I had provided to him.

The fact is, in trying to brush off this issue of Honduras, the Ambassador actually showed less candor last week than he has in the past. For instance, at his 2003 hearing before the Foreign Relations Committee when he was being considered for Ambassador to the United Nations, Mr. Negroponte stated the following about Honduran human rights abuses:

> Maybe it was a mixed picture, Senator. I am more than willing to acknowledge that.

At the same hearing he said:

> Could I have been more vocal? Well, you know, in retrospect, perhaps I could have been.

So you have to ask, as I have done, Why would the Ambassador be less direct last week than he had been previously? Certainly there was no national security reason for him to duck questions about events that are decades old. Perhaps the newspaper articles that morning made him fear Congress would get into issues he might find uncomfortable. That is certainly understandable, but it is absolutely unacceptable for a nominee tapped to head our Nation's intelligence community at a time when directness and forthrightness is more important than ever before. Throughout his confirmation hearing, on issue after issue, the Ambassador ducked and avoided giving anything resembling a straightforward answer.

I asked the Ambassador whether he foresaw his office involving itself in decisions relating to the implementation of the PATRIOT Act's surveillance powers, and in particular whether his office might weigh in on whether the Federal Bureau of Investigation should seek a FISC warrant.

His answer?

> Senator, I am not entirely certain what my authorities would be under FISC.

I asked the Ambassador whether he would be willing to take a fresh look at the United States rendition policy, possibly the most controversial weapon being used in fighting terrorism today. Rendition involves sending a suspected terrorist from one country to another without court proceedings. Republican and Democratic administrations have used renditions in the past, but their use has increased significantly since 9/11, and the policy has certainly changed. Previously, most suspects were rendered to the United States. Now it works the opposite way. More and more often the United States is rendering suspects to foreign countries. News reports indicate that suspects are frequently being rendered to countries known to torture suspected terrorists, such as Syria, Egypt, Uzbekistan, and Saudi Arabia. While the United States gets assurances from foreign governments they will not use torture, U.S.

officials have little control over the situation once a suspect is in the hands of the foreign country.

Rendition is the practice used to address a very difficult dilemma. America may lack the evidence to bring a suspected terrorist into court; there is some proof of wrongdoing, but not enough for a court of law. If the suspect is not an American citizen, it is possible to send them elsewhere to be dealt with, but that can be a dicey prospect. Renditions get suspects off the streets, something which makes Americans safer. But the tactic has raised serious concerns for many of our citizens and for many people in other countries as well. I have heard those concerns, but I also recognize that renditions can serve a legitimate and valuable purpose. It is a question of how this policy is carried out. Our country needs to have a frank and candid and direct discussion about this policy of rendition. But, before that can happen, there needs to be some answers to some tough questions:

Have any suspects been rendered based on faulty intelligence and, if so, what amount of intelligence should be necessary before a rendition takes place?

Are there certain countries to which the United States should not render suspects?

Are the assurances the United States gets in the rendition area sufficient with regard to the use of torture?

Does the United States need to retain more control of suspects it renders, especially to countries that have weak human rights records?

How good is the intelligence the United States is getting from rendered suspects?

What is the effect of a rendition policy on America's diplomatic relations with other countries?

These are some of the important questions that need to be answered. So in an effort to examine Ambassador Negroponte's openness and to try to determine his judgment in a difficult area such as this, I asked the Ambassador whether he would be willing to take a fresh look at our rendition policy; not a point-by-point description of what he would do, but simply would he be willing to take a fresh look, a new inspection of this country's approach in rendition.

The Los Angeles Times summed up the Ambassador's response to my question about rendition with four words. They said: ''Negroponte avoided the question.''

The Ambassador, I would point out, ducked other important questions asked by members of the Senate Select Committee on Intelligence. For example, our colleague from Michigan, Senator LEVIN, asked the Ambassador to explain what action he would take if the Ambassador concluded policymakers were making public statements that differed from the classified intelligence. There was no direct answer to that important question asked by Senator LEVIN.

Senator FEINSTEIN sought detailed information on how, with regard to countries such as Iran and North Korea, the Ambassador intended to assure the United States developed much needed credible intelligence. Ambassador Negroponte responded:

> Well, Senator, the law prescribes a number of approaches to this.

Then I asked the Ambassador about the issue of overclassification of material in the area of national security. This is an issue that has concerned many in the Senate, of both political parties. I have been interested in this matter for some time.

I was, frankly, flabbergasted when 9/11 Commissioner Tom Kean, who did such a superb job in his work, with Lee Hamilton, former Member of the other body—Tom Kean said 75 percent of everything he saw when he chaired the 9/11 Commission that was classified should not have been classified. This is what Tom Kean said in the extraordinarily important inquiry he conducted.

The Central Intelligence Agency initially blacked out over 50 percent of the Senate Select Committee on Intelligence Report on Iraq's WMD programs and links to terrorist groups.

I will tell colleagues I thought Chairman ROBERTS and Senator ROCKEFELLER did a superb job in guiding our committee to a unanimous judgment with respect to Iraq and that important report. But if the CIA had had its way, page after page after page would have been blacked out.

The National Archives Information Security Office reported 14.2 million classification actions in 2003, twice the number recorded 10 years earlier. The agencies are becoming more creative in terms of how they overclassify. In addition to the traditional ''limited official use,'' ''secret'' and ''top secret,'' some agencies now have ''sensitive security information,'' ''sensitive Homeland Security information,'' ''sensitive but unclassified'' and ''for official use only'' classifications, as well.

Secrecy has become so pervasive it makes you wonder whether facts are being classified for legitimate reasons or to protect the individuals and agencies involved.

As I mentioned, this has been a bipartisan concern. I am particularly grateful for the work Senator LOTT has been willing to do with me. We took some modest steps in the intelligence reform bill to open this process and try to bring some balance back into the area of classification. But given this history, given the huge explosion in terms of overclassification of Government documents, I was interested in what the Ambassador had to say with respect to this.

When I first asked, he said:

> Senator, I don't know about classification or overclassification.

But then he went on to make the mind-boggling claim that ''Certainly the trend in my lifetime has been to reduce levels of classification wherever possible. And I've seen that happen before my own eyes.''

Troubling as that answer was and the nonanswers that I received to the other important questions I asked with respect to the PATRIOT Act and relating to rendition and other topics, as troubling as what I was told and wasn't told, is it is not only what the Director of National Intelligence will know that is so important but what he is willing to say that is vital.

In spite of the Ambassador's responses to these questions, I have no question in my mind of Ambassador Negroponte's ability to master the facts. What I am not confident of is his steadfast commitment to speaking those facts to ears that do not want to hear them. And history tells us the consequences of an inability or an unwillingness to speak truth to power can be disastrous.

This country saw what happened in the Bay of Pigs, an unsuccessful attempt by United States-backed Cuban exiles to overthrow the Government of the Cuban dictator Fidel Castro. It is a classic example of what can happen when America's intelligence community is unwilling or unable to be candid. In his review of the Bay of Pigs invasion release to the public in 1998, CIA Inspector General Lyman Kirkpatrick identified numerous failures. These include:

> [The f]ailure to subject the president, especially in its latter frenzied stages, to a cold and objective appraisal by the best operating talent available, particularly by those not involved in the operation, such as the Chief of Operations and the chiefs of the Senior Staffs;
>
> [The f]ailure to advise the president, at an appropriate time, that success has become dubious and to recommend the operation be, therefore, canceled and that the problem of unseating Castro be restudied;
>
> The failure to maintain the covert nature of the project—''[f]or more than three months before the invasion the American press was reporting, often with some accuracy, on the recruiting and training of Cubans. Such massive preparations could only be laid to the U.S. The agency's name was freely linked with these activities. Plausible denial was a pathetic illusion.''

This is what the inspector general said. This is not what a partisan said. Yet the CIA unrealistically plowed ahead, unwilling or unable to face the reality of the situation that the operation was doomed to fail, and as a result the CIA was humiliated, many died, our prestige was damaged.

Throughout the entire time our country was in Vietnam the intelligence community also failed to be forthright and was plagued by overoptimism. One example was particularly worth noting.

In 1963, the Board of National Estimate's draft Nation Intelligence Estimate concluded that ''The struggle in South Vietnam at best will be protracted and costly [because] very great weaknesses remain and will be difficult to surmount.''

Unhappy with the pessimistic conclusion, the Director of Central Intelligence John McCone rejected the draft

and instructed the board to seek the views of senior policymakers in revising the Nation's Intelligence Estimate.

So the final version of the 1963 stated:

> We believe that Communist progress has been blunted and that the situation is improving . . .

As those who put together the Pentagon papers later observed:

> The intelligence and reporting problems occurring during this period cannot be explained away . . . In retrospect [the estimators] were not only wrong, but more importantly, they were influential. As a result, a generation paid the price for the unwillingness or the inability of the intelligence community's inability to be forthright.

Now our country deals with those consequences.

Many in the Senate will remember George Tenet told the President of the United States that the weapons of mass destruction case against Iraq was a ''slam dunk.'' Now America knows what George Tenet knew and what he was unwilling or unable to tell the President of the United States, that it wasn't a slam dunk at all.

The Niger yellowcake, the high-strength aluminum, the mobile weapons lab, the aerial vehicles, the intelligence provided by Curveball and the Iraqi National Congress witnesses, all of this intelligence was questionable and was being questioned by at least some members of the intelligence community.

However, George Tenet was not direct. He was not forthcoming. He told the President of the United States what the President wanted to hear. Whether he was unwilling or unable to be straight with the President, I cannot possibly determine. What I do know is that as a member of the Select Committee on Intelligence I want to do everything I can. I know every Member of the Senate wants to make sure these mistakes are not repeated. The stakes are simply too high.

The Intelligence Reorganization Act gave the Director of National Intelligence a whole lot of responsibility but very little enforcement power. As the Director works to make 15 intelligence agencies pull together, his credibility will be his currency. Critical to his success will be the understanding of all concerned that this person is going to be direct, that the person will be forthcoming, that the person will make sure that no matter who the truth hurts, no matter what policymakers think, they are going to get the facts.

Here is what I think the country needs. The United States needs a Director of National Intelligence who is going to speak truth to power, somebody who has, in Hamilton's words, the ''gumption'' to tell the President and other senior policymakers what they don't want to hear.

The United States needs a Director of National Intelligence who has the knowledge and the experience to step in and begin fixing the problems facing the intelligence sector immediately.

The United States needs a Director of National Intelligence who will break down existing walls inhibiting analysts throughout the intelligence community and, when appropriate, officials and citizens outside that realm from getting access to the information they need to keep Americans safe. The United States needs a Director of National Intelligence willing to, when necessary, go head to head with the agencies under his control, especially the Department of Defense. If the Director lets them push him around, he is doomed.

The United States needs a Director of National Intelligence to take control over the intelligence budget. Before Congress created the position, the intelligence community lacked a leader willing to make tough budget priority and tradeoff decisions. Each agency asked for funds. It was, in effect, a matter of passing the request along. This has to stop. There are not limitless resources. A strategic view, not a parochial lens, ought to be guiding budget decisions.

The United States needs a Director of National Intelligence to shape the intelligence agencies he oversees into a true community because, at this point, the phrase ''intelligence community'' is pretty much a misnomer. While coordination and cooperation have improved, the individual intelligence agencies persist in maintaining their own culture and collection practices. As the military services have learned to fight jointly, our intelligence collection agencies need to learn how to act together to gather critical information our policymakers and warfighters need to protect our country.

The United States needs a Director of National Intelligence who recognizes he cannot do this alone. This position is new and its authority, while substantial, is unclear. His fights with the administration over matters of significant national policy need not, and should not, always be kept quiet. If the Director of National Intelligence is to succeed, he will need to look to allies in the executive branch and here in the Congress to help.

While Ambassador Negroponte is surely a skilled diplomat and has many allies in the Senate, Senators of both parties I admire greatly, I am not confident the administration's nominee will meet these expectations.

For that reason, I will be voting no on the nomination of Ambassador John Negroponte to be Director of National Intelligence.

Mr. President, I want to wrap up with one additional point. I am pleased to be in strong support of General Hayden, who will, when the nominee is confirmed, be the deputy. I thought General Hayden's directness and openness at his confirmation hearing was particularly welcome.

For example, I asked him, on the matter of privacy rights, which is pretty important, given his past background at the NSA, how he would handle that issue. I think there was a sense it is possible to fight terrorism ferociously while still protecting civil liberties. General Hayden, in contrast to what we heard at the earlier confirmation hearing, was refreshingly direct in his responses, where he talked about pushing right up to the line—I believe those were his exact words—but being sensitive to civil liberties.

So I am pleased to be able to say, on the floor of the Senate, I am looking forward to the support General Hayden will be receiving from the Senate shortly. I expect Ambassador Negroponte and General Hayden to be approved. My door will be open to both of them. As a member of the Intelligence Committee, it is my hope that both of these individuals will not hesitate to ask me and ask colleagues for help. The safety of our country depends on the performance of these two individuals in this key post.

Mr. President, with that, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, how much time remains on this side of the aisle?

The PRESIDING OFFICER. The Senator from West Virginia has 32 minutes.

Mr. ROCKEFELLER. Mr. President, I yield myself such time as I may consume, which will be less than that.

Mr. President, I am going to use this opportunity to speak on an unrelated issue, not entirely but somewhat, but one that is of critical importance to the intelligence community and the American people.

Last week, I filed an amendment to the emergency supplemental appropriations bill. Unfortunately, I was not able to bring the amendment before the Senate because it was not germane under postcloture rules. This amendment is important enough, however, that I will take just a few minutes to explain it.

My amendment was, and is, simple and straightforward. It expresses the sense of the Senate. It is not directive. It expresses the sense of the Senate that the Senate Select Committee on Intelligence should conduct an investigation into matters related to the collection of intelligence through the detention, interrogation, and rendition of prisoners. That is its purpose.

The amendment, as I indicated, does not direct the committee to undertake this much needed and long overdue congressional review. Rather, it is a statement by the Senate that the committee should carry out its oversight duties and carefully, thoroughly, and constructively evaluate the interrogation practices of the U.S. Intelligence Community.

A year has passed since the appearance of photographs graphically portraying the abuse of Iraqi prisoners at Abu Ghraib prison. Since then, we have

seen a steady stream of accusations relating to the way U.S. military and intelligence agencies treat individuals in their custody. Allegations of mistreatment have surfaced wherever the United States holds prisoners overseas—across Iraq, in Afghanistan, and at Guantanamo Bay.

Troubling new revelations have become almost a daily occurrence—literally a daily occurrence—with a disturbing number of these incidents resulting in prisoner deaths.

At least 26 prisoners have died in American custody. The disturbing charge has been leveled against the United States that we are exporting torture through rendition practices that lack accountability.

Who can honestly say these events and allegations are not serious enough to warrant an Intelligence Committee investigation?

The collection of intelligence through interrogation and rendition is an extremely important part of our counterterrorism effort and one of our most important intelligence tools.

But this tool, as with all others, must be applied within the bounds of our laws and our own moral framework. It must be subject to the same scrutiny and congressional oversight as every other aspect of intelligence collection. This, unfortunately, has not been the case.

Despite the critical importance of interrogation-derived intelligence and the growing controversy surrounding detention, interrogation, and rendition practices and policies, the Congress has largely ignored the issue, holding few hearings that have provided only limited insight.

More disturbingly, in this Senator's judgment, the Senate Intelligence Committee—the committee charged with overseeing intelligence programs, and the only committee with the jurisdiction to investigate all aspects of this issue—is, in this Senator's judgment, sitting on the sidelines and effectively abdicating its oversight responsibility to media investigative reporters who go at it very aggressively and on a daily basis.

As the Intelligence Committee's vice chairman, I have been pushing, for the past 3 months, for an investigation into the legal and operational questions at the heart of the detention and interrogation controversy.

My requests, and those of other committee members, have been rebuffed, based upon the argument that we have been fully informed on the particulars of our detention and interrogation program, and the Intelligence Committee need only monitor these operations.

The point has also been made that the Intelligence Committee should not undertake an investigation into these issues because the CIA Inspector General is conducting his own investigation. I reject this notion that the Senate should cede to the executive branch its oversight responsibilities. Carrying out oversight is why the Senate Intelligence Committee exists.

Effective congressional oversight is not achieved passively waiting for and accepting the parameters of internal executive branch reviews. We are separate in our responsibilities, executive and legislative. While it is true that the CIA inspector general is investigating specific allegations of abuse involving intelligence personnel, those specific cases represent a small portion of what the Intelligence Committee should be examining. Many fundamental legal and operational issues are outside the inspector general's very limited focus and deserve the Intelligence Committee's immediate attention.

We have a duty to not simply monitor but to actively inquire about the conduct of congressionally funded activities—that is our job—especially activities such as prisoner interrogation that can have life or death implications. Down the road, if we don't set these rules straight, that can come back to haunt our soldiers and their safety.

Up to this point, the Intelligence Committee oversight that I am speaking of has been, in the judgment of this Senator, abdicated to the press over the past year. Here is a sampling, which I will go through quickly, of headlines from articles that have been published in recent weeks: ''Interrogator Says U.S. Approved Handling of Detainee Who Died''; ''White House Has Tightly Restricted Oversight of CIA Detentions''; ''FBI Report Questions Guantanamo Tactics''; ''Questions Are Left by C.I.A. Chief on the Use of Torture''; ''CIA's Assurances on Transferred Subjects Doubted—Prisoners Say Countries Break No-Torture Pledges''; ''Europeans Investigate CIA Role in Abductions''; ''Army Details Scale of Abuse of Prisoners in an Afghan Jail''; ''Prisoners at Abu Ghraib Said to Include Children''; ''Army, CIA Agreed on 'Ghost' Prisoners''; ''Lack of Oversight Led to the Abuse of Detainees, Investigator Says''; ''Ex-CIA Lawyer Calls for Law on Rendition''; ''CIA Avoids Scrutiny of Detainee Treatment''; ''Files Show New Abuse Cases in Afghan and Iraqi Prisons''; ''CIA Is Seeking New Role on Detainees''; ''FBI Agents Allege Abuse of Detainees at Guantanamo Bay''; ''CIA Was Wary of U.S. Interrogation Methods in Iraq.''

I think the Presiding Officer gets the drift.

I ask my colleagues to consider the finding made by General Fay in his recent report on the abuses at Abu Ghraib. General Fay found that CIA practices ''led to a loss of accountability, abuse . . . and the unhealthy mystique that further poisoned the atmosphere at Abu Ghraib.''

General Fay was unable to fully investigate the CIA's role at Abu Ghraib and other prisons. The Senate Intelligence Committee, however, is not unable to do that. That is our job.

These and other reports highlight the need for the sort of strong congressional oversight that in my judgment is now absent. There are many legal and operational questions that we should be investigating to ensure that this vitally important intelligence collection program is not continually hampered by vague and confusing legal and operational directives.

For example, on March 18, 2005, the Central Intelligence Agency issued a statement that:

> CIA policies on interrogation have always followed legal guidance from the Department of Justice.

That may be so, but was that legal guidance supportable? A lengthy legal opinion of the Department of Justice on interrogation practices, which had been issued in secret in August 2002, was quickly repudiated by the White House when it became public in June of 2004 and was superseded by a public Justice Department legal opinion in December of 2004. As that episode indicates, secret law is an invitation to great error.

The Intelligence Committee, which includes members of the Senate Judiciary Committee, must conduct a complete examination of the legal guidance that CIA and Defense Department interrogators have been given. What supporting roles do the CIA and FBI play in the interrogation of suspects at military-run institutions? And how are their activities coordinated, if they are?

It has been publicly reported that the CIA requested that a number of prisoners held in Iraq not be registered and be kept from international inspection—so-called ghost detainees—and that FBI officials lodged strenuous complaints about the mistreatment of prisoners held at Guantanamo Bay. I cannot emphasize how strongly those FBI objections were. These reports and others strongly suggest that different agencies are operating by different sets of interrogation and detention rules, which is a recipe for disaster.

The Congress should evaluate the general policy guidelines for which it is appropriate to render a detainee to another country, and what intelligence is gained from such practice.

More specifically, we must examine the validity of assurances that the United States is given when detainees are rendered to other countries that they will not be tortured. The Congress should undertake, with the intelligence community, case studies of interrogations, including the methods used and, importantly, the reliability of the information obtained. As with other intelligence tools, we should consider on the basis of facts, rather than surmise, what works, what does not work, to obtain reliable information that actually contributes to our national security. The Congress should examine plans for the long-term detention or prosecution of persons detained or rendered for interrogation purposes.

Should the United States, for example, hold detainees without trial for years or decades to come? Is it acceptable to do that for the reason that the

detainees' acknowledgment of their actions came during interrogations that would neither meet the standards of a U.S. court or U.S. military commission?

The reality may be that if Congress continues to default in its oversight and legislative responsibilities, that the courts, in fact, themselves will end up filling that vacuum. The threat of terrorism is going to be with us for many years, if not decades. The intelligence we gain through interrogations will be crucial in protecting Americans themselves against future attacks. If we are to optimize those counterterrorism efforts, we need to have a plan, not an ad hoc policy, for how to deal with people in our custody.

America is not a nation that uses or condones torture. We are party to international agreements that prohibit these acts, and we demand humane treatment for our citizens when they are arrested abroad and for our soldiers when they are captured on the battlefield. We must uphold the same high standards for individuals in our custody or we will rightly be branded as hypocrites, and we will put our soldiers and our citizens in danger. I cannot emphasize that enough.

Next year will mark the 30th anniversary of the Senate Intelligence Committee. The committee was created in the crucible of an extensive bipartisan investigation in 1975, led by Senators Frank Church and John Tower, into allegations of abuse by U.S. intelligence agencies. One conclusion, as described by Howard Baker—somebody I admire enormously—was that the congressional oversight system had provided ''infrequent and ineffectual review'' and that ''many of the abuses revealed might have been prevented had Congress been doing its job.''

Accordingly, the resolution establishing the Intelligence Committee charged it to ''provide vigilant legislative oversight over the intelligence activities of the United States to assure that such activities are in conformity with the Constitution and the laws of the United States.''

It is time for the Senate Intelligence Committee to carry out the vigilant legislative oversight that is our duty and which a number are calling for us to do. We should launch a comprehensive and constructive investigation into the detention, interrogation, and rendition practices of the intelligence community because it is long overdue.

Mr. President, I ask unanimous consent to have printed in the CONGRESSIONAL RECORD several editorials that have appeared around the country calling for congressional action. They include editorials from many newspapers, including the Washington Times and newspapers from Tennessee, Oregon, Florida, Maryland, New York, and California.

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

[From the St. Petersburg Times, Feb. 17, 2005]

INVESTIGATE THE CIA

The extensive use of ''extraordinary rendition,'' by which the CIA moves terrorist suspects to undisclosed prisons around the world for interrogation, has to be the agency's worst kept secret. News reports abound of potentially dozens of al-Qaida suspects held overseas by the CIA, incommunicado and without charge or turned over to the security services of other nations known for their abusive treatment of prisoners, such as Egypt and Syria.

Congress has been inexcusably reluctant to investigate these actions. The Republican leadership apparently has been happy to let the CIA dirty its hands with extralegal strategies in the nation's efforts to fight terrorism. But thanks to some pushing by Sen. John D. Rockefeller IV, D-W.Va., the ranking Democrat on the Senate Intelligence Committee, Congress may begin to open its eyes. Rockefeller has asked the committee to open a formal investigation into the CIA's use of detention, interrogation and rendition. Rockefeller told the New York Times that he felt the committee would be ''derelict if we did not carry out our oversight responsibilities.''

Until now, Congress has done little more than shrug as more evidence has emerged of U.S. intelligence services engaging in brutal interrogations. During the Senate confirmation proceedings of Attorney General Alberto Gonzales, it became clear that the CIA had solicited the Justice Department memorandum giving legal cover to those who use aggressive techniques against prisoners. The CIA wanted to protect its agents from criminal liability. And the administration's view remains that the CIA is not bound by the president's 2002 directive that prisoners in American custody be treated humanely. Late last year, when some in Congress sought to impose new limits on abusive interrogation tactics by the CIA, the White House intervened and the those limits were dropped.

Congress has willingly collaborated in this charade that America is maintaining its moral authority in the world even as it adopts the tactics of human rights abusers. But as former Secretary of State Colin Powell and retired military leaders have repeatedly warned, when America approves of the use of torture it puts its own soldiers in danger of facing the same brutality.

Rockefeller's call for an investigation seems to have some momentum. Sen. Pat Roberts, R-Kan., the Intelligence Committee's chairman, is open to the suggestion. This is Congress' duty. The committee should demand a full accounting of every detainee under the direct or indirect control of the CIA, and it should demand to know precisely what techniques have been used to elicit information. This has been allowed to go on far too long.

[From the Sunday Oregonian, Mar. 6, 2005]

THE TORTURE BUSINESS LANDS IN PORTLAND

(By David Sarasohn)

It could make you wonder if congressmen are interested in economic development.

Rep Earl Blumenauer, D-Ore., is actually asking Congress to investigate a hometown company. Moreover, the company is in a booming business, which will be profiled on ''60 Minutes'' tonight.

In fact, this worldwide business is so big, nobody even knows how big it is—or how big it could get.

You'd think we'd want a piece of it.

But at the end of February, Blumenauer wrote leaders of the International Relations Committee, ''I am simply appalled by continued revelations in the media regarding the torture of detainees in American custody, whether by CIA officials, military personnel, or after being transferred to foreign governments.

''The extensive reports of physical and mental abuse at American detention facilities around the world, the evidence of detainees being turned over to other countries to be interrogated and tortured, and continued efforts by the Bush administration to restrict legal and constitutional protections from detainees form a compelling case that these are not isolated incidents but administration policy.''

Moreover, Blumenauer wrote, ''I am additionally troubled by the use of a Gulfstream V jet registered to a shadowy—and possibly illegal—dummy front company, Bayard Foreign Marketing LLC, in my hometown of Portland, Oregon. Press reports have found no public record of the company's alleged owner, nor have calls to their office been successful at locating him. The evidence certainly points to a violation of Oregon law in order to hide the true nature and breadth of this extraordinary rendition program.''

Picky, picky, picky.

Here we have a Portland company involved in what is clearly a growth industry—the United States shipping prisoners secretly around the world to be tortured by countries that lack the U.S. Constitution or scruples—and people insist on looking at it as a human rights violation instead of an economic development opportunity.

In November, the Sunday Times of London reported a flight log for the Gulfstream showing more than 300 flights to countries such as Libya and Uzbekistan—countries that not only offer an expansive view of interrogation, but are normally difficult to get to from Portland. It's not clear if passage on the plane is ever round-trip.

At the time, the plane was owned by Premier Executive Transport Services of Dedham, Mass., which the Boston Globe found had the same non-existent corporate structure as Bayard Foreign Marketing. ''Sightings of the plane,'' said the Globe, ''. . . have been published in newspapers across the globe and on the Internet.''

Tonight, ''60 Minutes'' profiles another plane in the same business, a Boeing 737 that has made 600 flights since 9/11, including 10 to Uzbekistan—where the British ambassador at one point complained to his superiors and to U.S. authorities about how the prisoners were being tortured, techniques involving rape, suffocation and immersing limbs in boiling liquid.

As one of the CIA agents who set up the program explains to the show's reporter, ''It's finding someone else to do your dirty work.''

Except that nobody around the world seems to be fooled. When Blumenauer went to East Asia to inspect tsunami damage, people everywhere—China, Thailand, Indonesia—wanted to talk about what happened to those in U.S. custody. ''It just happened repeatedly,'' he said Friday.

Last week, when the State Department issued its annual report on human rights, countries from China to Turkey responded that the United States had no standing to comment on the issue. Noting the irony of the United States condemning countries where it was shipping its prisoners, William F. Schulz of Amnesty International suggested, ''The State Department's carefully compiled record of countries' abuses may perversely have been transformed into a Yellow Pages for the outsourcing of torture.''

Congress, thinks Blumenauer, might at least want to ask some questions.

''There is so much of what is happening that is not accountable,'' he says. ''To suggest that there are thousands of people caught up with this is no exaggeration.''

And Blumenauer is now even more interested, since he's found the program is almost a constituent.

Torture, it seems, now has a Portland address.

[From the Times Union, Mar. 10, 2005]

TORTURE ON THE WING

Most Americans would cringe at any suggestion that there are parallels between the human rights abuses in Argentina during the 1970s, and Central Intelligence Agency interrogations of suspected terrorists today. But the similarities are there, and that should shame the Bush administration and Congress. An investigation is more than warranted.

During the years when a military junta ruled Argentina, suspected political opponents ''disappeared.'' They were imprisoned by government forces and tortured. Many were murdered, but some were returned to the streets to tell their stories.

No one has suggested that the CIA interrogators have systematically murdered captives, to be sure. Nor is there any way to know if American citizens have been seized. But the very secrecy of these operations, and the lack of accountability, raise the possibility that such abuses can occur.

What is known is distressing enough. Recent news accounts have detailed how CIA agents or mercenaries—it's hard to tell because the captors are masked—have been abducting suspected terrorists, putting them aboard planes and flying them to countries like Syria, Saudi Arabia, Egypt and Afghanistan, where they are interrogated and tortured.

The abductions aren't a new development, either. Indeed, former President Clinton once advocated kidnapping Osama bin Laden and turning him over to Saudi Arabia, where he would face ''streamlined'' justice. But according to a New York Times article printed in this newspaper Sunday, the abductions have been stepped up markedly in response to the terrorist attacks of Sept. 11, 2001. There is no requirement that the CIA get prior approval from the Justice Department or the White House to seize a suspect. And by sending captives to foreign countries, there is no obligation to afford the captives any rights under American law, including the prohibition against torture.

Defenders of these operations claim that they are justified because they have produced information that has saved American lives by thwarting possible terrorist attacks. Others argue that in a time of war, extreme measures are often necessary. Given the urgency of breaking up terrorist plots, they argue, there is little time to observe a long legal process. Moreover, the suspects are most likely foreigners or illegal immigrants, not citizens who are being deprived of their right to due process.

The consequences of such abductions can't be so easily dismissed, however. Without a system of checks and balances, there is no way to know whether there was good reason to detain someone. That point was driven home during an interview with one detainee, who told the television news program ''60 Minutes'' last Sunday of being abducted while on vacation in Macedonia, shackled, put on a plane and flown to the Middle East for interrogation. He was later released on his own in Albania after, he claims, his captors acknowledged they had confused his name with that of a terror suspect.

Then there's the matter of placing Americans living abroad at risk of being abducted by terrorist organizations who hope to use their hostages to bargain for their comrades' release.

Finally, and hardly least, there is the damage to America's image and values. At the least, Congress should demand some system of accountability to prevent abuses. More than that, it should investigate the claims that these operations have indeed provided life-saving intelligence, or if they have merely tarnished the image of a nation committed to the rule of law.

[From the Fresno Bee, Mar. 14, 2005]

GLASS HOUSES HUMAN RIGHTS REPORT HAS ONE GLARING OMISSION—THE UNITED STATES

As required by Congress, the State Department has issued its annual report on human rights progress, or the lack of it, in countries around the world.

Among those faulted are a number of U.S. allies, including the provisional government in Iraq that is partly a U.S. creature. As always, only one country was missing: the United States.

That's not entirely self-serving. This country doesn't rate itself because, as a State Department official put it, ''it wouldn't have any credibility.'' Besides, he said, there's no shortage of critics, including U.S.-based human rights groups.

But this year's report comes at an especially awkward time. There is continuing evidence of abuses in U.S.-run prisons in Afghanistan, Iraq and at Guantanamo Bay, Cuba—the same kind of abuses for which State's report rightfully faults other governments. But there has not been the full, impartial probe that's needed to give a fuller picture of what happened and who, at whatever level, is responsible.

As long as the United States fails to fully investigate, report and correct its own lapses, it allows abusive regimes abroad to deflect criticism by asking: Who is the United States to judge?

Indeed, Russia and China did just that following publication of the State Department report.

It's a fair question, and part of the response should be a thorough attempt to go beyond the focus on abuses by low-level military and intelligence personnel. Too much is already known to accept the facile explanation that the accumulating scandal reflects only isolated ''rogue'' behavior.

And while there have been several investigations, and more continue, all have been conducted by or for the Pentagon, which is unlikely to point the finger of blame upward. Whatever the full truth may be about where ultimate culpability lies, an air of cover-up hovers over the process.

On Capitol Hill, Sen. Pat Roberts, the Republican chairman of the Senate Intelligence Committee, has rejected a proposal by the Democratic vice chairman, Sen. Jay Rockefeller, to launch a broad probe into the role of U.S. intelligence agencies in the detention, interrogation and ''rendition''—transferring to the custody of foreign governments—of terror suspects. This standoff suggests a partisan approach to a vital national security matter.

What's at stake in the investigation of prisoner abuses is the credibility of this country, which is likelier to be restored through an independent, nonpartisan investigation that lays out whatever facts it finds.

Perhaps there is no ''smoking gun'' to be found at the top. But for as long as the process remains an essentially in-house exercise, those annual State Department human rights reports will continue to raise the question: Who is the United States to judge?

[From the Baltimore Sun, Jan. 31, 2005]

AMERICAN SCAR; PERMITTING TORTURE BRANDS US IN THE WORST WAY

(By George Hunsinger)

When the Senate confirms Alberto R. Gonzales as U.S. attorney general, the vote will be the beginning, not the end, of public debate about our government's policy on torture.

The Abu Ghraib scandal is only the most visible sign that this policy is inconsistent. Officially, our government opposes torture and advocates a universal standard for human rights. Yet, at the same time, it has allowed ingenious new interrogation methods to be developed that clearly violate these standards. They include stress positions, sleep deprivation, sexual humiliation and desecration of religious objects. These practices, which should never be used, are no less traumatic than the infliction of excruciating pain.

For religious people, torture is especially deplorable because it sins against God and against humanity created in God's image. It degrades everyone involved—planners, perpetrators and victims.

More than 225 Christian, Jewish, Muslim and Sikh religious leaders signed an open letter to Mr. Gonzales. They objected to his role in developing a narrow definition of torture and to his equally troubling assertion that some people are not subject to the protections of international law. They registered deep concern about our government's moral foundations, urging support—in practice, not just in words—for fundamental human rights.

Four steps must now be taken to clarify that our government has truly abolished torture.

First, Congress must remove the false partition placed between the military and intelligence services governing extreme interrogation techniques tantamount to torture. The Senate was right to pass, nearly unanimously, new restrictions for the Pentagon, CIA and other intelligence services. But congressional leaders in both houses later buckled under White House pressure and scrapped the language governing intelligence services.

Whether the military or intelligence services are conducting practices tantamount to torture is of absolutely no significance. Trying to differentiate between the two perhaps eases the conscience of decision-makers, but it is a distinction without a difference. It fails to insulate us from the absolute evil that is torture.

Second, Congress must outlaw ''extraordinary rendition,'' a euphemism for torture by proxy. It means that detainees are secretly transferred to countries where torture is practiced as a means of interrogation. Although made public only through shocking cases, such as those of Maher Arar, who was deported to Syria by the United States, and Mamdouh Habib, an Australian citizen who was sent to Egypt before being held at Guantanamo, it has become a mainstay counterterrorism tool.

Does it really need to be said that ''disappearing'' people without any kind of due process is contrary to everything America stands for, not to mention our laws and treaties? The reasons for a detainee's arrest and his guilt or innocence are irrelevant. No sound moral argument can be made that enabling torture through rendition is permissible.

Third, Mr. Bush should make a clear statement that torture is wrong in any form and under any circumstances. He should state beyond a shadow of doubt that America will not be complicit in its commission. Leadership from the president would go a long way toward resolving the torture crisis.

Finally, America needs a special prosecutor. Our reputation has been so badly damaged by Guantanamo, Bagram and Abu Ghraib that no other remedy will do. The existing investigations are not enough because they have not been truly independent. Organizations such as the American Bar Association, Amnesty International and the highly respected International Commission of Jurists in Geneva have all insisted that an independent investigation is imperative.

Nothing less is at stake in the torture crisis than the soul of our nation. What does it profit us if we proclaim high moral values but fail to reject torture? What does it signify if torture is condemned in word but allowed in deed? A nation that rewards those who permitted and promoted torture is approaching spiritual death.

George Hunsinger is McCord professor of theology at Princeton Theological Seminary and coordinator of Church Folks for a Better America.

[From Chattanooga Times Free Press, Feb. 8, 2005]

STORIES FROM THE INSIDE

''During the whole time we were at Guantanamo,'' said Shafiq Rasul, ''we were at a high level of fear. When we first got there the level was sky-high. At the beginning we were terrified that we might be killed at any minute. The guards would say to us, 'We could kill you at any time.' They would say, 'The world doesn't know you're here. Nobody knows you're here. All they know is that you're missing, and we could kill you and no one would know.' ''

The horror stories from the scandalous interrogation camp that the United States is operating at Guantanamo Bay, Cuba, are coming to light with increased frequency. At some point the whole shameful tale of this exercise in extreme human degradation will be told. For the time being we have to piece together what we can from a variety of accounts that have escaped the government's obsessively reinforced barriers of secrecy.

We know that people were kept in cells that in some cases were the equivalent of animal cages, and that some detainees, disoriented and despairing, have been shackled like slaves and left to soil themselves with their own urine and feces. Detainees are frequently kicked, punched, beaten and sexually humiliated. Extremely long periods of psychologically damaging isolation are routine.

This is all being done in the name of fighting terror. But the best evidence seems to show that many of the people rounded up and dumped without formal charges into Guantanamo had nothing to do with terror. They just happened to be unfortunate enough to get caught in one of Uncle Sam's depressingly indiscriminate sweeps. Which is what happened to Shafiq Rasul, who was released from Guantanamo about a year ago. His story is instructive, and has not been told widely enough.

Rasul was one of three young men, all friends, from the British town of Tipton who were among thousands of people seized in Afghanistan in the aftermath of Sept. 11, 2001. They had been there, he said, to distribute food and medical supplies to impoverished Afghans.

The three were interviewed soon after their release by Michael Ratner, president of the Center for Constitutional Rights, which has been in the forefront of efforts to secure legal representation for Guantanamo detainees.

Under extreme duress at Guantanamo, including hundreds of hours of interrogation and long periods of isolation, the three men confessed to having been in a terrorist training camp in Afghanistan. They also said they were among a number of men who could be seen in a videotape of Osama bin Laden. The tape had been made in August 2000.

For the better part of two years, Rasul and his friends, Asif Iqbal and Rhuhel Ahmed, had denied involvement in any terror activity whatsoever. But Rasul said they eventually succumbed to long months of physical and psychological abuse. Rasul had been held in isolation for several weeks (his second sustained period of isolation) when an interrogator showed him the video of bin Laden. He said she told him: ''I've put detainees here in isolation for 12 months and eventually they've broken. You might as well admit it now.''

''I could not bear another day of isolation, let alone the prospect of another year,'' said Rasul. He confessed.

The three men, all British citizens, were saved by British intelligence officials, who proved that they had been in England when the video was shot, and during the time they were supposed to have been in Qaida training camps. All three were returned to England, where they were released from custody.

Rasul has said many times that he and his friends were freed only because their alibis were corroborated. But they continue to worry about the many other Guantanamo detainees who may be innocent but have no way of proving it.

The Bush administration has turned Guantanamo into a place that is devoid of due process and the rule of law. It's a place where human beings can be imprisoned for life without being charged or tried, without ever seeing a lawyer, and without having their cases reviewed by a court. Congress and the courts should be uprooting this evil practice, but freedom and justice in the United States are on a post–9/11 downhill slide.

So we are stuck for the time being with the disgrace of Guantanamo, which will forever be a stain on the history of the United States, like the internment of the Japanese in World War II.

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

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, I regret that I am compelled to speak on this subject. The topic of the day is the confirmation of Ambassador John Negroponte to be the new National Director of Intelligence, but it appears as if that topic has now changed, and I have no alternative but to respond in that basically the purpose and the responsibilities of the Intelligence Committee have been challenged by the vice chairman.

I understand that the vice chairman feels strongly about this issue. We have discussed this at length—not as much as I had hoped and that we had intended to—to seek common ground, but he feels so strongly that he offered an amendment to the supplemental appropriations bill, which he has discussed.

I feel equally as strong, so much so that I filed a second-degree amendment in response. My second-degree amendment is in stark contrast to the amendment offered by my colleague and my friend. My amendment actually expresses support for our Armed Forces and intelligence officers, rather than calling into question their actions, while they are on the front lines in the war on terror. The amendment underscored the Intelligence Committee's continuing aggressive oversight of all aspects of the war on terror, including terrorist detention and interrogation.

The Rockefeller amendment is a sense of the Senate, as he indicated, calling for the Intelligence Committee to launch yet another formal investigation of the men and women who are prosecuting the war against the terrorists. The proposed Rockefeller investigation, as I read the parameters originally proposed and then refined, I think would be virtually boundless in its exploration of any matter even tangentially related to the use of rendition, detention, and interrogation of terrorists.

I want my colleagues to know that these are the very tools that are being used by our brave men and women in the military and intelligence agencies to combat a continuing terrorist threat against every American and our interests. They are also critical in our efforts in Iraq and Afghanistan, and they are saving lives as I speak.

I oppose the efforts of Senator ROCKEFELLER to launch yet another wide-ranging investigation because I believe, despite what he believes—and reasonable men can certainly disagree—that it is currently unnecessary. I believe it would be impractical and damaging to the ongoing operations and morale of the people who are doing the job.

We are not sitting on the sidelines. We are not being passive, we are not rebuffing, we are not defaulting, and we sure as heck are not going to let the media drive the agenda within the Intelligence Committee with regard to classified information and our national security. The Senate Intelligence Committee, in the conduct of its normal but aggressive oversight responsibilities, is examining the broad issues of the effectiveness of interrogation operations, the humane treatment of detainees, the role of intelligence in tribunals and combatant status review boards, and, yes, rendition operations.

In conducting this oversight, just this past month committee staff—both minority and majority—once again visited the detention facility at Guantanamo Bay for onsite inspections, briefings, and discussions. The committee is continuing its oversight through visits, interviews of relevant individuals and personnel, through requests of documents, reviews of prior investigations, and briefings from intelligence community element, using basically the same methodology we used during the WMD review and investigation.

In other words, we are doing our job. I believe we are fulfilling our oversight responsibilities. And there are still ongoing investigations, including the Navy inspector general's investigation into FBI allegations of abuse at Guantanamo Bay in Cuba and the comprehensive efforts of the CIA inspector general of which we are fully informed to the degree that we have never been informed before.

Further, I believe the Rockefeller proposal is unnecessary because this issue has been thoroughly investigated over the past 3 years. We have investigated and investigated and investigated. In fact, we have investigated the investigations.

Let me give you an idea of how many times our own people have been investigated: in January 2002, the Custer report; January 2003, the DOD general counsel and DOD working group, with relation to the interrogation of detainees held in the global war on terrorism; September 2003, the Miller report; November 2003, the Ryder report; May 2004, the Navy inspector general review; June 2004, the Taguba report in regard to the tragedy that happened in Abu Ghraib; June 2004, the Jacoby report; July 2004, the Mikolashek report; August 2004, the Jones and Fay investigation; mid-August 2004, the Schlesinger Commission; August 2004, the Formica report; December 2004, the Army Reserve Command inspector general's assessment of military intelligence and military police training; March 2005, last month, the Church report.

This issue has been—and will continue to be—thoroughly investigated by inspectors general and criminal investigators from the DOD, all of the uniformed services, the CIA, and the Justice Department. It is hard to keep track, but I count at least 15 comprehensive national level investigations and well over 300 investigations of specific allegations of abuse. Between these investigations and our regular and aggressive oversight—I will emphasize, our regular, aggressive oversight—I am comfortable as chairman that the Intelligence Committee is meeting its responsibilities.

I want my colleagues to also think about something else. Last year, just as we have talked about, we enacted the most comprehensive reorganization of the intelligence community since its creation over 50 years ago. We created the position of the Director of National Intelligence and gave him new authorities and enormous responsibilities, further encumbered by our very high expectations. We have all spoken to that during this confirmation process.

If the Intelligence Committee embarks on an unnecessary and boundless what some would even call a fishing expedition that is surely to be tainted by politics, suggested by any leak that has appeared in the press, it will be the first thing that greets the new DNI when he takes office. As Ambassador Negroponte begins the difficult process of fixing what we and numerous commissions have said need fixing, he would be met with endless requests for documents, interviews, and hearings. So Ambassador Negroponte and General Hayden need to hit the ground running, and that would be exceedingly hard to do if they land right in the middle of an unnecessary congressional investigation.

I believe that would be a very serious mistake and contrary to the intent of Congress.

Finally, I oppose Senator ROCKEFELLER's investigation because it will hinder ongoing intelligence collection, and I believe it would damage morale.

My colleagues should know there is a consensus in the intelligence community that terrorist interrogations are the single best source of actionable intelligence against the ongoing plans and plots of our enemy. Terrorist interrogations today are saving lives in Iraq—American lives, Iraqi lives, Afghan lives—and are subverting plots against our own homeland.

The information gleaned from interrogating terrorists is doing exactly what I said in terms of the priority that we have and our responsibilities on the Intelligence Committee in reference to our national security. The majority of usable and actionable intelligence against al-Qaida comes from the terrorist interrogations and debriefings. We must preserve this irreplaceable source of information. Do it right, yes, but we must preserve it.

There is no doubt that this is a delicate intelligence oversight issue. The oversight of detention and interrogation does command a large portion of the Intelligence Committee staff and time and effort. We must continue to treat interrogation as a delicate oversight issue or we risk losing it.

I am concerned an unnecessary informal investigation would accomplish little beyond what we already do in the course of our normal and, yes, aggressive oversight efforts. As I have said on other occasions, it will likely cause risk aversion, the very thing we are trying to avoid.

The constant and repetitive investigations of our frontline personnel will have a chilling effect, a no-confidence vote, really, on the collection of intelligence through interrogations.

The Senate and the Intelligence Committee should be publicly supportive of our men and women of our Armed Forces and intelligence agencies because the overwhelming majority of these people are doing their best to protect us all. Where there have been allegations, they are reported and they are being investigated. And after they are investigated, they are turned over to the Justice Department, if warranted, and people are being charged.

Frankly, I am fast losing patience with what appears to me to be almost a pathological obsession with calling into question the actions of the men and women who are on the front line in the war on terror. Some of these very courageous individuals wear uniforms and some do not. They leave their spouses and children at home, after assuring them that everything will be all right, with the understanding that it may not be all right, and sometimes it is not all right. They travel to the other side of the world in the service of their country with a reasonable expectation that their country supports them. At times they make mistakes, and sometimes they make serious mistakes for which they must account, and rightfully so, and we are doing that.

But as we sit here in the relative safety and comfort of the Capitol complex, I cannot help but think that some of us have lost our perspective. We will and must do our duty as elected officials. As I have indicated, we will continue aggressive oversight on this issue, and we will reach out to our friends across the aisle to incorporate their concerns. But, Mr. President, I say to my friends, we are at war. Therefore, our first and foremost duty is to support our troops and intelligence officers at home and abroad. I, for one, will not advocate using the constitutional authorities vested in this great institution as a blunt instrument on the very people we depend on to keep us safe every day.

I am on their side. And make no mistake, if we sanction another needless investigation, it will be a very public vote of no confidence in our men and women on the front lines in the war on terror. I, for one, have not lost confidence in our people.

The Senator from West Virginia referred to the almost daily revelations regarding the alleged abuses. It is very clear to me what is happening. Facts already known to us and to investigators are now finding their way into the press through Freedom of Information Act requests and, quite frankly, leaks. In Washington, a leak is not a leak until somebody gets wet. I can tell you, on the Intelligence Committee, we are right about up to here, and the same thing is true in many other agencies.

I do not think I am being conspiratorial when I suggest this is a deliberate effort to give the public the impression that this is an ongoing and growing problem. It is not. I do not believe it is. Mistakes have been made by our military and our intelligence agencies, and the Justice Department has responded properly with investigations of abuse and misconduct. We will oversee that. We are being told that, and we are being kept fully informed. I will always meet our oversight duties using facts not press reports.

I urge my colleagues to consider this, as we have two options to take. Again, I offer the open door of suggestions just as we did with the WMD inquiry to incorporate concerns of the minority on the committee with responsibilities as I see them as chairman of the Intelligence Committee and do our due diligence.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, how much time do I have remaining under the agreement that was entered into earlier?

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator has 29 minutes remaining.

Mr. WYDEN. Mr. President, I yield 5 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I thank my colleague. Needless to say, all of us on the Intelligence Committee do all of this for the protection of the American people and protection of the American troops. That goes without saying.

I have to say that all of the investigations to which my friend and distinguished chairman of the Intelligence Committee referred in his remarks were all about the military. None of them were authorized to get into or had access to information about the Central Intelligence Agency and its role. We do not investigate the military in particular; the Armed Services Committee does. We investigate the Central Intelligence Agency and any other intelligence efforts with respect to detention, interrogation, and rendition.

So there are lots of studies that have been done, but there are precious few, if any, that have been done with respect to the intelligence community.

I have put forward this amendment because I think it must be done. I do not consider it irrational. I do not consider it against our troops. I think I made the point it is in part to protect our troops because we are going to be facing these kinds of situations for years and years to come.

I look forward to and I have some confidence that the chairman and myself and members of the committee can come to an agreement on how we approach this in a way which works, gives us the information we need, and we can proceed forward to protect our soldiers.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I will speak very briefly on this matter because I would like to support Senator ROCKEFELLER's call for an inquiry into this area, particularly as it relates to rendition.

Let me begin by saying that I strongly agree with my friend and chairman, the distinguished Senator from Kansas, with respect to how important a time this is with our people in harm's way. Chairman ROBERTS is absolutely right that the fight against terrorists certainly is not a nice business. We understand that.

I want to take a minute and support Senator ROCKEFELLER in the hopes we can work this out and do it in a bipartisan way along the route we took with respect to Iraq, where we got a unanimous agreement in our committee and showed a difficult area could be tackled in a bipartisan way.

The reason I support Senator ROCKEFELLER and want this matter addressed is I think this inquiry could especially provide another useful tool in our fight against al-Qaida. I say that because the longer the war against al-Qaida and its associates goes on, the more we realize what a sophisticated enemy we are facing.

Bin Laden and his followers understand the modern media, both here and abroad. They know that allegations of torture and mistreatment undercut our efforts amongst our allies and influences world opinion against the United States. It seems to me we cannot allow ourselves to be defamed by deceitful and murderous madmen who have learned how to manipulate public perception.

What Senator ROCKEFELLER is talking about would provide us, through an inquiry, the opportunity to discredit information collected from al-Qaida and other terrorists in custody. Torture is not an effective way of getting valuable, credible intelligence. A suspect in extreme pain or psychological stress will lie about anything and everything necessary to stop what that suspect is enduring, and if the possibility of torture is removed, those analyzing the information will have greater faith in the reporting.

If, however, an investigation proves that torture was used by anyone, we will have an additional reason to question the information and better ability to determine the truth from fabrication. So I come to the floor today to say I support Senator ROCKEFELLER in terms of his request. I think Senator ROBERTS, the chairman of our committee, makes a very valid point about the sensitivity of this time, our people being in harm's way, terrorists will stop at nothing, and I think what Senator ROCKEFELLER is talking about could provide an additional tool, an additional opportunity, to strengthen the fight against al-Qaida by publicly correcting their lies and to give us an opportunity to expose the al-Qaida spin machine.

I have spoken at some length on the floor this afternoon, but I want to make clear that I hope the distinguished chairman and the ranking member can work this out. I support Senator ROCKEFELLER.

I yield the floor.

Mr. KOHL. Mr. President. I rise today in support of the nomination of Ambassador John D. Negroponte to serve as our first Director of National Intelligence, a position whose importance to our national security cannot be stressed enough.

After 9/11 and the failure of the intelligence community to predict the absence of weapons of mass destruction in Iraq, study after study has told us that our intelligence system is broken, and desperately in need of repair. We began the process of fixing our intelligence community in December, when we passed the Intelligence Reform Act of 2004. Arguably the most important part of that legislation was the creation of a new position—the Director of National Intelligence—with appropriate budgetary and personnel authority to effectively coordinate the fifteen different intelligence agencies. Eliminating gaps and ensuring that our intelligence agencies are working together is vital to winning the war against al Qaeda, as well as to our long-term national security.

That having been said, the mere creation of this position was not a silver bullet. Many challenges lie ahead for the new DNI. Transforming our intelligence agencies—getting them to work together and share information—will not be easy. According to the Robb-Silverman Commission, turf battles are again emerging between the Central Intelligence Agency, CIA, Federal Bureau of Investigation, FBI, and Department of Defense, DOD. These turf battles contributed to past intelligence failures, and if we are going to truly reform the intelligence community, we need to put an end to this. The key to a well-functioning intelligence community is to resolve these disputes in the best interest of the country, and not one agency or another. Independence and strong leadership are essential to the DNI's success.

Good intelligence is vital to our ability to protect against the threats we face today, as well as the threats we will face in the future. That cannot happen without better management, a DNI to coordinate all of our intelligence efforts—to make sure everyone involved remembers that we are all on the same team, working toward the same goal. It is critical that he succeed in making meaningful changes to our intelligence community. These are high hurdles, but I believe Ambassador Negroponte is up to the job.

Mr. LEVIN. Mr. President, I want to discuss the nomination of John Negroponte to be the first Director of National Intelligence. This is a new position created by Congress as a key element of intelligence reform after the recommendations of the 9/11 Commission, and after the many failures we saw concerning intelligence on Iraq and weapons of mass destruction.

I want to discuss one particular aspect of the problems we had with the intelligence community, and how I hope Ambassador Negroponte will improve upon that situation.

In the course of conducting oversight of the executive branch, Congress requires information and documents produced by the executive branch, including from the intelligence community. This is especially true in cases where Congress, or members of Congress, are conducting oversight for which they are responsible.

Unfortunately, it has been disturbingly difficult to obtain information and documents from this administration on a number of serious issues and from a number of agencies, including from the intelligence community, as well as from the Defense and Justice Departments.

The only conclusion I can draw from my experience in seeking information and documents from this administration as part of my oversight responsibilities is that too often they have not cooperated fully or appropriately.

Let me turn to some specific examples. Each year, the Armed Services Committee holds a hearing with the senior leaders of the intelligence community on worldwide threats. After the hearings, members write questions for the record, and the answers are made part of the official hearing record.

Last year, on March 9, 2004, the Armed Services Committee held its annual worldwide threat hearing with the Director of Central Intelligence or DCI, George Tenet, and the Director of the Defense Intelligence Agency, Admiral Lowell Jacoby. But the CIA did not answer all the questions for the record until one year later, after I brought this delay to the attention of the new DCI, Porter Goss.

In June 2003, as the ranking member of the Armed Services Committee, I initiated a minority staff inquiry into the pre-war intelligence on Iraq, and the use of that intelligence by the administration. In order to conduct this inquiry, it was necessary to request many documents from the intelligence community, as well as from the Defense Department.

Although the intelligence community provided some documents, they stonewalled other requests. For example, on April 9, 2004, I wrote to Director of Central Intelligence George Tenet, requesting the declassification of three sets of briefing charts produced by the Office of Under Secretary of Defense Douglas Feith concerning the Iraq-al Qaeda relationship. The charts contained intelligence that only the intelligence community could declassify.

I knew that one slide, which had been declassified previously at my request, was highly critical of the intelligence community's assessment of the Iraq-al Qaeda issue, and that it had been shown to Defense Secretary Rumsfeld and later to the staffs of the Office of the Vice President and the National Security Council, but that it had not been shown to DCI Tenet when he was briefed.

On July 6th, I received a letter from Stanley Moskowitz, the Director of Congressional Affairs at the CIA. His letter said that in response to my April 9 request, the ''declassification review of the charts is underway and we hope to have an answer to you shortly. We apologize for the delay.''

However, although his staff told my staff that they were working on the request, and later that they had completed the review, the documents were not forthcoming, nor was an explanation for the delay. I finally received the documents earlier this month, after the current Director of Central Intelligence, Porter Goss, provided them.

In another example, on April 29, 2004, I requested the declassification of specific portions of three finished intelligence reports from the CIA concerning the relationship between Iraq and al Qaeda. I requested that they respond by May 10th, but they did not reply for 2 months.

In that same July 6th letter from Stanley Moskowitz, it said that, in response to my April 29 request, ''the declassification review is underway and we hope to have an answer to you shortly.''

However, the CIA did not provide an answer ''shortly.'' It did not provide any answer until after Director Tenet had left the CIA, and I had brought the situation to the attention of the new management team. The declassified materials were finally provided on April 6, 2005, nearly a year after the request.

I have had similar problems with obtaining documents from the Department of Defense. I made a request for documents on November 25, 2003, and I am still awaiting documents from that request.

In that case, the Defense Department said it was withholding some of the documents to determine whether they were covered by executive privilege. It did so until late March, when it finally provided some of the documents, 16 months after my original request. I would note that it is unclear what possible executive privilege concern could exist for these documents, some of which were unclassified talking points to be used by Pentagon officials.

In the same case, the Defense Department originally told me they were withholding some documents containing intelligence information that was ''Originator Controlled,'' also known as ORCON. The Department promised me that they would provide any documents cleared for release by the CIA. But instead of doing so, they simply swept all the CIA-cleared documents into their executive privilege review.

The new leadership of the CIA and the Intelligence Community, Porter Goss, is adopting a more responsive and responsible attitude toward congressional requests for information and documents than did his predecessor.

After I brought these delays to his attention at a hearing in March, he said he would look into the matter and ensure that the information was provided. And he did what he promised. On April 6th, he wrote me a letter as a follow-up to providing me the materials that had been delayed so long.

I would like to quote from the last paragraph of his letter:

> You should have received answers to these requests months ago. There is no excuse for such delays. I have conveyed to my staff that this is not how the Agency will treat requests.

That is the right approach to take. After all the frustrating delays and stonewalling, it is a welcome breath of fresh air. And I hope the window stays open for the whole Intelligence Community.

This brings me back to the nomination of Ambassador Negroponte to be the new leader of the Intelligence Community. At his nomination hearing before the Intelligence Committee, I asked him about this problem of stonewalling, ignoring, or delaying on requests for information and documents. I asked him if he would ensure that the intelligence community provides timely and responsive answers to such requests, and he basically said he would look into the situation.

Frankly, I was hoping he would have a more robust and positive answer, and that he would commit to taking steps, if confirmed, to ensure that the intelligence community is fully responsive in a timely manner to congressional requests for information and documents.

However, I am hopeful that when Ambassador Negroponte does look into the matter, he will be more responsive, in light of the law we just passed. He has a responsibility to the Nation, to the Congress, and to the people—not just to the President.

I have some of the correspondence outlining the problems I have described, and I would ask unanimous consent that they be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, April 9, 2004.

Hon. GEORGE TENET,
Director of Central Intelligence,
Washington, DC.

DEAR MR. DIRECTOR: I am writing to request information and action relative to a series of three briefings presented by the Office of the Under Secretary of Defense for Policy (OUSDP), Douglas Feith, to several audiences, entitled ''Assessing the Relationship between Iraq and al Qaeda.'' I believe you received a copy of these briefings as attachments to a letter written by Under Secretary Feith to me on March 25, 2004, a copy of which he sent to you.

According to Secretary Feith, the first briefing was presented to the Secretary of Defense in August, 2002. The second briefing was presented to you in August, 2002. The third briefing was presented to staff of the National Security Council (NSC) and the Office of the Vice President (OVP) in September, 2002.

I am requesting the following:

1. As these briefings contain intelligence information, I request that you declassify the briefings, to the greatest possible extent. One page used in two of the briefings (to the Secretary of Defense and to the NSC/OVP staffs) has already been declassified at my request.

2. Did the CIA see and clear these briefings before they were presented to the Secretary of Defense and to NSC and OVP staffs? If so, when? Did CIA request changes to the briefings? Given that they contain intelligence information controlled by the originating agencies, would such clearance requests be the normal course of action?

3. Please explain when you and when the CIA first learned of the existence of the OUSDP briefs; when you and the CIA first learned that this briefing was going to be (or had been) provided to the Secretary of Defense and to NSC and OVP staffs; and when the CIA first learned that a different version of the briefing was going to be (or had been) presented to NSC and OVP staffs than had been presented to the CIA.

4. Please provide the CIA's views on two aspects of these briefings: first, the substantive findings and conclusions (both implied and explicit) of the briefings; and second, the reliability of each intelligence item or report cited in the briefings.

5. Please provide your views on the appropriateness of two activities: first, the presentation by non-Intelligence Community personnel to senior policymakers or administration officials of any formal intelligence analysis that is not cleared by the Intelligence Community or made known to it; and second, the provision of comments and edits by entities outside of the Intelligence Community on the contents of Intelligence Community products, whether draft or final.

I appreciate your assistance in this request, and I look forward to your response by April 23, 2004.

Sincerely,

CARL LEVIN,
Ranking Member.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, April 29, 2004.

Hon. GEORGE TENET,
Director of Central Intelligence, Central Intelligence Agency, Washington, DC.

DEAR DIRECTOR TENET: I request that you declassify the following information:

(1) From the June 21, 2002 Counter-Terrorism Center document relating to Iraq's relationship to al Qaeda (CTC 2002–40078CH): In the Key Findings section, p. i, third bullet under the first paragraph; p. iii, second bullet; p. v in its entirety (the Scope Note); In the main body of the report, p. 6, the second section on the page (first and second columns, one paragraph and two sub-bullets).

(2) From the October 2, 2002 National Intelligence Estimate on Iraq and weapons of mass destruction (WMD) (NIE 2002–16HC): p. 68, the first non-bulleted full paragraph and the two subsequent sub-bullets.

(3) From the January 29, 2003 Counter-Terrorism Center document relating to Iraq and terrorism (CTC 2003–40004HJX): beginning on p. 16, the section that begins with the last paragraph on the page, all of page 17, and the first two bullets on page 19; p. 27, second column: the section heading and first full paragraph under the heading; and the second-to-last full paragraph.

I would expect that expeditious declassification should be possible, given that you have already declassified significant portions of the October 2002 NIE, including all the key judgments, all the text concerning uranium, and the alternative views of the State Department's Bureau of Intelligence and Research.

Please have a member of your staff call Richard Fieldhouse of the Committee staff at 202–224–0750 with any questions or requests for clarification.

I appreciate your assistance with this request and look forward to your response by May 10, 2004.

Sincerely,

CARL LEVIN,
Ranking Member.

THE DIRECTOR OF CENTRAL INTELLIGENCE,
Washington, DC, April 6, 2005.

Hon. CARL LEVIN,
Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR SENATOR LEVIN: I have confirmed that responses to the long outstanding requests you brought to my attention during the Senate Armed Services Committee (SASC) Global Intelligence Challenges hearing have now been provided to the Committee. As you made me aware, these requests were from last year's Worldwide Threat hearing, as well as from correspondence dating back to last April. As promised, I instructed Agency personnel to promptly complete their review and provide appropriate and meaningful answers.

You should have received answers to these requests months ago. There is no excuse for such delays. I have conveyed to my staff that this is not how the Agency will treat requests.

Sincerely,

PORTER J. GOSS.

CENTRAL INTELLIGENCE AGENCY,
Washington, DC, July 6, 2004.

Hon. Carl Levin,
Ranking Democratic Member, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR SENATOR LEVIN: I am responding on behalf of the Director of Central Intelligence to your letter of 9 April 2004 requesting information and action relative to a series of briefings presented by the Office of the Under Secretary of Defense for Policy, Douglas Feith, to several audiences, entitled ''Assessing the Relationship between Iraq and al Queda.'' Specifically, you asked five questions. The responses to your questions are provided below.

1. As these briefings contain intelligence information, I request that you declassify the briefings, to the greatest possible extent. One page used in two of the briefings (to the Secretary of Defense and to the NSC/OVP staffs) has already been declassified at my request.

Answer: The declassification review of the charts is underway and we hope to have an answer to you shortly. We apologize for the delay.

2. Did the CIA see and clear these briefings before they were presented to the Secretary of Defense and to the NSC and OVP staffs? If so, when? Did CIA request changes to the briefings? Given that they contain intelligence information controlled by the originating agencies, would such clearance requests be the normal course of action?

Answer: CIA did not see or clear these briefings before they were given to the Secretary of Defense, NSC or OVP. The intelligence information used in these briefings was from products previously disseminated to IC and Executive Branch elements, to include DoD and the White House. There was no need for further clearance in presenting the intelligence information to the Secretary of Defense, NSC or OVP as the originator control clearance had been resolved at the time of initial dissemination.

3. Please explain when you and when CIA first learned of the existence of the OUSDP briefs; when you and the CIA first learned that this briefing was. going to be (or had ,been) provided to the Secretary of Defense and to NSC and OVP staffs; and when CIA first learned that a different version of the briefing was going to be (or had been) presented to NSC and OVP staffs than had been presented to the CIA.

Answer: We first learned of the brief in mid-August 2002 when it was presented to the DCI. We believe it was at that point that we learned that it had been presented to senior levels in the Pentagon. We did not learn that it had been presented to the NSC and OVP or that there were different versions until earlier this year.

4. Please provide the CIA's views on two aspects of these briefings: first, the substantive findings and conclusions (both implied and explicit) of the briefings; and second, the reliability of each intelligence item or report cited in the briefings.

Answer: The CIA's January 2003 paper, Iraqi Support for Terrorism, represents the CIA views on the issues covered in the DoD slides. This paper has been provided to the Committee.

5. Please provide your views on the appropriateness of two activities: first, the presentation by non-Intelligence Community personnel to senior policymakers or administration officials of any formal intelligence analysis that is not cleared by the Intelligence Community or made known to it; and second, the provision of comments and edits by entities outside of the Intelligence Community on the contents of the Intelligence Community products, whether draft or final.

Answer: The DCI responded to a similar question from you at the 9 March 2004 hearing. He said, ''My experience is that people come in and may present those kinds of briefings on their views of intelligence, but I have to tell you, Senator, I'm the President's chief intelligence officer; I have the definitive view about these subjects. From my perspective it is my view that prevails.''

Lastly, in response to your 29 April 2004 letter requesting the declassification of information contained in two Counterterrorism Center publications and the October 2002 National Intelligence Estimate, the declassification review is underway and we hope to have an answer to you shortly.

Sincerely,

STANLEY M. MOSKOWITZ,
Director of Congressional Affairs.

Mr. DOMENICI. Mr. President, I would like to express my support for John Negroponte to be the first Director of National Intelligence, DNI. I have the utmost respect for Ambassador Negroponte and confidence that he will excel in this position.

It is apparent that there is a need to improve our Nation's intelligence capabilities. The passage of the Intelligence Reform and Terrorism Prevention Act, by creating the position of Director of National Intelligence, is an important step in achieving this goal. Creating centralized leadership in the intelligence community will provide better management of capabilities and produce common standards and practices across the foreign and domestic intelligence divide. The position of DNI will better allow the intelligence community to set priorities and move resources where they are most needed. The position of DNI is going to be difficult and demanding. I believe Ambassador Negroponte's experience and character make him an excellent choice to take on this vast responsibility.

From 1960 to 1997 Ambassador Negroponte was a member of the Career Foreign Service, serving at eight different posts in Asia, Europe, and Latin America. He has been Ambassador to Honduras, Mexico, and the Philippines. Ambassador Negroponte also served as Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs and as Deputy Assistant to the President for National Security affairs.

More recently, Mr. Negroponte distinguished himself as ambassador to the United Nations, during the difficult time immediately after the terrorist attacks of September 11. Furthermore Mr. Negroponte last year became the first American Ambassador to Iraq since the fall of Saddam Hussein. In this role he played an important role in moving the nation of Iraq towards a democratic and stable future.

Ambassador Negroponte has a long and distinguished career during his more than 40 years of service to this

country. During that time he faced many challenges and difficult situations. I have the highest expectations that he will take on the assignment as Director of National Intelligence with the same dedication he has shown in the past. Under his leadership, I believe America will have the intelligence capability it so urgently needs to fight and win the continuing global war on terror.

Ms. SNOWE. Mr. President, I rise today in support of John Negroponte to be confirmed as the Director of National Intelligence. These are historic and perilous times as we continue to face enemies intent upon attacking us and the values and freedoms upon which our Nation was founded.

Because we still know very little about our Nation's most dangerous adversaries, the new Director of National Intelligence will be responsible for ensuring that this Nation's intelligence community has the collection and analytic expertise required to confront our greatest challenges no matter from which quarter they appear. While many are concerned about the emergence of China as a peer competitor in the Northern Pacific, we obviously still face the scourge of international terrorism, international criminal organizations and other transnational threats. And, of course, there remains the perplexing problem of gathering intelligence against closed societies such as Iran and North Korea so called ''hard'' targets.

Ambassador Negroponte has both the distinct privilege and solemn obligations that come with being the first Director of National Intelligence. How he leads, how he manages the community, how he shapes his role, the relationships he creates with the various agencies and their leaders will not only determine how effective he is in reforming our intelligence community but very likely how each of his successors will approach the oversight of our intelligence community as well. And the transformation he is charged with overseeing carries with it the future security of this Nation.

Our intelligence community professionals are the best in the world and every day they toil tirelessly, often unrecognized, in the shadows to keep this country safe. I believe they are eagerly looking for strong leadership so they can move forward with the business of securing the country.

It has been said that ''A leader takes people where they want to go. A great leader takes people where they don't necessarily want to go but ought to be.'' I believe that John Negroponte possesses the experience and leadership necessary to take this Nation's 15 intelligence agencies and the thousands of dedicated professionals in those agencies who toil to protect us all to where they ought to be.

He has demonstrated a recognition of the need to refocus our intelligence community, so that disparate intelligence agencies are working together more cooperatively, so that information access is improved to enable all relevant agencies to provide necessary input, and so that the intelligence products provided to national policy makers are not only timely but reflect the best judgment of the entirety of the intelligence community.

Ambassador Negroponte has taken on some of the toughest and most important jobs in our diplomatic service in his long and illustrious career as a Foreign Service Officer. He has been nominated for and confirmed as Chief of Mission in four embassies and as the President's representative to the United Nations. He has served in leadership positions within the Department of State and as a security advisor in the White House. John Negroponte has demonstrated the resolve and ability to take on tough management and policy positions and to perform admirably.

In the past 3 years, there have been four major investigations that have concluded that the time has come for significant reform in the intelligence community. In December 2002, the primary recommendation of the Joint Inquiry into the Terrorist Attacks of September 11, 2001 was that Congress should amend the National Security Act of 1947 to create a statutory Director of National Intelligence to be the President's principal advisor on intelligence with the full range of management, budgetary, and personnel responsibilities needed to make the entire U.S. Intelligence Community operate as a coherent whole.

Last July, the Senate Select Committee on Intelligence issued its Report on the U.S. Intelligence Community's Prewar Intelligence Assessments on Iraq that found that although the Director of Central Intelligence was supposed to act as head of both the CIA and the intelligence community, for the most part he acted only as the head of the CIA to the detriment of the intelligence product provided to National policymakers.

Later that month, the 9/11 Commission issued their report on the terrorist attacks and also recommended that the current position of Director of Central Intelligence should be replaced by a National Intelligence Director with two main areas of responsibility: to oversee National intelligence centers and to manage the National intelligence program and oversee the agencies that contribute to it.

Finally, earlier this month the President's Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction found the Intelligence Community is ''fragmented, loosely managed, and poorly coordinated; the 15 intelligence organizations are a 'community' in name only and rarely act with a unity of purpose.'' They also concluded that the Director of National Intelligence will make our intelligence efforts better coordinated, more efficient, and more effective.

Clearly, with this many investigations and Commissions arriving at the same conclusions time and again, for the sake and safety of the Nation we must begin the transformation of the fifteen agencies tasked with collecting and analyzing intelligence into a single, coordinated community with the agility to predict, respond to and overcome the threats our Nation will face. The confirmation of the first Director of National Intelligence is the first step in executing this extremely complex undertaking and time is of the essence. Indeed, I cannot recall a time when a nominee has come before the Senate with the entire community they have been nominated to lead in the midst of such sweeping transformation.

And once again, I believe the President has made an excellent choice in John Negroponte to lead the intelligence community through such a transformation.

I look forward to working with him in the coming years as we shape our intelligence community into a cohesive whole and as he defines the role of Director of National Intelligence. With a strong DNI and a focused intelligence team, our Nation will be safer. I urge my colleagues to join me in supporting the confirmation of John Negroponte the first Director of National Intelligence.

Mr. KERRY. Mr. President, the successes of the intelligence community are never really known to the American public. But the spectacular failures of the last few years have been apparent to us all. Blue-ribbon panels, presidential commissions, and common sense have all told us that the intelligence community needs reform. In recent months, with action by Congress and the administration, we've begun to see progress. With the vote on John Negroponte's nomination today, we will take an important step in giving life to the structural reforms we've debated for so many months.

John Negroponte faces a daunting challenge as the country's first Director of National Intelligence. It will be his responsibility to make intelligence reform a reality, to break-down the barriers between intelligence agencies, and to restore the credibility of the American intelligence community. There once was a time where the word of the President of the United States was enough to reassure world leaders. After the intelligence failures of the last few years, that is no longer true.

In his confirmation hearings, Mr. Negroponte identified ways to improve the intelligence process—formalizing lessons-learned exercises across the community; utilizing ''Team B'' analyses to avoid self-reinforcing analysis premised on faulty assumptions; improving inter-agency and community-wide cooperation; and removing barriers between foreign and domestic intelligence. He must also be able to work effectively with Secretary Rumsfeld and the Department of Defense—and its 80 percent of the intelligence

budget—to really reform the community. Many of us in Congress will support his efforts, and I urge President Bush to be steadfast in this regard as well.

But Mr. Negroponte's most immediate and urgent task will be to speak truth to power. When the intelligence does not support the policy goals or ambitions of the administration, Mr. Negroponte must never flinch, never waiver, never compromise one iota of his integrity or the integrity of the intelligence. He must also be willing to push analysts to challenge assumptions, consider alternatives, and follow the evidence wherever it may lead them. And when they do, he must back them with the full authority of his office.

Today we face many threats, the dangerous legacy of the Cold War in vast nuclear arsenals, the spread of weapons of mass destruction, the spread of terrorism, lingering disputes in various regions of the world, and new forces, like globalization, all crying out for leadership by the United States. The decisions policy makers make are influenced by many factors. But on issues of war and peace, on protecting this country, on determining our long-term national security needs and the direction of our foreign policy, there is no substitute for intelligence that is accurate, timely, and trusted.

Mr. Negroponte will shape the role of Director of National Intelligence in fundamental ways. He will be judged on whether or not America is safer at the end of his tenure than when he starts. For the sake of us all, I hope he succeeds.

Mr. WARNER. Mr. President, I strongly support the nomination of Ambassador John D. Negroponte to be the first Director of National Intelligence.

This is not a moment without precedent in history. President Roosevelt faced a similar situation in 1941 when he had disparate intelligence and information gathering organizations within the government, but did not have a single person in charge. President Roosevelt convinced a reluctant Colonel William J., Wild Bill, Donovan to be the first ''Coordinator of Information,'' an organization that eventually became the Office of Strategic Services, OSS, and ultimately, the Central Intelligence Agency.

I would like to read a quote from the book, ''Donovan of O.S.S.,'' by Corey Ford:

> The appointment of Colonel Donovan as director of COI was formally announced by executive order on July 11, 1941, and his duties were defined in Roosevelt's own words: 'To collect and analyze all information and data which may bear upon national security, to correlate such information and data and make the same available to the President and to such departments and officials of the Government as may the President may determine, and to carry out when request by the President such supplementary activities as may facilitate the securing of information important for national security not now available to the Government.'
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> The directive was purposely obscure in its wording, due to the secret and potentially offensive nature of the agency's functions; and the other intelligence organizations, jealous of their prerogatives, took advantage of the vague phraesology to set loose a flock of rumors that Donovan was to be the Heinrich Himmler of an American Gestapo, the Goebbels of a controlled press, a super-spy over Hoover's G-men and the Army and Navy, the head of a grand strategy board which would dictate even to the General Staff. In vain, the President reiterated that Donovan's work, 'is not intended to supersede or to duplicate or to involve any direction of or interference with the activities of the General Staff, the regular intelligence services, the Federal Bureau of Investigation, or of other existing agencies.' The bureaucratic war was on.
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> It was a war all too familiar to Washington, the dog-eat-dog struggle among government departments to preserve their own areas of power.

Ambassador Negroponte and General Michael Hayden, USAir Force, his deputy, face a similar situation today, and I wish them well.

Some have said the Intelligence Reform and Terrorism Prevention Act of 2004 uses similarly ''vague phraseology'' in describing the authorities and responsibilities of the new Director of National Intelligence. Some say that Roosevelt was intentionally vague to allow the strong personality of Wild Bill Donovan to make this new intelligence organization work.

I think we have two very strong personalities in Ambassador Negroponte and General Hayden who are up to the task and will make this new Office of National Intelligence work. Their work will be even more effective as they forge strong alliances with their colleagues in other departments of Government.

As Ambassador Negroponte begins this important effort, I know he is mindful on the balance that must be maintained between the needs of national policy makers, military commanders on distant battlefields, and local and national homeland security officials, who are all charged with the safety and security of the American homeland. The support these elements enjoy today has not always been the case. When General Norman Schwarzkopf testified before the Senate Armed Services Committee in June 1991 regarding lesson learned during the first Persian Gulf War, he told the committee that responsive national intelligence support has been unsatisfactory from his perspective as the theater commander in charge of combat operations. Clearly, much has changed since 1991, but we must all remain vigilant in ensuring that intelligence support for our men and women in uniform is maintained and enhanced.

Ambassador Negroponte has a strong record of public service as the U.S. Ambassador to Honduras, Mexico, the Philippines, the United Nations, and most recently, Iraq. He has a great reputation as a problem solver who can be counted on for the epitome of candor and integrity.

John Negroponte has served his Nation faithfully and well. His willingness to take on this daunting challenge is a testament to a man who understands service to Nation and has, once again, answered the call to serve. We are fortunate to have a citizen of such character to undertake this important and challenging task of bringing our Intelligence Community together as a coherent, well-coordinated entity.

I strongly support confirmation of Ambassador John D. Negroponte to be the first Director of National Intelligence, and hope the spirit of Wild Bill Donovan guides and inspires his efforts.

Mr. HATCH. Mr. President, today I rise to give my enthusiastic vote of support for President Bush's nominee to be this Nation's first Director of National Intelligence. I have known Ambassador Negroponte for over 20 years, and his professional career as one of our Nation's best diplomats began 20 years earlier. And rarely have I voted in support of a Presidential nominee with greater confidence. I trust that my colleagues will lend their support unanimously to the President's selection for a position we are anxious to fill.

As he assumes the position we created last year to unify the intelligence community's capabilities as they have never been unified before, I offer Ambassador Negroponte my complete support, with three points to consider.

First, as I have told the nominee, this will be the most difficult job he will ever hold. And I say this to the man who has just returned from serving as our first ambassador to a liberated Iraq. During Ambassador Negroponte's nomination hearing two weeks ago, the distinguished chairman of the Senate Select Intelligence Committee, who also has my greatest respect, while reviewing the job requirements for the new position of DNI, candidly asked the nominee: ''Why would you want this job?''

The answer, for those who know him, is that Ambassador Negroponte has always responded to the call by his country to take on difficult challenges. And we in the Senate have supported him by confirming him, to date, seven times.

Second, as I also told the nominee, and I have said to my colleagues: Osama bin Laden is not quaking in his hideaway because we have created the position of Director of National Intelligence. Let us be candid to ourselves about this. Too often in Washington, a bureaucratic response is mistaken for a solution. I hope we all recognize, after the years of discussing reform, that the legislation we passed last year initiates the beginning, not the end of reform.

And this leads to my third point. Ambassador Negroponte's mission, once we confirm him, is to take the elements of the intelligence community and de-Balkanize them. His mission will be to create a whole that is greater than the sum of the intelligence community parts. He will do

this by achieving what we call jointness between all parts of the community. When he does that—and this will have to do as much with creating new doctrine, and creating community culture that integrates this doctrine—then will our already impressive elements we have in our community be able to advance our security. Only then will we be creating the 21st century global intelligence capabilities that will make bin Laden's inevitable successors and wannabees sweat and run.

In my conversations with Ambassador Negroponte about his new brief, I have shared some of my ideas with him, and I have found him to be welcoming of these and all ideas. He understands the problems we face, as he has been a consumer of intelligence for most of his career, and he has spent his last tour in Iraq confronting the challenge of multiple armed groups dedicated to collaborating against us. I believe he knows what we need, and I know he is determined to take the impressive technological and human capacities already in place in our intelligence community and take it to the level necessary to give the American public a strategic intelligence capability we need and must have.

I believe Ambassador Negroponte has always served this country honorably. As we confirm him today, which I trust we will, I offer him my support and, once again, gratitude for choosing to serve his country in one of the most challenging positions in our history.

Ms. MIKULSKI. Mr. President, one of my top priorities is the real reform of our Nation's intelligence. The Intelligence Reform Act of 2004 was a first step toward transforming the U.S. intelligence community. Information sharing will be strengthened, while diverse opinion and independent analysis will be protected.

The single most important provision in the act was the creation of a Director of National Intelligence, who would have authority, responsibility, and financial control over the entire intelligence community.

The President has nominated an experienced diplomat to be Director of National Intelligence. Ambassador John D. Negroponte has worked hard for his country and has made personal sacrifices. When his country called, he has exposed himself to hardship and danger most notably in Vietnam and in Iraq.

He has also had extensive exposure to U.S. intelligence products and operations. He had intelligence coordination responsibilities in Washington on the National Security Council. He recently had responsibility for leading the U.S. Embassy in Baghdad during a time when intelligence on the Iraqi insurgency had the highest priority.

Yet I have serious concerns with certain aspects of Ambassador Negroponte's record—particularly his actions while he was ambassador to Honduras. There is a serious discrepancy between his description of the Honduran government's human rights record during those years and that of the CIA Inspector General and nongovernmental organizations. He has yet to show complete candor in discussing U.S. activities there with the Congress.

I believe that Ambassador Negroponte could have been more outspoken in reporting from his vantage point at the United Nations in the winter of 2003—when our country was on the verge of war.

Despite these concerns, I will vote for the confirmation of Ambassador Negroponte. I am encouraged by his responses to my questions during hearings before the Senate Select Committee on Intelligence.

In a very important exchange, he provided assurances that he will ''speak truth to power.'' In response to my questions, Ambassador Negroponte said he would make sure that reliability problems with sources are put before decisionmakers. He agreed to explore mechanisms like the State Department's Dissent Channel to encourage those who see yellow flashing lights to express their views to senior officials and to protect dissenters from political retaliation. And he said that he himself would be taking the ''unvarnished truth'' to the President. He also said that all organizations under his purview will obey the law and that there will be full accountability.

These assurances are critical. My vote to confirm Ambassador Negroponte is based on them. As a member of the Senate Select Intelligence Committee, I will be watching closely to see that they are honored and will do what I can to contribute to Ambassador Negroponte's success as the first Director of National Intelligence.

Mr. FRIST. Mr. President, it is my pleasure to support the nomination of Ambassador John Negroponte to the post of Director of National Intelligence.

Mr. Negroponte is superbly qualified for this new and challenging position. I applaud the President on his choice of candidate. Last week, Mr. Negroponte was approved by the Senate Select Committee on Intelligence. I expect he will be confirmed with overwhelming, bipartisan support here on the Senate floor.

Mr. Negroponte's career in public service spans four decades and three continents. He has served in Europe, Asia and Latin America. He speaks five languages fluently, and has won Senate confirmation for 7 previous posts. He is widely regarded as one of our most distinguished and respected public officials.

Among his many career highlights, Mr. Negroponte has served as Ambassador to Honduras, Ambassador to Mexico, Ambassador to the Philippines, and Ambassador to the United Nations. He has served under multiple presidents, Republican and Democrat.

In 2004, President Bush nominated Mr. Negroponte to serve as our Ambassador to the newly liberated Iraq.

As his background attests, Mr. Negroponte has tackled many difficult and sensitive missions. He has also earned a reputation as a skilled manager—skills he will surely need in the job ahead.

As Director of National Intelligence, Mr. Negroponte will be responsible for overseeing the entire intelligence community. It will be Mr. Negroponte's job to keep America safe by bridging the gaps between our 15 intelligence agencies and improving information sharing between agencies.

He will determine the annual budgets for all National intelligence agencies and offices, and direct how these funds are spent. The Director will also report directly to the President.

It is a tough job and a tremendous responsibility. But I am confident that Mr. Negroponte will work hard to make the necessary reforms to help keep America safe.

We learned on 9–11 that the enemy is deadly and determined. He doesn't wear a uniform or march under a recognized flag. He hides in the shadows where he plots his next attack.

Dangerous weapons proliferation must be stopped. Terrorist organizations must be destroyed. And we must have an intelligence community that works together to confront these very real dangers so that we never suffer another 9–11 or worse.

I look forward to Mr. Negroponte's swift confirmation. He has served our country with honor and distinction over many years. America is fortunate to have a public servant of his caliber working hard on our behalf.

Mr. CORZINE. Mr. President, I rise today in support of the confirmation of John Negroponte to be our Nation's first Director of National Intelligence. This is a historic moment, and a critical step toward making our nation more secure. But it is also only the beginning of what will be a long and challenging effort to reform and improve our intelligence capabilities.

It is worth recalling how we got here. The establishment of the Director of National Intelligence would not have happened had it not been for the patriotism and passion of some remarkable Americans. Let me begin with the families of the victims of 9/11 who managed to turn their grief into real, effective action. The Family Steering Committee and, in particular, four 9/11 widows from my State who called themselves the ''Jersey Girls,'' fought for real answers. They pushed for the creation of the 9/11 Commission, whose recommendations included the position for which Mr. Negroponte is being confirmed today. They also insisted that the administration cooperate fully with the Commission as it sought a full accounting of the terrorist attack. They did all this for one reason: they wanted America to be safer than it was on the day they lost their loved ones.

We also owe an enormous debt to the 9/11 Commission, led by former New Jersey Governor Tom Kean and former Congressman Lee Hamilton. The Commission's hard work, persistence, intellectual honesty, and political neutrality brought about something truly incredible: a national consensus. The Commission's meticulous and thorough study of the events leading up to and including September 11 and its wise and succinct recommendations gave us an understanding of the past and a path forward. And, by involving the American people in their deliberations, they helped generate public support for much needed reform.

It is almost impossible to overstate the challenges ahead for the new Director of National Intelligence. The intelligence failures that led to the terrorist attack of September 11, 2001, happened in part because of a lack of coordination among our intelligence agencies. It is the DNI's job to resolve this problem. Mr. Negroponte will need the President's support. He will also need Congress' support. He has mine.

The DNI will also have to correct the intelligence failures that led to the war in Iraq. That includes ensuring that intelligence analyses are objective and that those analyses are used appropriately by policy makers. The DNI will need to speak truth to power, to tell policymakers the hard truth about what we know and what we don't know. Intelligence must guide policy, and not vice versa.

Our intelligence serves many purposes, from informing foreign policy to supporting tactical military decisions. The new DNI will be responsible for guiding our priorities. But this position would not have been created had we not been attacked on our soil, on September 11, 2001. The intelligence community has new consumers: the Department of Homeland Security, Federal, State and local government officials, law enforcement and our Nation's first responders. It is critical that these people have the information they need to protect us.

Mr. Negroponte is highly qualified for this position and I am proud to support his confirmation. But he cannot do this alone. This and future administrations and the Congress must stay engaged in and remain committed to the hard work of intelligence reform.

Mr. LIEBERMAN. Mr. President, I rise today to express my support for this historic nomination of Ambassador John Negroponte to be the first Director of National Intelligence named under the Intelligence Reform and Terrorism Prevention Act of 2004—the most sweeping reform of the intelligence community in over 50 years. With this appointment, we will finally have a single official with the authority, responsibility, and accountability to lead a more unified and more integrated intelligence community capable of avoiding the unacceptable intelligence failures recounted in excruciating detail by the independent 9/11 Commission and, more recently, by the President's WMD Commission.

I am confident Ambassador Negroponte is up to this admittedly difficult task. With a career in public service spanning over four decades, Ambassador Negroponte has demonstrated the commitment and determination this post demands. His service in numerous Foreign Service posts across Asia, Europe, and Latin America—and most recently as the U.S. Ambassador to Iraq—has certainly provided him with the global perspective of our intelligence needs that the position requires. And, having served in senior positions here in Washington at the State Department and at the National Security Council, Ambassador Negroponte has developed the bureaucratic skills that the DNI must exercise in order to be effective.

The most important factor in whether Ambassador Negroponte—indeed, whether the entire intelligence reform effort—succeeds, is the degree of support provided by President Bush and the White House in the early but formative stages of this process. The path toward reform is always a difficult one, particularly with the likely array of bureaucratic and institutional obstacles the DNI is likely to confront. As the WMD Commission candidly recognized, ''The Intelligence Community is a closed world, and many insiders admitted to us that it has an almost perfect record of resisting external recommendations.'' It should come as no surprise that the array of strong statutory authorities provided to the DNI under the legislation can, in and of itself, only accomplish so much; implementation will now be the crucial test, and the President must show the same level of commitment he demonstrated during the final push to pass the intelligence reform legislation in the last Congress.

I am encouraged in this regard by the President's remarks in announcing the nomination of Ambassador Negroponte. President Bush said:

> In the war against terrorists who target innocent civilians and continue to seek weapons of mass murder, intelligence is our first line of defense. If we're going to stop the terrorists before they strike, we must ensure that our intelligence agencies work as a single, unified enterprise. And that's why I supported, and Congress passed, reform legislation creating the job of Director of National Intelligence.
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> As DNI, John will lead a unified intelligence community, and will serve as the principle advisor to the President on intelligence matters. He will have the authority to order the collection of new intelligence, to ensure the sharing of information among agencies, and to establish common standards for the intelligence community's personnel. It will be John's responsibility to determine the annual budgets for all national intelligence agencies and offices and to direct how these funds are spent. Vesting these authorities in a single official who reports directly to me will make our intelligence efforts better coordinated, more efficient, and more effective.

Unfortunately, we had no single official who effectively forged unity of effort across the intelligence community prior to September 11. We had no quarterback. Prior to this legislation, the Director of Central Intelligence (DCI) had three jobs: No. 1. principal intelligence advisor to the President; No. 2. head of the CIA; and No. 3. head of the intelligence community. As the 9/11 Commission concluded: ''No recent DCI has been able to do all three effectively. Usually what loses out is management of the intelligence community, a difficult task even in the best case because the DCI's current authorities are weak. With so much to do, the DCI often has not used even the authority he has.''

The new Director of National Intelligence has two main responsibilities: to head the intelligence community and to serve as principal intelligence advisor to the President. As principal advisor to the President, the DNI is responsible—and accountable—for ensuring that the President is properly briefed on intelligence priorities and activities. The CIA Director will now report to the DNI, who is not responsible for managing the day to day activities of that agency while also heading the intelligence community. In fact, the legislation specifies that the Office of the DNI may not even be colocated with the CIA or any other element of the intelligence community after October 1, 2008.

As head of the intelligence community, the DNI will have—and must effectively use—the wide range of strong budget, personnel, tasking, and other authorities detailed in the legislation to forge the unity of effort needed against the threats of this new century. I am pleased that Ambassador Negroponte, appearing before the Senate Select Committee on Intelligence, indicated he has heeded the advice from many quarters, including the President's WMD Commission, to push the envelope with respect to his new authorities.

Perhaps the most significant of these authorities is the DNI's control over national intelligence funding, now known as the National Intelligence Program NIP. Money equals power in Washington, or to paraphrase one of the witnesses who testified before the Senate Homeland Security and Governmental Affairs Committee as we drafted the intelligence reform legislation, former DCI James Woolsey: ''The Golden Rule in Washington is that he who has the gold, makes the rules.'' For instance, with respect to budget development, the bill authorizes the DNI to ''develop and determine'' the NIP budget—which means that the DNI is the decision-maker concerning the intelligence budget and does not share this authority with any department head.

Once Congress passes the national intelligence budget, the DNI must ''ensure the effective execution'' of the NIP appropriation across the entire intelligence community whether the funds are for the CIA, NSA, the Federal Bureau of Investigation, or any element of the intelligence community.

The Director of the Office of Management and Budget must apportion those funds at the ''exclusive direction'' of the DNI. The DNI is further authorized to ''direct'' the allotment and allocation of those appropriations, and department comptrollers must then carry out their responsibilities ''in an expeditious manner.'' In sum, the DNI controls how national intelligence funding is spent across the executive branch, regardless of the department in which any particular intelligence element resides.

In order to marshal the necessary resources to address higher priority intelligence activities, the DNI has significantly enhanced authorities to transfer funds and personnel from one element of the intelligence community to another. And, in addition to these budget and transfer authorities, the legislation provides the DNI with many new and increased authorities by which to effectively manage the sprawling intelligence community and force greater integration and cooperation among intelligence agencies. The DNI has the power to develop personnel policies and programs, for example, to foster increased ''jointness'' across the intelligence community—like the Goldwater-Nichols Act accomplished in the military context. The DNI also has the authority to exercise greater decision-making with respect to acquisitions of major systems, such as satellites, to task intelligence collection and analysis, and to concur in the nominations or appointments of senior intelligence officials at the Departments of Defense, Homeland Security, Treasury, State, and Energy, the FBI, and elsewhere across the executive branch.

More important than any individual authority, however, is the sum total. There is no longer any doubt as to who is in charge of, or who is accountable for, the performance of the United States intelligence community. It is the DNI. Until exercised in practice, however, these authorities are simply the words of a statute. And, unless exercised, they will atrophy. Timidity, weakness, even passivity are not an option. History will judge harshly a DNI who squanders this opportunity to spread meaningful and lasting reform across the intelligence community. And our national security depends upon it.

I fully anticipate that Ambassador Negroponte will rise to the occasion. He must, and I believe he will, hit the ground running, boldly face the inevitable challenges and frustrations that lie ahead, and aggressively assert the authorities with which he has been provided. But the DNI will not be alone. With the full support of the President, the Joint Intelligence Community Council—composed of the Secretaries of State, Treasury, Defense, Energy, Homeland Security, and the Attorney General—will advise the DNI and make sure the DNI's programs, policies, and directives are executed within their respective departments in a timely manner. And, if confirmed, the President's nominee for Principal Deputy DNI, NSA Director Lieutenant General Michael Hayden, will be a most valuable asset in leading the reform effort.

We have largely provided Ambassador Negroponte with the flexibility to establish the Office of the DNI as he sees fit in order to accomplish the goal of reform. In addition to his Principal Deputy, he may appoint as many as four other deputies with the duties, responsibilities, and authorities he deems appropriate. And, in addition to the National Counterterrorism Center, which is specifically mandated under the legislation, Ambassador Negroponte is authorized to establish national intelligence centers, apart from any individual intelligence agency, to drive community-wide all-source analysis and collection on key intelligence priorities. These national intelligence centers have significant potential to shift the center of gravity in the intelligence community from individual stove-piped agencies toward a mission-oriented integrated intelligence network.

In sum, we have provided Ambassador Negroponte with the tools to get the job done. Now, with the backing of the President, he must use those authorities to transform the intelligence community as envisioned by the 9/11 Commission, expected by Congress, and needed for the security of the American people. On September 11, 2001, it became painfully evident that the threats we face as a nation had evolved, and that our national security structure needed to evolve accordingly. Ambassador Negroponte will now have the opportunity to help our intelligence community meet these new security challenges. I wish him well.

Mr. BUNNING. Mr. President, I speak today on the nomination of John Negroponte to be the first Director of National Intelligence. I want to express my full support for his confirmation.

John Negroponte is without question one of the most qualified public servants to fill this position. Over the past four decades he has continually worked to advance American policy both domestically and abroad.

He is a career diplomat and served in the United States Foreign Service from 1960 to 1997. Among his most notable posts are Vietnam, the Philippines, Honduras and Mexico.

After the Foreign Service, Mr. Negroponte was appointed as the U.S. Ambassador to the United Nations from September 2001 until June 2004. After that, he was confirmed overwhelmingly by the Senate as the first U.S. Ambassador to the new democratic Iraq.

Throughout his ambassadorship in Iraq, he received immense praise even from the harshest of critics for his removal of corruption in the reconstruction effort in Iraq. He later oversaw, what many deemed impossible—the first successful Iraqi democratic elections. As we have seen through his leadership in Iraq, democracy has quickly taken root in the country and I believe it will continue to grow.

While the position of the Director of National Intelligence is new to our Government, I am confident that Mr. Negroponte will be successful in his endeavors to create a united intelligence entity. His experience and success in Iraq will serve him well in this new position.

Intelligence reform is an issue that we know all too well. It has been widely addressed in a variety of government bodies since September 11 and continues to be the topic of many debates. I commend President Bush in his efforts to directly confront this problem and to create a more unified and efficient intelligence apparatus.

I am confident the Senate will overwhelming confirm Mr. Negroponte. I wish him well in his new position and with the daunting task of reforming our intelligence agencies. It is not an easy one. Despite this challenge, I believe he will make our intelligence efforts better coordinated, more efficient and more effective.

Mr. SALAZAR. Mr. President, I rise in support of Ambassador John Negroponte's nomination to be the first Director of National Intelligence.

I am pleased President Bush filled this critical position, and pleased that the Senate Intelligence Committee moved with such dispatch to move him through the process. The Director of National Intelligence will be one of the most difficult jobs in Washington. The director will have to integrate information from 15 Federal agencies involved in gathering anti-terrorism information.

To break down the boundaries that fracture our intelligence community, Negroponte will have to draw on more than 40 years' experience in the Foreign Service. He served as U.S. ambassador to the United Nations from 2001 until last June, when he became the first U.S. ambassador to Iraq since the 1991 Gulf War. He served in the U.S. Embassy in Vietnam from 1964 to 1968 and has been ambassador to Mexico, the Philippines and Honduras.

Mr. Negroponte is going to have to take advantage of his closeness with President Bush to overcome some of the institutional inertia within the intelligence community. However, Negroponte cannot allow that closeness to be a double-edged sword. The DNI needs to be an independent voice. He needs to be able to withstand pressure from the President and report threats to American security as they are, not as others want them to be.

I hope that Ambassador Negroponte will make it a priority to improve the flow of accurate, timely and actionable intelligence to state and local security officials.

Right now, local officials—our front line in the battle for homeland security—are getting intelligence from a dozen Federal terrorism watch lists. They get conflicting or incomplete

data or information that has no impact on them. They don't have the resources and expertise to process intelligence, form a complete picture of the threats they face, and what steps they can take.

We need to move away from a ''need-to-know'' intelligence culture to a ''need-to-share'' one. State and local emergency officials represent more than 800,000 sworn law enforment officers and 95 percent of America's counter-terrorism capability. They are on the front lines of the war on terror and they need better information in order to protect us.

I recognize that will be difficult to do, and I also recognize that the solutions to this problem will require new thinking. But after serving with Colorado's police officers for 6 years as Attorney General, I also know that the current system of information and intelligence sharing is absolutely insufficient. We can do better—and we must do better.

Mr. REID. Mr. President, I rise to express my support for the nominations of Ambassador John Negroponte and General Michael Hayden to be Director and Deputy Director of National Intelligence.

The Senate's swift action on these two nominations is but the latest example of how the Senate's confirmation process should work, and, for the vast majority of President Bush's nominees, has worked.

It is really a simple formula for success: the President puts forward good, qualified nominees and the committee of jurisdiction and the full Senate act expeditiously to approve the nomination.

In nominating Ambassador John Negroponte and General Michael Hayden to be Director and Deputy Director of National Intelligence, the President has put forward people with long years of dedicated service to the country.

Some have concerns about Ambassador Negroponte's previous service on Latin American issues, and these questions are certainly legitimate to explore.

Ambassador Negroponte and General Hayden are men who have wide support across both parties, men who have proven track records as professional public servants.

Together, these two men are good choices for the important new positions at the top of our intelligence community.

With Ambassador Negroponte's recent experience in Iraq, long experience in diplomatic matters, and years of time as a ''customer'' of intelligence, I am hopeful he will focus on improving how intelligence is used.

It is essential that he put in place the personnel and processes necessary to help the intelligence community avoid future colossal failures like Iraq, where in an effort to make the case for the use of force there, the President and the intelligence community repeatedly asserted that Saddam possessed weapons of mass destruction.

As has become increasingly clear over time, Saddam did not possess stockpiles of these terrible weapons and a number of questions have been raised about whether the administration shaped or misused the available intelligence.

Never again should a Secretary of State be sent in front of the United Nations to make the President's case for war based on evidence that was so terribly flawed.

If Ambassador Negroponte can prevent such misuse of intelligence, and speak truth to power, he will be a successful Director.

If Ambassador Negroponte is to succeed in developing the right intelligence and ensuring that it is used properly, he will have to dramatically transform our intelligence agencies.

In the intelligence reform bill we passed last year, we demanded that someone take charge of improving the intelligence agencies' performance. In that bill, we gave him the tools and the mandate needed.

Working with his Deputy Director, General Hayden, who has nearly 3 decades of experience in transforming intelligence as a military officer, I expect Ambassador Negroponte to transform the intelligence community.

The first step in this critical transformation must be to dramatically improve our intelligence collection capabilities, especially our human intelligence efforts, against the 21st century threats of terrorism and the proliferation of weapons of mass destruction.

I hope these nominees will maximize their use of the strong, new authorities Congress provided them in last year's bill. Our Nation's security rests in large measure on their efforts. I wish them every success in their endeavors.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, if there is no other Member on our side who wishes to speak, I yield back the remainder of my time.

Mr. WYDEN. I may be the only one with time remaining and I yield back the remainder of my time as well.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. 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. ROBERTS. 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. ROBERTS. Mr. President, I yield back all time on the pending nomination, other than the 5 minutes that will be reserved for Senator STEVENS; provided further that the vote on the confirmation of the nomination occur at 3:45 today. I further ask that at 3:30 today the Senate resume consideration of the emergency supplemental bill for the final 15 minutes of debate and that the votes scheduled on the two amendments and final passage occur immediately following the vote on the Negroponte nomination. I ask that all votes in the sequence after the first be limited to 10 minutes in length and that there be 2 minutes for debate equally divided between the votes. Finally, I ask unanimous consent that following this consent, the Senate proceed to a period for morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business.

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

MORNING BUSINESS

THE BOLTON NOMINATION

Mr. SMITH. Mr. President, I rise today to speak in behalf of John Bolton to be the U.S. Permanent Representative to the United Nations. I know this nomination is gaining controversy. Yet the more I listen to it, I realize there may be an attempt to kill his nomination from a thousand cuts.

It is not unusual in this town to see someone with a strong personality being subject to all kinds of innuendo and charges and hearsay. Certainly all of these things warrant investigation so that the Senate can perform its advise and consent duty. However, I think it is also very important we remember the President's right to nominate the individuals he believes are important in order to pursue his policies after his election, an election he earned at the ballot box, and the right conferred upon him by the Constitution.

I rise here not as an opponent of the United Nations, but as one deeply disappointed in the United Nations in the 9 years in which I have served as a Senator. The U.N. is going through a challenging period, one that is raising questions about its effectiveness and ability to fulfill its mission on a global scale. New and unprecedented challenges face the United States and our allies. We cannot solve all the world's problems on our own. We need to continue to work with our allies to combat threats around the world, especially the threat of terrorism and the spread of weapons of mass destruction, for those two factors in combination probably pose the greatest security threat to our Nation and the civilized world.

An efficient and effective United Nations can still play a valuable role in world affairs. The U.N. demonstrated this by its response to the tsunami disasters that befell Indonesia, India, Sri Lanka, Thailand and the other nations

in the Indian Ocean. The United Nations can still serve an integral humanitarian function. Its success in coordinating relief efforts is helping the region to recover from its tragedy. I am also pleased with the U.N.'s establishment of new levels of oversight to monitor how enormous levels of humanitarian assistance are distributed to needy people.

Unfortunately, the U.N. can, and should, and must be more and do more. We have a United Nations that is tragically rife with corruption and mismanagement. It is an organization that is starting now to admit its problems. That is a positive. But it seems incapable of addressing these issues in any meaningful way.

The international community has been rocked by scandals involving the United Nations. The most obvious example of its malfeasance, of course, is the Oil-for-Food Program. As you know, the U.N. was responsible for overseeing the Oil-for-Food Program, which was established to provide relief to the Iraqi people suffering under Saddam Hussein's brutal regime. Instead, it allowed—and possibly even directed—the incredible scheme of kickbacks, bribes, and other financial crimes that may have even enriched some members of the U.N. bureaucracy.

The United Nations peacekeepers, sent to provide some semblance of security to war-torn countries, have been accused of such crimes as rape, child molestation, and sexual abuse in the Democratic Republic of Congo, the Balkans, and in Haiti.

High-ranking United Nations officials have been accused of sexual harassment. The U.N. High Commissioner for Refugees, Ruud Lubbers, was recently removed from his post because of sexual harassment.

To tackle this challenge, on March 7, 2005, President Bush nominated John Bolton to be the Permanent United Nations Representative for the United States. I believe Mr. Bolton can help produce a more effective and efficient U.N., a stronger U.S.-U.N. relationship, and a U.N. that lives up to its founding principles and ideals.

I do not know Mr. Bolton. I have shaken has hand, I believe, on one occasion. But as I have reviewed his record of accomplishment and his answers to the Senate Foreign Relations Committee, on which I once was privileged to serve, it is clear to me he is intelligent. I believe he is honest. He is certainly candid. These are qualities I think that can help him help the United Nations.

When we think back on U.N. ambassadors from our Nation, those willing to shake things up have been most meaningful in helping the U.N. to live up to its high purposes. The name of our former colleague, Daniel Patrick Moynihan, comes to mind. Jeanne Kirkpatrick also comes to mind. These are two who were not afraid to step on toes or to do what was necessary to get the job done and help the U.N. to change.

I believe John Bolton's personality, while not perfect for everyone, will work in a manner that will create change leading to needed reforms. Frankly what you need in this capacity is probably a strong backbone more than a winning personality. He understands the strengths and especially the weaknesses of the U.N. At no time in the history of the United Nations has reform been as needed as right now. The United States, as the leading contributor to the United Nations' budget, must take the lead in setting forth the necessary reforms.

The United Nations is losing respect, not only in the United States but throughout the world. The United Nations has a serious legitimacy problem. I remember hearing the Secretary General saying legitimacy comes uniquely from the United Nations. I wish it did. But it does not. Legitimacy comes from democracy and processes that are open and transparent and free from corruption and, when corruption is found, rooted out through the process of law.

The Security Council—and I think the American people understand this—is not a place where Americans can find security. In some of the worst cases of genocide in our planet, it has been idle, unable, unwilling, and too gridlocked to stand up to some of the worst human crime in our time.

It sets high standards for itself and then sits on its hands while genocide occurs in places such as Rwanda and in the Sudan. Countries that harass their people, that imprison those who clamor for democratic rights, that thwart all efforts at civilized behavior, have the same voting power as those with free, democratic societies.

I wish it was the United Democratic Nations but, it tragically is not. Legitimacy is given to the United Nations from countries such as the United States. We do not need a stamp of approval from the U.N. to act, but the U.N. does need the stamp of approval from its member states before it can act.

How can one not doubt the legitimacy of the United Nations when a human rights stalwart such as Libya, or Cuba, is appointed to chair the Human Rights Commission and the United States is removed? Or Iran is chairing the Disarmament Commission? The question answers itself.

With the 60th anniversary of the United Nations approaching this summer, though, we have a real opportunity to encourage the U.N. to change its ways, to live up to its founding ideals. The United States must take the lead in helping to reform the United Nations. This is the only way the U.N. can fulfill its original promise of promoting international peace and security.

John Bolton may or may not be the perfect nominee. That is not my point. But I think he can be effective simply because he can be confrontational. Under Secretary Bolton has, with all the slings and arrows directed his way, served his country with honor and distinction at many different times. He has been an effective diplomat, enjoying a strong record of success, and has demonstrated his enthusiasm for working with other countries to meet common challenges.

When one reviews John Bolton's credentials, it is clear he is extremely qualified to be United States Ambassador to the United Nations. I say that without any commentary at all on his personality. As an Assistant Secretary for International Organizations from 1989 to 1993 in the first Bush administration, Under Secretary Bolton worked for Secretary James Baker on U.N. reform matters and on the repayment of arrearages and assessments.

While serving as the Assistant Secretary for International Organizations, he detailed his concept of a unitary U.N. that sought to ensure management and budget reforms that impacted the entire U.N. system, not only the U.N. Secretariat. This is truly a forward thinking initiative. This is the type of creativity and resourcefulness we need in order to address the enormous problems within the United Nations.

In 1991, Under Secretary Bolton was the principal architect behind the initiatives that finally led the United Nations General Assembly to repeal the resolution that equated Zionism and racism, one of the more notorious and heinous resolutions ever passed by the United Nations. Imagine this: The United Nations, created out of the ashes of World War II, passing a resolution in 1975 equating Zionism with racism and refusing for nearly 20 years to repeal that appalling notion.

During his time out of Government, Mr. Bolton served the United Nations on a pro bono basis between 1997 and 2000, as an assistant to former Secretary of State Baker in his capacity as the Secretary General's personal envoy for Western Sahara, working to resolve the dispute over that territory—quite an effort from someone who does not believe in the power of multilateralism and international organizations, which is alleged against him but is not true.

For the past 4 years he has served as the Under Secretary of State for Arms Control and International Security Affairs. Under Secretary Bolton led the efforts to implement the President's agenda to counter nonproliferation, including the reform of the International Atomic Energy Agency.

He also shaped the administration's approaches to countering the threat of WMD proliferation and, most importantly, the proliferation security initiative, a program that led directly to the discovery of Libya's nuclear program and its subsequent disarmament.

John Bolton is the best candidate to help usher in this needed reform because he is the one the President nominated and he has a long record of

achievement. He knows the United Nations. He knows the changes that need to be made, and with his prior experience he can work with fellow members of the U.N. and to implement the necessary reforms.

My mother used to tell me when I was a little boy, got in trouble and punished: Son, it is better to be trusted than loved. Frankly, if Mr. Bolton is feared, while not loved, he may do more good than if he is loved and getting along with all. With all the problems illustrated with the United Nations, why would we want to send someone to New York who is more interested in the status quo than with engaging this institution with real reform for its organizations.

Again, I don't know Mr. Bolton personally. His personality is probably much different than my own. But I do know the President has a right to appoint whom he will appoint. Unless something is unearthed that disqualifies him because of his conduct, then all the innuendo, the hearsay, and the charges made against him that are ''he said, she said'' need to be understood in the long tradition in this town of killing one by 1,000 cuts, simply for political gain.

We owe this country and especially the United Nations, something better than an effort of blood sport in the Senate. Unless something is quickly unearthed about Mr. Bolton, I ask my colleagues to advise and consent on this nomination and to confirm him as quickly as possible because the work of reform at the United Nations is long overdue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I ask unanimous consent—I will not speak that long—to proceed for such time as I may consume.

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

Mr. KERRY. I ask unanimous consent my comments be separated. I will make a few comments about Secretary Bolton and ask that they are separated and appear separately in the RECORD.

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

Mr. KERRY. Mr. President, I will say a few words about Secretary Bolton.

The Senator from Oregon and I are good friends and we have known each other a long time in the Senate and have worked together on a number of issues. As he well knows, the issue that defines the Bolton nomination is not politics. It is not ''death by 1,000 cuts.'' It is an examination of the record of an individual who has been nominated for one of the largest embassies in the world, one of the most important spokesperson jobs in the world, one of the most important diplomatic jobs in the world.

It is vital, in the aftermath of Secretary Powell's testimony to the United Nations—which he now has publicly acknowledged was in error, on the basis of intelligence that was erroneous—that we send a message to the world about the credibility of that spokesperson and the United States itself. If that spokesperson comes to the job with a background of having interfered with the work of analysts in the State Department in the research and the intelligence research department, or if that person comes to the job with proof that there is, in fact, a retribution system for not providing the intelligence according to what that person wanted—not according to what the intelligence was—that is a problem. It is a serious problem.

If the nominee was not candid with the committee under oath before which he appeared, that is a serious problem. It is not politics. There will be a lot more time to discuss this over the course of the next days. The committee, to its credit, is going to do what is appropriate, which is examine these issues. Every member of the committee is duty-bound and will review that evidence with diligence, an open mind, and honesty. That is all we can ask.

We should not be reducing every question, particularly legitimate questions, to the sense of politics. It is a mistake. It is a mistake for the quality of the government we are trying to provide the American people. It is a mistake with respect to our constitutional obligations when we go up to this desk and raise our hand and swear to uphold the Constitution of the United States.

It is not the first time in American history a nominee has been questioned—Democrat or Republican. It is appropriate to perform that function.

I heard colleagues on the committee say in the beginning, this is only one offense. If there were a pattern, I would be disturbed by this. Lo and behold, in the next day, a pattern appeared, and all of a sudden the ''pattern'' people disappeared. It was not a question of if there is a pattern, it was now, well, the President has a right to make his choice. Another reason and rationale was found.

I don't even know why we get into such a partisan tizzy about it. The other side of the aisle ought to care as much as we do who is there or who is not there. We have had nominees in the course of time that I have been here who have not been confirmed or who were not confirmable, some of whom were delayed endlessly. I remember what a good friend of mine, Richard Holbrooke, went through in the process of his nomination. Senator Helms had him jumping through hoops for months looking at his financial records and his transactions, none of which occurred in the course of his public business, but, nevertheless, that is what happened. And he patiently went through it. And we patiently worked through it. Ultimately he was confirmed and I think he did an outstanding job for the country as a consequence of that.

So I think it is time to find a different path here.

NUCLEAR OPTION

Mr. KERRY. Mr. President, I will speak about the second issue I would like to talk about.

The Republican nuclear option has been discussed endlessly on editorial pages, talk radio, and here in this Chamber. The ongoing debate is about much more than Senate procedure. At its core is a debate, really, about where we are headed in our relationship between each other, Republicans and Democrats, leaders all sworn to uphold the Constitution and with the responsibility to try to lead this Nation in difficult times and find the common ground and build a consensus for our country.

At its core is a debate about how we live out our own democracy in America. Beneath it are questions about how this city, the Nation's Capital, is functioning today, how we relate to each other, how our committees work, how the Senate itself functions. It appears as if we are headed in a direction that ultimately clashes with the real will and needs of the American people. That is what this is really all about.

The fact that we are even talking about this nuclear option is a stark reminder that Washington is not caught up fighting for the broader interests of the American people, that we are not spending most of our time consumed by the things that affect the lives of average Americans—losing their jobs, seeing more expensive health care, watching jobs go overseas, seeing the deficit grow, seeing the trade deficit grow, wondering about the health care system of our Nation, schools where our kids still have teachers who dig into their pockets in order to take out of their not-so-great salaries to put materials in front of those kids so they can study—while we here make other choices.

From the outside looking in, our democracy appears broken to an awful lot of Americans. It certainly seems to be endangered by a one-party rule—not a supermajority, a simple majority—in a very closely divided Nation, a party rule that seems intent on amassing power to be able to effect its will no matter what, often at the expense of the real work and the real needs of the American people.

Now, in recent weeks alone, we have witnessed a really disturbing course of events, probably as disturbing as I have seen in the 22 years I have been privileged to serve here. Republican leaders of Congress, in my judgment—I say this respectfully—are crossing lines I think should not be crossed: the line that says a leader of the House of Representatives should never carelessly threaten or intimidate Federal judges; the line that says the leader of the Senate should never accuse those who disagree with his political tactics of waging a war against people of faith; the line that says respect for core constitutional principles should never be undermined by a political party's agenda; most important of all, the line that

says that a political party's leader should never let the hunger to get done whatever that political agenda is overshadow the needs and the interests of respecting both the Constitution and the will of the American people.

It is, frankly, almost hard to believe that in a Congress where leaders of both parties once worked together to find common ground despite ideological differences, we face this. If Everett Dirksen were here, or Hugh Scott, people I was privileged to meet as a younger American when I was looking at the system, I think they would shudder at this relationship we see today.

Yesterday, when JIM JEFFORDS announced his retirement, I remembered the very different words about a different Washington that JIM captured so eloquently about 4 years ago. He spoke of a political tradition where leaders represented their States first. They spoke their minds, he said, often to the dismay of their party leaders. And they did their best to guide this city in the direction of our fundamental principles.

It is underscored by what happened in the Foreign Relations Committee just the other day. Our distinguished colleague, Senator VOINOVICH, had the courage to think. He had the courage to tap into his own conscience and to respect that tradition of thought and individualism in the Senate. But it was astonishing the reaction of the press, the reaction of the commentators, the reaction of partisans, the reaction of members of his own party, who underscored how rare, how absolutely out of order and how out of the sequence it was for this Senator to individualize his judgment, all of a sudden.

Senator VOINOVICH is now being vilified on talk radio and on the Internet for having the audacity to say that he felt uncomfortable casting a vote without enough information. He did not say he planned to vote against the President's nominee; he said he just wants to make an informed decision on the matter, a matter of great importance. That does not seem very controversial to me. But, oh, boy, are the attack folks out. The daggers are out. Senator VOINOVICH is persona non grata among certain circles.

Senator CHAFEE actually said he had never seen such an act as Senator VOINOVICH's in his 4 years in Washington. What a terrible comment on the way this place works today, that a new Senator has not seen an act of individual conscience where a Senator thinks something through and realizes he is not prepared and wants more information. Before the era of C–SPAN and 24-hour news and 24-hour attack and the World Wide Web, Senators showed the courage and the independence all the time. Senators did not think twice about acting on their conscience ahead of partisanship. And today, it is a statement that Senator VOINOVICH is subject to widespread denigration in partisan circles, when Americans ought to be standing up and admiring and respecting his independence.

Open your eyes across this country and look at what is happening in the Congress today, and you are quickly reminded that some of those who run this city have chosen to do so in a way that does not seek to find that common ground, that does not try to stay in touch with the mainstream values but pushes a narrower set of priorities.

What does it tell you when an embattled majority leader of the House is willing to go on talk radio and attack a Supreme Court Justice, let alone a Supreme Court Justice appointed by Ronald Reagan, confirmed by a nearly unanimous Senate, a Justice who ruled in favor of President Bush in Bush v. Gore? Ronald Reagan's nominee to the highest court in the land cannot even escape TOM DELAY's partisan assaults. Yet here on the floor of the Senate there is no outcry, no moderating Republican voice willing to say this shocking attack has no place in our democracy.

I guess none of this should be a surprise when the majority leader announces what he is going to do on this Sunday. The majority leader plans to headline a religious service devoted to defeating, and I quote, ''a filibuster against people of faith.''

Mr. President, I resent that. I am a person of faith, and I do not believe we should lose our right to have a filibuster to stop things that we disagree with, according to the rules of the Senate. It has nothing to do with faith. And when the leader of the Senate questions how any Senator applies their faith in opposing procedures of the Senate, we are going too far. You go beyond endangering the rules that protect the cherished rights of the majority and the minority; you wind up challenging the foundation of our democracy and of how this Senate is supposed to work.

Make no mistake, this may be an isolated issue, but the rights of the minority are fundamental to our democracy. Many people have written that the real sign of a democracy is not the rights of the majority. It is the rights of the minority that are, in fact, a signal of a truly strong and vibrant democracy, and diluting those rights is a threat to that vibrancy.

Forces outside the mainstream now seem to effortlessly push Republican leaders toward conduct that the American people do not want in their elected leaders—inserting the Government into our private lives, injecting religion into debates about public policy when it does not apply, jumping through hoops to ingratiate themselves to their party's base—while, step by step and day by day, real problems that keep Americans up at night fall by the wayside here in Washington.

We each have to ask ourselves, Who is going to stop it? Who is going to stand up and say: Are we really going to allow this to continue? Are Republicans in the House going to continue spending the people's time defending TOM DELAY, or are they going to defend America and defend our democracy?

Will Republican Senators let their silence endorse Senator FRIST's appeal to religious division, or will they put principle ahead of partisanship and refuse to follow him across that line? Will they join in an effort across the aisle to heal the wounds of this institution and begin addressing the countless challenges that face this Nation? It is time to come together to fulfill our fundamental obligations to our soldiers, our military families who have sacrificed so much. It is time to bring down gas prices and to move America toward less dependence on foreign oil. It is time to find common ground to cover the 11 million children in this country who have no health insurance at all. Are we willing to allow Washington to become a place where we can rewrite the ethics rules to protect TOM DELAY but sell out the ethics of the American people by refusing to rewrite a law to provide health care to every child in the country? Are we willing to allow the Senate to fall in line with the majority leader when he invokes faith, all of our faiths over here? JOE LIEBERMAN is a person of faith. HARRY REID is a person of faith. They don't believe we should rewrite the rules of the Senate. And we certainly should not allow this to be an issue of people who believe in the Constitution somehow challenging the faith of others in our Nation.

Are we going to allow the majority leader to invoke faith to rewrite Senate rules to put substandard extremist judges on the bench? Is that where we are now? It is not up to us to tell any one of our colleagues what to believe as a matter of faith.

I can tell you what I do believe though. When you have tens of thousands of innocent souls perished in Darfur, when 11 million children are without health insurance, when our colossal debt subjects our economic future to the whims of Asian bankers, no one can tell me that faith demands all of a sudden that you put the Senate in a position where it is going to pull itself apart over the question of a few judges. No one with those priorities has a right to use faith to intimidate any one of us.

It is time we made it clear that we are not willing to lie down and put this narrow, stubborn agenda ahead of our families, ahead of our Constitution, and ahead of our values. The elected leadership in Washington owes the American people and this institution better than this.

What is at stake is far more than the loss of civility or the sacrifice of bipartisanship. What is at stake is our values, both as a country and an institution, respecting the rights of the minority, separation of church and state, honesty and responsibility.

Every one of us knows there is no real crisis in the confirmation of

judges or judicial nominations, when over 90 percent of the President's nominees have already been confirmed, 205 out of 215 total. What is really at stake is something a lot greater, a struggle between a great political tradition in the United States that seeks common ground so we can do the common good, and a new ethic that on any given issue is prepared to use any means to justify the end of absolute victory over whatever and whoever stands in the way of that ethic; a new view that says if you don't like the facts, just change them; if you can't win playing by the rules, just rewrite them; a new view that says if you can't win a debate on the strength of your argument, demonize your opponents; a new view that says it is OK to ignore the overwhelming public interest as long as you can get away with it. For what? For a so-called nuclear option over a few judges, an option that seeks to put extreme, substandard judges on the bench against the will of the American people.

Is it worth undermining our democracy on behalf of Priscilla Owens, who took contributions from Enron and Halliburton and then ruled in their favor? A conflict? Is it worth this distraction from the people's business to confirm a Charles Pickering who fought against implementing the Voting Rights Act and manipulated the judicial system to reduce the sentence of a convicted cross burner? Is it worth throwing out 200 years of Senate tradition to defend William Myers, Janice Rogers Brown, and Bill Pryor whom numerous members of the impartial American Bar Association deemed unqualified?

The fact that we even have to debate a nuclear option over these judges tells you this is all about power, about victory, about a sort of unchallenged ability to be able to do whatever you want, despite the fact that that is not the way it works here and that is not the way our Founding Fathers intended it to work.

It is time to put Americans back in control of their own lives and put Washington back on their side. That means restoring accountability, accountability for false promises, accountability for failure to address issues that we have promised to address, ranging from energy independence to military families who just lose their benefits when they are called to duty and struggle with their families, accountability for fiscal insanity, for record deficits, for mounting debts. That is the debate we owe the American people, accountability for 45 million Americans who have no health care and middle-class Americans who are one doctor's bill away from bankruptcy, especially the 11 million children who have no health care at all. That is what the American people want us to debate with passion, not the rules of the Senate but the legitimacy and the substance of those choices. That is what we ought to do.

Any Senator who has been here for a period of time has watched the decline of the quality of the exchange between both sides of the aisle in this institution. That is not what this Senate is renown for. It is called the greatest deliberative body in the world, a place where people on both sides can find the common ground and get good things done.

I think Senator MCCAIN has said publicly: We are not always going to be in the majority.

That has been the course of history here. What goes around comes around. That is part of the respect that has always guided this institution. We need to work harder, all of us, to restore what the American people want and haven't had for too long. That is a Washington that works for them.

I yield the floor.

NOMINATION OF JOHN NEGROPONTE

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I come to the floor to talk about my good friend, John Negroponte. I have known him and Diana and their children—Marina, Alejandra, John, George, and Sophia—for quite some time. I think the Nation is very lucky to have a man of the caliber of John Negroponte on deck, so to speak, and willing to take the assignment of being the new Director of National Intelligence. He has had considerable experience as an ambassador.

I remember full well the first time I met him was in Honduras when he was the Ambassador there. We had a rather severe problem, as people will recall; we called them the Contras. But I got to know him fairly well in the time we were down there. When he returned to Washington, I met his wife and was with him and spent time with him on a family basis. I have spent time with him now in his various positions he has had since that time, at the U.N. and in Iraq.

He is a man of great talent and depth. I believe there are many of us—and I am one of them—who had severe questions about the direction we were taking in terms of this new Director of National Intelligence and how it would relate to existing agencies and to the State Department and to the Department of Defense and to the National Security Agency and all others who are involved in intelligence and relate to those in the Congress who have the oversight responsibility for the intelligence function and for the classified areas of the activities of our Nation.

John Negroponte is a man who can do this job. He is a man of great talent. But more than that, he has demonstrated the ability to work with people and various entities, not only here in our country but throughout the world. This new Director of National Intelligence could well become the most important Cabinet position we have in the years to come. John Negroponte is the man to fashion that office, to determine what it needs in order to function properly at the beginning, and to set the course for this new intelligence agency.

So I am here to urge that the Senate promptly approve this nomination and confirm John Negroponte so he can start on this very important task.

I yield the floor.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I associate myself with the remarks of the senior Senator from Alaska concerning the qualifications of John Negroponte. Both the Senator from Alaska and I have known him for many years and his service is one of great distinction. I am confident he will receive the endorsement of an overwhelming majority of the Senate.

NOMINATION OF JOHN BOLTON

Mr. MCCAIN. Mr. President, I rise to discuss the nomination of John Bolton as ambassador to the United Nations. We all know, somewhat unexpectedly, Mr. Bolton's nomination has been held pending further discussion and consideration by the Foreign Relations Committee.

I want to say I strongly support Mr. Bolton's nomination. He has been confirmed by the Senate four times in the past. He is a smart, experienced, hard-working, and talented man, and he knows the United Nations. He is not a career diplomat, but neither was Jean Kirkpatrick. He is not a career diplomat, either by profession or temperament, but then the role of ambassador to the U.N. has always required something special. A look back at some of the personalities who have held the job—from Adlai Stevenson to Daniel Patrick Moynihan, from Madeleine Albright, to Jean Kirkpatrick, to Richard Holbrooke—shows that directness and forcefulness are assets, not hindrances, to effectiveness there.

We all know Mr. Bolton is perhaps not the world's most beloved manager, nor one to keep his temper entirely under wraps. Perhaps, Mr. President, that evokes a certain sympathy and empathy from this individual, although it is well known that on no occasion have I ever become emotionally involved in anything.

I am sorry about a little levity here.

Seriously, I ask my colleagues is it unique to Mr. Bolton to be strong in his views and opinions? If a temper and an unorthodox management style were disqualifiers from Government service, I would bet a large number of people in Washington would be out of a job.

It is worth wondering not whether Mr. Bolton is a mild, genteel diplomat—we know he is not—but rather whether he is the representative we need at the United Nations. We need an ambassador who truly knows the U.N. We need an ambassador who is willing to shake up an organization that requires serious reform. No one knows better than the Senator from Minnesota, who is in the chair, who has

been heavily involved in the issues of the U.N. We need an ambassador who has the trust of the President and the Secretary of State. Mr. Bolton, it seems to me, has what it takes for the job.

I am reminded, on the judges issue and in this issue, elections do have consequences. I believe there are significant numbers of the American people who do take into consideration the consequences of a Presidential election, and that is the earned right of a President, under anything other than unusual circumstances, to pick his team. There were nominees of the previous Clinton administration I didn't agree with, I would not have selected but because President Clinton was elected President, I voted for his nominees on that basis.

The U.N. is a vital organization to the world and to the national interests of the United States. It is not perfect by any means, and John Bolton knows this. There has been talk that the nomination of Mr. Bolton was an indication of the administration's disdain for multilateral diplomacy. I cannot believe Mr. Bolton wishes to be dispatched for 4 years to an ineffective body, unloved by the United States. I do believe he wants to work actively to reform the U.N., make it stronger and better. Mr. Bolton, seeing clearly the U.N.'s strengths and its weaknesses, will be well positioned to improve the organization and America's relationship with him.

As the Chair well knows, what kind of a U.N. is it that has Libya, Cuba, and Zimbabwe as part of its Human Rights Commission? Is it all right with the U.N. today? We are seeing more and more indications of the Oil-for-Food scandal which, again, the Senator from Minnesota, the Chair, has carefully examined. There is a crying need for reform.

I am pleased the Secretary General of the U.N. has made proposals for reform. I support those and believe perhaps we need more. Again, it seems to me Mr. Bolton sees clearly the strengths and weaknesses, and he would be well positioned to help in this reform effort. Let's not forget that it desperately needs improving. It is hard to take an organization that has countries such as I mentioned that are members of the Human Rights Commission or whose General Assembly equates Zionism with racism. But at the moment, a great opportunity presents itself. The panel named by the Secretary General, on which one of my most respected Americans and beloved Americans, Brent Scowcroft, served, has recently issued its list of recommendations to transform the U.N. Kofi Annan has presented his own serious plan to implement these recommendations.

In other words, I argue that right now the U.N. is in a unique moment, perhaps, in its history; and because of the scandals associated with it, it is open to reform. We need a strong personality, in my view, and a knowledgeable one to help bring about those reforms.

But without hard work and pressure, nothing will happen. Over the years, the U.N. has proven itself to be remarkably resistant to change. I believe John Bolton could provide the medicine the United Nations needs.

As I mentioned earlier, elections have consequences, and one consequence of President Bush's reelection is he actually should have the right to select officials of his choice. I stress this because the President nominates not the Democrats' selection, nor mine, nor that of any other Senator, but his own choice. I mentioned that when President Clinton was elected, I didn't share the policy views of some of the officials he nominated, but I voted to confirm them, knowing the President has a right to put into place the team he believes will serve him best.

The Foreign Relations Committee is examining whether Mr. Bolton has engaged in truly unacceptable behavior that would disqualify him for office. I believe, unless we see a pattern of inappropriate conduct—which so far I have not—I believe the Senate must move forward expeditiously to confirm John Bolton as America's ambassador to the United Nations.

Mr. President, as I criticize some of the activities of the U.N., there are other activities of the U.N. going on as we speak that I think require America's presence. The situation in Darfur, Sudan, for example, is one that cries out for American participation in the decisionmaking process because one could draw a scenario where under extreme circumstances, to prevent genocide, American troops, or certainly American support in the form of logistics and other areas, could be heavily involved, as well as expenditure of American tax dollars, which already constitutes a significant portion of the financing of the United Nations.

So I hope we can set a time and date certain for a vote on Mr. Bolton. As I said, if somebody has information that would disqualify him, that is fine. I don't think he or anybody else deserves a long, drawn-out, exhausting process which damages our ability to participate in the U.N. and also may damage the character of a good man.

I hope we will act as expeditiously as possible. I have great respect for the Foreign Relations Committee and its chairman, Senator LUGAR, all members, and the ranking member, Senator BIDEN. But I certainly hope they realize inordinate delay is not healthy. I, having had the opportunity of knowing Mr. Bolton for many years, believe he would do an outstanding job as our ambassador to the United Nations.

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

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

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 2005

The PRESIDING OFFICER. Under the previous order, the Senate will resume the pending business, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1268) making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's licenses and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

Pending:

Ensign amendment No. 487, to provide for additional border patrol agents for the remainder of fiscal year 2005.

Bayh amendment No. 520, to appropriate an additional $213,000,000 for Other Procurement, Army, for the procurement of Up-Armored High Mobility Multipurpose Wheeled Vehicles (UAHMMWVs).

The PRESIDING OFFICER. There is now 15 minutes equally divided. Who yields time?

The Senator from Massachusetts.

AMENDMENT NO. 520

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

In December, just a few months ago, the Secretary of Defense on a visit to Iraq was asked by a soldier why our troops were sent into battle with unarmored vehicles.

It was a question on the minds of many Americans—especially those with sons, daughters, husbands, wives, friends, and neighbors who had answered their country's call and whose lives are on the line every day in Iraq and Afghanistan.

The American people are appalled that our troops have had to fend for themselves by strapping plywood and scrap metal onto their vehicles. Our troops call them ''cardboard coffins.'' As one soldier who served in Iraq said, ''I would feel safer in a Volvo than I would in one of these (unarmored) Humvees.''

But month after month, the Pentagon has failed to provide enough armored Humvees to meet the urgent security needs of our troops on dangerous patrols in Iraq. On nine different occasions, we have asked the Pentagon for their requirements for armored Humvees, and nine times they have been wrong.

An now the Pentagon actually wants to decrease the production of armored Humvees.

Tell that to our troops in Iraq and Afghanistan and they'll let you know how irresponsible that is—just as they told Secretary Rumsfeld on his trip to Iraq in December.

Tell that to the family of James Sherill, a Kentucky National Guardsman who was killed in an unarmored vehicle just this month.

Tell that to the families in Massachusetts who have lost loved ones in Iraq.

Tell that to the tens of thousands of dedicated men and women in uniform about to serve their second and third tours there. Tell them they may have to ride into the danger zone yet again without enough armor.

We know that American companies can produce more.

Armor Holdings—the company that puts the armor on the armored Humvee—told my office this morning that its current contract with the Army will mean sharp reductions in production. Right now, they provide 550 armored Humvees a month. Their current Army contract calls for only 239 in June, zero in July, 40 in August, and 71 in September. The company is negotiating with the Army for slightly higher levels of production for June, July, and August, but it still expects to decrease production to 71 by September.

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

Mr. KENNEDY. I will take another minute.

We cannot let the Department of Defense get it wrong for the tenth time. For the sake of our troops we need to get it right.

I ask unanimous consent to have printed in the RECORD a letter from the Department of Defense to Senator INOUYE that says:

To sustain production at the maximum capacity through the end of FY05, the Army would need an additional funding of approximately $213 million.

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

DEPARTMENT OF THE ARMY, OFFICE OF THE DEPUTY CHIEF OF STAFF, G–3/5/7,

Washington, DC.

Hon. DANIEL K. INOUYE,

Ranking Minority Member, Subcommittee on Defense, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR SENATOR INOUYE: Greatly appreciate your outstanding support as you work your way through the FY05 supplemental request. Understand you are receiving several inquiries regarding Up-Armored HMMWVs (UAH). To lend clarity to Army requirements for the UAH in support of the Global War on Terrorism (GWOT), we provide the following information.

The current GWOT requirement for UAH is 10,079. The amount already appropriated and supported in reprogramming actions funds 4,528 UAHs in FY05 enabling the Army to meet the 10,079 requirement in June 05 with no additional funding.

We currently are producing at the manufacturer's maximum capacity of 550 per month. This will continue through June 05, at which time production rates will decline. To sustain production at the maximum capacity through the end of FY05, the Army would need additional funding of approximately $213 million; however, this sum is not necessary to address the extant requirement.

Thank you very much for your hard work and fast action on the supplemental bill. Your dedication to our men and women in uniform, and their families, is deeply valued.

Sincerely,

DAVID F. MELCHER,
Lieutenant General,
U.S. Army, Deputy Chief of Staff, G–8.

JAMES J. LOVELACE,
Lieutenant General,
U.S. Army, Deputy Chief of Staff, G–3.

Mr. KENNEDY. The House of Representatives added 232. This amendment is to do what the Department of Defense says is necessary to keep the production line going. I hope it will be accepted.

The PRESIDING OFFICER. Who yields time? The Senator from New Jersey.

AMENDMENT NO. 368, AS MODIFIED

Mr. CORZINE. Mr. President, amendment No. 368, as modified, was accepted by both sides on the Foreign Operations Subcommittee last night before a unanimous consent agreement, not in time for inclusion in the managers' amendment. I therefore ask unanimous consent to lay aside the pending amendment so I may call up amendment No. 368, as modified, and ask unanimous consent this amendment be adopted.

Senator BROWNBACK, Senator DEWINE, and others are on this amendment as well, which is funding for the Darfur peacekeeping operations as well as disaster assistance.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, this is an amendment we worked on for a long time, a Darfur amendment, $50 million for peacekeepers, $40 million for food aid. It was agreed to but not in the managers' package last night. We do ask unanimous consent this be brought up and we will be asking for a voice vote on it. It has broad bipartisan support.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, this is an amendment that will clearly save lives. It is the right thing to do and I join my colleagues in asking it be passed.

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

Mr. COCHRAN. Mr. President, we have no objection to the amendment being called up. We have discussed the amendment with the Senator from New Jersey and the Senators from Kansas and Ohio. We have no objection to proceeding to consider the amendment.

Mr. CORZINE. I ask for the yeas and nays.

Mr. COCHRAN. We are not going to join that request.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from New Jersey [Mr. CORZINE] for himself, Mr. DEWINE, Mr. BROWNBACK, Mr. DURBIN, Mr. LEAHY, and Mr. OBAMA, proposes an amendment numbered 368, as modified.

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

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

The amendment is as follows:

On page 183, after line 23, add the following:

SUDAN

SEC. . Of the funds appropriated in this Act for ''Contributions for International Peacekeeping Activities'', $90,500,000 may be made available for assistance for Darfur, Sudan: *Provided*, That within these amounts, $50,000,000 may be transferred to ''Peacekeeping Operations'' for support of the efforts of the African Union to halt genocide and other atrocities in Darfur, Sudan; *Provided further*, That $40,500,000 may be transferred to ''International Disaster and Famine Assistance'' for assistance for Darfur, Sudan and other African countries.

The PRESIDING OFFICER. If there is no further debate on the amendment, the question is on agreeing to the amendment.

The amendment (No. 368), as modified, was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I ask unanimous consent to offer an amendment.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Reserving the right to object, I do not intend to object, but I thought we had a brief time for discussion of this amendment. That is what I heard the unanimous consent agreement was, for 15 minutes. That is what I thought we were going to debate and vote on at a quarter of. That is the only reason I raise this objection because there was a unanimous consent.

If the Senator wants to complete a brief unanimous consent request, I will not object, but I hope if there are arguments against this amendment, we will be able to hear them. We are prepared to put some more arguments out there on the table.

Mr. CRAIG. I appreciate the concern of the Senator. I believe the amendment I am sending to the desk has been agreed to on both sides. There is a second degree. We should be able to move very quickly through it.

Mr. KENNEDY. I have no objection.

AMENDMENT NO. 564

Mr. CRAIG. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG] for himself and Mr. AKAKA, proposes an amendment numbered 564.

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

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

The amendment is as follows:

(Purpose: To amend title 38, United States Code, to provide a traumatic injury protection rider to servicemembers insured under section 1967(a)(1) of such title)

At the appropriate place, insert the following:

SEC. ___. TRAUMATIC INJURY PROTECTION.

(a) IN GENERAL.—Subchapter III of chapter 19, Title 38, United States Code, is amended—

(1) in section 1965, by adding at the end the following:

''(11) The term 'activities of daily living' means the inability to independently perform 2 of the 6 following functions:

''(A) Bathing.

''(B) Continence.

''(C) Dressing.

''(D) Eating.

''(E) Toileting.

''(F) Transferring.''; and

(2) by adding at the end the following:

''§ 1980A. Traumatic injury protection

''(a) A member who is insured under subparagraph (A)(i), (B), or (C)(i) of section 1967(a)(1) shall automatically be issued a traumatic injury protection rider that will provide for a payment not to exceed $100,000 if the member, while so insured, sustains a traumatic injury that results in a loss described in subsection (b)(1). The maximum amount payable for all injuries resulting from the same traumatic event shall be limited to $100,000. If a member suffers more than 1 such loss as a result of traumatic injury, payment will be made in accordance with the schedule in subsection (d) for the single loss providing the highest payment.

''(b)(1) A member who is issued a traumatic injury protection rider under subsection (a) is insured against such traumatic injuries, as prescribed by the Secretary, in collaboration with the Secretary of Defense, including, but not limited to—

''(A) total and permanent loss of sight;

''(B) loss of a hand or foot by severance at or above the wrist or ankle;

''(C) total and permanent loss of speech;

''(D) total and permanent loss of hearing in both ears;

''(E) loss of thumb and index finger of the same hand by severance at or above the metacarpophalangeal joints;

''(F) quadriplegia, paraplegia, or hemiplegia;

''(G) burns greater than second degree, covering 30 percent of the body or 30 percent of the face; and

''(H) coma or the inability to carry out the activities of daily living resulting from traumatic injury to the brain.

''(2) For purposes of this subsection—

''(A) the term 'quadriplegia' means the complete and irreversible paralysis of all 4 limbs;

''(B) the term 'paraplegia' means the complete and irreversible paralysis of both lower limbs; and

''(C) the term 'hemiplegia' means the complete and irreversible paralysis of the upper and lower limbs on 1 side of the body.

''(3) The Secretary, in collaboration with the Secretary of Defense, shall prescribe, by regulation, the conditions under which coverage against loss will not be provided.

''(c) A payment under this section may be made only if—

''(1) the member is insured under Servicemembers' Group Life Insurance when the traumatic injury is sustained;

''(2) the loss results directly from that traumatic injury and from no other cause; and

''(3) the member suffers the loss before the end of the period prescribed by the Secretary, in collaboration with the Secretary of Defense, which begins on the date on which the member sustains the traumatic injury, except, if the loss is quadriplegia, paraplegia, or hemiplegia, the member suffers the loss not later than 365 days after sustaining the traumatic injury.

''(d) Payments under this section for losses described in subsection (b)(1) shall be—

''(1) made in accordance with a schedule prescribed by the Secretary, in collaboration with the Secretary of Defense;

''(2) based on the severity of the covered condition; and

''(3) in an amount that is equal to not less than $25,000 and not more than $100,000.

''(e)(1) During any period in which a member is insured under this section and the member is on active duty, there shall be deducted each month from the member's basic or other pay until separation or release from active duty an amount determined by the Secretary of Veterans Affairs as the premium allocable to the pay period for providing traumatic injury protection under this section (which shall be the same for all such members) as the share of the cost attributable to provided coverage under this section, less any costs traceable to the extra hazards of such duty in the uniformed services.

''(2) During any month in which a member is assigned to the Ready Reserve of a uniformed service under conditions which meet the qualifications set forth in section 1965(5)(B) of this title and is insured under a policy of insurance purchased by the Secretary of Veterans Affairs under section 1966 of this title, there shall be contributed from the appropriation made for active duty pay of the uniformed service concerned an amount determined by the Secretary of Veterans Affairs (which shall be the same for all such members) as the share of the cost attributable to provided coverage under this section, less any costs traceable to the extra hazards of such duty in the uniformed services. Any amounts so contributed on behalf of any member shall be collected by the Secretary of the concerned service from such member (by deduction from pay or otherwise) and shall be credited to the appropriation from which such contribution was made in advance on a monthly basis.

''(3) The Secretary of Veterans Affairs shall determine the premium amounts to be charged for traumatic injury protection coverage provided under this section.

''(4) The premium amounts shall be determined on the basis of sound actuarial principles and shall include an amount necessary to cover the administrative costs to the insurer or insurers providing such insurance.

''(5) Each premium rate for the first policy year shall be continued for subsequent policy years, except that the rate may be adjusted for any such subsequent policy year on the basis of the experience under the policy, as determined by the Secretary of Veterans Affairs in advance of that policy year.

''(6) The cost attributable to insuring such member under this section, less the premiums deducted from the pay of the member's uniformed service, shall be paid by the Secretary of Defense to the Secretary of Veterans Affairs. This amount shall be paid on a monthly basis, and shall be due within 10 days of the notice provided by the Secretary of Veterans Affairs to the Secretary of the concerned uniformed service.

''(7) The Secretary of Defense shall provide the amount of appropriations required to pay expected claims in a policy year, as determined according to sound actuarial principles by the Secretary of Veterans Affairs.

''(8) The Secretary of Defense shall forward an amount to the Secretary of Veterans Affairs that is equivalent to half the anticipated cost of claims for the current fiscal year, upon the effective date of this legislation.

''(f) The Secretary of Defense shall certify whether any member claiming the benefit under this section is eligible.

''(g) Payment for a loss resulting from traumatic injury will not be made if the member dies before the end of the period prescribed by the Secretary, in collaboration with the Secretary of Defense, which begins on the date on which the member sustains the injury. If the member dies before payment to the member can be made, the payment will be made according to the member's most current beneficiary designation under Servicemembers' Group Life Insurance, or a by law designation, if applicable.

''(h) Coverage for loss resulting from traumatic injury provided under this section shall cease at midnight on the date of the member's separation from the uniformed service. Payment will not be made for any loss resulting from injury incurred after the date a member is separated from the uniformed services.

''(i) Insurance coverage provided under this section is not convertible to Veterans' Group Life Insurance.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 19 of title 38, United States Code, is amended by adding after the item relating to section 1980 the following:

''1980A. Traumatic injury protection.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the first day of the first month beginning more than 180 days after the date of enactment of this Act.

(2) RULEMAKING.—Before the effective date described in paragraph (1), the Secretary of Veterans Affairs, in collaboration with the Secretary of Defense, shall issue regulations to carry out the amendments made by this section.

AMENDMENT NO. 551 TO AMENDMENT NO. 564

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report the second-degree amendment.

The legislative clerk read as follows:

The Senator from Ohio [Mr. DEWINE] proposes an amendment numbered 551 to amendment No. 564.

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

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

The amendment is as follows:

(Purpose: To make the traumatic injury insurance provision retroactive for servicemembers injured in Iraq)

On page 8, line 16, strike ''(c)'' and insert the following:

(c) RETROACTIVE PROVISION.—

(1) IN GENERAL.—Any member who experienced a traumatic injury (as described in section 1980A(b)(1) of title 38, United States Code) between October 7, 2001, and the effective date under subsection (d), is eligible for coverage provided in such section 1980A if the qualifying loss was a direct result of injuries incurred in Operation Enduring Freedom or Operation Iraqi Freedom.

(2) CERTIFICATION; PAYMENT.—The Secretary of Defense shall—

(A) certify to the Office of Servicemembers' Group Life Insurance the names and addresses of those members the Secretary of Defense determines to be eligible for retroactive traumatic injury benefits under such section 1980A; and

(B) forward to the Secretary of Veterans Affairs, at the time the certification is made

under subparagraph (A), an amount of money equal to the amount the Secretary of Defense determines to be necessary to pay all cost related to claims for retroactive benefits under such section 1980A.

(d)

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

The amendment (No. 551) was agreed to.

AMENDMENT NO. 564, AS AMENDED

Mr. CRAIG. Mr. President, prior to a vote on the amendment as amended, I would like to speak for up to 3 minutes.

I have sought recognition to comment on an amendment I have offered to address a tremendous gap in coverage that exists in our treatment of the soldiers, sailors, marines, and airmen, who are fighting for our country. My amendment addresses that coverage gap through the creation of a new ''Traumatic Injury Protection'' insurance program for the benefit of severely disabled servicemembers. But before I describe my amendment, let me further discuss the nature of the problem my amendment would attend to.

It is widely known that due to incredible advances in medicine, servicemembers who may not have survived life-threatening injuries in previous wars are now making it back home from Iraq and Afghanistan alive. That is the good news. The bad news, however, is that they must live with injuries that may have left them without their limbs, sight, hearing, speech, or ability to even move.

All of my colleagues have likely met with these brave men and women in their home States, or right here in Washington, DC, at the Walter Reed Army Medical Center. They are fighting for their lives. They are attempting to learn through physical and occupational therapy how to reintegrate back into society. Needless to say, relearning things I and my colleagues take for granted every day—how to walk, how to read, how to simply make breakfast in the morning—can take months or, quite possibly, years.

It is during this rehabilitation period at military hospitals that the need for additional financial resources is most acute. For many Guard and Reserve members at Walter Reed, they already have foregone higher paying civilian jobs prior to their deployment. Lengthy recovery periods simply add to the financial strain they bear. In addition, family members of injured soldiers bear the burdens necessary to travel from great distances to provide the love and emotional support that is absolutely essential for any successful rehabilitation. Spouses quit jobs to spend time with their husbands at the hospital. Parents spare no expense to be with their injured children.

To meet these needs, my amendment would create a ''Traumatic Injury Protection'' insurance rider as part of the existing Servicemembers' Group Life Insurance Program. The traumatic insurance would provide coverage for severely disabling conditions at a cost of approximately $1 a month for participating servicemembers. The payment for those suffering a severe disability would be immediate and would range from $25,000 to a maximum of $100,000. The purpose of the immediate payment would be to give injured servicemembers and their families the financial cushion they need to sustain them before their medical discharge from service when veterans' benefits would kick in.

The traumatic injuries covered under my amendment include: total and permanent loss of sight; loss of hands or feet; total and permanent loss of speech; total and permanent loss of hearing; quadriplegia; paraplegia; burns greater than second degree, covering 30 percent of the body or face; and certain traumatic brain injuries.

The cost of the amendment is entirely reasonable given the cause. Informal CBO estimates put the FY2006 cost at $10 million. A very small price to pay to meet the needs of these wounded warriors.

I cannot take credit for the idea behind this amendment. The credit must go to disabled veterans of the Wounded Warrior Project, run under the aegis of the United Spinal Association. Three Wounded Warrior veterans of the Iraq war visited my office last week to discuss the need to provide this type of an insurance benefit. One veteran, former Army SSG Heath Calhoun, had both of his legs amputated after being struck during a rocket propelled grenade attack in Iraq. Heath and his wife, Tiffany, who was present with him in my office, described the financial problems they endured after Tiffany quit her job to be with Heath during his convalescence. It took over a year before Heath was medically discharged from service. While the Calhoun family was able to make it through that extremely trying period, Heath told me he was adamant that other servicemembers in Iraq should not have to worry about finances should they, too, be injured. The quickest way to accomplish that, he told me, was to add a disability insurance rider—financed by servicemembers through monthly premium deductions—to the existing life insurance program. I am honored to sponsor this amendment in the Senate on his, and the other veterans of the Wounded Warrior Project's, behalf. I would also like to personally complement Ryan Kelly, who also visited me last week. Mr. Kelly lost his right leg during an ambush near Baghdad almost 21 months ago. I am told he was a principal author of the draft legislation that culminated in the amendment I offer today. I thank him for his fine work.

I also want to thank President Bush and his top administration officials for lending their support to this amendment. Secretary of Veterans Affairs Jim Nicholson, Deputy Secretary of Defense Paul Wolfowitz, and their staffs, who provided invaluable technical support in the drafting of this amendment.

And most importantly, I want to thank my partner in this effort, the Committee's ranking member, Senator DANIEL K. AKAKA. I thank him for cosponsoring the amendment, and I thank him for joining me in a spirit of bipartisanship as we seek to serve veterans together.

The supplemental already would make substantial improvements to benefits provided to survivors of those killed in the line of duty. I applaud those efforts. But I also remind my colleagues that we must be vigilant in our care for those who are still fighting to regain the normalcy of the lives they enjoyed prior to sustaining catastrophic injuries in defense of our freedom. I ask for your support.

Mr. OBAMA. Mr. President, I speak in favor of the amendment offered by the distinguished chairman and ranking member of the Veterans Affairs Committee.

A few weeks ago, I met with Sergeants Ryan Kelly, Jeremy Feldbusch, and Heath Calhoun, all of whom had recently returned from Iraq. They served their country bravely in battle, and in doing so, each of these men sustained a disabling injury that will change their lives forever.

When they came home, it would have been easy for them to go about their own business or feel sorry for themselves.

But they did not. Instead, they decided that their service to our country would not end on the battlefields of Iraq. They would speak out for their fellow soldiers—the ones who also may come home without a leg, or an arm, or their sight, but may not have the resources to carry on and support their families.

This amendment is their tribute to their brothers and sisters-in-arms.

For only about $3 per month, it allows service members to purchase group disability insurance that would award them a maximum of $100,000 if they are deemed seriously injured. For disabled veterans who may not be able to work when they come home, this insurance could help them obtain long-term care, send their kids to school, or simply make sure that they can pay the bills and still put food on the table. It won't cost the Government a dime. It simply needs our approval to allow it to happen.

The blessings of modern technology have saved the lives of many service members who would otherwise have died from their wounds. Yet, it also means there will be more wounded who need care. Every single one of us has a fundamental moral duty to take care of those men and women who've sacrificed to safeguard our freedom. This amendment offers us one way to do that, and I thank Senators CRAIG and AKAKA for their cooperation in moving this issue forward.

Mr. AKAKA. Mr. President, I am pleased to support this important and timely amendment.

This amendment will go far to ease the financial burden that is placed on a service member and his or her loved ones as a result of traumatic injury. Between $25,000 and $100,000 will be paid to service members who suffer such injuries based on severity of injury.

Service members and their families face heavy financial burdens while hospitalized, and prior to being medically discharged from the military. This effort will help lessen the burden that exists on service members and their families before VA benefits kick in.

Importantly, to qualify for this necessary benefit, our soldiers, sailors, airmen, and marines do not have to do any additional paperwork. They are automatically enrolled in this program by virtue of being a participant in the Servicemembers' Group Life Insurance Program.

The insurance premium will cost the service member approximately $1 a month and will be determined by the Secretary of Veterans Affairs.

This insurance policy is meant to supplement, and not take the place of, existing DoD and VA benefits. This amendment is intended to fill a gap: assistance to service members and their families during recovery from a traumatic injury. In no way should anyone view this as a precedence for shifting costs to a service member.

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

The amendment (No. 564), as amended, was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. I thank the Senator from Massachusetts for his consideration, most importantly the chairman of the full Appropriations Committee for his cooperation, the chairman of the Armed Services Committee for his understanding and work with his staff. As chairman of the Veterans' Affairs Committee, this was truly a team effort. Working with my colleague from Ohio, Senator DEWINE, we have accomplished something for America's veterans, especially those very traumatically injured, that I think is critical and necessary.

I yield the floor.

Mr. REID. Mr. President, I will speak briefly. If this time is taken from the time scheduled for a vote at 3:45, I ask unanimous consent whatever time I use extend the vote that amount of time.

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

THE COURAGE OF SENATOR INOUYE

Mr. REID. Mr. President, we all have the good fortune of serving in this body with some outstanding men and women, but I don't think it is an exaggeration to say DAN INOUYE is a step above us all. He is a man for whom I have the greatest admiration, for many different reasons.

Sixty years ago today, on April 21, 1945, DAN INOUYE paid an incredible price protecting the freedom of our country and the people of the world. Senator DANIEL K. INOUYE showed during World War II what kind of a man he is.

He was born to Japanese immigrant parents in Honolulu. He witnessed the bombing of Pearl Harbor when he was 17 years old. But he did not stand by. He rushed in, provided aid to American troops. This was the beginning of his service to our country.

I will read now from his Medal of Honor citation which was received for actions this day 60 years ago, when Senator INOUYE and his men were in Italy, trying to capture a key mountain ridge.

The citation reads:

> With complete disregard for his personal safety, Second Lieutenant Inouye crawled up the treacherous slope to within five yards of the nearest machine gun and hurled two grenades, destroying the emplacement. Before the enemy could retaliate, he stood up and neutralized a second machine gun nest. Although wounded by a sniper's bullet, he continued to engage other hostile positions at close range until an exploding grenade shattered his right arm. Despite the intense pain, he refused evacuation and continued to direct his platoon until enemy resistance was broken and his men were again deployed in defensive positions.

Senator INOUYE lost his arm and received other grievous wounds that day defending our freedom. It tells us something about this man, his courage and his heroism.

We serve with him every day. He is quiet, unassuming, but he is a real hero. He refused to let anything hold him back, in spite of his serious injuries, spending years in the hospital. Following that war, he went to the University of Hawaii, George Washington School of Law. He was elected to the House of Representatives, and now is the third most senior Member of the Senate. Throughout his life and his service, DAN INOUYE has proven himself a man of courage.

I am, with all Members in this Senate, Democrats and Republicans, proud to call him a friend and a colleague. He gave so much to our country so long ago but to this day he keeps on giving. We could all learn a lesson from this great American.

Mr. WARNER. I wish to commend the distinguished Senator for those remarks. I humbly ask the privilege of being associated with the remarks he made.

Senator INOUYE has been one of the most extraordinary leaders I have had the privilege to serve with in my career in the Senate. I thank him and I thank the Senator from Nevada.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Massachusetts.

Mr. KENNEDY. I don't know how the time is allocated, but I will take 2 or 3 minutes.

The PRESIDING OFFICER. There is 2 minutes 39 seconds.

AMENDMENT NO. 520

Mr. KENNEDY. Mr. President, from April of this year, 2005, the GAO report. There are two primary causes for the shortages of up-armored vehicles and add-on armor kits: First, a decision was made to pace production rather than use the maximum available capacity; two, funding allocations did not keep up with rapidly increasing requirements.

Army officials have not identified any long-term effort to improve the availability of up-armored Humvees or add-on armor kits.

The Department of the Army itself says now we are currently producing the 550, they will continue through June 2005, at which the production rates decline. To sustain production at the maximum capacity, the Army would need funding at 213. That is exactly what ours does.

If we did not include that, we see the dramatic production in the capacity and in the development of that.

Why are we doing that? Nine times the Army appeared before the Armed Services Committee; nine times they underestimated the needs.

A third of the 35 of the young men from my State of Massachusetts have lost their lives because of the lack of up-armor.

All we are asking, take it to the conference, 230. The House of Representatives saw that. Why doesn't the Senate of the United States? I hope we would have support for that amendment and let them work it out in the conference. Let's make sure we are going to do what needs to be done. We have seen the mistakes of the past. Let's not make another one today.

Mr. COCHRAN. How much time remains under the order?

The PRESIDING OFFICER. The Senator from Mississippi has 2½ minutes. That is all the time that is available.

Mr. COCHRAN. I reserve the remainder of my time and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

NOMINATION OF JOHN D. NEGROPONTE TO BE DIRECTOR OF NATIONAL INTELLIGENCE—Continued

The PRESIDING OFFICER. Under the previous order, the Senate will resume executive session and proceed to a vote on the nomination, which the clerk will report.

The legislative clerk read the nomination of John D. Negroponte, of New York, to be Director of National Intelligence.

Mr. COCHRAN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of John D. Negroponte, of New York, to be Director of National Intelligence? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 98, nays 2, as follows:

[Rollcall Vote No. 107 Ex.]

YEAS—98

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

NAYS—2

Harkin	Wyden

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President shall be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 2005—Continued

The PRESIDING OFFICER. The Senator from Nevada is recognized.

AMENDMENT NO. 487

Mr. ENSIGN. Mr. President, I yield back my time on the amendment.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment.

The amendment (No. 487) was agreed to.

Mr. COCHRAN. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ENSIGN. Mr. President, in the decade before 9/11, al Qaeda studied how to exploit gaps and weaknesses in the borders of the United States.

A few months ago, intelligence officials confirmed that the terrorist Zarqawi plans to infiltrate America through our borders. He plans to attack targets such as movie theaters, restaurants, and schools.

A year-long investigation recently concluded with authorities arresting 18 people who planned to smuggle grenade launchers, shoulder-fired missiles, and other Russian military weapons into our country.

Let's face it—the dual threat of illegal border crossing by people who wish to kill us and the weapons they need to do it is very real.

We are not dealing with rational people. We are not dealing with people who respect life or freedom. It would be irresponsible to sit idly by and not treat these threats seriously. We must continue to be diligent in our fight to defeat terror and protect our homeland.

Before 9/11, INS had only 9,800 border patrol agents. With the agency focused on immigration and narcotics, no major counterterrorism effort was underway.

More than 3 years after the devastating terrorist attacks, the men and women who serve on the border's frontline of defense are still overwhelmed. The Commissioner of the U.S. Customs and Border Protection has admitted they need more agents.

Our agents catch only about one-third of the estimated 3 million people who cross the border illegally each year. Three and half years ago it only took 19 to change the course of this country.

The 9/11 Commission addressed this very problem. They recommended banning terrorists from traveling to our country. This is exactly what my amendment attempts to accomplish.

We must commit resources to block terrorists who attempt to enter our country. Last year, I sponsored an amendment to the National Intelligence Reform Act that authorized the hiring of 10,000 new agents to patrol our borders over the next 5 years. And last month, the Senate approved a Budget which funded the hiring and training of 2,000 new border patrol agents next year.

Border security requires a serious commitment by Congress. There is no question that we need to hire new agents. Our security depends on it. But it will take more than simply hiring agents. Congress needs to increase funding for training and equipment. I hope we will remember this during the regular appropriations process.

We cannot wait another year to improve our border security. This is an emergency. The amendment that I am offering will put new agents on the ground in the next few months.

My amendment begins to fulfill the commitment Congress made last year. It provides $147 million to hire and train 400 new border patrol agents by October; 400 new agents is the maximum number of new agents that the Department of Homeland Security can train before the end of this fiscal year.

My amendment does not require any new spending. It is completely offset.

The 9/11 Commission found that many of the 19 hijackers could have been placed on watch lists. They were vulnerable to detection by border authorities. Without adequate staff and coordinated efforts, the terrorists were allowed to enter the United States. Once here they learned how to fly airplanes at American flight schools. They conducted surveillance to assess our weaknesses. And they attacked.

In order to prevent another terrorist attack on American soil, we must improve every aspect of our nation's security. Our security is truly only as strong as our weakest link.

For too long, the lack of funding for border agents has been a weak link. By funding additional agents, we protect both our southern and our, often neglected, northern border. This will make it harder for terrorists to enter the United States and attack us.

The world has changed dramatically since 9/11 when the terrorists used our open and trusting society against us. We can not allow a repeat of that tragedy. This amendment will help those who guard our frontiers by providing necessary tools to ensure the safety of our citizens.

AMENDMENT NO. 520

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on Bayh amendment No. 520.

Mr. WARNER. Mr. President, I had the opportunity to speak to the distinguished Senator from Alaska, Mr. STEVENS, and I know he was anxious to address the Senate with regard to his desire to obtain time to speak in opposition to the Bayh amendment. Might I ask, what is the parliamentary situation with regard to that? Hopefully, we can see the appearance of the Senator from Alaska.

The PRESIDING OFFICER (Mr. CHAFEE). Under the previous order, there are 2 minutes equally divided prior to the vote on the Bayh amendment.

Mr. WARNER. Will the Chair kindly repeat that?

The PRESIDING OFFICER. There are 2 minutes evenly divided prior to the vote on the Bayh amendment.

Mr. WARNER. Mr. President, on behalf of the senior Senator from Alaska,

I ask that an additional 10 minutes be allocated to the senior Senator from Alaska.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, do I understand currently there are 2 minutes to be equally divided, and now the Senator from Virginia has asked for 10 minutes for one side on this debate? I have no objection, obviously, to whatever time the Senator from Alaska wants. I object unless those of us who have a differing view have an opportunity to express ourselves.

Mr. WARNER. I misunderstood. I thought the senior Senator from Massachusetts and his colleague from Indiana had adequate opportunity to speak. I am perfectly willing to ask for 15 minutes equally divided between the senior Senator from Massachusetts and the senior Senator from Alaska.

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

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum, with the time to be equally divided.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. 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. STEVENS. Mr. President, I oppose the Bayh-Kennedy amendment on the uparmored humvees. The validated global war on terror requirement for this is 10,079. I do hope the Senate will listen. This is very serious.

We received a letter last week from two senior Army general officers, the Army's G–8 Deputy Chief of Staff for Programs and the Army's G–3 Deputy Chief of Staff for Operations and Plans, which states the total requirement for these vehicles is 10,079 and that industry will meet that requirement in less than 2 months with funds previously provided.

Keep in mind the pre-emergency throughput of these vehicles was 40 a month. We are now producing at the rate of 550 a month, and we will reach the maximum in June because we paid more to speed up this production.

We appropriated funds and reprogrammed to meet the total requirement. We have now met it. As a matter of fact, we produced 266 more vehicles than the Army wanted. This amendment is not about taking care of troops. I spent my career, and the Senator from Hawaii with me, to ensure the service men and women have the equipment they need, the support they need. This is about the production unit of a defense contractor, not about the people who are wearing the uniform in Iraq.

This manufacturer is currently producing these at the capacity, as I said, of 550 a month. Every month, 550 new humvees are going into Iraq. We will have more there by June than we need. There is no need for this. The sponsors want you to believe the Army wants and needs these, but that is not true. The Army's requirement will be met in June, and we have provided some money for all of them. In Iraq, we are meeting the requirements of the commanders in the field, and they have certified to that.

The additional funding of this amendment was not requested by the Department, and the commanders are receiving other vehicles now, for instance, the Striker, which is a different system and is providing more protection for the people in the field. They are going in there now.

Some people argue the need for these is going up. That is not true. The need for Strikers is going up, and we are sending Strikers in from Germany, from Hawaii, from Alaska, from Seattle. We are meeting the needs they demanded, and that is for the Strikers. This requirement is not increasing with the continued operations in Iraq.

A major difference now is, after February of this year, all vehicles operating outside the protective compound are armored, and we have met that need.

This is an emergency appropriations bill. I believe we should focus on the needs of validated requirements of the Department for the total global war, but this is not one of them.

I urge my colleagues to vote ''no'' on this amendment. I yield to my friend, the chairman of the Armed Services Committee, so he might be heard on the matter. I thank the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, first, I commend Senators KENNEDY and BAYH. They have really fought the battle through the years, and it has been since fiscal year 2003 we have been dealing with the need for the uparmor.

As my colleague from Alaska said, and I add this, from fiscal year 2003 to 2005, the Congress added—that is additional funds—added $1.2 billion to the President's request to increase uparmored humvee production, and almost $1.9 billion was added to the President's budget request to increase the production of ballistic add-on armor for tactical-wheeled vehicles in the Army and the Marine Corps.

I think we have clearly met the demand, and it is largely owing to these two Senators who have been out on the point on this issue. But right now these additional funds, I say to my colleague from Alaska, if the Senate were to approve the amendment, would have to be taken out of other modernization programs for the Army; am I not correct?

Mr. STEVENS. Mr. President, that is correct. This money comes out of this supplemental for these purposes which is beyond the needs on this vehicle and reduce the amount of money for other items that are needed.

Mr. WARNER. I yield the floor.

Mr. STEVENS. I yield back the remainder of our time. I thank the Chair for his courtesy.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, point No. 1, this is additional money. Point No. 2, the House of Representatives added $233 million. Why? For the very reason that was in this letter from the Department of the Army that says ''to sustain production at the maximum capacity through the end of fiscal year 2005, the Army would need the additional funding of approximately $213 million.'' That is what the Department of Defense says it needs. That is what the House has done.

With all respect to the estimates that have been made, under the current request, the Department of Defense has testified nine times at the Armed Services Committee in terms of the needs of uparmored humvees. Every time they have been wrong. That is not just me talking. That is the GAO. This April, a GAO report says there are two primary causes for the shortages—shortages, that is the GAO, shortages—of the uparmored vehicles and add-on kits. One, a decision was made to pace production rather than use the maximum available capacity and, secondly, funding allocations did not keep up rapidly with increasing requirements.

That is the GAO in April of this year. ''Army officials have not identified any long-term efforts to improve the availability of uparmored humvees.'' That is the GAO.

The House took it. The GAO says it is necessary. The Department of Defense says so, too. Let us just include that and not leave the men and women who need the uparmored Humvees at risk in dangerous places around the world.

Mr. DOMENICI. Would the Senator yield for a question?

Mr. KENNEDY. How much time is remaining? I believe I have used my time.

The PRESIDING OFFICER. There is 5 minutes remaining.

Mr. DOMENICI. I ask for 10 seconds.

I ask the Senator, is this the first time the Senator from Massachusetts has been for something that the Republican House of Representatives is for?

Mr. KENNEDY. That is a good question. I think I can think back and maybe find one. I will think back and find one. Saint Patrick's Day address.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, with reference to the House, I say to our colleague from New Mexico with reference to the House, even a broken clock is right twice a day. So there is a first time for everything.

It is rare that this body votes on a matter that will affect the life and limbs of soldiers fighting as we speak in a theater of war. Now is such a time. As my colleague, Senator KENNEDY, mentioned, the Army has chronically underestimated the need for uparmored vehicles in the Iraqi theater. Nine consecutive times they have gotten it wrong. We now have a letter saying that finally they have gotten it right.

Walter Reed Army Hospital and the other military hospitals of this Nation are filled with the young men and women who have paid the price for these errors. When will we err on the side of doing more rather than less to protect the troops? Now is that time.

I conclude by saying this: Do my colleagues remember the young soldier who stood up when the Secretary of Defense visited Iraq and spoke about hillbilly armor? Do my colleagues remember him speaking about rummaging through the garbage to find metal to weld onto the side of the vehicles? Do my colleagues remember the round of applause he got from his fellow soldiers?

The troops know what is going on. The press knows what is going on. Apparently the House of Representatives knows what is going on. It is time that the Senate took a stand as well to do something about this, to give the troops the protection they need. Rummaging through the garbage—that is an outrage. Here is our chance to bring it to a stop. I ask my colleagues for their support.

Mr. STEVENS. Is all time yielded back?

Mr. KENNEDY. I yield back the balance of our time.

The PRESIDING OFFICER (Mr. CORNYN). All time is yielded back.

Mr. STEVENS. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been previously ordered on the amendment.

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 61, nays 39, as follows:

[Rollcall Vote No. 108 Leg.]

YEAS—61

Akaka	Dorgan	Mikulski
Alexander	Durbin	Murray
Allen	Feingold	Nelson (FL)
Baucus	Feinstein	Nelson (NE)
Bayh	Harkin	Obama
Biden	Hutchison	Pryor
Bingaman	Jeffords	Reed
Boxer	Johnson	Reid
Burns	Kennedy	Rockefeller
Byrd	Kerry	Salazar
Cantwell	Kohl	Santorum
Carper	Landrieu	Sarbanes
Chafee	Lautenberg	Schumer
Clinton	Leahy	Snowe
Coleman	Levin	Specter
Collins	Lieberman	Stabenow
Conrad	Lincoln	Talent
Corzine	Lott	Thune
Dayton	Lugar	Wyden
DeWine	Martinez	
Dodd	McCain	

NAYS—39

Allard	DeMint	Inouye
Bennett	Dole	Isakson
Bond	Domenici	Kyl
Brownback	Ensign	McConnell
Bunning	Enzi	Murkowski
Burr	Frist	Roberts
Chambliss	Graham	Sessions
Coburn	Grassley	Shelby
Cochran	Gregg	Smith
Cornyn	Hagel	
Craig	Hatch	
Crapo	Inhofe	
Stevens	Thomas	Voinovich
Sununu	Vitter	Warner

The amendment (No. 520) was agreed to.

CHANGE OF VOTE

Mr. BURNS. Madam President, on today's vote No. 108, I voted ''nay.'' My intention was to vote ''yea.'' I ask unanimous consent to change my vote. It will not affect the outcome of the vote on the amendment.

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

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. The Senator from Kansas is recognized.

EXECUTIVE SESSION

NOMINATION OF LIEUTENANT GENERAL MICHAEL V. HAYDEN, UNITED STATES AIR FORCE, TO BE GENERAL AND DEPUTY DIRECTOR OF NATIONAL INTELLIGENCE

Mr. ROBERTS. Mr. President, a unanimous consent has been agreed to by both sides for the Senate to immediately proceed to executive session to consider the following nominations on today's Executive Calendar: PN 421, LTG Michael V. Hayden, to be General, reported by the Armed Services Committee today; and No. 70, which is the confirmation of General Hayden to be the Deputy Director of National Intelligence.

I further ask unanimous consent the nominations be confirmed en bloc, the motion 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:

AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Michael V. Hayden.

EXECUTIVE OFFICE OF THE PRESIDENT

Lieutenant General Michael V. Hayden, United States Air Force, to be Principal Deputy Director of National Intelligence. (New Position.)

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 2005—Continued

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENTS NOS. 389, 421, AS MODIFIED; NO. 484, AS MODIFIED; NO. 502, AS MODIFIED; NO. 565, AND 566, EN BLOC

Mr. STEVENS. Mr. President, last evening, as we were finishing up this bill, we had a series of amendments that were offered as amendments, and we were in the process of changing them to sense-of-the-Senate resolutions. There are a couple others we failed to offer, approved by both sides. I ask unanimous consent they now be offered en bloc and have them considered en bloc.

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

Mr. STEVENS. I ask unanimous consent the amendments be agreed to.

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

The amendments were agreed to, as follows:

AMENDMENT NO. 389

(Purpose: To reaffirm the authority of States to regulate certain hunting and fishing activities)

On page 231, after line 6, add the following:

SEC. 6047. STATE REGULATION OF RESIDENT AND NONRESIDENT HUNTING AND FISHING.

(a) SHORT TITLE.—This section may be cited as the ''Reaffirmation of State Regulation of Resident and Nonresident Hunting and Fishing Act of 2005''.

(b) DECLARATION OF POLICY AND CONSTRUCTION OF CONGRESSIONAL SILENCE.—

(1) IN GENERAL.—It is the policy of Congress that it is in the public interest for each State to continue to regulate the taking for any purpose of fish and wildlife within its boundaries, including by means of laws or regulations that differentiate between residents and nonresidents of such State with respect to the availability of licenses or permits for taking of particular species of fish or wildlife, the kind and numbers of fish and wildlife that may be taken, or the fees charged in connection with issuance of licenses or permits for hunting or fishing.

(2) CONSTRUCTION OF CONGRESSIONAL SILENCE.—Silence on the part of Congress shall not be construed to impose any barrier under clause 3 of Section 8 of Article I of the Constitution (commonly referred to as the ''commerce clause'') to the regulation of hunting or fishing by a State or Indian tribe.

(c) LIMITATIONS.—Nothing in this section shall be construed—

(1) to limit the applicability or effect of any Federal law related to the protection or management of fish or wildlife or to the regulation of commerce;

(2) to limit the authority of the United States to prohibit hunting or fishing on any portion of the lands owned by the United States; or

(3) to abrogate, abridge, affect, modify, supersede or alter any treaty-reserved right or other right of any Indian tribe as recognized by any other means, including, but not limited to, agreements with the United States, Executive Orders, statutes, and judicial decrees, and by Federal law.

(d) STATE DEFINED.—For purposes of this section, the term ''State'' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

AMENDMENT NO. 421, AS MODIFIED

(Purpose: To express the sense of the Senate on funding for the continuing development of the permanent magnet motor)

On page 169, between lines 8 and 9, insert the following:

PERMANENT MAGNET MOTOR

SEC. 1122. It is the sense of the Senate that of the amounts appropriated by this Act under the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY'', $15,000,000 should be made available for the continuing development of the permanent magnet motor.

AMENDMENT NO. 484, AS MODIFIED

(Purpose: To express the sense of the Senate on funding for the procurement of man-portable air defense (MANPAD) systems)

On page 169, between lines 8 and 9, insert the following:

SENSE OF SENATE ON PROCUREMENT OF MAN-PORTABLE AIR DEFENSE SYSTEMS

SEC. 1122. It is the sense of the Senate that, of the amounts appropriated by this Act, $32,000,000 may be available to procure MANPAD systems.

AMENDMENT NO. 502, AS MODIFIED

(Purpose: To express the sense of the Senate on funding for the replenishment of medical supply needs within the combat theaters of the Army)

On page 169, between lines 8 and 9, insert the following:

SENSE OF SENATE ON MEDICAL SUPPORT FOR TACTICAL UNITS

SEC. 1122. It is the sense of the Senate that, of the amount appropriated by this Act under the heading ''OPERATION AND MAINTENANCE, ARMY'', $11,500,000 should be made available for the replenishment of medical supply and equipment needs within the combat theaters of the Army, including bandages and other blood-clotting supplies that utilize hemostatic, wound-dressing technologies.

AMENDMENT NO. 565

(Purpose: To express the sense of the Senate that Congress should enact an increase in the period of continued TRICARE coverage of children of members of the uniformed services who die while serving on active duty for a period of more than 30 days and make such increased period applicable to children of members who have died since the commencement of military operations in Afghanistan)

On page 169, between lines 8 and 9, insert the following:

SENSE OF SENATE ON INCREASED PERIOD OF CONTINUED TRICARE COVERAGE OF CHILDREN OF MEMBERS OF THE UNIFORMED SERVICES WHO DIE WHILE SERVING ON ACTIVE DUTY FOR A PERIOD OF MORE THAN 30 DAYS

SEC. 1122. It is the sense of the Senate that—

(1) Congress should enact an amendment to section 1079 of title 10, United States Code, in order to increase the period of continued TRICARE coverage of children of members of the uniformed services who die while serving on active duty for a period of more than 30 days under that section such that the period of continued eligibility is the longer of—

(A) the three-year period beginning on the date of death of the member;

(B) the period ending on the date on which the child attains 21 years of age; or

(C) in the case of a child of a deceased member who, at 21 years of age, is enrolled in a full-time course of study in a secondary school or in a full-time course of study in an institution of higher education approved by the administering Secretary and was, at the time of the member's death, in fact dependent on the member for over one-half of the child's support, the period ending on the earlier—

(i) the date on which the child ceases to pursue such a course of study, as determined by the administering Secretary; or

(ii) the date on which the child attains 23 years of age; and

(2) Congress should make the amendment applicable to deaths of members of the Armed Forces on or after October 7, 2001, the date of the commencement of military operations in Afghanistan.

AMENDMENT NO. 566

(Purpose: To amend the Immigration and Nationality Act to provide for entry of nationals of Australia)

On page 231, between lines 3 and 4, insert the following new section:

RECIPROCAL VISAS FOR NATIONALS OF AUSTRALIA

SEC. 6047. (a) Section 101(a)(15)(E) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)) is amended—

(1) by adding at the end ''or (iii) solely to perform services in a specialty occupation in the United States if the alien is a national of the Commonwealth of Australia and with respect to whom the Secretary of Labor determines and certifies to the Secretary of Homeland Security and the Secretary of State that the intending employer has filed with the Secretary of Labor an attestation under section 212(t)(1);''; and

(2) in clause (i), by striking ''or'' after ''national;''.

(b) Section 202 of such Act (8 U.S.C. 1152) is amended by adding at the end the following new subsection:

''(f) SPECIAL RULE FOR AUSTRALIA.—The total number of aliens who may acquire nonimmigrant status under section 101(a)(15)(E)(iii) may not exceed 5000 for a fiscal year.''.

(c) Section 214(i)(1) of such Act (8 U.S.C. 1184(i)(1)) is amended by inserting '', section 101(a)(15)(E)(iii),'' after ''section 101(a)(15)(H)(i)(b)''.

(d) Section 212(t) of such Act (8 U.S.C. 1182(t)), as added by section 402(b)(2) of the United States-Chile Free Trade Agreement Implementation Act (Public Law 108–77; 117 Stat. 941), is amended—

(1) by inserting ''or section 101(a)(15)(E)(iii)'' after ''section 101(a)(15)(H)(i)(b1)'' each place it appears;

(2) in paragraph (3)(C)(i)(II), by striking ''or'' in the third place it appears;

(3) in paragraph (3)(C)(ii)(II), by striking ''or'' in the third place it appears; and

(4) in paragraph (3)(C)(iii)(II), by striking ''or'' in the third place it appears.

Mr. STEVENS. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 487, AS MODIFIED

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Madam President, I ask unanimous consent that amendment No. 487 be modified so as to appear on page 187 after line 18. This request only changes the placement of the amendment in the bill. It does not change the text of the amendment.

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

The amendment, as modified, is as follows:

On page 187, after line 18, insert the following:

CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', for hiring border patrol agents, $105,451,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CONSTRUCTION

For an additional amount for ''Construction'', $41,500,000, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

REDUCTION IN FUNDING

The amount appropriated by title II for ''Contributions to International Peacekeeping Activities'' is hereby reduced by $146,951,000 and the total amount appropriated by title II is hereby reduced by $146,951,000.

AVIAN FLU AND THE EMERGENCY SUPPLEMENTAL FOR IRAQ

Mr. OBAMA. I see that the distinguished ranking member of the State and Foreign Operations Subcommittee, Senator LEAHY is here on the Senate floor. I am wondering it he would take just a moment to discuss with me the critical issue of the avian flu.

Mr. President, an outbreak of the avian flu would be an international calamity. In this age when you can get on a plane in Bangkok and arrive in Chicago or Burlington in hours, we must face the reality that this threat is not a problem isolated half a world away, but is one that could affect people in Illinois, Vermont, and all across America. The director of the Centers for Disease Control recognized the grave consequences this virus could pose to international health when she recently stated that ''this is a very ominous situation for the globe . . . [this is] the most important threat we are facing right now.'' It is something that is clearly an emergency and is appropriately addressed in the Iraq Supplemental.

At this point, humans contract the virus overwhelmingly by coming into contact with infected animals, and once contracted, the virus is extremely deadly—a 65 to 75 percent mortality rate for humans—especially because there is no proven vaccine for the H5N1 strain. Further, effective treatments for this strain of the virus are not widely available and must be delivered within 24 hours.

The recent trends with respect to the spread of the avian flu are very alarming. Over the last few months, there is growing evidence which suggests that the virus may be mutating and could eventually result in a form that is transmittable from human to human. If this were to occur, it could cause the deaths of millions of people, seriously damage economic activity in Southeast Asia, and cause panic and instability throughout the region. Moreover, because of the dynamic nature of Southeast Asia, with all sorts of commerce and transport in and out of the region, the virus would likely spread around the world—including to the United States, in a matter of hours or days.

I would ask my good friend, the senior Senator from Vermont, who has a

long history of leadership on international health issues. for his assessment of what needs to be done.

Mr. LEAHY. I would say to the Senator from Illinois that, earlier this year, the World Health Organization convened a conference on this issue. The WHO concluded that the international community does not possess sufficient plans and resources to effectively respond to an outbreak of the avian flu and that additional resources and attention to this issue are urgently needed. The WHO called for $100 million in new resources from the international community to prevent, and if necessary, respond to an outbreak of the avian flu.

Mr. OBAMA. Just for the record, the $100 million figure is important for our purposes here today. Before the Appropriations Committee put together the supplemental, we discussed the importance of immediately addressing the avian flu before the situation spirals out of control, and that $25 million is an appropriate amount to deal with this critical emergency. I am correct?

Mr. LEAHY. Yes, the Senator is correct. When the Appropriations Committee was putting together the Supplemental, the Majority and Minority, working together, included $25 million to prevent and respond to an outbreak of the avian flu, because of the urgent nature of the situation in southeast Asia.

I would also add that $25 million is one-fourth of the WHO appeal, and as we know, the traditional U.S. share of such multilateral efforts is one-fourth of the total cost. I would also point out that this is the amount that has been authorized in S. 600, the Foreign Assistance Authorization bill that was debated in the Senate last week.

Mr. OBAMA. I also know that USAID has already formulated a rapid response plan to use this $25 million, if it is ultimately appropriated.

Mr. LEAHY. That is correct. The administration urgently needs this money and it will be well spent if appropriated. In fact, the money will be used to address the avian flu and build lasting mechanisms and networks to address other viruses that will undoubtedly arise in southeast Asia. The $25 million to combat the avian flu is important for Southeast Asia and the United States.

ENSURING THE MILITARY DEATH BENEFIT IS TAX FREE

Ms. MIKULSKI. Mr. President, I rise to speak on my amendment No. 497 to ensure that increased military death benefits are tax free.

We know that more than 1,700 servicemen and women have made the ultimate sacrifice in Iraq and Afghanistan. We don't always focus on the families that have to live their lives without a husband or wife, without a son or daughter, without a father or mother, without a brother or sister.

Already in March, Newsweek estimated that 1,043 American children had lost a parent in Iraq. The stories of these children trying to cope with the reality that a parent isn't coming home will break your heart. But the families of those who die for their country also have to struggle with more mundane challenges, like the loss of the main breadwinner.

Staff Sargeant Kendell Waters-Bey was a 29-year-old Marine from Baltimore. He was one of the first American servicemembers to die in Iraq, among 12 people killed in a helicopter crash.

Michael and Angela Waters-Bey lost their only son; that's hard enough. But 10-year-old Kenneth lost his father. My Maryland colleague in the House, Congressman DUTCH RUPPERSBERGER, helped to set up a trust fund to pay for Kenneth's college education.

Another Marylander, Naval Reserve Lieutenant Kylan Jones-Huffman, was killed by small arms fire in Iraq. Lieutenant Jones-Huffman was a graduate of the U.S. Naval Academy in Annapolis, and he returned there to teach history before being deployed to Iraq.

These are just two of the many families in Maryland and across the Nation that experience the sacrifices of this war every day. They deserve our gratitude—not just words, but deeds.

I'm proud to be a member of the Appropriations Committee. We did what is right to support our troops by reporting out a strong emergency supplemental bill to meet the needs of our men and women in uniform in Iraq and Afghanistan and around the world. We did what is right by increasing the military death benefit immediately paid to the family of a member of our military who is killed.

This bill will raise the military death benefit from just over $12,000 to $100,000.

The supplemental bill also provides a benefit to make the increase retroactive to October 7, 2001, the start of the war in Afghanistan after the September 11 attacks.

The Senate has also rightly adopted the Kerry amendment to ensure that the death benefit increase covers all soldiers, sailors, airmen and marines who die on active duty.

I also appreciate the Senate's adoption of the Salazar amendment, to me the so-called death gratuity as fallen heroes compensation. While we understand that no compensation can make up for the loss of a family member, the new name adopted by the Senate recognizes that we are helping the families of our fallen heroes.

I believe just about every Senator shares my view that the military death benefit should not be taxed.

We need to make sure that the full amount is paid to the family of a service member who dies for our country. We are a grateful Nation, and this is one of the ways we express our gratitude.

Under our tax law, the death benefit is excluded from gross income. That means families don't have to pay income tax on it. We don't want the family of a hero who died for our country to be handed the American flag from the casket in one hand, and get a bill from the IRS in the other.

My amendment will make sure that the payments to make the death benefit increase retroactive are not taxed.

I appreciate the support of the National Military Family Association for my amendment.

I also appreciate the support of the Senator from New Jersey, Senator CORZINE, who is a cosponsor of this amendment.

I hope that the Senate will send a strong message that we intend the military death benefit to be tax-free.

Mr. GRASSLEY. I want to thank my friend, Senator MIKULSKI, for her work on this issue. You have called attention to a solemn and critically important issue, and I commend you and join with you in your commitment to ensure that we provide a real and meaningful death gratuity to the families of our brave young men and women who have paid the ultimate sacrifice. And I also share your commitment to ensure that those who have paid the ultimate sacrifice are not forced to pay again—to the IRS, in the form of taxation of these gratuity payments.

Unfortunately, addressing the tax treatment of these payments on this bill could raise procedural hurdles to getting this bill signed into law as quickly as possible. But as Chairman of the Finance Committee, I pledge to work with you, Senator BAUCUS in his role as ranking member, and the rest of the Finance Committee and Congress to ensure that these gratuity payments will not be subject to Federal tax and to enact any necessary changes at the earliest possible date on the first available vehicle. I look forward to working with the gentlelady to resolve this issue expeditiously.

Mr. BAUCUS. Mr. President, I rise to support the efforts of my friend and colleague Senator MIKULSKI to protect payments to the families of our brave Americans serving and dying for this country. There are currently 1,254 Montanans deployed overseas in Iraq and Afghanistan with one-third of those deployed coming from our guard and reserve forces. We have lost seven service members since the war on terrorism began and with each sacrifice I am made more aware of the strength and commitment of our military families.

Senator MIKULSKI has wisely offered an amendment to ensure that the additional death gratuity benefits would not be subject to taxes, just as other death gratuity benefits for military families are tax-free. It is certainly my hope that such an amendment is not needed. However, I have promised to work with Senator MIKULSKI and my good friend, Chairman GRASSLEY, to clarify that this is the case, should there be any question in the future about the tax-free status of these payments. Certainly, for these families who have already given so much to this country, it is the right thing to do.

Ms. MIKULSKI. Mr. President, I would like to thank the chairman of

the Finance Committee, Senator GRASSLEY, and the ranking member, Senator BAUCUS, for their support of ensuring that death benefits paid to the families of those who give their lives for our country are tax-free. I appreciate their commitment to getting this done through appropriate tax legislation, if necessary, as soon as possible. And I appreciate the help of their staff on the Finance Committee, who worked with my staff on this issue.

Given these commitments from Chairman GRASSLEY and Senator BAUCUS, I will not proceed with my amendment on this critical supplemental appropriations bill to meet the needs of our troops.

I thank the Chair and yield the floor.

Mr. KERRY. Mr. President, the Supplemental Appropriations bill includes a provision, Section 6023, which allows the Department of Energy to count subcontracts towards their small business prime contracting goal and caps the total agency small business goal at 23 percent.

Section 6023 amends the Small Business Act, which falls under the jurisdiction of the Senate Committee on Small Business and Entrepreneurship but neither Senator SNOWE, the chairwoman of the committee, nor I, the ranking member, were consulted about this language prior to its introduction.

The Senate Committee on Small Business and Entrepreneurship has a longstanding position opposing the counting of subcontracts towards small business prime contracting goals at the Department of Energy. And for good reason, doing it this way is faking. It's saying that you are awarding prime Federal contracts to small business when you really aren't.

This language will essentially cut small businesses out of contracts at the Department of Energy across the Nation by removing all incentives for the agency to create prime contracting opportunities for these firms. This provision would reduce the amount of contracts available for small firms, shrinking their revenue stream, reducing jobs and hurting the economy. Also, by reducing competition in the marketplace this language would prevent the Federal Government from benefiting from the billions of dollars in savings that come from that competition.

Even more problematic is the precedent this would set for government contracts. It would open the door for any agency with management and operations contractors, facilities managers, or systems integrators to seek an exemption from Federal acquisition law with regard to prime contract awards to small firms.

Mr. President, I recognize the concern that Senator DOMENICI has for his firms in New Mexico and for the two DOE laboratories located in his State. The loss of contracts by local businesses is a concern that Senator SNOWE and I would be happy to address with Senators DOMENICI and BINGAMAN. However, this language does nothing to guarantee that contracts stay local; instead it simply shifts the authority to award Government prime contracts away from a Federal agency and gives that authority to private, for-profit corporate entities. The availability of prime and subcontracting opportunities for small firms at the DOE is a complicated issue that needs a thorough investigation and analysis before adopting legislation that could irreparably harm small businesses throughout the Nation. An emergency supplemental bill is not the place for this language.

Finally, I have received a draft copy of the GAO report requested by Senators DOMENICI, BINGAMAN, SNOWE and myself on this very subject—DOE small business contracting. The draft report has a number of disturbing findings including: the complete lack of oversight in M&O subcontracting by the Department of Energy, falsified reporting data, and the mismanagement of subcontracts by large prime contractors. Given the serious nature of the problems with these M&O contractors, it is highly inappropriate for the Congress to now exempt the Agency from its oversight duties and hand over all control to these companies.

I have worked diligently with Senators SNOWE, BINGAMAN, and DOMENICI to find compromise language that would address Senator DOMENICI's concerns without causing irreparable damage to the small business community. Unfortunately, we ran out of time before this bill was adopted. However, I hope that we can continue to work on finding a real solution and correct this harmful provision in the conference to ensure that small businesses receive their fair share of DOE contracts. I believe we can do that without adversely affecting the agency's ability to successfully permit its core duties.

Mr. President, the emergency supplemental appropriations bill before the Senate is a vitally important piece of legislation. It provides $81 billion in immediate funds for U.S. operations in Iraq and Afghanistan, and to meet critical needs for other important national priorities, including tsunami relief.

The war in Iraq has been a divisive issue in our country. People have passionate views on the subject—a passion that is matched by our concern for the welfare of the men and women of the American military. It is that concern and a real desire for them to succeed that has driven us all to push the administration toward adopting a better approach to the mission in Iraq.

In recent months, President Bush has made progress in drawing additional international support to the training of Iraqi security forces. We can wonder what took so long and hope that their efforts in recent months were just the beginning, but we all recognize that the Iraqi election was an important milestone and success—a success made possible by the courage of the Iraqi people and the dedication of the men and women of the American military.

But the mission there is not complete. Even this week Iraq has been struck by deadly violence against innocent civilians. And the nascent government, even after the first election, can only be described as fragile. The Iraqi people are in the midst of an experiment with democracy—an experiment that must succeed. This supplemental bill will give them the tools and resources they need to succeed.

The legislation also provides critical funds for the mission in Afghanistan. The war against al-Qaida and international terrorism is not yet won, and our forces need these funds to continue the fight, to support the emergence of a free Afghanistan, and to bring Osama bin Laden to justice.

Last week, the Senate adopted two amendments I offered to improve benefits for surviving military families. One amendment extends the length of time surviving families may stay in military housing free of charge to one year. Military families suffer in unique ways when a loved one is lost in the line of duty. In the midst of grieving they must almost immediately plan to move and change their entire life. For those with children in school, the loss is compounded by the disruption in school and friends that moving in the midst of the school year may bring. The amendment the Senate accepted last week gives surviving military families the opportunity to get their affairs in order, to finish the school year, and to better cope with the loss of a loved one before having to move. I thank my colleagues for their support in this effort.

The second amendment I offered increases to $100,000 the death gratuity paid to survivors of service members who die on active duty. The current law provides a miserly sum of $12,400. I began talking about the need to increase the death gratuity more than a year ago. When the administration announced its proposal earlier this year, it sought to limit the increase to those who died in Iraq and Afghanistan. No one thought that was a good idea, including the uniformed leadership of the United States military. The Senate Appropriations Committee addressed part of the problem in its mark of this bill, but avoided the simple solution of changing U.S. Code to read ''$100,000'' instead of the current $12,000. My amendment did just that. And I thank my colleagues for their overwhelming support of it.

Our missions in Iraq and Afghanistan are not yet done. Until they are, the administration must continue to build international support for our efforts and ensure that the men and women of the American military have everything they need to succeed and that their families have the support they need and deserve.

The Congress has an important responsibility to pass this legislation swiftly. Any effort to unnecessarily burden this legislation with immigration provisions in conference will unnecessarily delay the passage of this

vital legislation to the detriment of the men and women in the field today. I strongly urge the conferees to reject any effort to attach the REAL ID Act to this legislation. Let's pass a clean bill that provides our forces with the tools they need and the resources they need to succeed.

Ms. MIKULSKI. Mr. President, I support our troops and their families. I am behind them 100 percent. They deserve our gratitude, not just with words but with deeds. We must do right by our troops and their families. This strong emergency supplemental appropriations bill helps us do just that.

In this bill we have provided $5.4 billion to fix or replace equipment that has been damaged during combat operations. We have also added $3.3 billion to add armor to all convoy trucks, buy more armored vehicles and provide helicopter survivability systems.

To help protect our troops from deadly improvised explosive devices, IEDs, I supported the addition of $60 million for the Army to purchase field jamming systems $213 million for the Army to purchase Up-Armored Humvees. We have preserved support for C130J aircraft, so vital to transporting troops and materiel around the world.

To ensure that we do all we can to care for soldiers when they are injured, this bill includes an additional $275 million for the Defense Health program. It also eliminates a petty charge to some service members recuperating from combat injuries in military facilities who are being asked to pay for their own meals.

More than 1,700 servicemen and -women have made the ultimate sacrifice in Iraq and Afghanistan. Part of the debt of gratitude we owe the families they leave behind is to ensure that they do not have to face a financial crisis at the same time that they are dealing with the loss of a loved one.

To help alleviate their burden, we have increased from $12,000 to $100,000 the Fallen Heroes compensation for family members of those brave troops who make the ultimate sacrifice on behalf of our country. We have applied this increase retroactively, to include all those who have died since the beginning of operations in Afghanistan, and we have extended this compensation to apply to every service member who dies while on active duty, not just in a designated combat zone.

We also need to make sure that families receive the full amount of this compensation. Working closely with Senator GRASSLEY, I have taken steps to ensure that the full benefit is tax free. Senator GRASSLEY has assured me that this important correction will be added to the next tax bill considered in the Senate.

To further ease the strain for these families, we have allowed the family of a service member who dies to remain in military housing for a year, rather than the 6 months currently allowed.

The veterans' health care system is stretched to the limit at a time when more and more veterans are turning to VA. That's why I supported an amendment by Senator MURRAY to increase veterans funding by $2 billion to meet the health care needs of soldiers returning from Iraq and Afghanistan and other war veterans. Although this amendment was defeated, I will continue to fight for adequate funding for veterans' health care, because the VA will continue to see more enrollment of veterans and a higher demand for care.

We know that nearly 40 percent of the soldiers deployed today in Iraq and Afghanistan are citizen soldiers who come from the National Guard and Reserves. More than half of these will suffer a loss of income when they are mobilized, because their military pay is less than the pay from their civilian job.

Many patriotic employers and state governments eliminate this pay gap by continuing to pay them the difference between their civilian and military pay. The Reservist Pay Security amendment, which I worked on with Senator DURBIN, will ensure that the U.S. Government also makes up for this pay gap for Federal employees who are activated in the Guard and Reserves.

Americans joined the world in mourning the loss of more than 150,000 victims of the Indian Ocean Tsunami last Christmas. Together, we prayed for the 7 million displaced survivors that God may give them the strength to persevere and overcome this, the largest natural disaster of our time.

But expressions of sympathy are not enough. As I said at the time of this terrible disaster, the United States must set the example and lead the world in the humanitarian effort of recovery and rebuilding.

So I am especially proud that this bill includes $907 million to help keep America's promise to tsunami victims. It provides $656 million for the Tsunami Recovery and Reconstruction fund to support on-going and long-term relief efforts. It also provides $25 million for U.S. tsunami warning programs to help prevent future human disasters on the scale we have seen in Asia.

Because it is just as important to support our communities at home as it is to support our troops in the field, I will continue to fight for responsible military budgets. For that reason, I joined Senator BYRD's call for the President to fund our operations in Iraq and Afghanistan through the regular budget and appropriations process. After 3 years in Afghanistan and 2 years in Iraq, we should not be funding these operations as if they were surprise emergencies.

I also joined Senator BYRD in his call for the President to provide Congress information on the costs so far of these operations and for an estimate of what we can expect them to cost in coming years.

This bill is a Federal investment in supporting our troops and their families.

We support out troops by getting them the best equipment and the best protection we can provide. We support them by making it easier for our citizen soldiers in the National Guard and Reserves to serve their country. And we support them by ensuring that their families do not face a financial crisis at the moment when they are grieving the loss of a soldier who has sacrificed everything for our country.

Mr. FEINGOLD. Mr. President, today I cast my vote in support of the 2005 supplemental bill for Iraq, Afghanistan, and tsunami relief. I do so despite my strong objections to the administration's policy of continuing to fund our military operations in Iraq and Afghanistan through emergency supplemental bills, as if the needs of our men and women on the ground in these troubled countries comes as some sort of surprise. These needs should be addressed in the regular budget request so that they can actually be paid for, not placed on the tab of the American people so that debt can pile up.

The American people deserve honesty in budgeting, and they deserve straight answers about just how long they should expect the United States to continue shouldering this extremely heavy burden in Iraq. Some have suggested that calling for straight answers somehow undermines the mission at hand. Nothing could be further from the truth. A clear vision, clear goals, and clear plans are essential to success. I hope the administration will articulate them soon.

But this tremendously irresponsible budgeting and dangerously vague overall strategy do not change the fact that our troops on the ground need timely support, and I will cast my vote to see that they get it. I was in Afghanistan and Iraq less than two months ago, and I was inspired by the commitment and professionalism of the service men and women I met there.

I was pleased the Senate adopted my amendment that would correct a flaw in current law that unintentionally but severely restricts the number of families of injured service members that qualify for travel assistance. Too many families are being denied help in visiting their injured loved ones because the Army has not officially listed them as ''seriously injured,'' even though these men and women have been evacuated out of the combat zone to the United States for treatment. My amendment will provide at least one trip for families of injured service members evacuated to a U.S. hospital so that these families can quickly reunite and begin recovering from the trauma they've experienced.

I want to make plain that I also believe that our diplomats on the ground in tough situations deserve our support and certainly deserve the resources they need to provide for their own security. Any suggestion that we can pursue our political strategy on the cheap while leaving the military alone responsible for the success or failure of

the U.S. intervention in Iraq is foolish. But I did vote to reduce some of the funds for the State Department provided in this bill, including funds for the embassy in Iraq—an embassy that will be the most expensive U.S. embassy in the world. These expenses simply do not belong in an emergency supplemental. They are predictable, they are ongoing, and they can be provided through the regular appropriations process.

I regret the managers of the bill did not seize the opportunity to extend the mandate of the Special Inspector General for Iraq reconstruction in this bill. Transparency and accountability in the reconstruction effort is not about finding new things to criticize. It is about responsible stewardship of U.S. taxpayer resources, and it is about getting reconstruction right. Ultimately, it is about achieving our goals in Iraq. We need ongoing, vigorous, focused oversight of the reconstruction effort. While I was unable to get my amendment passed, I will continue to work to ensure that this need is met.

Finally, I strongly support the tsunami relief provisions in this bill. The scale of this December 2004 tsunami disaster was nearly overwhelming, and the human losses were horrifying. I know that most of us here in the Congress and most Americans are firm in our resolve to be strong, consistent partners to the survivors and the affected communities.

Mrs. LINCOLN. Mr. President, as debate about the supplemental appropriations for military operations and reconstruction in Iraq and Afghanistan comes to a close, I would like to ensure that our focus remains on the welfare of our Nation's troops.

That is why I would like to speak on behalf of the men and women who are serving in our Nation's Armed Forces—those currently on active duty as well as in the National Guard and Reserves—who are serving today in Iraq, Afghanistan, and across the globe.

Since the President declared an end to major combat operations in Iraq on May 1, 2003, 1,419 American troops have died in Iraq and more than 11,000 have been wounded.

Even if combat in Iraq is something that no longer makes the front pages of our newspapers, it is still agonizingly clear that our troops remain in danger.

That is why it is even more important for this body to use sound judgment and good planning. One of my major concerns is that year after year we have found a way to take the process of funding military operations in Iraq and Afghanistan out of our regular budget process.

I am frustrated, quite frankly, that we have been subjected to this biannual ritual. I am frustrated that questioning the timing of these requests may cause our political opponents to call us unpatriotic. But, most of all, I am frustrated that doing my duty as a U.S. Senator could be considered anything less than keeping a sacred trust with our men and women in uniform.

In April of 2003, just a little over 2 years ago, Congress, at the President's request, provided approximately $78 billion to meet the challenge in Iraq. Six months later, in October of 2003, the administration came back to us and requested another $87 billion in the form of a supplemental appropriation to fund continuing operations in Iraq.

In early June of 2004, the Senate voted for another $25 billion to keep operations going through the end of that year. Now we are faced with yet another emergency supplemental request of more than $80 billion.

I agree that there is a need to adequately fund our troops. We must do everything we can to protect our men and women who are in harms' way. What I don't understand, quite frankly, is this President's inability or unwillingness to make this request a part of the normal budget and appropriation process that we go through every year.

As you recall, in April of 2003, the President requested $78 billion in emergency military funding. We were at the beginning of a war. Although it was a war of our choosing, I understood the uncertainty that war brings. Furthermore, I understood the value of not allowing our enemies to get a read on our intent by peering into our budget process over the course of a year. I supported the President's request.

A mere 6 months later, President Bush returned to this body to request another $87 billion for ongoing military operations in Iraq and Afghanistan. At that time, our troops were facing the imminent and ever-present danger of guerilla attacks.

Also, many of our troops were expressing concerns that they were not adequately trained for the specialized demands of peacekeeping and policing that the reconstruction effort required.

Moreover, the dangers and difficulties that our troops faced went far beyond the threat posed by attacks from insurgents and guerillas. I grew increasingly concerned about the conditions under which many of our troops were being forced to serve in the Middle East.

I was consistently hearing about shortages of quality food and water. I was hearing that our troops were not properly equipped with the tools of warfare. I was hearing of parents sending their children bullet-proof vests because the military could not or would not provide them.

Although the administration had completely misjudged the nature of this conflict, I understood that our troops must not suffer because others had let them down. I understood that whatever this administration's shortcomings were in terms of planning, our troops' safety and well being came first. I supported the President's request.

Once again, in June of 2004, this administration asked for another $25 billion supplemental for the ongoing efforts in Iraq. At that time, we were spending money in Iraq at an unexpectedly high rate, the promised money from Iraqi oil receipts was becoming an urban legend, and we were still dealing with a pervasive insurgency.

By June of 2004, we knew or should have known that Iraq was going to be a part of this Nation's financial responsibility for some time to come. But I understood that the situation was still uncertain. We had only been in Iraq little more than a year and I was sure that the President's 2006 Defense budget proposal would more accurately reflect the costs of the war. I understood that we could not drop the ball on the welfare of our troops. I supported the President's request.

Now the President is requesting an additional $80 billion to support ongoing military efforts in Iraq and Afghanistan. It seems as if we have been here before. I have to ask myself, when does an ''emergency'' supplemental request become sufficiently routine that it should be considered as part of our normal budget process?

Over the last 2 years we have been subjected to this ''emergency'' four times. We have had two budgets come to Capitol Hill from this administration in that time. Neither of those budgets requested one thin dime in support of our troops in Iraq or Afghanistan.

The present way in which we fund these conflicts is irresponsible and unsustainable. This administration, by not properly submitting this request through the normal budget and appropriations process, has effectively cut off our oversight role.

We now only have a scant few weeks to consider one of the most important pieces of funding legislation we will consider this year. Furthermore, as this supplemental becomes more and more routine, we run the risk of hiding the true costs of the war from the American people.

The American people have every right to know, in as clear and straightforward a manner as possible, what the financial costs of the war are. By excluding those costs from the normal budget process we obscure the true effect of this conflict on our national debt, our budget and our economy. I believe that the American people deserve more transparency from us.

We are now at the point where poor budget planning is no longer acceptable. We can no longer accept the argument that unexpected events have changed our outlook therefore we must have a supplemental. We know that Iraq is unpredictable. We know that unforseen events occur. Our planning must be flexible enough to accommodate this reality.

We see very clearly the effects of poor planning. We have seen it in the way our troops have been inadequately equipped early on in this conflict. We have seen it in the way this administration has failed to properly budget and has been forced to run to Congress for emergency funds every 6 months.

In spite of the haphazard way that this administration has planned for the

financial aspects of this conflict, this Congress must keep faith with our troops and the American people. Part of that is making sure that we hold this administration and any future administrations accountable for proper planning.

We must make sure that our troops are properly equipped and provided for and we must make sure that the American people have a true sense of the economic impact of this war.

We know that we will continue to have a commitment in Iraq. The level of that commitment is no longer a surprise. I expect to see that commitment reflected in the next Defense budget that is submitted to this Congress for consideration. I do not believe that another supplemental request beyond this one would be appropriate except in the most extreme circumstances.

We must make sure that our troops are safe and have the equipment they need. But, we must also make sure that the America they return to is stronger than the one they left. We must make sure that their children will not be burdened with the debt of our irresponsibility. We must make sure that we are never accused of shirking our duty to create an America with more opportunity, more hope and more prosperity.

We can only do that when we understand that our insistence on using the normal budget process to fund ongoing operations in Iraq is not an affront to our men and women in uniform, but rather, it is our way of honoring them and the nation that they are fighting to protect.

Mr. DODD. Mr. President, as a cosponsor, I rise to discuss the DeWine/Bingaman amendment. This important measure would designate $20 million for critical election assistance, employment and public works projects, and police assistance in Haiti. I am pleased that agreement has been reached to include this amendment in the managers' package.

It has been just over a year since President Jean Bertrand Aristide was forced into exile. It is well known that the United States played an active role in his departure. I do not wish at this time to consider just how great that role may have been. But as I have stated before, I am troubled that our Government chose to use its influence to remove a democratically elected leader—and for all of President Aristide's faults, he was that—rather than working to restore stability.

To its credit, the United Nations Peacekeeping force in Haiti, MINUSTAH, has done much to reestablish security following President Aristide's departure. I applaud those countries, particularly those Latin American countries, which have contributed forces. I am also encouraged by the work of the international community in support of the Haitian elections scheduled for this fall.

But without United States leadership, I am afraid that any temporary stability will be fleeting. Indeed, the Bush administration and the international community had an opportunity to become engaged in Haiti well before we reached the current state of affairs. It failed to do so. The presence of President Aristide used to be the Bush administration's excuse to not properly engage with Haiti. Right or wrong, that issue is no longer a factor.

Leadership here on the part of the Bush administration has been woefully lacking. Indeed, if we continue on our present course, long-term security in Haiti may be critically undermined. Most immediately, without increased United States support, the success of Haitian elections scheduled for this fall is in jeopardy—elections, which I might point out, could do much for the stability and well-being of the Haitian people.

Mr. President, during the past year, Haitians have endured unimaginable hardships. Flooding in late May claimed almost 3,000 lives. Tropical Storm Jeanne killed nearly 2,000—making it the deadliest storm this hurricane season. These catastrophes were only compounded by a deteriorating security environment. They created a vicious cycle where widespread looting and rioting significantly impeded disaster relief efforts.

Sadly, such violence and insecurity persists. The government lacks control over substantial portions of the country. Armed gangs continue to terrorize the capital of Port-au-Prince. Elements of the former military have occupied towns and police stations throughout the countryside. Since September alone, around 400 Haitians have been killed as violence spiraled out of control after an escalation in pro-Aristide protests.

The ongoing disorder is perhaps best symbolized by a February 19 attack on Haiti's national prison. Approximately a dozen armed men assaulted the facility and released 481 prisoners, including drug dealers and other suspected criminals. The attack—which appears to have been assisted from inside—is indicative of the government's inability to fully control even its own security forces.

If we are going to move toward a more hopeful future for Haiti, then we need to renew our support for the Haitian people. That means, of course, working to establish basic security. Clearly, we need to reign in the armed gangs and former military. But that is not enough. Long-term stability also requires a sustained commitment to democratic institutions and to economic development.

Last July, the United States pledged approximately $250 million in aid for fiscal years 2004 and 2005. The United States provided $130 million of that assistance last year. That's a good start. But we need to do more.

Mr. President, the United Nations peacekeeping force in Haiti, MINUSTAH, is making important contributions to peace and stability in Haiti. While it was criticized for early inactivity, MINUSTAH has recently stepped up its efforts to disarm former members of the Haitian military and others. Indeed, recently two United Nations peacekeepers were killed during operations to control police facilities previously occupied by members of the former military.

Despite this increase in activity, it is hard to imagine how MINUSTAH can establish real security at its current force level. MINUSTAH only reached its full strength of approximately 7,000 military personnel and 1,600 civilian police officers in December. Haiti also has about 4,000 of its own police officers, but most of these individuals are badly trained and poorly armed.

By comparison, New York City, which has roughly the same number of citizens as Haiti, is patrolled by 40,000 well trained and equipped police officers. That is over three times the number of security personnel as in Haiti. And it is worth noting that New York is not plagued by many of the problems that Haiti faces every day.

That is why this amendment includes funding to support police activities in Haiti. A critical aspect of this assistance must be police reform. Because regrettably, human rights groups report that some members of the Haitian police have committed abuses, including arbitrary arrests and, possibly, extrajudicial executions. Unless we create a climate of trust in Haiti with respect to that nation's police force, there can be no lasting security. And it is difficult to build trust without respect for the rule of law and the rights of individuals. Any police assistance, therefore, must be used to teach good policing practices, not just provide new resources for personnel, guns and ammunition.

Mr. President, the elections scheduled for this fall in Haiti could be a critical step toward achieving lasting stability. After all, only democratically elected governments have the legitimacy necessary to fully address the persistent security and socio-economic problems facing the Haitian people.

With assistance from the United Nations and the Organization of American States, the Haitian government is organizing voter registration and preparing the technical measures necessary to conduct accurate and fair polling. Smooth and successful polling operations are necessary to ensure that the election outcome is never in doubt. To enhance the effectiveness of these efforts, this amendment would make available critically needed funds for election assistance.

To ensure full legitimacy, however, I believe that the Haitian government must also take steps to re-engage with the Lavalas family party of President Aristide, which has threatened to boycott the elections. The Lavalas party is the largest and best organized party in Haiti, and without its participation, I am concerned that the election results will not be accepted by the Haitian people.

A critical step toward re-engaging the Lavalas party would be releasing former Prime Minister Neptune and any other Lavalas party members who are currently being held without formal charges being brought against them by Haitian authorities. To that end, I, along with several of my colleagues, wrote to Prime Minister Latortue requesting that he inform us on what charges the former Prime Minister is being held, and if there are no formal charges filed, to release him immediately. I have yet to receive an answer from the Haitian government.

But in the long-term, no single election can eliminate the instability and disorder that has afflicted the Haitian people for centuries. These problems have their root in persistent poverty and economic dislocation, and they can only be resolved through active engagement by the United States.

Haiti is the poorest country in the western hemisphere; 65 percent of the population lives below the poverty line. The average income is $250. Life expectancy is a mere 53 years, and half of the population does not have access to clean drinking water. Only 50 percent of the population works in the formal economy. In such an environment, is it any wonder that Haiti has suffered from years of violence and disorder?

Sadly, children are particularly affected by these impoverished conditions. Over one in ten Haitian children dies before age five. Approximately 20 percent of all children suffer from malnourishment. Haiti also has the highest prevalence of HIV/AIDS in the western hemisphere, and 4,000 to 6,000 children in Haiti are born with the virus each year. Yet according to the World Bank, in the 1990's, there were only two physicians for every 10,000 Haitians. That figure is unlikely to have improved. To combat the effects of such abject poverty, this amendment would provide assistance for employment projects.

For many Haitians, moreover, economic progress is impossible because they lack access to needed infrastructure. There are not enough roads, schools or hospitals. That is why funds designated by this amendment would also be available for important public works.

Lastly, I encourage my colleagues to use the benefits of trade to help the Haitian people. Last Congress, I was proud to cosponsor Senator DEWINE's HERO Act. This important legislation would have helped reinvigorate the Haitian economy by granting preferential trade treatment to certain Haitian textile products. I was pleased that the Senate passed this bill last year. Unfortunately, it met opposition in the other body. I hope we can make that legislation a priority in the 109th Congress.

Mr. President, in 1994, the United States launched an armed intervention to reestablish Haitian democracy. Last year, the United States again sent a contingent of Marines to restore stability. Too often in our history, our neglect of Haiti's most basic problems have left us with no choice but to intervene when instability breaks out into open crisis. Only through proactive leadership and a commitment to long-term development in Haiti can we break this cycle. For all these reasons, I am pleased that this amendment has been accepted as part of the managers' package. I urge the conferees to ensure that this language is included in the conference agreement of this bill.

Mr. BAUCUS. Mr. President, I wish to address several amendments offered to the emergency supplemental appropriations bill this week. We are debating this emergency appropriation primarily to see to the needs of the men and women who are serving on the front line in Iraq and Afghanistan. That's because it's our job to make sure that our troops get the support and the resources they need when they need them.

But there is another front line we should not forget about, and that includes the home front. And serving on the home front are the men and women of the National Guard, Border Patrol, Immigration and Customs agents, as well as the police forces who serve in big and small communities alike.

They, too, need resources and support from Congress. And while we have a process by which Congress determines on a yearly basis what those needs are, I am not content to just wait and see. I am concerned about the fate of important legislation that was passed last fall that authorized putting more border patrol agents on our front line—which more and more often is up on the highline of Montana, and not only across desert stretches on the Southern border.

That legislation, which was negotiated as part of the National Intelligence Reform Act of 2004 and signed by President Bush, recognized for more personnel patrolling our borders. Now, while the administration's fiscal year 2006 budget did not propose the funding called for in that legislation, it is up to all of us in Congress to make sure that the border patrol gets the help it needs. That is why I am a cosponsor of Senator BYRD's amendment to deliver the funds our border security personnel deserve.

But we have to do more. We need to help the border patrol and other Federal and State law enforcement agencies get their workload under control and focus on the most serious threats to our Nation's security.

Surely, we all want to know who the millions of undocumented aliens are who cross our borders each year. And many of these people live and work amongst us. The vast majority of these undocumented workers are here because there are jobs—in the service, agricultural or other sectors—for which employers cannot find willing American workers.

As long as tough standards are in place for (1) proving that no willing American workers could be found, (2) documenting the background of the worker and the nature of the work, and (3) consequences for breaking the law, I think we are a safer Nation when we encourage illegal migrants and their employers to come out from the shadows and show themselves.

Encouraging employers and foreign workers to work within the bounds of law will allow our border agents to better focus their efforts on those who would enter the country to do our citizens harm. And up on the Northern border, what used to be our nation's backdoor and is quickly becoming the front door, we face that more unlikely threat precisely because all eyes are on the southern border.

I'm not talking about amnesty, and I'm not talking about rushing into some sweeping immigration reform. I think that requires broader and more considered deliberation by Congress. But it does make sense to begin to document and track the movement of illegal migrants who would otherwise pay taxes and abide by our laws if they could earn the chance to do so. This in turn helps our small and seasonal businesses maintain a reliable, screened and legal workforce, and it allows us to focus our attention on stopping would-be terrorists from crossing our borders.

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

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

Mr. COCHRAN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

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

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

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

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 109 Leg.]

YEAS—99

Akaka	Chambliss	Ensign
Alexander	Clinton	Enzi
Allard	Coburn	Feingold
Allen	Cochran	Feinstein
Baucus	Coleman	Frist
Bayh	Collins	Graham
Bennett	Conrad	Grassley
Biden	Cornyn	Gregg
Bingaman	Corzine	Hagel
Bond	Craig	Harkin
Boxer	Crapo	Hatch
Brownback	Dayton	Hutchison
Bunning	DeMint	Inhofe
Burns	DeWine	Isakson
Burr	Dodd	Jeffords
Byrd	Dole	Johnson
Cantwell	Domenici	Kennedy
Carper	Dorgan	Kerry
Chafee	Durbin	Kohl

Kyl	Murray	Shelby
Landrieu	Nelson (FL)	Smith
Lautenberg	Nelson (NE)	Snowe
Leahy	Obama	Specter
Levin	Pryor	Stabenow
Lieberman	Reed	Stevens
Lincoln	Reid	Sununu
Lott	Roberts	Talent
Lugar	Rockefeller	Thomas
Martinez	Salazar	Thune
McCain	Santorum	Vitter
McConnell	Sarbanes	Voinovich
Mikulski	Schumer	Warner
Murkowski	Sessions	Wyden

NOT VOTING—1

Inouye

The bill (H.R. 1268), as amended, was passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

The title was amended so as to read: ''An Act Making Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Tsunami Relief, for the fiscal year ending September 30, 2005, and for other purposes.''.

Mr. COCHRAN. I move to reconsider the vote by which the bill was passed.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment, requests a conference with the House on the disagreeing votes of the two Houses, and the Chair appoints Mr. COCHRAN, Mr. STEVENS, Mr. SPECTER, Mr. DOMENICI, Mr. BOND, Mr. MCCONNELL, Mr. BURNS, Mr. SHELBY, Mr. GREGG, Mr. BENNETT, Mr. CRAIG, Mrs. HUTCHISON, Mr. DEWINE, Mr. BROWNBACK, Mr. ALLARD, Mr. BYRD, Mr. INOUYE, Mr. LEAHY, Mr. HARKIN, Ms. MIKULSKI, Mr. REID of Nevada, Mr. KOHL, Mrs. MURRAY, Mr. DORGAN, Mrs. FEINSTEIN, Mr. DURBIN, Mr. JOHNSON, and Ms. LANDRIEU conferees on the part of the Senate.

Mr. COCHRAN. Madam President, I thank all Senators for their cooperation in the passage of this bill. There were a lot of amendments offered, and we agreed to some of them. Some of them were adopted. We are going to conference with the House now to work out differences between the two bills. I am confident we will be able to come back with a product in the form of a conference report which the Senate can support, which will continue to support the additional funding that is needed for this fiscal year for our troops in the field, for those who are deployed in Iraq and Afghanistan and elsewhere in the world in the war on terror, and will meet the needs of our State Department through replenishment of accounts that have been depleted because of the disaster in the tsunami episode and for other needs the Senate and House have seen fit to include in this appropriations bill.

As my first bill to manager on the floor of the Senate as chairman of the Appropriations Committee, I have to give great credit to the assistance I received personally from staff members here in the Senate, other Senators as well who are more experienced and who chaired important subcommittees in the past and this full committee, as a matter of fact.

Specifically, I am thinking about Senator BYRD, the distinguished Senator from West Virginia, who has served as chairman of this committee and ranking member of the committee; Senator STEVENS, who is chairman of the Defense Appropriations Subcommittee; Senator INOUYE, who is the senior Democrat on that subcommittee, both of whom helped shape the content of this bill in areas under the jurisdiction of their subcommittee; and the staff director, Keith Kennedy, who is back from a leave of absence he had doing other things for the last several years but who, as a former staff director of this committee, provided strong leadership for our staff and gave me tremendous support which I needed to get this bill to this point. I am very grateful to him for his support and those who worked closely with him, like Terry Sauvain on the Democratic side; Sid Ashworth, who is the clerk of the Defense Appropriations Subcommittee, and her counterpart on the Democratic side, Charlie Houy; Paul Grove; Tim Rieser; Clayton Heil, who is counsel to the committee; and Chuck Kieffer, all of whom provided very important and appreciated support to me during the handling of this legislation.

Mr. BYRD. Mr. President, as we bring to a close the debate on the emergency supplemental, H.R. 1268, I thank my good friend from the State of Mississippi, the chairman of the Appropriations Committee, THAD COCHRAN. Senator COCHRAN was recently installed as the new Chairman of the Appropriations Committee, and, although he has managed numerous bills on the floor in the past, this is the first appropriations bill that he has managed as the chairman of the Appropriations Committee. I compliment Senator COCHRAN for a job well done, and I especially thank him for his patience. In fact, all of the Members should thank him for his patience. We have been on this bill for the better part of 2 weeks, and we have given consideration to many, many amendments. Throughout all of these many days of debate on the underlying bill and on the numerous amendments offered by both sides, Senator COCHRAN has kept a level head, and he has shown patience in seeing that this supplemental is processed in an orderly manner and that no Member is denied an opportunity to have input on this bill.

I also join with Senator COCHRAN in expressing gratitude to the staff members on both sides of the aisle who helped us with processing this bill and all those amendments. They worked late into the evening hours on some of these matters, and I appreciate not only their hard work but also their unstinting dedication to this institution.

Mr. President, this is only one in a series of supplemental requests that have come from the administration asking the Congress to appropriate more funds for the wars in Iraq and Afghanistan and for reconstruction efforts in those countries. With approval of this supplemental, we will have approved over $280 billion for the two wars through emergency supplemental bills. We should not continue to fund these wars in this way. This is not the chairman's fault. He can only respond to the administration's proposals. It is evident that many of my colleagues are in agreement that funding for war activities should be processed in regular annual appropriations measures, not through emergency supplementals. This was clearly and emphatically expressed again in of the sense of the Senate amendment earlier this week. I hope that this administration will take serious note of the Senate's strong view in this regard.

I assure my colleagues here today and the people of this country that I fully and wholeheartedly support our men and women in uniform. I give these troops my gratitude and my respect. I wish that we could give them more—I wish that we could give them a clearly defined mission, with a clearly defined strategy for ending the war in Iraq and coming home.

But, this administration is not winding down its military operations in Iraq—that is evident from the size of this most recent request submitted by the President. To the contrary, it appears that the United States may be gearing up either to accommodate a permanent military presence in Iraq or to establish a launching pad for other military operations in the region. This, certainly, would be the wrong message to send to the people of Iraq and others in the region. I pray that this is not the case.

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

MORNING BUSINESS

The PRESIDING OFFICER. The Senator from Idaho.

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

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

TRAUMATIC INJURY PROTECTION

Mr. CRAIG. Madam President, we have completed a tremendously important piece of legislation for the funding of our troops in Afghanistan and Iraq. During this afternoon, I, along with Senator DANNY AKAKA, my ranking member on the Veterans' Affairs Committee, and Senator MIKE DEWINE, added an amendment I want to speak for a few moments about because I think it addresses a tremendous gap in the coverage that exists in the treatment of the soldiers, sailors, marines, and airmen who are fighting for our country at this very moment.

Our amendment addresses the coverage gap through the creation of a

new traumatic injury protection insurance program for the benefit of severely disabled service members. But before I describe the amendment, let me further discuss the nature of the problem our amendment attempts to attend.

It is widely known that due to the incredible advances in medicine, service members who may not have survived life-threatening injuries in previous wars are now making it back home alive from Iraq and Afghanistan. That is the good news. The bad news, however, is that they must live with injuries that may have left them without their limbs, sight, hearing, or speech ability, or even more. All of my colleagues have likely met these brave young men and women in their home visits or right here in Washington, DC, at Walter Reed Army Medical Center. They are fighting for their lives. They are attempting to learn, through physical and occupational therapy, how to reengage back into society, needless to say, relearning things I and my colleagues probably take for granted every day—how to walk, how to read, how to simply make breakfast in the morning and what, for them, can take months and quite possibly years to learn how to redo.

It is during this rehabilitation period at military hospitals the need for additional financial resources becomes most acute. For many Guard and Reserve members at Walter Reed, they already have foregone higher paying civilian jobs prior to their deployment. Lengthy recovery periods simply add to the financial stress they bear. In addition, family members of injured soldiers bear the burdens necessary to travel from great distances to provide the love and emotional support that is absolutely essential for any successful rehabilitation. Spouses quit jobs to spend time with their husbands at the hospital, or husbands quit jobs to spend time with their wives. Parents spare no expense to be with their injured children.

To meet these needs, our amendment would create a traumatic injury protection insurance rider as part of an existing service member's group life insurance program. The traumatic insurance would provide coverage for severely disabling conditions at a cost of approximately $1 a month for participating service members. The payment for those suffering a severe disability would be immediate and would range from $25,000 to a maximum of $100,000. Of course, that is to tide them over during this period before the other benefits we all know about kick in.

The purpose of the immediate payment would be to give injured service members and their families the financial cushion they need to sustain them before their medical discharge from the service, when veterans benefits kick in.

The traumatic injuries covered under our amendment include total and permanent loss of sight, loss of hands or feet, total or permanent loss of speech, total or permanent loss of hearing, quadriplegia or paraplegia, burns greater than second degree, covering 30 percent of the body or face, certain traumatic brain injuries.

Most of the amendment is entirely reasonable given the cause. Informal CBO estimates put the fiscal year 2006 cost at about $10 million, a very small price to pay to meet the needs of those wounded warriors.

I cannot take credit for the idea behind this amendment. The great credit must go to disabled veterans from the Wounded Warrior Project, run under the aegis of the United Spinal Association. Three Wounded Warrior veterans from the Iraq war visited my office last week to discuss the need to provide this type of an insurance benefit.

One veteran, former Army Staff Sergeant Heath Calhoun, had both of his legs amputated after being struck during a rocket-propelled grenade attack in Iraq. Heath and his wife, Tiffany, who was present with him in my office, described the financial problems they had endured after Tiffany quit her job to be with Heath during convalescence. It took over a year before Heath was medically discharged from service. While the Calhoun family was able to make it through, it was an extremely trying period. Heath told me he was adamant that other servicemen in Iraq should not have to worry about finances, should they, too, be injured.

The quickest way to accomplish that, he told me, was to add a disability insurance rider, financed by service members through monthly premium deductions, to the existing life insurance program.

I am honored to sponsor that amendment. It is now in the legislation that passed the Senate. The White House endorses it. The Defense Department endorses it. We had a press conference yesterday with the Secretary of Veterans Affairs, Jim Nicholson, and the head of personnel at the DOD.

I want to also personally compliment Ryan Kelly, who was a visitor also with me this past week. Mr. Kelly lost his right leg during an ambush near Baghdad almost 21 months ago. I am told he was a principal author of the draft legislation that culminated in the amendment we offered here this afternoon. I thank him for the tremendously fine work he did.

I also thank President Bush, of course—I just mentioned him—and his top administration officials for lending their support to this amendment. Secretary Nicholson, Defense Deputy Secretary of Defense Paul Wolfowitz, and their staffs provided invaluable technical support in drafting this amendment.

The supplemental already would make substantial improvements to benefits provided to survivors of those killed in the line of duty. I applaud all of those efforts for our veterans and their survivors. I also remind my colleagues we must be vigilant in our care for those who are still fighting to regain the normalcy of the lives they enjoyed prior to sustaining catastrophic injuries in the defense of our freedoms. We now have moved this from an idea to an amendment, and now into the legislation that passed. I thank my colleagues in the Senate for their unanimous support of what is a very important piece of legislation that fills a hole and sustains a family and sustains a warrior in his or her greatest time of need—that of recovering from a traumatic injury and moving into civilian or military whole life again. I thank my colleagues for their support. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

BORDER SECURITY

Mr. BAUCUS. Madam President, I feel very strongly that we must increase our border security. The resources of our National Guard, law enforcement, and Customs and Border Patrol agents are stretched way too thin and they need our help, especially along the northern border. Their ability to successfully carry out their daily duties is of critical importance to the safety of all Americans.

We must protect our borders better and work to increase the apprehension of illegal aliens crossing into the United States.

The Intelligence Reform and Terrorism Prevention Act we passed in 2004 authorized the hiring of 2,000 new Border Patrol agents. Yet the President's budget only proposed 210 new agents—about 10 percent of what is authorized.

The Border Patrol has been dangerously underfunded. That is why I cosponsored Senator BYRD's Border Patrol amendment, which passed yesterday, and why I supported Senator ENSIGN's amendment today.

I recognize we are fighting the war on terrorism overseas, but we need more agents, investigators, detention, and deportation officers at home.

Additional funding will ensure that more illegal aliens will be detained and our borders will be tightened against all threats, especially terrorism. The best way to prevent terrorism in the United States is to prevent terrorists from entering the United States.

In my State of Montana, we deal with the vast northern border and the terrain is not easy to patrol. As you can imagine, as the southern border is tightened, our northern border, which used to be America's back door, is quickly becoming the front door. We need more agents; it is that simple. That border is long. Agents can only cover so much territory. The agents need training and facilities.

In addition to personnel and training, we must also employ the latest technologies. The Border Patrol conducted successful tests using unmanned aerial vehicles—around here known as UAVs—along the southwest border in Arizona for surveillance and detection of individuals attempting to enter the U.S. illegally. Unfortunately, those operations were ceased at the end of January of this year. Thankfully, the funds provided in Senator BYRD's amendment will allow for the immediate resumption of these surveillance and detection operations. UAVs are a safe alternative to placing civilians in harm's way.

It is up to all of us in Congress—not just today, but in future days and weeks and months—to make sure the Border Patrol gets the help it needs. We must deliver the funds our border security personnel deserve to continue their work of apprehending illegal aliens, fighting the war on terrorism, and keeping the homefront safe.

I might add, it also applies to methamphetamines. There is a lot of that coming into our country across our borders. It is a huge problem. I daresay virtually every State in the Nation has a significant methamphetamine problem, and too much is being used by citizens in States. A lot of it is manufactured locally, but a lot is also imported. So more Border Patrol agents will help us fight not only terrorism, but the scourge of methamphetamines.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

PRESERVING SENATE RULES

Mr. BAUCUS. Madam President, engraved in stone on the panel behind the Presiding Officer are the words ''E pluribus unum''—''Out of many, one.''

The words also appear on the seal of the Senate, which appears on the flag the Senators see to the right of the Presiding Officer. It is one of my favorite mottos. It is the motto of the United States of America. The words mean, ''One unity, formed from many parts.'' They represent the Senate well. For it is here in the Senate our Nation has been brought together. It is here in the Senate our Nation's leaders have worked out many of the great compromises that have bridged the issues of the day. It is here in the Senate that disparate interests in our Nation have become one.

The Senate is a place of unity, a place of compromise, and a place of consensus, because of its rules. The Senate works to force unity, not because its rules make it easy to get things done, but because the rules make it so hard. Because the Senate's rules require Senators to assemble majorities of three-fifths, and sometimes two-thirds, the rules force Senators to find policy positions that appeal more broadly, that transcend party, that bring more Senators together.

Because its rules make it so hard to get things done, the Senate does much of its work through the ultimate expression of unity—through unanimous consent.

Because the Senate's rules make it hard to get things done, Senators must work together to get things done. Because the Senate's rules make it hard to get things done, no Senator may completely disrespect a second Senator because a second Senator might hold up the first Senator's legislation.

Because the rules make it harder to get things done, the Senate has collegiality and comity. It is that simple. The rules make it harder to get things done, and that forces us together. Because the Senate rules make it harder to get things done, Senators of one party must reach out to the moderates of another party.

Let me state for the record, as my colleagues already know, I am one of those moderates. Since 1978, I have worked in this Chamber to put Montana first, to use common sense, to be effective, and to get things done. Because of the way the Senate works and because of the way I work, that has meant working together with other Senators, often across the aisle.

I have worked together with Republicans to cut taxes, to reform environmental laws, to open international markets to American trade, and to update Medicare to provide prescription drugs. Why? Because all those are important, and it is important to work together to get those things done.

One of the reasons moderates, like me, of both parties can move compromises and consensus legislation is because the rules of the Senate require getting more than a simple majority.

Contrast that with the House of Representatives. There the rules make it easy to get things done. But there, it is a rare exception when Members craft legislation to appeal broadly, across party lines. There the majority passes the legislation that represents the strongest achievable expression of the majority party's position. Unity is not their goal.

One might call the result majority rule, but the reality is that the product of the House of Representatives often represents an even smaller fraction. The rules of the House of Representatives often encourage a majority of those in the majority party to decide policy and then to enforce that policy within the majority caucus. Because its rules make it so easy to get things done, Representatives of one party steamroll the moderates of their own party, let alone of the other party.

Thus, the rules of the House of Representatives foster sharper partisan division between the two parties. The rules of the Senate lead to the result: ''Out of many, one.'' The rules of the House lead to the result: ''Out of many, two.''

The Senate's rules are particularly important to a State with a small population, such as my home State of Montana. This is particularly true in light of the small House delegation that such small States have. Montana, as several other States, has one Representative in the House. States such as Montana rely on their Senators to allow their relatively greater influence to protect their interests. Without the Senate rules, rural America would have a much harder time getting heard. Sometimes it is good that the Senate's rules require more than a thin majority, in order to make sure that every part of the country is truly represented.

Fundamental to the Senate's rules, for two centuries, has been the right to extended debate. In the First Congress, Senators debated at length the permanent site for the Capitol. In 1811, the House of Representatives provided that a motion for the previous question could cut off further debate. But the Senate rules have not included such a motion since the 1806 codification of the rules. We cannot summarily cut off debate, as the House can. And even after the Senate adopted rule XXII of cloture in 1917, the Senate rules have required a supermajority to bring debate to a close. Since its revision in 1979, rule XXII has required the affirmative vote of 60 Senators to limit debate.

Thus, for two centuries, Democrats and Republicans alike have used the Senate's rules to protect the rights of the minority party. After two centuries, it would be a mistake to change those rules.

Extended debate allows Senators to protect minority interests. Extended debate gives life to the traditional story that Washington told Jefferson that, like pouring coffee into a saucer, ''we pour legislation into the senatorial saucer to cool it.'' Extended debate makes the Senate, in Aaron Burr's words, ''a sanctuary; a citadel of law, of order, and of liberty.''

The Senate's rules thus help to protect personal rights and liberties. The Senate's rules help to ensure that no one party has absolute power. The Senate's rules help to give effect to the Founder's conception of checks and balances.

The Senate's right of extended debate is particularly important in the context of nominations for the lifetime jobs of Federal judges.

At the Constitutional Convention, the Founders debated different ways to appoint judges. On June 13, 1787, James Madison of Virginia proposed that the Senate make the appointments to protect the integrity, the independence of the third article; that is, the judges of the United States of America. On June 15, William Paterson of New Jersey

proposed that the President make the appointments. On July 18, Nathaniel Gorham of Massachusetts proposed a compromise, that the President make the appointment with the advice and consent of the Senate. That is, they both decide; not just the President, not just the Senate, they both do, again, to protect the integrity of the independence of our Federal judiciary.

The history of the Constitutional Convention thus demonstrates that the Founders hoped that both the President and the Senate could be involved in the process.

In its application, the Senate's involvement in the confirmation of judges has helped to ensure that nominees have had the support of a broad political consensus. The Senate's involvement has helped to ensure that the President could not appoint extreme nominees. The Senate's involvement has thus helped to ensure that judges have been freer of partisanship and, in fact, more independent.

The Founders wanted the courts to be an independent branch of Government, helping to exercise the Constitution's intricate systems of checks and balances. The Senate's involvement in the confirmation of judges has helped to ensure that the judiciary can be that more independent branch. And that independence of the judiciary, in turn, has helped to ensure the protection of personal rights and liberties in our country.

It is important that we get good judges. Over the years, this has been one of the issues of greatest importance to me as a Senator. That is why I worked to set up a merit selection system that is truly apolitical to select judges that I recommend to the President from my State of Montana. The Senate's rules help to make a merit selection possible.

I invite my colleagues to read the inscription in the marble relief over the Senate's door to my left. There is inscribed a single word: ''Courage.'' That is what preserving the Senate's rules will require: courage to stand up to the extremists; courage to stand up to the majority of one's party; courage to save the institution itself.

For Senators of either party, the simplest thing is usually to vote with the party. Voting with the party makes it easier to go to the party caucus lunch. Voting with the party makes it easier to hang on to a committee chairmanship.

To preserve this Senate will take the courage of at least six Senators in the majority party who are willing to vote for the institution first before their comfort at party lunches. It will take the courage of six Senators in the majority party who are willing to risk their chairmanships to protect the Senate—indeed, the country itself.

Let me offer this encouragement. I recall a decade ago in 1995, Senator Mark Hatfield from Oregon, who was then the chairman of the Appropriations Committee, told his majority leader, Senator Bob Dole, that he would rather resign from the Senate than vote for the constitutional amendment to require a balanced budget. Luckily, Senator Dole did not accept Senator Hatfield's offer, and Senator Dole later wrote:

> While I strongly disagreed with his position, I also respected any Senator's right to vote their conscience.

In retrospect, Republican Senators should see it was lucky for them that Senator Hatfield voted as he did. For if the Constitution required a balanced budget, it would have required the majority party to make massive cuts in Government services during the 5 years of deficits and, thus, if the Constitution required a balanced budget, the voters would have long ago punished Republican Senators for the cuts they would have made. They should thank Senator Hatfield that it did not pass. In the end, the sacrifices of these times ask that six Senators of the majority party stand up. The sacrifices that these times ask of six Senators from the majority party pales next to those of an earlier generation. Benjamin Franklin, John Adams, and Thomas Jefferson selected the words ''e pluribus unum'' as the Nation's motto on August 10, 1776. That was barely a month after they had published the document, the Declaration of Independence, in which they had written:

> We mutually pledge to each other our Lives, our Fortunes and our sacred Honor.

Just think of the courage of our Founding Fathers when they wrote the Declaration of Independence to break away from England knowing if they were apprehended, they would all be hanged. They knew that. Just think of their courage.

On the occasion of signing the Declaration, Benjamin Franklin is said to have warned: We must all hang together or surely we will all hang separately.

Our Founders sought unity from the very beginning. For unity, they were willing to risk their fortunes. For unity, they were willing to risk their lives. How many here can say that?

Today, to preserve the rules of the Senate that so foster unity, six Senators will be asked to risk much less. To preserve this Senate, they need not offer their fortunes. To preserve this Senate, they need not offer their lives. But to preserve this Senate, they will need to offer their courage.

I call on my colleagues in the majority to follow the exhortations engraved on the west door. I call on my colleagues to recall the courage of our Founders who risked their lives to give us this sacred inheritance of checks and balances. I call on my colleagues to summon the courage to vote against the effort to change the rules that make the Senate the place we love so much, that would change the Senate so much so that it will dramatically undermine the protection of liberties and the protection of our rights that so many Americans look to us to enforce.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

GLOBAL HEALTH CORPS ACT

Mr. FRIST. Mr. President, on Tuesday, I introduced the Global Health Corps Act of 2005.

As a doctor who has traveled the world treating patients in desperate and war-ravaged lands, this cause is near and dear to my heart.

I believe, and I have seen, through the good works of many talented and compassionate men and women, that medicine is not only an instrument of health, but a currency of peace. Healing gives hope. And I have seen that real, tangible, medical intervention can help bridge the gaps and misunderstandings that so often divide cultures.

We see that phenomenon in Afghanistan and Iraq. And we saw it in South East Asia in the aftermath of the terrible tsunami tragedy.

Immediately, American military ships, planes and helicopters arrived to deliver food, water, medicine and tents to the devastated region. The U.S. Agency for International Development set up a 24-hour, 7-day-a-week, Disaster Response Command Center here in Washington and abroad.

Thousands of private citizens, religious groups, small businesses and large corporations sent tens of millions of dollars in donations to help aid the people of South East Asia. Many continue to keep giving. America's response, both official and private, was a portrait in compassion.

I had the opportunity to travel to the region with the distinguished Senator MARY LANDRIEU days after the tsunami struck. Together, we surveyed the damage, assessed the humanitarian needs, and witnessed American compassion in action.

We spoke to doctors, nurses, officials and victims. One doctor I met in Sri Lanka told me a remarkable story of compassion. He had e-mailed a plea for help just as the massive wave swamped his hospital. Within 2 days, a team of Scandinavian physicians who had seen the e-mail arrived to set up a pediatric ward.

Countless health care professionals from all over the world, both volunteers and government workers, rushed to the devastated region to offer assistance and supplies.

The outpouring of support from the world community, led by American efforts, was truly extraordinary—a moving testament to our shared humanity.

America is a giving nation. Indeed, America provides 60 percent of all food humanitarian relief in the world. Moreover, the generosity of private citizens significantly amplifies official efforts.

It is this spirit of generosity that the Global Health Corps seeks to harness. America possesses a vast reservoir of talent, knowledge, and compassion that can help heal, both literally and figuratively, our global ties.

It was the famed violinist, Yehudi Menhuhin, who said:

> Peace may sound simple—one beautiful word—but it requires everything we have, every quality, every strength, every dream, every high ideal.

Providing health care services and training to those in need is one positive step we can take to demonstrate our goodwill and high ideals, and by doing so, plant the seeds of hope and peace.

The purpose of the Global Health Corps is twofold.

First and foremost, the Health Corps will help to improve the health, welfare, and development of communities in foreign countries and regions abroad.

In too many places, simple things like vaccinations, first aid, clean water, and hygiene are unknown or woefully inadequate. Men, women and children especially children—suffer terrible illnesses that can be easily prevented with basic health services.

The Health Corps bill seeks to provide a range of services from rapid relief, like what we saw following the tsunami, to long-term assistance to address endemic public health issues. It provides services such as veterinary care, which is very important in developing countries, where livestock are frequently a family's means of nutrition, commerce, and wealth.

A new Institute of Medicine survey issued today reports that one of the biggest obstacles to fighting HIV/AIDS in Africa is the severe shortage of medical personnel.

Sub-Saharan Africa has 25 percent of the world's HIV/AIDS cases, but only 1.3 percent of the world's health force. In Rwanda, for example, there are less than two doctors per 100,000 people.

If we are to maximize our help to these countries, we need to strengthen the medical delivery systems on the ground. HIV/AIDS medicine does no good sitting in boxes. Vaccines can't protect children from preventable diseases if there is no one to administer the shots. Strengthening the local infrastructure and teaching local citizens basic health skills will go a long way to addressing their medical needs.

The second goal of the Global Health Corps is to deploy health care assistance as a tool of public diplomacy. John F. Kennedy recognized that our assistance to other nations carries the most weight when it involves personal, intimate contact on the community level and provides tangible benefits to everyday people. This is why he established the Peace Corps, and why this bill taps into the Peace Corps for volunteers.

The new Global Health Corps will draw together health care professionals and volunteers from around the Nation, from both the private and public sectors.

Some Health Corps volunteers will be seasoned doctors, nurses, and medical technicians. Others will enter the program with simply a passion for public health, a willingness to learn, and a desire to help others.

The U.S. Government is already doing a great deal of work in these areas. But the Global Health Corps will pull it all together, coordinate and focus our efforts, and tap into the private sector both private organizations and individuals—to multiply our efforts.

Like members of the Peace Corps and our many volunteers abroad, the Global Health Corps will serve as a shining example of the American people, our charity and goodwill.

In a speech in San Francisco on the eve of the 1960 Presidential election, John F. Kennedy made the stark but compassionate observation that:

> There is not enough money in all America to relieve the misery of the undeveloped world in a giant and endless soup kitchen. But there is enough know-how and enough knowledgeable people to help those nations help themselves.

Indeed, as the famous proverb counsels:

> Give a man a fish and he's fed for a day. Teach him how to fish and he will be fed all of his life.

I am proud that Senator LUGAR, Chairman of the Senate Foreign Relations Committee, is co-sponsoring my bill. I urge my colleagues to join us in this vital mission.

In a world that is ever more connected by planes and computers, markets and movements, our fate is bound ever closer with that of our neighbors—near and far, wealthy and poor. I call upon my colleagues to advance our common humanity. Helping heal others abroad—and showing them America's heart—will help all of us stay safer at home.

SUPPORTING COPS

Mr. LEVIN. Mr. President, combating violent crime, especially gun crime, requires that our law enforcement agencies are adequately staffed and equipped. I have been a strong supporter of the Community Oriented Policing Services, COPS, program. The COPS Program has been critical to our Nation's law enforcement community since its creation in 1994, and I am pleased to join Senator BIDEN as a cosponsor of the COPS Reauthorization Act.

The COPS Program was designed to assist State and local law enforcement agencies in hiring additional police officers to reduce crime through the use of community policing. In Michigan alone, 514 local and State law enforcement agencies have received more than $220 million in grants through the COPS Program since its creation. These grants have improved the safety of communities by putting more than 3,300 law enforcement officers on Michigan streets and by supporting other important programs. Nationwide, the COPS Program has awarded more than $11 billion in grants, resulting in the hiring of 118,000 additional police officers.

In my home State, the Detroit Police Department, DPD, used a COPS grant to hire additional officers that were needed to implement a 5-year community policing plan. Prior to the COPS grant award, the DPD lacked sufficient personnel to effectively cover high crime areas. The community policing plan placed teams of officers in neighborhoods to combat rising crime rates and work with residents to develop crime reduction strategies. The plan resulted in a drop in the number of reported violent crimes as well as improved police-community relations. The success of the Detroit Police Department illustrates the important role that COPS grants play in the safety of communities around the country.

Unfortunately, authorization for the COPS Program was permitted to expire at the end of fiscal year 2000. Although the program has survived through the annual appropriations process, it has received significant funding cuts. In fact, the Fiscal Year 2005 Omnibus Appropriations Act included only $606 million for the COPS Program, $142 million below the amount appropriated in 2004. In addition, President Bush's fiscal year 2006 budget would completely eliminate the COPS hiring grants. Despite the important positive impact of the COPS Program in Detroit and across the country, the President justified his cuts by calling the program ''nonperforming'' and not having ''a record of demonstrating results.'' Our State and local law enforcement agencies know better and we should listen to them.

The COPS Reauthorization Act would continue the COPS Program for another 6 years at a funding level of $1.15 billion per year. This funding would allow State and local governments to hire an additional 50,000 police officers over the next 6 years. In addition, the bill would modernize the COPS Program by authorizing $350 million in law enforcement technology grants to assist police departments in acquiring new technologies for the analysis of crime data and the examination of DNA evidence, among other uses. The COPS Reauthorization Act would also build upon the accomplishments of the original COPS Program by authorizing $200 million in community prosecutor grants. These grants would be used to hire community prosecutors trained to work at the local and neighborhood level to prevent crime and improve relations with residents.

At a time when we are asking more of our police departments than ever before, I believe we should be devoting more resources to the COPS Program, not less. The increased threat of terrorism as well as the continuing epidemic of gun violence underscores the

need for more resources for our law enforcement agencies. Recognizing this, we must build upon the past success of the COPS Program and continue to work to provide police departments with the tools and resources they need to help keep our families and communities safe.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

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

Last month, a fifth person was arrested and charged with beating up a teenager because of his sexual orientation. The victim, an 18-year-old from Virginia, was at a gathering at his cousin's home. Late that night, the five assailants repeatedly kicked and hit the victim with a chair because he was gay.

I believe that the 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. By passing this legislation and changing current law, we can change hearts and minds as well.

JUDICIAL NOMINATIONS AND THE NOMINATION OF MICHAEL SEABRIGHT

Mr. LEAHY. Mr. President, so far this year the Senate Republican leadership has called up one judicial nomination. That is right, despite the fact that other nominations are on the Senate Executive Calendar and ready to be confirmed, it is the Republican leadership of the Senate that is delaying action on judicial nominations.

When the Senate finally turned to the nomination of Paul Crotty to be a U.S. district court judge for the Southern District of New York on April 11, that nomination was confirmed 95 to 0. All Democrats present voted in favor of confirmation. Indeed, Senator SCHUMER and Senator CLINTON came to the floor to speak in favor of the nominee. That is the only judicial nomination Senate Republicans have been willing to consider all year. There has been no filibuster of judicial nominees. Instead, it is the Senate Republican leadership that, through its deliberate inaction, is keeping judgeships unnecessarily vacant for months. With the Crotty nomination, I was the one asking for months for the nomination to be considered, debated, voted on and confirmed.

At the time, I noted that another noncontroversial nomination was ready for Senate action. More than a week ago, I called upon the Republican leadership to proceed to the confirmation of Michael Seabright to the District Court of Hawaii. I renew that plea.

All Democrats on the Judiciary Committee have been prepared to vote favorably on this nomination for some time. We were prepared to report the nomination last year but it was not listed by the then-chairman on a committee agenda. I thank Chairman SPECTER for including Mr. Seabright at our meeting on March 17. The nomination was unanimously reported and has been on the Senate Executive Calendar for more than a month. It is Senate Republicans who are resisting a vote on this judicial nominee, not Democrats. I understand that Mr. Seabright has the support of both of his home State Senators, both distinguished and highly respected Democratic Senators.

Once confirmed, Mr. Seabright will be the 206th of 216 nominees brought before the full Senate for a vote to be confirmed. That means that 830 of the 875 authorized judgeships in the Federal judiciary, or 95 percent, will be filled. As late as it is in the year, we would still be back on pace with that set by the Republican majority in 1999, when President Clinton was in the White House. That year, the Senate Republican leadership did not allow the Senate to consider the first judicial nominee until April 15. Two judges were confirmed in April and the third was not confirmed until June.

Of the 46 judicial vacancies now existing, President Bush has not even sent nominees for 28 of those vacancies, more than half. I have been encouraging the Bush administration to work with Senators to identify qualified and consensus judicial nominees and do so, again, today. The Democratic leader and I sent the President a letter in this regard on April 5, but have received no response.

It is now the third week in April, we are more than one-quarter through the year and so far the President has sent only one new nominee for a Federal court vacancy all year—only one. Instead of sending back divisive nominees, would it not be better for the country, the courts, the American people, the Senate and the administration if the White House would work with us to identify, and for the President to nominate, more consensus nominees like Michael Seabright who can be confirmed quickly with strong, bipartisan votes?

I commend the Senators from Hawaii for their efforts to work cooperatively to fill judicial vacancies. I only wish Republicans had treated President Clinton's nominees to vacancies in Hawaii with similar courtesy. Had they, there would not have been the vacancies on the Ninth Circuit and on the district court. The work of the Senators from Hawaii is indicative of the type of bipartisan efforts Senate Democrats have made with this President and remain willing to make. We can work together to fill judicial vacancies with qualified, consensus nominees. The vast majority of the more than 200 judges confirmed during the last 3½ years were confirmed with bipartisan support.

The truth is that in President Bush's first term, the 204 judges confirmed were more than were confirmed in either of President Clinton's two terms, more than during the term of this President's father, and more than in Ronald Reagan's first term when he was being assisted by a Republican majority in the Senate. By last December, we had reduced judicial vacancies from the 110 vacancies I inherited in the summer of 2001 to the lowest level, lowest rate and lowest number in decades, since Ronald Reagan was in office.

The Hawaii judgeship at issue here has been vacant for more than 4 years, since December of 2000 when Judge Alan Kay took senior status. President Clinton made a nomination to that seat in advance of the vacancy, but the Republicans in control of the Senate refused to act on it. They preserved the vacancy for a Republican President.

In 2002, President Bush nominated James Rohlfing to the vacancy. That nomination failed, however, because in the view of his home State Senators and the American Bar Association, he was not qualified for the position. It took the White House more than two additional years to agree. Finally, in May 2004 that nomination was withdrawn by President Bush.

The administration finally got it right after consultation with the Hawaii Senators. The President sent Michael Seabright's name to the Senate last September. An outstanding attorney who has experience in private practice as well as a sterling reputation as an assistant U.S. attorney, Mr. Seabright merited consideration and swift confirmation. Despite his reputation as a law-and-order Republican, Republicans would not move on Mr. Seabright's nomination last Congress. The President took his time renominating Mr. Seabright and even then it took repeated requests to get his nomination included on the agenda of the committee. When he was considered on March 17 he was reported with unanimous support. Senate Democrats have long supported and requested action on this nomination.

I have been urging this President and Senate Republicans for years to work with all Senators and engage in genuine, bipartisan consultation. That process leads to the nomination, confirmation and appointment of consensus nominees with reputations for fairness. The Seabright nomination, the bipartisan support of his home State Senators, and the committee's action by a unaimous, bipartisan vote is a perfect example of what I have been urging.

I have noted that there are currently 28 judicial vacancies for which the President has delayed sending a nominee. In fact, he has sent the Senate

only one new judicial nominee all year. I wish he would work with all Senators to fill those remaining vacancies rather than through his inaction and unnecessarily confrontational approach manufacture longstanding vacancies. It is as if the President and his most partisan supporters want to create a crisis.

Over the last weeks we have heard some extremists call for mass impeachments of judges, court-stripping and punishing judges by reducing court budgets. Now we are seeing an effort at religious McCarthyism by which Republican partisans inject religion into these matters. Rather than promote crisis and confrontation, I urge this President to disavow the divisive campaign and do what most others have and work with us to identify outstanding consensus nominees. It ill serves the country, the courts and most importantly the American people for this administration and the Senate Republican leadership to continue down the road to conflict.

The Seabright nomination shows how unnecessary that conflict really is. Let us join together to debate and confirm these consensus nominees to these important lifetime posts on the federal judiciary.

It is the Federal judiciary that is called upon to rein in the political branches when their actions contravene the Constitution's limits on governmental authority and restrict individual rights. It is the Federal judiciary that has stood up to the overreaching of this administration in the aftermath of the September 11 attacks.

It is more and more the Federal judiciary that is being called upon to protect Americans' rights and liberties, our environment and to uphold the rule of law as the political branches under the control of one party have overreached. Federal judges should protect the rights of all Americans, not be selected to advance a partisan or personal agenda. Once the judiciary is filled with partisans beholden to the administration and willing to reinterpret the Constitution in line with the administration's demands, who will be left to protect American values and the rights of the American people?

The Constitution establishes the Senate as a check and a balance on the choices of a powerful President who might seek to make the Federal judiciary an extension of his administration or a wholly owned subsidiary of any political party. Today, Republicans are threatening to take away one of the few remaining checks on the power of the executive branch by their use of what has become known as the nuclear option. This assault on our tradition of checks and balances and on the protection of minority rights in the Senate and in our democracy should be abandoned. Eliminating the filibuster by the nuclear option would destroy the Constitution's design of the Senate as an effective check on the Executive. The elimination of the filibuster would reduce any incentive for a President to consult with home State Senators or seek the advice of the Senate on lifetime appointments to the Federal judiciary. It is a leap not only toward one-party rule but to an unchecked Executive.

Rather than blowing up the Senate, let us honor the constitutional design of our system of checks and balances and work together to fill judicial vacancies with consensus nominees. The nuclear option is unnecessary. What is needed is a return to consultation and for the White House to recognize and respect the role of the Senate appointments process.

The American people have begun to see this threatened partisan power grab for what it is and to realize that the threat and the potential harm are aimed at our democracy, at an independent and strong Federal judiciary and, ultimately, at their rights and freedoms.

HYDROGEN AND FUEL CELL TECHNOLOGY ACT OF 2005

Mr. HARKIN. Mr. President, I am pleased to announce my support for an important piece of legislation recently introduced by Senator DORGAN and Senator GRAHAM, the Hydrogen and Fuel Cell Technology Act of 2005.

This legislation lays out a bold vision for the energy future of our Nation. It takes steps to secure the research, development, demonstration and market transition necessary to deliver on the tremendous promise of a ''hydrogen economy.''

The economy of this country today depends heavily on oil, much of which we must import from countries with hostile and dangerous regimes. This dependence on foreign oil threatens our national security, our economy and the environment. We must take the steps now to find alternative sources of energy and new ways of powering everything from cell phones to cars. This bill does exactly that.

The Hydrogen and Fuel Cell Technology Act funds the research and demonstration needed to develop key aspects of a reliable, renewable hydrogen economy. The bill incorporates language from the Hydrogen Passenger Vehicle Act, which I introduced earlier in this Congress to provide funding for projects to demonstrate the cost-effective production and distribution of hydrogen from renewable sources, such as ethanol. The bill also adopts several proposals from my Hydrogen and Fuel Cell Energy Act, including support for hydrogen transportation corridor demonstrations, such as the Upper Midwest Hydrogen Initiative.

This legislation will fund development of better fuel cell technology, of lighter, more efficient ways to store hydrogen on board vehicles, and of less expensive ways of converting renewable energy to hydrogen fuel.

It updates the language and sets clearer priorities for the existing hydrogen research program under the Matsunaga Act, and adds important demonstration, commercialization, and market driver mechanisms, using Federal Government procurement to help drive demand for new technology.

In order to be most effective, however, we will need to enact the tax incentives necessary to encourage widespread investment, production and utilization of hydrogen. Tax credits for fuel cell vehicles, for hydrogen fueling infrastructure, for hydrogen fuel from renewable sources, and for stationary and portable fuel cells should all be considered as part of a package of support for the hydrogen economy.

The measures proposed in this legislation will require a significant Federal investment in our energy future, but with these measures, we can use hydrogen and fuel cell technologies to realize our vision of cars that do not pollute, of power that will not go out, and of true energy security. I urge the support of my colleagues for this visionary legislation.

Mr. DORGAN. Mr. President, Senator HARKIN has shown great leadership in the effort to create a hydrogen fuel-cell economy and I welcome his support and look forward to working with him and other cosponsors as we move this legislation forward.

90TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mr. REED. Mr. President, I, along with the Armenians in Rhode Island and throughout the United States, as well as those around the world, recognize the 90th anniversary of the Armenian Genocide.

On the night of April 24, 1915, nationalists in the Ottoman Empire rounded up and executed 200 Armenian community leaders, sparking an 8-year campaign of tyranny that impacted the lives of every Armenian in Asia Minor. By 1923, an estimated 1.5 million Armenians were murdered, and another 500,000 were exiled.

The U.S. Ambassador to the Ottoman Empire, Henry Morganthau, Sr., unsuccessfully pleaded with President Wilson to act. Morganthau later remembered the events of the genocide. ''I am confident that the whole history of the human race contains no such horrible episode as this,'' the Ambassador wrote in his memoir. ''The great massacres and persecutions of the past seem almost insignificant when compared to the sufferings of the Armenian race in 1915.''

Unfortunately, the United States, and the world, did not intervene.

Today, on the 90th Anniversary, I am proud to be one of 32 Senators who urged President Bush to refer to the mass murder of Armenians as genocide in his commemorative statement. Failing to do so, does not properly commemorate this tragedy. Accurate acknowledgment of this event in human history is a small, but necessary, step to take.

Today, dozens of Armenian soldiers are deployed to Iraq, carrying out humanitarian operations in Karbala and al-Hilla, working as truck drivers, bomb detonators, and doctors. Armenian soldiers are also serving in Kosovo, performing peace support operations. I believe their response of helping others in need is part of the healing process. These Armenians did not allow others to be left as helpless as they were generations ago.

As a Nation, we must respond to acts of oppression to ensure that victims of hatred and prejudice did not perish in vain. We must stand as witnesses to protect people from persecution for the simple reason they are different. Thus, we must be committed to properly remembering the Armenian Genocide.

Menk panav chenk mornar. (We will never forget.)

MONTANA AIR NATIONAL GUARD

Mr. BAUCUS. The National Guard is proving to be the backbone of our efforts to protect America overseas, as they continue to play a pivotal role in homeland security. I saw this first hand 3 weeks ago when I spent a day working on the flight line with the 120th Fighter Wing of our Air National Guard in Great Falls, MT.

While doing pre-flight checks on F–16s and helping the ground crew with their maintenance tasks, I gained a new appreciation for the Guard's contribution to our communities.

Two-thirds of Montana's Air National Guard is made up of part-time citizen soldiers and their sacrifice is not going unnoticed. I am proud that I have the opportunity to reemphasize their contribution here today, in particular, since the Air Guard has recently made us very proud in Montana.

Under the leadership of Colonel Mark Meyer, our 120th Fighter Wing has been honored with three national awards for 2004—the Air Force Outstanding Unit Award, the Outstanding Security Forces Squadron of the Year Award, and the Maintenance Group Effectiveness Award.

The Air Force Outstanding Unit Award recognizes the exemplary achievements of the entire 120th Fighter Wing. On short notice the Wing deployed more than 200 airmen to the 332nd Air Expeditionary Wing at Balad Air Base, Iraq, in support of Operation Iraqi Freedom, and at home they activated 185 people to fight Montana's second largest wildfire season on record.

The Air Force also bestowed an award on the Wing's Security Forces squadron, under the direction of Squadron Commander Major Donald Mahoney. They were honored with the Air National Guard Security Forces Unit Award.

Among their standout achievements was the logistical support they provided to the South Dakota Air National Guard Security Forces while their members conducted field training exercises at Fort Harrison in Helena. And, once again, our guardsmen operated on short notice.

Their Combat Arms Specialists performed weapons qualifications for over 300 personnel in support of Operation Iraqi Freedom. They completed these tasks while protecting the Northern border between Montana and Canada and collaborating with Montana's local, civil, and military emergency services agencies.

Under the leadership of Maintenance Commander Lieutenant Colonel Kendall Switzer, the members of the 120th Fighter Wing Maintenance Group earned the Air National Guard's Maintenance Effectiveness Award for their extraordinary aircraft maintenance.

Their hard work and expertise supported three important missions: Operation Iraqi Freedom, the Alert Detachment at March Air Reserve base in California, and the Combat Air Patrol Missions of Operation Nobel Eagle.

I offer a tremendous ''Well Done'' to the Air National Guard. Thank you to your families, friends, employers and communities. The nation appreciates you and in Montana we are proud of our 120th Fighter Wing.

Congratulations!

EARTH DAY 2005

Mr. FEINGOLD. Mr. President, not many people can lay claim to a day, but Gaylord Nelson can. On April 22, 1970, Gaylord Nelson created a day to celebrate the glory of the Earth. Nelson biographer Bill Christofferson asks ''Where did Nelson get his lifelong interest and dedication to the environment? By osmosis, [Nelson] would say, while growing up in Clear Lake Wisconsin.''

It's true that Wisconsin has a tradition of great conservationists, Aldo Leopold, author of Sand County Almanac; Sigurd Olson, one of the founders of the Wilderness Society; and John Muir, founder of the Sierra Club. But because of Gaylord Nelson, Wisconsin can lay claim to the genesis of Earth Day, a day of national and international remembrance of the importance of our natural resources and a clean environment.

While these great leaders are well known for their conservation vision, Wisconsinites across the State do their part every day to make that vision a reality. From the backyards and parks of our cities and suburbs to our forests and farms, we take our stewardship of the land seriously. For example, our farmers continue to work with the support of Federal, State and local partnerships to prevent pollution, improve wildlife habitat, and protect wetlands and open spaces, investing millions of dollars in hundred of thousands of acres each year, all while ensuring the land is healthy enough to produce food and raw materials for generations to come.

I know that the people of Wisconsin, living in such a beautiful and ecologically diverse State, feel a special connection to our natural resources and share a long tradition of our State government achieving excellence in its conservation policies. Conservation is part of our culture in Wisconsin, and the people in Wisconsin are very environmentally savvy. Every year I hold a town hall meeting in each one of Wisconsin's 72 counties, and protecting the environment is a top issue.

I want to take this opportunity to congratulate Mr. Nelson. He is a former member of this body, and I am privileged to hold his Senate seat. He is a distinguished former Governor of the State of Wisconsin, a recipient of the Presidential Medal of Freedom, and a personal hero of mine. I salute Gaylord Nelson for changing the consciousness of a Nation. He is the living embodiment of the principle that one person can truly change the world.

During his 18 years of service in the Senate, Gaylord Nelson brought about significant change for the ''greener'' in both our Nation's law and the institution of the Senate itself. He is the coauthor of the Environmental Education Act, which he sponsored with the senior Senator from Massachusetts, Mr. KENNEDY, and the Wild and Scenic Rivers Act, and he sponsored the amendment to give the St. Croix and the Namekagon Rivers scenic protection. In the wake of Rachel Carson's book Silent Spring, Gaylord Nelson, along with Senator Philip Hart of Michigan, directed national attention to the documented persistent bioaccumulative effects of organochlorine pesticides used in the Great Lakes by authoring the ban on DDT in 1972. He was the primary sponsor of the Apostle Islands National Lakeshore Act, protecting one of northern Wisconsin's most beautiful areas.

And Senator Nelson, of course, was the founder of Earth Day. Thanks to him, here we are 35 years later taking time out of our lives to think about conservation. An astonishing 20 million Americans, 10 percent of the U.S. population, participated in the first observance of Earth Day on April 22, 1970. American Heritage magazine described the event as ''one of the most remarkable happenings in the history of democracy.'' The day was marked by marches, rallies, teach-ins, and concerts. Fifth Avenue was closed for 2 hours and over 100,000 people celebrated Earth Day on Union Square in New York City.

Earth Day is an event that in addition to changing the environmental consciousness of the country literally stopped the Senate. Members of both bodies voted to adjourn their respective Houses in the middle of the legislative week to attend Earth Day events, an adjournment that would be extremely rare today. Twenty-two Senators participated by giving Earth Day speeches across the country. The National Education Association, NEA, estimated that 10 million school children celebrated in the first Earth Day. The States of New Jersey and New York created State environmental agencies that week.

Earth Day has become an important part of who we are. From Milwaukee,

WI, to Mumbai, India, millions of people across the world are taking Senator Nelson's legacy to heart. They are volunteering tomorrow and this weekend to conserve the environment whether it is in their backyard, local river, or park.

I hope that on this Earth Day 2005, the Congress will re-dedicate itself to achieving the bipartisan consensus on protecting the environment that existed for nearly 2 decades. The Clean Water Act, for example, passed the Senate in 1971 by a vote of 86–0. When President Nixon vetoed it, the Senate overrode his veto, 52–12. The Endangered Species Act, which is under such attack right now, was passed by the Senate on a 92–0 vote in 1973.

Unfortunately, in recent years we have faced numerous proposals to roll back the environmental and health and safety protections upon which Americans depend. From clean water to clean air, the list of environmental rollbacks is stunning and disturbing. We need to work together to protect the environment, not revert to the times when we saw the Cuyahoga River catch fire, when at least one of the Great Lakes was considered ''ecologically dead,'' and when dumping of toxic wastes into rivers was standard operating procedure.

Gaylord Nelson stated on the 30th Anniversary of Earth Day:

> We have finally come to understand that the real wealth of a nation is its air, water, soil, forests, rivers, lakes, oceans, scenic beauty, wildlife habitats, and biodiversity. Take this resource away, and all that is left is a wasteland. That's the whole economy. That is where the economic activity and all the jobs come from. These biological systems contain the sustaining wealth of the world.
>
> As we continue to degrade them, we are consuming our capital. And in the process, we erode our living standards and compromise the quality of our habitat. We are veering down a dangerous path. We are not just toying with nature; we are compromising the capacity of natural systems to do what they need to do to preserve a livable world.

Last night, Senator Nelson issued a statement to mark the 35th anniversary of Earth Day and calling Earth Day 2005 ''a wake up call.'' Senator Nelson said:

> On environmental issues, our intelligence is reliable. Our scientists have the facts, if we will only listen. It is a ''slam dunk'' that we cannot continue on our present course. But without Presidential and Congressional leadership, even an enlightened public cannot cope with the greatest challenge of our time.

I agree with this assessment, and I ask unanimous consent that the full text of Senator Nelson's 35th anniversary of Earth Day statement be printed in the RECORD.

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

EARTH DAY ANNIVERSARY 2005—A WAKE UP CALL

The 35th anniversary of Earth Day is a sobering occasion. On previous anniversaries we have hailed this ''new awakening'' as millions around the world suddenly rose up and pledged their support for a new campaign to save the natural environment.

In 1993 American Heritage magazine called Earth Day ''one of the most remarkable happenings in the history of democracy.'' There has been progress, of course, particularly in public awareness of the critical role environment plays in our lives and in the education and training of new environmental leaders. Environment has become a major political issue. The public is prepared to support those measures necessary to forge a sustainable society, if the President and the Congress have the vision to lead us to that goal.

Unfortunately, the President and the Congress have not stepped up to the challenge of providing national and world leadership on the environmental crisis.

In fact, on some key issues, they are actually resisting or reversing progress made in the past 30 to 40 years. And without strong, sustained leadership from the President and Congress, the urgent challenge to protect the environment and create a sustainable society cannot succeed. Theodore Roosevelt made conservation a top priority for the Republican party, and many members of his party carried that torch over the years. Recently, however, the GOP leadership has abandoned this cause.

There are many serious environmental problems confronting us. But two current environmental issues dramatize this failure of leadership—energy conservation, and population control. Both are critical to the sustainability of our society. In each case, there is not only a lack of wise national leadership but an apparent determination to turn back the clock. The surrender to special interests on these two issues makes a mockery of any claim to environmental awareness.

Egged on by the President, the Senate on March 16 sneaked into the annual budget resolution a scheme to allow drilling for oil in the pristine Arctic National Wildlife Refuge, protected in 1960 at the urging of great environmentalists such as Sigurd Olson, Justice William O. Douglas, and Wilderness Act author Howard Zahniser. The bill was signed by President Eisenhower.

This is not just a sabotage of environmental policy. It also undermines any hope for a wise energy policy. When all the evidence calls for bold steps to conserve energy and develop alternative sources, this cynical action implies that we can burn all the oil we want and just move on to the next untapped source, no matter where it might be.

We are told it may be 10 years before a very modest amount of oil could be produced from this pristine refuge. And what would it cost in real terms?

For the President to call for oil drilling in the Arctic Wildlife Refuge is like burning the furniture in the White House to keep the First Family comfortable.

Equally critical is the failure of the President and Congress to confront the issue of population control, in our own rapidly growing country and the rest of the world.

A ''Rockefeller Report'' in 1972, issued by the President's commission on population growth, urged the U.S. to move vigorously to stabilize our population at about 200 million as rapidly as possible. Since then our population has ballooned to 282 million, and is expected to reach 500 million between 2060 and 2070. We are heading into a century in which we will double and triple our population in a short time.

Worldwide population projections are equally chilling. A series of international conferences have called for bold action to control population growth.

Yet the United States in recent years has become an aggressive opponent of family planning programs in other countries, and we are now facing efforts by some ''new conservatives'' to impose similar restrictions at home.

On previous Earth Days we have offered a solution: The President should set the standard by delivering a message to the Congress on the state of the environment, citing priorities that need to be addressed. Congress then should hold hearings on these issues. This would produce a ''national dialogue'' on the sustainability of our environment, and provide a roadmap to the future.

Without Presidential leadership and Congressional hearings, we cannot claim to be taking seriously the most compelling threats facing our society.

On environmental issues, our intelligence is reliable. Our scientists have the facts, if we will only listen. It is a ''slam dunk'' that we cannot continue on our present course. But without Presidential and Congressional leadership, even an enlightened public cannot cope with the greatest challenge of our time.—Gaylord Nelson, Washington, DC, April, 2005.

Mr. FEINGOLD. I hope that Wisconsinites and citizens across America take Senator NELSON's words to heart. I hope that they use this Earth Day to collect their thoughts and voice their opinions about the need to protect the environment and need for Congressional leadership on this issue.

Wisconsinites value a clean environment, not just for purely aesthetic or philosophical purposes, but because a clean environment ensures that Wisconsin and the United States as a whole remains a good place to raise a family, start a business, and buy a home. We understand that by protecting our environment we are protecting our economy. And, it is important on this Earth Day 2005 that we continue to fight for strong environmental laws, and we press for strong environmental leadership in Congress. Let's continue to move forward, not roll back.

TAXPAYER PROTECTION AND ASSISTANCE ACT

Mr. BINGAMAN. Mr. President, on Monday, April 18, 2005, I introduced S. 832, the Taxpayer Protection and Assistance Act of 2005.

I ask unanimous consent to have printed in the RECORD explanatory language to accompany that legislation.

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

ANALYSIS OF TAXPAYER PROTECTION AND ASSISTANCE ACT

(1) LOW-INCOME TAXPAYER CLINICS

Present Law. The Internal Revenue Code (the ''Code'') provides that the Secretary is authorized to provide up to $6 million per year in matching grants to certain low-income taxpayer clinics. Eligible clinics are those that charge no more than a nominal fee to either represent low-income taxpayers in controversies with the IRS or provide tax information to individuals for whom English is a second language (''controversy clinics''). No clinic can receive more than $100,000 per year.

A ''clinic'' includes (1) a clinical program at an accredited law, business, or accounting

school, in which students represent low-income taxpayers, or (2) an organization exempt from tax under Code section 501(c) which either represents low-income taxpayers or provides referral to qualified representatives.

Explanation of Provision. The provision authorizes $10 million in matching grants for low-income taxpayer return preparation clinics (''preparation clinics''). These clinics may provide tax return preparation and filing services to low-income taxpayers, including those for whom English is a second language. The authorization of $6 million for low-income controversy clinics under present law is also increased to $10 million.

The provision expands the scope of clinics eligible to receive preparation clinic grants to encompass clinics at all educational institutions. The provision prohibits the use of grants for overhead expenses at both controversy clinics and preparation clinics. The provision also authorizes the IRS to use mass communications, referrals, and other means to promote the benefits and encourage the use of low-income controversy and preparation clinics.

Effective Date. The provision is effective for grants made after the date of enactment.

(2) ENROLLED AGENTS

Present Law. The Secretary is authorized to regulate the practice of representatives of persons before the Department of the Treasury. Circular No. 230, promulgated by the Secretary, provides rules relating to practice before the Department of the Treasury by attorneys, certified public accountants, enrolled agents, enrolled actuaries, and others.

Explanation of Provision. The provision adds a new section to the Code permitting the Secretary to prescribe regulations to regulate the conduct of enrolled agents in regard to their practice before the IRS and to permit enrolled agents meeting the Secretary's qualifications to use the credentials or designation ''enrolled agent'', ''EA'', or ''E.A.''.

Effective Date. The provision is effective on the date of enactment.

(3) REGULATION OF PRACTICE BEFORE THE DEPARTMENT OF THE TREASURY

Present Law. The Secretary of the Treasury is authorized to regulate the practice of representatives of persons before the Department of the Treasury. The Secretary is also authorized to suspend or disbar from practice before the Department a representative who is incompetent, who is disreputable, who violates the rules regulating practice before the Department, or who (with intent to defraud) willfully and knowingly misleads or threatens the person being represented (or a person who may be represented). The rules promulgated by the Secretary pursuant to this provision are contained in Circular 230. Although permitted by statute, the preparation and filing of tax returns and other submissions (absent further involvement) has not been considered within the scope of these Circular 230 provisions.

Reasons for Change. In her 2003 annual report to the Congress, the National Taxpayer Advocate noted that over 55 percent of the 130 million U.S. individual taxpayers paid a return preparer to prepare their 2001 Federal income tax returns and that of the 1.2 million known tax return preparers, one-quarter to one-half are not regulated by any licensing entity or subject to minimum competency requirements. Fifty-seven percent of the earned income credit overclaims were attributable to returns prepared by paid preparers.

Tax practitioners play an important role in the tax system. While certain individuals authorized to practice before the IRS are already subject to oversight, many are not. For those taxpayers who use a paid tax practitioner, compliance with the tax laws hinges on the practitioners competence and ethical standards. The IRS's lack of oversight over such practitioners therefore contributes to noncompliance. Further, improving the accuracy of tax returns at the front-end of the process, should reduce government burden and intrusion on taxpayers through enforcement.

Requiring regulation of individuals preparing Federal income tax returns and other documents for submission to the IRS will improve the fairness and administration of the tax system. Testing, education, ethical training, and effective oversight of enrolled preparers are critical elements to improving tax compliance.

Description of Proposal. The proposal expands the Secretary's authority to regulate representatives practicing before the Treasury to include individuals preparing for compensation Federal income tax returns and other submissions to the IRS (''enrolled preparers''). The types of practitioners authorized to practice before the IRS that are subject to oversight under regulations in effect on the date of enactment of the proposal are excluded from the regulations establishing eligibility requirements for compensated preparers (i.e., Enrolled Agents, Certified Public Accountants, and attorneys).

The Secretary of the Treasury is required to issue regulations no later than one year after the date of enactment establishing eligibility requirements for enrolled preparers to practice before the Treasury. Such regulations will require the initial registration of enrolled preparers, as well as a process for regularly renewing the initial registration. Enrolled preparers renewing their registration shall be required to establish completion of continuing education requirements in a manner set forth by the Treasury in regulations. The Secretary is expected to minimize the burden and cost on those subject to the registration requirement to the extent feasible. Thus, the Secretary is authorized to define the scope of the registration requirement in a manner that accomplishes this goal.

The proposal requires the Secretary to develop and administer an examination to establish the competency of enrolled preparers. The examination for the enrolled preparers should test the applicant's technical knowledge to prepare Federal tax returns and knowledge of ethical standards. Moreover, the examination shall be designed to include testing on technical issues with high rates of erroneous reporting, such as claims for the earned income credit. The Secretary is authorized to contract for both the development and administration of any examination. The contract authority includes allowing the Secretary to establish the parameters that the examination must meet and authorize the use of an examination that is not, however, developed or administered by the IRS. Further, efficiencies will be gained by coordinating the examination requirement with the enrolled agent exam (the Special Enrollment Examination (SEE)).

To enhance the regulation of practice before Treasury, the proposal establishes the Office of Professional Responsibility within the IRS under the supervision and direction of the Director, an official reporting directly to the Commissioner, IRS. The Director, Office of Professional Responsibility will be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service, or, if higher, at a rate fixed under the critical pay authority established under section 9503 of title 5. The proposal also authorizes the Secretary to appoint administrative law judges to conduct hearing of sanctions imposed on representatives practicing before the Treasury and allows transparent proceedings involving practitioners to provide accountability for both the practitioners and the discipline authority (i.e., the IRS).

The Secretary may impose fees for the registration and renewal of enrolled preparers. The proposal provides that the fees paid for registration and renewal shall be available to the Office of Professional Responsibility for the purpose of reimbursing the costs of administering and enforcing rules promulgated by the Secretary regulating practice before the Treasury.

The proposal also provides that the Secretary shall conduct a public awareness campaign to encourage taxpayers to use only those professionals who establish their competency under the regulations promulgated under section 330 of title 31. The public awareness campaign shall be conducted in a manner to inform the public of the registration requirements imposed on enrolled preparers and the general requirement that preparers must sign the return and provide their registration number on the return.

The proposal increases the penalties on tax return preparers who fail to sign a return or fail to provide an identifying number on a return from $50 to $500 per return. In addition, amounts collected from the imposition of penalties under section 6694 and 6695 or under the regulations promulgated under section 330 of title 31 shall be directed to the Office of Professional Responsibility for the administration of the public awareness campaign. The proposal also permits the Secretary to use any funds specifically appropriated for earned income credit compliance to improve compliance with the rules regulating practice before the Treasury.

Effective date. The provision is effective on the date of enactment.

(4) REGULATION OF REFUND ANTICIPATION LOAN FACILITATORS

Present Law. The Secretary of the Treasury is authorized to regulate the practice of representatives of persons before the Department of the Treasury. The rules promulgated by the Secretary pursuant to this provision are contained in Circular 230. In general, the preparation and filing of tax returns (absent further involvement) has not been considered within the scope of these Circular 230 provisions.

The tax code also imposes penalties on persons who fail to follow various tax code requirements in the process of preparing and filing tax returns on behalf of taxpayers. Present law does not contain any provision regulating the conduct of persons who provide refund anticipation loans to individual taxpayers in connection with the filing of tax returns.

Reasons for Change. There is concern with the use of tax refunds and the IRS's direct deposit indicator acknowledgement as a means for selling refund anticipation loans to taxpayers, particularly low-income taxpayers. Requiring regulation of refund anticipation loan facilitators will increase the ability of the IRS to hold such facilitators accountable. Increasing the information that must be disclosed, both orally and in writing, to the taxpayer in connection with a refund anticipation loan will heighten taxpayer awareness of the true costs and consequences of a refund anticipation loan.

Description of Proposal. The proposal requires the annual registration of refund loan facilitators with the Secretary of the Department of the Treasury. A refund loan facilitator is any person who originates the electronic submission of income tax returns for another person and, in connection with the electronic submission, solicits, processes, or otherwise facilitates the making of

a refund anticipation loan to the individual taxpayer on whose behalf the tax return is submitted. It is intended that the Secretary, in promulgating regulations under this proposal, will require refund loan facilitators to submit an annual application that includes the name, address, and TIN of the applicant and a schedule of the applicant's fees for such year.

The proposal requires refund loan facilitators to disclose to taxpayers, both orally and in writing, that they may file an electronic tax return without applying for a refund anticipation loan and the cost of filing such an electronic return compared to the cost of the refund anticipation loan. In addition, the proposal requires refund loan facilitators to disclose to taxpayers all fees and interest charges associated with a refund anticipation loan and provide a comparison with fees and interest charges associated with other types of consumer credit, as well as fees and interest charges for similar refund anticipation loans. Refund loan facilitators also must disclose to taxpayers the expected time within which tax refunds are typically paid based on different filing options, the risk that the full amount of the refund may not be paid or received within the expected time, and additional costs the taxpayer may incur in connection with the refund anticipation loan if the tax refund is delayed or not paid.

In addition to the above disclosure requirements, refund loan facilitators must disclose to taxpayers whether the refund anticipation loan agreement includes a debt collection offset arrangement. Debt collection offsets are arrangements between refund loan facilitators and a taxpayer's creditor to offset the taxpayer's expected refund against an outstanding liability owed to the creditor. There is concern with the potential abuse of individual taxpayers through the use of such arrangements by refund loan facilitators. To discourage their use, refund loan facilitators must fully disclose to taxpayers any arrangements to offset a taxpayer's expected refund against an outstanding liability. The Secretary is authorized to require refund loan facilitators to disclose any other information deemed necessary. The provision does not preempt state laws or political subdivision thereof.

The proposal permits the Secretary to impose monetary penalties on refund loan facilitators who fail to meet the registration or disclosure requirements, unless such failure was due to reasonable cause. The penalty for failure to register is not to exceed the gross income derived from all refund anticipation loans during the period the refund loan facilitator was not registered. The penalty for failure to disclose the information required by the proposal is not to exceed the gross income derived from all refund anticipation loans with respect to which the refund loan facilitator failed to provide the required disclosure information. The proposal also permits the Secretary to disclose the name of or penalty imposed upon any refund loan facilitator who fails to meet the registration or disclosure requirements.

The proposal provides that the Secretary shall conduct a public awareness campaign to educate the public on the costs associated with refund anticipation loans, including the costs as compared to other forms of credit. The public awareness campaign shall be conducted in a manner that educates the public on making sound financial decisions with respect to refund anticipation loans. Amounts collected from the imposition of penalties on refund loan facilitators shall be directed to the IRS for the administration of the public awareness campaign.

Effective date. The proposal is effective on the date of enactment.

(5) TAXPAYER ACCESS TO FINANCIAL INSTITUTIONS

Present Law. A large number of individual taxpayers do not have bank accounts. Because of this, these taxpayers are unable to participate fully in electronic filing, because IRS cannot electronically transmit to them their tax refunds.

Reasons for Change. Effectiveness of tax incentives and assistance programs are diminished when individuals do not have an account at a financial institution. For example, the benefits received through the Earned Income Tax Credit incentive diminishes when taxpayers redirect their tax refund in exchange for a refund anticipation loan. In contrast, if such taxpayers had an account at an insured financial institution, such tax refund could be directly deposited into the taxpayer's account without a reduction for fees paid to a refund anticipation loan facilitator.

Between 25 and 56 million adults are do not have an account with an insured financial institution. These individuals rely on alternative financial service providers to cash checks, pay bills, send remittances, and obtain credit. Many of these individuals are low- and moderate-income families. Promoting the establishment of accounts with an insured financial institution will allow the taxpayer to keep more of his or her tax refund and encourage savings.

Description of Proposal. The proposal authorizes the Secretary of the Department of the Treasury to award demonstration project grants (totaling up to $10 million) to eligible entities to provide tax preparation assistance in connection with establishing an account in a federally insured depository institution for individuals that do not have such an account. Entities eligible to receive grants are: tax-exempt organizations described in section 501(c)(3), federally insured depository institutions, State or local governmental agencies, community development financial institutions, Indian tribal organizations, Alaska native corporations, native Hawaiian organizations, and labor organizations.

The provision requires the Secretary, in consultation with the National Taxpayer Advocate, to study the delivery of tax refunds through debit cards or other electronic means, in addition to those methods presently available. The purpose of the study is to assist those individuals who do not have access to financial accounts or institutions to obtain access to their tax refunds. The Secretary shall submit a report to Congress with the results of the study not later than one year after the date of enactment.

Effective Date. The proposal is effective on the date of enactment.

(6) USE OF PRACTITIONER FEES

Present Law. The Tax Court is authorized to impose on practitioners admitted to practice before the Tax Court a fee of up to $30 per year. These fees are to be used to employ independent counsel to pursue disciplinary matters.

Explanation of Provision. The provision provides that Tax Court fees imposed on practitioners also are available to provide services to pro se taxpayers who may not be familiar with Tax Court procedures and applicable legal requirements. Fees may be used for education programs for pro se taxpayers.

Effective Date. The provision is effective on the date of enactment.

ADDITIONAL STATEMENTS

TRIBUTE TO FIRST MISSIONARY BAPTIST CHURCH OF LITTLE ROCK

• Mrs. LINCOLN. Mr. President, I rise today to honor one of the oldest houses of worship in Arkansas. This month the First Missionary Baptist Church of Little Rock, AR, will celebrate its 160th anniversary.

The First Missionary Baptist Church was founded in 1845 by Wilson Brown, a slave, who felt led by God to establish a house of worship. In order to fully understand this remarkable achievement we must look at the era in which this church was founded.

First Missionary Baptist Church was established 15 years before the Civil War began and 18 years before the Emancipation Proclamation. Men and women of African descent during those times were viewed as property and had no legal rights. It certainly took courage and vision to establish a church under such circumstances.

Over the years, the First Missionary Baptist Church family has been a witness to history. Many important figures of the civil rights movement have stood in First Missionary's pulpit to deliver stirring messages.

Reverend Roland Smith, the church's fifth pastor, was active in the civil rights movement and invited powerful leaders such as Dr. Benjamin Elijah Mays and Dr. Martin Luther King, Jr. to speak from the pulpit. Dr. King spoke in April 1963, just 4 months before the ''March on Washington'', and his famous ''I have a dream'' speech. The podium and bible he used that day are still on display in the vestibule of the church sanctuary.

In 1991, the church hosted another great leader, the Governor of Arkansas Bill Clinton. A few short months later Gov. Clinton launched his bid to become President of the United States. I guess you might say that the pulpit at First Missionary Baptist Church is a launching pad to greatness.

Although First Missionary Baptist Church has great historical significance, its spiritual significance is most important. For 160 years, this church has been a beacon of hope and a spiritual oasis to thousands of Arkansans. This church has worked hard to fulfill the calling of Christ spoken of in the 4th chapter of Luke—to preach the gospel to the poor; to heal the broken-hearted; to preach deliverance to the captives; and recovering of sight to the blind; to set at liberty them that are bruised, to preach the acceptable year of the Lord. In the end, that is First Missionary Baptist Church's greatest legacy.•

ONCOLOGY NURSING SOCIETY

• Mrs. FEINSTEIN. Mr. President, I rise today to pay tribute to oncology nurses. May 1 marks the beginning of the 10th annual Oncology Nursing Day and Month and this year marks the

30th Anniversary of the Oncology Nursing Society.

As co-chair of the Senate Cancer Coalition, I would like to recognize that oncology nurses play an important and essential role in providing quality, comprehensive cancer care. These nurses are principally involved in the administration and monitoring of chemotherapy and the associated side-effects patients experience. As anyone ever treated for cancer—or who has a loved one who has been treated—will tell you, oncology nurses provide quality clinical, psychosocial and supportive care to patients and their families. In short, they are integral to our Nation's cancer care delivery system.

The Oncology Nursing Society is the largest organization of oncology health professionals in the world, with more than 31,000 registered nurses and other health care professionals. Since 1975, the Oncology Nursing Society has been dedicated to excellence in patient care, teaching, research, administration and education in the field of oncology. The Society's mission is to promote excellence in oncology nursing and quality cancer care.

The Oncology Nursing Society has 19 chapters in my home State of California, which support our oncology nurses in their ongoing efforts to provide outstanding quality cancer care to patients and their families throughout our State.

Cancer is a complex, multifaceted and chronic disease. Each year in the United States, approximately 1.37 million people are diagnosed with cancer, another 570,000 lose their battles with this terrible disease, and more than 8 million Americans count themselves among a growing community known as cancer survivors.

In 2005, the American Cancer Society estimates that in the State of California there will be 135,030 new cancer diagnoses, and 56,090 cancer deaths. At the same time, in 2005, the Health Resources and Services Administration, HRSA, estimates that in the State of California there will be a shortage of 18,409 nurses or a ten percent unmet need for nurses overall.

We must do more as a Nation to prevent and reduce suffering from cancer and to support the oncology nursing workforce.

Every day, oncology nurses see the pain and suffering caused by cancer and understand the physical, emotional, and financial challenges that people with cancer face throughout their diagnosis and treatment.

Over the last ten years, the setting where treatment for cancer is provided has changed dramatically. An estimated 80 percent of all cancer patients receive care in community settings, including cancer centers, physicians' offices, and hospital outpatient departments. Oncology nurses are involved in the care of a cancer patient from the beginning through the end of treatment, and they are the front-line providers of care by administering chemotherapy, managing patient therapies and side-effects, and providing counseling to patients and family members.

I thank all of our Nation's oncology nurses for their dedication to our Nation's cancer patients, especially those who care for cancer patients in California. I commend the Oncology Nursing Society for all of its efforts and leadership over the last 30 years and congratulate its leaders and members on its 30th Anniversary. The Oncology Nursing Society has contributed immensely to the quality and accessibility of care for all cancer patients and their families, and I urge my colleagues to support the Society and oncology nurses in their important endeavors.●

TRIBUTE TO JOHN ED WILLOUGHBY

● Mr. SHELBY. Mr. President, I rise today to pay tribute to a good friend who recently retired after three decades on the radio. John Ed Willoughby, who has been a familiar voice on WAPI-AM 1070s morning talk-radio show, ''The Breakfast Club,'' signed off on April 15, 2005. John Ed's last day on the air was the 30th anniversary of his first day on the air: April 15, 1975. Over the years, I had many opportunities to join John Ed on the air, and I always appreciated his candid, honest, and humorous demeanor.

John Ed was born February 3, 1935, in Birmingham, AL. He attended West End High School, where he excelled on the athletic field as quarterback of the football team, and captain of the baseball and basketball teams.

He attended the University of Alabama in Tuscaloosa, which is where our friendship began. We met as students at the University of Alabama, and it was there that we both served as members of the Delta Chi fraternity.

His radio career began in 1975 on WSGN radio with cohost Tommy Charles. The duo was an instant success and became Birmingham's top rated radio morning show for 8½ years. John Ed and Tommy then moved to WVOK-AM/WQUS-FM for a short time before going to WERC radio in 1985. They were a talk radio force to be reckoned with, remaining No. 1 in Birmingham, until Tommy's passing in 1996. Following Tommy's death, Doug Layton joined John Ed and they stayed on the air until February of 1998. In June of 1998, John Ed joined his son, J Willoughby and Scott Michaels for a morning show devoted to talk radio on WAPI-AM called ''The Breakfast Club.'' He would finish out his career at WAPI.

I have had the pleasure of being interviewed by John Ed numerous times over the years. Whether it was in-studio in Birmingham, in Washington during one of his visits, or over the phone, John Ed has been informative and fair. His listeners could count on a funny and enlightening show every morning.

John Ed is blessed with a wonderful family. I suspect that his newfound free time will give him the opportunity to enjoy more time with his wife Jean, son J, daughter-in-law Kim and granddaughter Samantha Jean. Incidentally, J Willoughby has assumed the reins from his father, and is on the air with Richard Dixon.

John Ed has been a great friend to me and a familiar and loyal voice to so many in Alabama. He will be greatly missed by his devoted listeners, but I am certain they join me in wishing him the very best as he embarks on many new endeavors.●

IN RECOGNITION OF DR. PAUL W. DOERRER

● Mr. BOND. Mr. President, it is a privilege today to bring to the attention of my colleagues the accomplishments of Dr. Paul W. Doerrer, the 2005 recipient of the Missouri Association of School Administrators' Robert L. Pearce Award. The Pearce Award is the most prestigious honor that can be bestowed on a school superintendent in the State of Missouri, particularly so because the honoree is selected by a committee of peers.

The Ritenour School District in St. Louis County has been fortunate to have the leadership skills of Dr. Doerrer for the past 35 years. The Missouri Legislature and State board of education were in the forefront and enacted standards-based education long before the passage of No Child Left Behind. In fact, the standards set in Missouri are among the highest in the Nation. Under the able instructional leadership of Dr. Doerrer, the Ritenour School District has not only met but in many cases has exceeded the rigorous goals our State has set for student achievement of adequate yearly progress. In addition, under Dr. Doerrer's able leadership, the Ritenour School District was recently named as one of the ''Best Places to Work'' by the St. Louis Business Journal.

Dr. Doerrer has truly exemplified instructional leadership in our State. Whether it is staff development, instructional technology, human resources, or data driven decision-making, Dr. Doerrer has provided the vision and energy that has brought distinction to the Ritenour School District. It is with admiration that I honor Dr. Doerrer today and congratulate him as the 19th recipient of the Robert L. Pearce Award.●

ATTACHÉ SHOW CHOIR

● Mr. LOTT. Mr. President, the Attaché Show Choir from Clinton High School in Clinton, MS, is celebrating 25 years of excellence and has gained national recognition as the premier show choir in the country for its outstanding winning tradition. The Clinton High School Attaché Show Choir was formed in September 1980 by Winona Costello. Since 1992, the award winning Attaché

Show Choir has been under the direction of David and Mary Fehr who truly have a passion for excellence.

Since 1980, Attaché has established a winning tradition by capturing 52 Grand Champion titles, 5 second place titles, and 4 third place titles in 64 competitions during the last 25 years at prestigious competitions throughout the Nation. Nationally, Attaché has achieved unprecedented recognition and has received numerous awards through the years for Best Vocals, Best Choreography, Best Overall Effect, Most Creative Show, Best Show Design, Best Repertoire, Best Costume Design, Best Visuals, Best Instrumental Combo, Best Rhythm Section, and Best Brass Section competing against choirs from all over the Nation. In its last 35 competitions dating back to the 1995/1996 season, Attaché has captured the Grand Champion title 33 times. During the last 15 consecutive competitions, Attaché has captured Grand Champion titles and therefore, has the longest grand champion winning streak of any show choir in the Nation.

In the last 10, Attaché has had the privilege of hosting a number of competitions, including Showstoppers Invitational in Orlando, FL, and Show Choir Nationals in Nashville, TN, where they also performed the opening number at the Grand Ole Opry in March 2005. During the 2005 competition season, Attaché captured Grand Champion titles at the 10th Anniversary Fame Show Choir Cup in Branson, MO; the Fame Show Choir America in Orlando, FL; the Petal Invitational in Petal, MS and the Buchanan Invitational in Troy, MO.

Attaché has gained extensive praise and accolade for their remarkable talent, phenomenal showmanship, and extraordinary success. It is with great pride to recognize the contributions of this nationally known musical group which has brought honor to its school, its community, and to the State of Mississippi.●

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

MESSAGES FROM THE HOUSE

At 1:04 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 504. An act to designate the facility of the United States Postal Service located at 4960 West Washington Boulevard in Los Angeles, California, as the ''Ray Charles Post Office Building''.

H.R. 1001. An act to designate the facility of the United States Postal Service located at 301 South Heatherwilde Boulevard in Pflugerville, Texas, as the ''Sergeant Byron W. Norwood Post Office Building''.

H.R. 1072. An act to designate the facility of the United States Postal Service located at 151 West End Street in Goliad, Texas, as the ''Judge Emilio Vargas Post Office Building''.

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

H. Con. Res. 126. Concurrent resolution expressing the condolences and deepest sympathies of the Congress in the aftermath of the recent school shooting at Red Lake High School in Red Lake, Minnesota.

ENROLLED BILL SIGNED

At 4:57 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 167. An act to provide for the protection of intellectual property rights, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

MEASURES REFERRED

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

H.R. 504. An act to designate the facility of the United States Postal Service located at 4960 West Washington Boulevard in Los Angeles, California, as the ''Ray Charles Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 1001. An act to designate the facility of the United States Postal Service located at 301 South Heatherwilde Boulevard in Pflugerville, Texas, as the ''Sergeant Byron W. Norwood Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 1072. An act to designate the facility of the United States Postal Service located at 151 West End Street in Goliad, Texas, as the ''Judge Emilio Vargas Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

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

H. Con. Res. 126. Concurrent resolution expressing the condolences and deepest sympathies of the Congress in the aftermath of the recent school shooting at Red Lake High School in Red Lake, Minnesota; to the Committee on the Judiciary.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

S. 870. A bill to prohibit energy market manipulation.

S. 871. A bill to amend title 10, United States Code, to ensure that the strength of the Armed Forces and the protections and benefits for members of the Armed Forces and their families are adequate for keeping the commitment of the people of the United States to support their servicemembers, and for other purposes.

S. 872. A bill to amend the Internal Revenue Code of 1986 to provide for the taxation of income of controlled foreign corporations attributable to imported property.

S. 873. A bill to amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the medicare program.

S. 874. A bill to establish a national health program administered by the Office of Personnel Management to offer health benefits plans to individuals who are not Federal employees, 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–1833. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Benoxacor; Partial Grant and Partial Denial of Petition, and Amendment of Tolerance to Include S-Metolachlor'' (FRL No. 7709–2) received April 18, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1834. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Propiconazole; Re-Establishment of Tolerance for Emergency Exemption'' (FRL No. 7709–3) received April 18, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1835. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Spiromesifen; Pesticide Tolerance'' (FRL No. 7705–1) received April 18, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1836. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Tetraconazole; Time-Limited Pesticide Tolerance'' (FRL No. 7702–4) received April 18, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1837. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Asian Longhorned Beetle; Addition to Quarantined Areas'' (Docket No. 04–130–2) received on April 18, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1838. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, the report of a rule entitled ''Revisions to the Territory of Guam State Implementation Plan, Update to Materials Incorporated by Reference'' (FRL

No. 7888–4) received on April 18, 2005; to the Committee on Environment and Public Works.

EC–1839. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Texas; Memorandum of Agreement Between Texas Council on Environmental Quality and the North Central Council of Governments Providing Emissions Offsets to Dallas Fort Worth International Airport'' (FRL No. 7902–8) received on April 18, 2005; to the Committee on Environment and Public Works.

EC–1840. A communication from the Acting Director, Congressional Affairs, Office of the General Counsel, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Model Milestones for NCR Adjudicatory Proceedings'' (RIN3150–AG49) received on April 18, 2005; to the Committee on Environment and Public Works.

EC–1841. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, the monthly report on the status of licensing and regulatory duties; to the Committee on Environment and Public Works.

EC–1842. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the Department's 2003 Annual Report on the activities and operations of the Public Integrity Section, Criminal Division; to the Committee on the Judiciary.

EC–1843. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Limitation of Retroactive Application of Central Laborer's Pension Fund v. Heinz'' (Rev. Proc. 2005–23) received on April 18, 2005; to the Committee on Finance.

EC–1844. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Applicable Federal Rates—May 2005'' (Rev. Rul. 2005–27) received on April 18, 2005; to the Committee on Finance.

EC–1845. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Guidance Under Section 355(e); Recognition of Gain on Certain Distributions of Stock or Securities in Connection with an Acquisition'' ((RIN1545–AY42) (TD 9198)) received on April 18, 2005; to the Committee on Finance.

EC–1846. A communication from the Attorney Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Final Rule; Response to Petitions for reconsideration, TREAD Child Restraints'' (RIN2127–AJ40) received on April 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1847. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operations (Including 4 Regulations): [CGD05–04–215], [CGD08–05–003], [CGD08–05–004], [CGD01–04–126]'' (RIN1625–AA09) received on April 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1848. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Security Zones: Monterey Bay and Humboldt Bay, CA. [COPT San Francisco Bay 04–003]'' (RIN1625–AA87) received on April 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1849. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Anchorage Ground: Safety Zone; Speed Limit; Tongass [CGD17–99–002]'' (RIN1625–AA23) received on April 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1850. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulation for Marine Events: Pasquotank River, Camden, NC [CGD05–05–022]'' (RIN1625–AA08) received on April 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1851. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operations (Including 3 Regulations): [CGD07–05–009], [CGD01–05–032], [CGD11–05–025]'' (RIN1625–AA09) received on April 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1852. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Security Zones: Monterey Bay and Humboldt Bay, CA. [COPT San Francisco Bay 05–004]'' (RIN1625–AA87) received on April 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1853. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: General Electric Company CF34–8E Series Turbofan Engines'' ((RIN2120–AA64) (2005–0192)) received on April 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1854. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Hartzell Propeller Inc. Models HC–B3TN–2, –3, –5, HC–B4TN–3, –5, HC–B4MN–5, and HC–B5MP–3 Turbopropellers'' ((RIN2120–AA64) (2005–0193)) received on April 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1855. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model DC 9 15F Airplanes Modified in Accordance with Supplemental Type Certificate (STC) SA199eSO; and Model DC 9 10, DC 9 20, DC 9 30, DC 9 40, and DC 9 50 Series Airplanes in All-Cargo Configuration, Equipped with a Main Deck Cargo Door'' ((RIN2120–AA64) (2005–0194)) received on April 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1856. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Empresa Brasileira de Aeronautica S A Model ERJ 170 Series Airplanes'' ((RIN2120–AA64) (2005–0195)) received on April 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1857. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model CL 600 2B19 Airplanes'' ((RIN2120–AA64) (2005–0196)) received on April 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1858. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: The Cessna Aircraft Company Models 208 and 208B; CORRECTION'' ((RIN2120–AA64) (2005–0191)) received on April 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1859. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A318, A319, A320, and A321 Series Airplanes'' ((RIN2120–AA64) (2005–0202)) received on April 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1860. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 767–400ER, 777–200, and 777–300 Series Airplanes'' ((RIN2120–AA64) (2005–0203)) received on April 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1861. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 737–600, 700, 800, and 900 Series Airplanes'' ((RIN2120–AA64) (2005–0197)) received on April 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1862. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 737–100, 200, 200C, 300, 400, and 500 Series Airplanes'' ((RIN2120–AA64) (2005–0198)) received on April 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1863. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 767–300 and 400ER Series Airplanes'' ((RIN2120–AA64) (2005–0199)) received on April 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1864. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 737–100, 200, 200C, 300, 400, and 500 Series Airplanes'' ((RIN2120–AA64) (2005–0200)) received on April 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1865. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model DHC 8 102, 103, 106, 201, 202, 301, 311, and 315 Airplanes'' ((RIN2120–AA64) (2005–0201)) received on April 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1866. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E5 Airspace at Parsons TN: the Beach River Regional Airport Parsons, TN'' ((RIN2120–AA66) (2005–

0092)) received on April 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1867. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Tracy, MN'' ((RIN2120–AA66) (2005–0090)) received on April 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1868. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class D Airspace; Grissom ARB, IN'' ((RIN2120–AA66) (2005–0091)) received on April 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1869. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (14); Amdt No. 3119 [4–6/4–14]'' ((RIN2120–AA65) (2005–0011)) received on April 18, 2005; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPECTER, from the Committee on the Judiciary, without amendment:

S. 339. A bill to reaffirm the authority of States to regulate certain hunting and fishing activities.

By Mr. SPECTER, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 378. A bill to make it a criminal act to willfully use a weapon with the intent to cause death or serious bodily injury to any person while on board a passenger vessel, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

Air Force nomination of Lt. Gen. Michael V. Hayden to be General.

By Mr. SPECTER for the Committee on the Judiciary.

Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit.

Janice R. Brown, of California, to be United States Circuit Judge for the District of Columbia Circuit.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. HUTCHISON:

S. 866. A bill to amend title II of the Social Security Act to repeal the windfall elimination provision and protect the retirement of public servants; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 867. A bill to designate the facility of the United States Postal Service located at 8200 South Vermont Avenue in Los Angeles , California, as the ''Sergeant First Class John Marshall Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

By Mr. SANTORUM (for himself, Mr. CORZINE, Mr. SCHUMER, and Mr. DEMINT):

S. 868. A bill to encourage savings, promote financial literacy, and expand opportunities for young adults by establishing KIDS Accounts; to the Committee on Finance.

By Mr. FEINGOLD:

S. 869. A bill to amend the Agricultural Adjustment Act to prohibit the Secretary of Agriculture from basing minimum prices for class I milk on the distance or transportation costs from any location that is not within a marketing area, except under certain circumstances, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Ms. CANTWELL:

S. 870. A bill to prohibit energy market manipulation; read the first time.

By Mr. LEVIN:

S. 871. A bill to amend title 10, United States Code, to ensure that the strength of the Armed Forces and the protections and benefits for members of the Armed Forces and their families are adequate for keeping the commitment of the people of the United States to support their servicemembers, and for other purposes; read the first time.

By Mr. DORGAN (for himself, Ms. MIKULSKI, and Ms. STABENOW):

S. 872. A bill to amend the Internal Revenue Code of 1986 to provide for the taxation of income of controlled foreign corporations attributable to imported property; read the first time.

By Mr. DURBIN:

S. 873. A bill to amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the medicare program; read the first time.

By Mr. DURBIN (for himself and Mrs. LINCOLN):

S. 874. A bill to establish a national health program administered by the Office of Personnel Management to offer health benefits plans to individuals who are not Federal employees, and for other purposes; read the first time.

By Mr. BINGAMAN (for himself, Ms. SNOWE, Mr. LIEBERMAN, and Mr. OBAMA):

S. 875. A bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to increase participation in section 401(k) plans through automatic contribution trusts, and for other purposes; to the Committee on Finance.

By Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. SPECTER, Mr. KENNEDY, and Mr. HARKIN):

S. 876. A bill to prohibit human cloning and protect stem cell research; to the Committee on the Judiciary.

By Mr. DOMENICI (for himself, Mr. LIEBERMAN, Mr. FRIST, Mr. LUGAR, Mr. ISAKSON, Mr. ENZI, Mr. FEINGOLD, Mr. CRAPO, Mr. ALEXANDER, Mr. BUNNING, Mr. SESSIONS, Mr. ALLARD, and Mr. CORZINE):

S. 877. A bill to provide for a biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government; to the Committee on the Budget.

By Mr. CORZINE (for himself and Mr. LAUTENBERG):

S. 878. A bill to amend the Outer Continental Shelf Lands Act to permanently prohibit the conduct of offshore drilling on the outer Continental Shelf in the Mid-Atlantic and North Atlantic planning areas; to the Committee on Energy and Natural Resources.

By Ms. MURKOWSKI:

S. 879. A bill to make improvements to the Arctic Research and Policy Act of 1984; to the Committee on Homeland Security and Governmental Affairs.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 880. A bill to expand the boundaries of the Gulf of the Farallones National Marine Sanctuary and the Cordell Bank National Marine Sanctuary; to the Committee on Environment and Public Works.

By Ms. CANTWELL (for herself, Mr. MCCAIN, Mr. DORGAN, Mrs. MURRAY, and Mr. INOUYE):

S. 881. A bill to provide for equitable compensation to the Spokane Tribe of Indians of the Spokane Reservation for the use of tribal land for the production of hydropower by the Grand Coulee Dam, and for other purposes; to the Committee on Indian Affairs.

By Mr. DURBIN (for himself, Ms. STABENOW, Mr. WYDEN, Mr. LAUTENBERG, Mr. BAYH, Mr. LEAHY, Mr. LIEBERMAN, Mrs. BOXER, Mr. KENNEDY, Mr. REED, Mrs. CLINTON, Mr. CORZINE, Mr. KERRY, Mr. FEINGOLD, and Mr. SCHUMER):

S. 882. A bill to designate certain Federal land in the State of Utah as wilderness, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HAGEL (for himself, Mr. BYRD, Mr. ALEXANDER, Mr. PRYOR, Mr. CRAIG, Mrs. DOLE, and Ms. MURKOWSKI):

S. 883. A bill to direct the Secretary of State to carry out activities that promote the adoption of technologies that reduce greenhouse gas intensity in developing countries, while promoting economic development, and for other purposes; to the Committee on Foreign Relations.

By Ms. CANTWELL:

S. 884. A bill to conduct a study evaluating whether there are correlations between the commission of methamphetamine crimes and identify theft crimes; to the Committee on the Judiciary.

By Mr. DAYTON:

S. 885. A bill to authorize funding for the American Prosecutors Research Institute's National Center for Prosecution of Child Abuse and the American Prosecutors Research Institute's National Child Protection Training Center at Winona State University; to the Committee on the Judiciary.

By Mr. MCCAIN (for himself, Mr. ALEXANDER, Mr. LIEBERMAN, Mr. SALAZAR, and Mrs. FEINSTEIN):

S. 886. A bill to eliminate the annual operating deficit and maintenance backlog in the national parks, and for other purposes; to the Committee on Finance.

By Mr. HAGEL (for himself, Ms. LANDRIEU, Mr. ALEXANDER, Mr. PRYOR, Mr. CRAIG, Mrs. DOLE, and Ms. MURKOWSKI):

S. 887. A bill to amend the Energy Policy Act of 1992 to direct the Secretary of Energy to carry out activities that promote the adoption of technologies that reduce greenhouse gas intensity and to provide credit-based financial assistance and investment protection for projects that employ advanced climate technologies or systems, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SALAZAR:

S. 888. A bill to direct the Department of Homeland Security to provide guidance and

training to State and local governments relating to sensitive homeland security information, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mrs. FEINSTEIN (for herself, Ms. SNOWE, Mr. CORZINE, Mr. LEAHY, Mr. JEFFORDS, Mr. SCHUMER, Ms. COLLINS, Mr. DURBIN, and Ms. CANTWELL):

S. 889. A bill to amend title 49, United States Code, to require phased increases in the fuel efficiency standards applicable to light trucks, to require fuel economy standards for automobiles up to 10,000 pounds gross vehicle weight, to increase the fuel economy of the Federal fleet of vehicles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. JEFFORDS (for himself and Mr. LEAHY):

S. Res. 118. A resolution recognizing June 2 through June 5, 2005, as the ''Vermont Dairy Festival,'' in honor of Harold Howrigan for his service to his community and the Vermont dairy industry; to the Committee on Agriculture, Nutrition, and Forestry.

ADDITIONAL COSPONSORS

S. 119

At the request of Mrs. FEINSTEIN, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 119, a bill to provide for the protection of unaccompanied alien children, and for other purposes.

S. 185

At the request of Mr. NELSON of Florida, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of S. 185, a bill to amend title 10, United States Code, to repeal the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan.

S. 300

At the request of Ms. COLLINS, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 300, a bill to extend the temporary increase in payments under the medicare program for home health services furnished in a rural area.

S. 313

At the request of Mr. LUGAR, the names of the Senator from Utah (Mr. HATCH) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. 313, a bill to improve authorities to address urgent nonproliferation crises and United States nonproliferation operations.

S. 438

At the request of Mr. ENSIGN, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 438, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 440

At the request of Mr. BUNNING, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from Vermont (Mr. LEAHY), the Senator from Oregon (Mr. WYDEN) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 440, a bill to amend title XIX of the Social Security Act to include podiatrists as physicians for purposes of covering physicians services under the medicaid program.

S. 467

At the request of Mr. DODD, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 467, a bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

S. 484

At the request of Mr. WARNER, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 484, 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. 576

At the request of Mr. BYRD, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 576, a bill to restore the prohibition on the commercial sale and slaughter of wild free-roaming horses and burros.

S. 619

At the request of Mrs. FEINSTEIN, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 619, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 633

At the request of Mr. JOHNSON, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 633, 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. 642

At the request of Mr. FRIST, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 642, a bill to support certain national youth organizations, including the Boy Scouts of America, and for other purposes.

S. 665

At the request of Mr. DORGAN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 665, a bill to reauthorize and improve the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 to establish a program to commercialize hydrogen and fuel cell technology, and for other purposes.

S. 674

At the request of Mr. CORZINE, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 674, a bill to provide assistance to combat HIV/AIDS in India, and for other purposes.

S. 675

At the request of Mr. DORGAN, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 675, a bill to reward the hard work and risk of individuals who choose to live in and help preserve America's small, rural towns, and for other purposes.

S. 713

At the request of Mr. ROBERTS, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 713, a bill to amend the Internal Revenue Code of 1986 to provide for collegiate housing and infrastructure grants.

S. 718

At the request of Mr. BIDEN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 718, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide standards and procedures to guide both State and local law enforcement agencies and law enforcement officers during internal investigations, interrogation of law enforcement officers, and administrative disciplinary hearings, and to ensure accountability of law enforcement officers, to guarantee the due process rights of law enforcement officers, and to require States to enact law enforcement discipline, accountability, and due process laws.

S. 760

At the request of Mr. INOUYE, the names of the Senator from Nebraska (Mr. NELSON), the Senator from Wisconsin (Mr. KOHL), the Senator from New Mexico (Mr. BINGAMAN) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 760, a bill to amend the Public Health Service Act to provide a means for continued improvement in emergency medical services for children.

S. 776

At the request of Mr. JOHNSON, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 776, a bill to designate certain functions performed at flight service stations of the Federal Aviation Administration as inherently governmental functions, and for other purposes.

S. 806

At the request of Mr. CRAIG, the names of the Senator from South Dakota (Mr. THUNE), the Senator from Illinois (Mr. OBAMA), the Senator from Missouri (Mr. BOND), the Senator from North Carolina (Mr. BURR), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Ohio (Mr. DEWINE), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Hawaii (Mr.

INOUYE), the Senator from Wyoming (Mr. THOMAS), the Senator from Nevada (Mr. ENSIGN), the Senator from Montana (Mr. BAUCUS), the Senator from North Dakota (Mr. CONRAD), the Senator from Vermont (Mr. JEFFORDS) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of S. 806, a bil to amend title 38, United States Code, to provide a traumatic injury protection rider to servicemembers insured under section 1967(a)(1) of such title.

S. 859

At the request of Mr. SANTORUM, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 859, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S.J. RES. 11

At the request of Mrs. FEINSTEIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S.J. Res. 11, a joint resolution proposing an amendment to the Constitution of the United States to abolish the electoral college and to provide for the direct popular election of the President and Vice President of the United States.

S.J. RES. 15

At the request of Mr. BROWNBACK, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S.J. Res. 15, a joint resolution to acknowledge a long history of official depredations and ill-conceived policies by the United States Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States.

S. CON. RES. 11

At the request of Mr. SESSIONS, the names of the Senator from Colorado (Mr. ALLARD), the Senator from Alaska (Mr. STEVENS), the Senator from Illinois (Mr. OBAMA), the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. Con. Res. 11, a concurrent resolution honoring the Tuskegee Airmen for their bravery in fighting for our freedom in World War II, and for their contribution in creating an integrated United States Air Force.

S. RES. 40

At the request of Ms. LANDRIEU, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. Res. 40, a resolution supporting the goals and ideas of National Time Out Day to promote the adoption of the Joint Commission on Accreditation of Healthcare Organizations' universal protocol for preventing errors in the operating room.

S. RES. 85

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. Res. 85, a resolution designating July 23, 2005, and July 22, 2006, as ''National Day of the American Cowboy''.

S. RES. 107

At the request of Ms. COLLINS, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. Res. 107, a resolution commending Annice M. Wagner, Chief Judge of the District of Columbia court of Appeals, for her public service.

S. RES. 115

At the request of Mr. SALAZAR, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. Res. 115, a resolution designating May 2005 as ''National Cystic Fibrosis Awareness Month''.

AMENDMENT NO. 368

At the request of Mr. CORZINE, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of amendment No. 368 proposed to H.R. 1268, an act making Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Tsunami Relief, for the fiscal year ending September 30, 2005, and for other purposes.

AMENDMENT NO. 437

At the request of Mr. ROCKEFELLER, the names of the Senator from Michigan (Mr. LEVIN), the Senator from New Jersey (Mr. CORZINE), the Senator from Oregon (Mr. WYDEN), the Senator from Maryland (Ms. MIKULSKI) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of amendment No. 437 intended to be proposed to H.R. 1268, an act making Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Tsunami Relief, for the fiscal year ending September 30, 2005, and for other purposes.

AMENDMENT NO. 439

At the request of Mr. CRAIG, the names of the Senator from Colorado (Mr. SALAZAR), the Senator from South Dakota (Mr. THUNE), the Senator from Illinois (Mr. OBAMA), the Senator from Missouri (Mr. BOND), the Senator from North Carolina (Mr. BURR), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Ohio (Mr. DEWINE), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. THOMAS), the Senator from Nevada (Mr. ENSIGN), the Senator from Montana (Mr. BAUCUS), the Senator from North Dakota (Mr. CONRAD), the Senator from Vermont (Mr. JEFFORDS) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of amendment No. 439 intended to be proposed to H.R. 1268, an act making Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Tsunami Relief, for the fiscal year ending September 30, 2005, and for other purposes.

AMENDMENT NO. 487

At the request of Mr. ENSIGN, the names of the Senator from Montana (Mr. BURNS) and the Senator from Oklahoma (Mr. COBURN) were added as cosponsors of amendment No. 487 proposed to H.R. 1268, an act making Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Tsunami Relief, for the fiscal year ending September 30, 2005, and for other purposes.

AMENDMENT NO. 520

At the request of Mr. BAYH, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Ms. CANTWELL) and the Senator from Florida (Mr. NELSON) were added as cosponsors of amendment No. 520 proposed to H.R. 1268, an act making Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Tsunami Relief, for the fiscal year ending September 30, 2005, and for other purposes.

AMENDMENT NO. 563

At the request of Mr. LEVIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of amendment No. 563 proposed to H.R. 1268, an act making Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Tsunami Relief, for the fiscal year ending September 30, 2005, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. HUTCHISON:

S. 866. A bill to amend title II of the Social Security Act to repeal the windfall elimination provision and protect the retirement of public servants; to the Committee on Finance.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 866

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 ''Public Servant Retirement Protection Act of 2005''.

SEC. 2. REPEAL OF CURRENT WINDFALL ELIMINATION PROVISION.

Paragraph (7) of section 215(a) of the Social Security Act (42 U.S.C. 415(a)(7)) is repealed.

SEC. 3. REPLACEMENT OF THE WINDFALL ELIMINATION PROVISION WITH A FORMULA EQUALIZING BENEFITS FOR CERTAIN INDIVIDUALS WITH NONCOVERED EMPLOYMENT.

(a) SUBSTITUTION OF PROPORTIONAL FORMULA FOR FORMULA BASED ON COVERED PORTION OF PERIODIC BENEFIT.—

(1) IN GENERAL.—Section 215(a) of the Social Security Act (as amended by section 2 of this Act) is amended further by inserting after paragraph (6) the following new paragraph:

''(7)(A) In the case of an individual whose primary insurance amount would be computed under paragraph (1) of this subsection, who—

''(i) attains age 62 after 1985 (except where he or she became entitled to a disability insurance benefit before 1986 and remained so entitled in any of the 12 months immediately preceding his or her attainment of age 62), or

''(ii) would attain age 62 after 1985 and becomes eligible for a disability insurance benefit after 1985,

and who first becomes eligible after 1985 for a monthly periodic payment (including a

payment determined under subparagraph (E), but excluding (I) a payment under the Railroad Retirement Act of 1974 or 1937, (II) a payment by a social security system of a foreign country based on an agreement concluded between the United States and such foreign country pursuant to section 233, and (III) a payment based wholly on service as a member of a uniformed service (as defined in section 210(m)) which is based in whole or in part upon his or her earnings for service which did not constitute 'employment' as defined in section 210 for purposes of this title (hereafter in this paragraph and in subsection (d)(3) referred to as 'noncovered service'), the primary insurance amount of that individual during his or her concurrent entitlement to such monthly periodic payment and to old-age or disability insurance benefits shall be computed or recomputed under this paragraph.

''(B) The primary insurance amount of an individual described in subparagraph (A), as computed or recomputed under this paragraph, shall be—

''(i) in the case of an individual who first performs noncovered service after the 12th calendar month following the date of the enactment of the Public Servant Retirement Protection Act of 2005, the primary insurance amount determined under subparagraph (C), or

''(ii) in the case of an individual who has performed noncovered service during or before the 12th calendar month following the date of the enactment of the Public Servant Retirement Protection Act of 2005, the larger of—

''(I) the primary insurance amount determined under subparagraph (C), or

''(II) the primary insurance amount determined under subparagraph (E).

''(C) An individual's primary insurance amount determined under this subparagraph shall be the product derived by multiplying—

''(i) the individual's primary insurance amount, as determined under paragraph (1) of this subsection and subparagraph (D)(i) of this paragraph, by

''(ii) a fraction—

''(I) the numerator of which is the individual's average indexed monthly earnings (determined without regard to subparagraph (D)(i)), and

''(II) the denominator of which is an amount equal to the individual's average indexed monthly earnings (as determined under subparagraph (D)(i)),

rounded, if not a multiple of $0.10, to the next lower multiple of $0.10.

''(D)(i) For purposes of determining an individual's primary insurance amount pursuant to subparagraph (C)(i), the individual's average indexed monthly earnings shall be determined by treating all service performed after 1950 on which the individual's monthly periodic payment referred to in subparagraph (A) is based (other than noncovered service as a member of a uniformed service (as defined in section 210(m))) as 'employment' as defined in section 210 for purposes of this title (together with all other service performed by such individual consisting of 'employment' as so defined).

''(ii) For purposes of determining average indexed monthly earnings as described in clause (i), the Commissioner of Social Security shall provide by regulation for a method for determining the amount of wages derived from service performed after 1950 on which the individual's periodic benefit is based and which is to be treated as 'employment' solely for purposes of clause (i). Such method shall provide for reliance on employment records which are provided to the Commissioner and which, as determined by the Commissioner, constitute a reasonable basis for treatment of service as 'employment' for such purposes, together with such other information received by the Commissioner (including such documentary evidence of earnings derived from noncovered service as may be provided to the Commissioner by the individual) as the Commissioner may consider appropriate as a reasonable basis for treatment of service as 'employment' for such purposes. The Commissioner shall enter into such arrangements as are necessary and appropriate with the Department of the Treasury, the Department of Labor, other Federal agencies, and agencies of States and political subdivisions thereof so as to secure satisfactory evidence of earnings for noncovered service described in subparagraph (A) for purposes of this clause and clauses (iii) and (iv). The Secretary of the Treasury, the Secretary of Labor, and the heads of all other Federal agencies are authorized and directed to cooperate with the Commissioner and, to the extent permitted by law, to provide such employment records and other information as the Commissioner may request for their assistance in the performance of the Commissioner's functions under this clause and clauses (iii) and (iv).

''(iii) In any case in which satisfactory evidence of earnings for noncovered service which was performed by an individual during any year or portion of a year after 1977 is not otherwise available, the Commissioner may, for purposes of clause (ii), accept as satisfactory evidence of such individual's earnings for such noncovered service during such year or portion of a year reasonable extrapolations from available information with respect to earnings for noncovered service of such individual for periods immediately preceding and following such year or portion of a year.

''(iv) In any case in which satisfactory evidence of earnings for noncovered service which was performed by an individual during any period before 1978 is not otherwise available, the Commissioner may, for purposes of clause (ii), accept as satisfactory evidence of such individual's earnings for such noncovered service during such period —

''(I) the individual's written attestation of such earnings, if such attestation is corroborated by at least 1 other individual who is knowledgeable of the relevant facts, or

''(II) available information regarding the average earnings for noncovered service for the same period for individuals in similar positions in the same profession in the same State or political subdivision thereof, or, in any case in which such information is not available for such period, reasonable extrapolations of average earnings for noncovered service for such individuals from periods immediately preceding and following such period.

''(v) In any case described in subparagraph (B)(i), if the requirements of clause (ii) of this subparagraph are not met (after applying clauses (iii) and (iv)), the primary insurance amount of the individual shall be, notwithstanding subparagraph (B)(i), the primary insurance amount computed under subparagraph (E).

''(E)(i) For purposes of determining the primary insurance amount under this subparagraph—

''(I) there shall first be computed an amount equal to the individual's primary insurance amount under paragraph (1) of this subsection, except that for purposes of such computation the percentage of the individual's average indexed monthly earnings established by subparagraph (A)(i) of paragraph (1) shall be the percent specified in clause (ii), and

''(II) there shall then be computed (without regard to this paragraph) a second amount, which shall be equal to the individual's primary insurance amount under paragraph (1) of this subsection, except that such second amount shall be reduced by an amount equal to one-half of the portion of the monthly periodic payment which is attributable to noncovered service performed after 1956 (with such attribution being based on the proportionate number of years of such noncovered service) and to which the individual is entitled (or is deemed to be entitled) for the initial month of his or her concurrent entitlement to such monthly periodic payment and old-age or disability insurance benefits.

An individual's primary insurance amount determined under this subparagraph shall be the larger of the two amounts computed under this clause (before the application of subsection (i)).

''(ii) For purposes of clause (i), the percent specified in this clause is—

''(I) 80.0 percent with respect to individuals who become eligible (as defined in paragraph (3)(B)) for old-age insurance benefits (or became eligible as so defined for disability insurance benefits before attaining age 62) in 1986;

''(II) 70.0 percent with respect to individuals who so become eligible in 1987;

''(III) 60.0 percent with respect to individuals who so become eligible in 1988;

''(IV) 50.0 percent with respect to individuals who so become eligible in 1989; and

''(V) 40.0 percent with respect to individuals who so become eligible in 1990 or thereafter.

''(F)(i) Any periodic payment which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly payment (as determined by the Commissioner of Social Security), and such equivalent monthly payment shall constitute a monthly periodic payment for purposes of this paragraph.

''(ii) In the case of an individual who has elected to receive a periodic payment that has been reduced so as to provide a survivor's benefit to any other individual, the payment shall be deemed to be increased (for purposes of any computation under this paragraph or subsection (d)(3)) by the amount of such reduction.

''(iii) For purposes of this paragraph, the term 'periodic payment' includes a payment payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

''(G)(i) This paragraph shall not apply in the case of an individual who has 30 years or more of coverage. In the case of an individual who has more than 20 years of coverage but less than 30 years of coverage (as so defined), the percent specified in the applicable subdivision of subparagraph (E)(ii) shall (if such percent is smaller than the applicable percent specified in the following table) be deemed to be the applicable percent specified in the following table:

If the number of such individual's years of coverage (as so defined) is:	The applicable percent is:
29	85
28	80
27	75
26	70
25	65
24	60
23	55
22	50
21	45

''(ii) For purposes of clause (i), the term 'year of coverage' shall have the meaning provided in paragraph (1)(C)(ii), except that the reference to '15 percent' therein shall be deemed to be a reference to '25 percent'.

''(H) An individual's primary insurance amount determined under this paragraph

shall be deemed to be computed under paragraph (1) of this subsection for the purpose of applying other provisions of this title.

''(I) This paragraph shall not apply in the case of an individual whose eligibility for old-age or disability insurance benefits is based on an agreement concluded pursuant to section 233 or an individual who on January 1, 1984—

''(i) is an employee performing service to which social security coverage is extended on that date solely by reason of the amendments made by section 101 of the Social Security Amendments of 1983; or

''(ii) is an employee of a nonprofit organization which (on December 31, 1983) did not have in effect a waiver certificate under section 3121(k) of the Internal Revenue Code of 1954 and to the employees of which social security coverage is extended on that date solely by reason of the amendments made by section 102 of that Act, unless social security coverage had previously extended to service performed by such individual as an employee of that organization under a waiver certificate which was subsequently (prior to December 31, 1983) terminated.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 215(d)(3) of such Act (42 U.S.C. 415(d)(3)) is amended—

(i) by striking ''subsection (a)(7)(C)'' each place it appears and inserting ''subsection (a)(7)(F)'';

(ii) by striking ''subparagraph (E)'' and inserting ''subparagraph (I)''; and

(iii) by striking ''subparagraph (D)'' and inserting ''subparagraph (G)(i)''.

(B) Section 215(f)(9)(A) of such Act (42 U.S.C. 415(f)(9)(A)) is amended by striking ''(a)(7)(C)'' and inserting ''(a)(7)(F)''.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to monthly insurance benefits for months commencing with or after the 12th calendar month following the date of the enactment of this Act. Notwithstanding section 215(f) of the Social Security Act, the Commissioner of Social Security shall recompute primary insurance amounts to the extent necessary to carry out the amendments made by this Act.

By Mr. SANTORUM (for himself, Mr. CORZINE, Mr. SCHUMER, and Mr. DEMINT):

S. 868. A bill to encourage savings, promote financial literacy, and expand opportunities for young adults by establishing KIDS Accounts; to the Committee on Finance.

Mr. SANTORUM. Mr. President, today I am introducing ''The America Saving for Personal Investment, Retirement, and Education (ASPIRE) Act of 2005'' along with Senator CORZINE, Senator SCHUMER and Senator DEMINT. A bipartisan group of members is introducing companion legislation in the House of Representatives. The bill creates a Kids Investment and Development Savings (KIDS) Account for every child at birth and creates a new opportunity for the children of low-income Americans to build assets and wealth.

This country has seen a growing number of Americans investing in the stock market and has witnessed an historic boom in homeownership, which has increased to record high levels. However, this growth in assets has not reached every American. While many middle- and upper-income families have increased their assets in the past decade, many low-income families have not had the same financial success. A recent study conducted by the Federal Reserve found that the median net worth of families in the bottom 20 percent of the nation's income level was a mere $7,900—an amount that is far too low to ensure a comfortable economic future for their family. This challenge needs to be addressed to ensure that lower income families have a significant opportunity to accrue wealth and expand opportunities for their families.

Under this legislation, KIDS Accounts would be created after a child is born and a Social Security number issued. A one-time $500 deposit would automatically be placed into a KIDS account. Children from households below the national median income would receive an additional deposit of $500 at birth and would be eligible to receive dollar-for-dollar matching funds up to $500 per year for voluntary contributions to the account, which cannot exceed $1,000 per year. All funds grow tax-free. Access to the account prior to age 18 would not be permitted, but kids—in conjunction with their parents—would participate in investment decisions and watch their money grow. When the young person turns 18, he or she can use the accrued money for asset building purposes such as education, homeownership, and retirement planning. Accrued funds could also be rolled over into a Roth IRA or 529 post-secondary education account to expand investment options.

I would like to highlight what I view as the two major benefits of this legislation. The first, and most apparent, is that this bill will help give younger individuals, especially low-income Americans, a sound financial start to begin their adult life. For example, a typical low-income family making modest but steady contributions can create a KIDS Account worth over $20,000 in 18 years. Second, and perhaps more important, is that KIDS Accounts create opportunities for all Americans to become more financially literate. The account holders and their guardians will choose from a list of possible investment funds and will be able to watch their investment grow over time. All Americans will have the opportunity to see firsthand that a smart investment now can grow over time into considerable wealth.

I believe that this bill could be a significant and strategic step forward in the effort to expand asset opportunities to all Americans, and lower-income Americans in particular. I encourage my colleagues to support this bipartisan effort.

Mr. CORZINE. Mr. President, I am pleased to join with Senators Santorum, Schumer, and DeMint in introducing the ASPIRE Act of 2005, which would expand opportunities for young adults, encourage savings, and promote financial literacy, by establishing investment accounts, known as KIDS Accounts, for every child in America.

ASPIRE is based largely on a similar initiative in the United Kingdom developed by Prime Minister Tony Blair. Yet despite its British roots, the proposal is based on the most basic of American values. By giving every young person resources with which to get a start in life, ASPIRE will help realize the American ideal of equal opportunity. And by making every young person an investor, the proposal would encourage self reliance, promote savings, and give every family a personal stake in America's economy.

Under ASPIRE, an investment account would be established for every American child upon receiving a Social Security number. Each account would be funded initially with $500. Those with incomes less than the national median would receive an additional contribution of up to $500, and would receive a one-for-one government match for their first $500 of private contributions each year. Up to $1000 of after-tax private contributions would be allowed annually from any source.

Funds would accumulate tax-free and could not be withdrawn for purposes other than higher education until the child reaches the age of 18. At that point, funds could be withdrawn, according to Roth IRA guidelines, either for higher education or for the purchase of a home. Funds left unspent would be saved for retirement under rules similar to those that apply to Roth IRAs or rolled over to a 529 plan for educational expenses. Once the account holder reaches the age of 30, the initial $500 government contribution would have to be repaid, though exceptions could be made to avoid undue hardship.

Accounts initially would be held by a government entity that would be based on the successful Thrift Savings Plan, or TSP, which now manages retirement accounts for Federal employees with relatively low administrative costs. As with the TSP, investors would have a range of investment options, such as a Government securities fund, a fixed income investment fund, and a common stock fund. However, once an account holder reaches the age of 18, funds could be rolled over to a KIDS Account held at a private institution.

It is difficult to understate the potential impact of giving every American child a funded investment account of their own. For the first time, every child will have a meaningful incentive to learn the basics of investing, because they will have real resources to invest. For the first time, even families with modest incomes will have a significant incentive to save, to earn the government match. And, perhaps most fundamentally, for the first time, every American child will grow up knowing that when they reach adulthood, they will have the ability to invest in themselves and in their own education. In short, every child will have hope for a real future.

Considering its potentially significant social and individual benefits, the ASPIRE Act requires an investment that is relatively modest. It has been

estimated that, when it becomes effective, the bill's cost would represent only about one tenth of one percent of the Federal budget. Yet the proposal differs from other proposals for new spending or tax cuts because, for the first 18 years, it would not reduce overall national savings at all. In that period, virtually every dollar of outlays would be saved, and would be available to expand long-term economic growth. In fact, the proposal would lead to an increase in national savings because of its incentives for families to save more. This would help create the economic growth we need to handle the added burdens associated with the impending retirement of the baby boomers.

Senator SANTORUM and I are excited to be joined this year by Senators Schumer and DeMint as sponsors of ASPIRE, along with sponsors of identical legislation in the House, Congressmen Harold Ford, Patrick Kennedy, Thomas Petri and Phil English. In that process, we have been assisted by a broad range of experts and other interested parties, for which I am very grateful. However, I want to especially thank Ray Boshara and Reid Cramer of the New America Foundation, who have been extraordinarily helpful in the development of the legislation, and who have taken the lead in efforts to promote this and other asset building initiatives.

Mr. President, the ASPIRE Act is a big new idea based on simple, old time American values. It already enjoys strong bipartisan support from conservatives and progressives, alike, in both houses of Congress. I look forward to working with colleagues on both sides of the aisle to secure its prompt enactment.

By Mr. FEINGOLD:

S. 869. A bill to amend the Agricultural Adjustment Act to prohibit the Secretary of Agriculture from basing minimum prices for class 1 milk on the distance or transportation costs from any location that is not within a marketing area, except under certain circumstances, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. FEINGOLD. Mr. President, today I am offering a measure which could serve as a first step towards eliminating the inequities borne by the dairy farmers of Wisconsin and the upper Midwest under the Federal Milk Marketing Order system.

The Federal Milk Marketing Order system, created nearly 60 years ago, establishes minimum prices for milk paid to producers throughout various marketing areas in the U.S. For sixty years, this system has discriminated against producers in the Upper Midwest by awarding a higher price to dairy farmers in proportion to the distance of their farms from areas of high milk production, which historically have been the region around Eau Claire, WI.

My legislation is very simple. It identifies the single most harmful and unjust feature of the current system, and corrects it. Under the current archaic law, the price farmers receive for fluid milk is higher the further they are from the Eau Claire region of the Upper Midwest. This provision originally was intended to guarantee the supply of fresh milk from the high production areas to distant markets in an age of difficult transportation and limited refrigeration. But the situation has long since changed and the provision persists at the detriment of the Wisconsin farmers even though most local milk markets do not receive any milk from Wisconsin.

The bill I introduce today would prohibit the Secretary of Agriculture from using distance or transportation costs from any location as the basis for pricing milk, unless significant quantities of milk are actually transported from that location into the recipient market. The Secretary will have to comply with the statutory requirement that supply and demand factors be considered as specified in the Agricultural Marketing Agreement Act when setting milk prices in marketing orders. The fact remains that single-basing-point pricing simply cannot be justified based on supply and demand for milk both in local and national markets and the changing pattern of U.S. milk production.

This bill also requires the Secretary to report to Congress on specifically which criteria are used to set milk prices. Finally, the Secretary will have to certify to Congress that the criteria used by the Department do not in any way attempt to circumvent the prohibition on using distance or transportation cost as basis for pricing milk.

This one change is vitally important to Upper Midwest producers, because the current system has penalized them for many years. The current system is a double whammy to Upper Midwest dairy farmers—it both provides disparate profits for producers in other parts of the country and creates artificial economic incentives for milk production. As a result, Wisconsin producers have seen national surpluses rise, and milk prices fall. Rather than providing adequate supplies of fluid milk, the prices often lead to excess production.

The prices have provided production incentives beyond those needed to ensure a local supply of fluid milk in some regions, leading to an increase in manufactured products in those marketing orders. Those manufactured products directly compete with Wisconsin's processed products, eroding our markets and driving national prices down.

The perverse nature of this system is further illustrated by the fact that since 1995, some regions of the U.S., notably the central states and the Southwest, are producing so much milk that they are actually shipping fluid milk north to the Upper Midwest. The high fluid milk prices have generated so much excess production, that these markets distant from Eau Claire are now encroaching upon not only our manufactured markets, but also our markets for fluid milk, further eroding prices in Wisconsin.

The market-distorting effects of the fluid price differentials in federal orders are shown by a previous Congressional Budget Office analysis that estimated that the elimination of orders would save $669 million over five years. Government outlays would fall, CBO concluded, because production would fall in response to lower milk prices and there would be fewer government purchases of surplus milk. The regions that would gain and lose in this scenario illustrate the discrimination inherent to the current system. Economic analyses showed that farm revenues in a market undisturbed by Federal orders would actually increase in the Upper Midwest and fall in most other milk-producing regions.

While this system has been around since 1937, the practice of basing fluid milk price differentials on the distance from Eau Claire was formalized in the 1960s, when the Upper Midwest arguably was the primary reserve for additional supplies of milk. The idea was to encourage local supplies of fluid milk in areas of the country that did not traditionally produce enough fluid milk to meet their own needs.

That is no longer the case. The Upper Midwest is no longer the primary source of reserve supplies of milk. Unfortunately, the prices didn't adjust with changing economic conditions, most notably the shift of the dairy industry away from the Upper Midwest and towards the Southwest, and specifically California, which now leads the nation in milk production.

The result of this antiquated system has been a decline in the Upper Midwest dairy industry, not because it can't produce a product that can compete in the marketplace, but because the system discriminates against it. Over the past few years Wisconsin has lost dairy farmers at a rate of more than 5 per day. The Upper Midwest, with the lowest fluid milk prices, is shrinking as a dairy region despite the dairy-friendly climate of the region. Some other regions with higher fluid milk prices are growing rapidly.

In a free market with a level playing field, these shifts in production might be fair. But in a market where the government is setting the prices and providing that artificial advantage to regions outside the Upper Midwest, the current system is unconscionable.

I urge my colleagues to do the right thing and bring reform to this outdated system and work to eliminate the inequities in the current milk marketing order pricing system.

I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 869

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 ''Federal Milk Marketing Reform Act of 2005''.

SEC. 2. LOCATION ADJUSTMENTS FOR MINIMUM PRICES FOR CLASS I MILK.

Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in paragraph (A)—

(A) in clause (3) of the second sentence, by inserting after ''the locations'' the following: ''within a marketing area subject to the order''; and

(B) by striking the last 2 sentences and inserting the following: ''Notwithstanding subsection (18) or any other provision of law, when fixing minimum prices for milk of the highest use classification in a marketing area subject to an order under this subsection, the Secretary may not, directly or indirectly, base the prices on the distance from, or all or part of the costs incurred to transport milk to or from, any location that is not within the marketing area subject to the order, unless milk from the location constitutes at least 50 percent of the total supply of milk of the highest use classification in the marketing area. The Secretary shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the criteria that are used as the basis for the minimum prices referred to in the preceding sentence, including a certification that the minimum prices are made in accordance with the preceding sentence.''; and

(2) in paragraph (B)(c), by inserting after ''the locations'' the following: ''within a marketing area subject to the order''.

By Mr. DURBIN:

S. 873. A bill to amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the medicare program; read the first time.

Mr. DORGAN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 873

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 ''Medicare Prescription Drug Savings and Choice Act of 2005''.

SEC. 2. ESTABLISHMENT OF MEDICARE OPERATED PRESCRIPTION DRUG PLAN OPTION.

(a) IN GENERAL.—Subpart 2 of part D of the Social Security Act is amended by inserting after section 1860D–11 the following new section:

''MEDICARE OPERATED PRESCRIPTION DRUG PLAN OPTION

''SEC. 1860D–11A. (a) IN GENERAL.—Notwithstanding any other provision of this part, for each year (beginning with 2006), in addition to any plans offered under section 1860D–11, the Secretary shall offer one or more medicare operated prescription drug plans (as defined in subsection (c)) with a service area that consists of the entire United States and shall enter into negotiations with pharmaceutical manufacturers to reduce the purchase cost of covered part D drugs for eligible part D individuals in accordance with subsection (b).

''(b) NEGOTIATIONS.—Notwithstanding section 1860D–11(i), for purposes of offering a medicare operated prescription drug plan under this section, the Secretary shall negotiate with pharmaceutical manufacturers with respect to the purchase price of covered part D drugs and shall encourage the use of more affordable therapeutic equivalents to the extent such practices do not override medical necessity as determined by the prescribing physician. To the extent practicable and consistent with the previous sentence, the Secretary shall implement strategies similar to those used by other Federal purchasers of prescription drugs, and other strategies, to reduce the purchase cost of covered part D drugs.

''(c) MEDICARE OPERATED PRESCRIPTION DRUG PLAN DEFINED.—For purposes of this part, the term 'medicare operated prescription drug plan' means a prescription drug plan that offers qualified prescription drug coverage and access to negotiated prices described in section 1860D–2(a)(1)(A). Such a plan may offer supplemental prescription drug coverage in the same manner as other qualified prescription drug coverage offered by other prescription drug plans.

''(d) MONTHLY BENEFICIARY PREMIUM.—

''(1) QUALIFIED PRESCRIPTION DRUG COVERAGE.—The monthly beneficiary premium for qualified prescription drug coverage and access to negotiated prices described in section 1860D–2(a)(1)(A) to be charged under a medicare operated prescription drug plan shall be uniform nationally. Such premium for months in 2006 shall be $35 and for months in succeeding years shall be based on the average monthly per capita actuarial cost of offering the medicare operated prescription drug plan for the year involved, including administrative expenses.

''(2) SUPPLEMENTAL PRESCRIPTION DRUG COVERAGE.—Insofar as a medicare operated prescription drug plan offers supplemental prescription drug coverage, the Secretary may adjust the amount of the premium charged under paragraph (1).

''(3) REQUIREMENT FOR AT LEAST ONE PLAN WITH A $35 PREMIUM IN 2006.—The Secretary shall ensure that at least one medicare operated prescription drug plan offered in 2006 has a monthly premium of $35.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1860D–3(a) of the Social Security Act (42 U.S.C. 1395w–103(a)) is amended by adding at the end the following new paragraph:

''(4) AVAILABILITY OF THE MEDICARE OPERATED PRESCRIPTION DRUG PLAN.—

''(A) IN GENERAL.—A medicare operated prescription drug plan (as defined in section 1860D–11A(c)) shall be offered nationally in accordance with section 1860D–11A.

''(B) RELATIONSHIP TO OTHER PLANS.—

''(i) IN GENERAL.—Subject to clause (ii), a medicare operated prescription drug plan shall be offered in addition to any qualifying plan or fallback prescription drug plan offered in a PDP region and shall not be considered to be such a plan for purposes of meeting the requirements of this subsection.

''(ii) DESIGNATION AS A FALLBACK PLAN.—Notwithstanding any other provision of this part, the Secretary may designate the medicare operated prescription drug plan as the fallback prescription drug plan for any fallback service area (as defined in section 1860D–11(g)(3)) determined to be appropriate by the Secretary.''.

(2) Section 1860D–13(c)(3) of such Act (42 U.S.C. 1395w–113(c)(3)) is amended—

(A) in the heading, by inserting ''and medicare operated prescription drug plans'' after ''Fallback plans''; and

(B) by inserting ''or a medicare operated prescription drug plan'' after ''a fallback prescription drug plan''.

(3) Section 1860D–16(b)(1) of such Act (42 U.S.C. 1395w–116(b)(1)) is amended—

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

(B) in subparagraph (D), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(E) payments for expenses incurred with respect to the operation of medicare operated prescription drug plans under section 1860D–11A.''.

(4) Section 1860D–41(a) of such Act (42 U.S.C. 141(a)) is amended by adding at the end the following new paragraph:

''(19) MEDICARE OPERATED PRESCRIPTION DRUG PLAN.—The term 'medicare operated prescription drug plan' has the meaning given such term in section 1860D–11A(c).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2071).

By Mr. DURBIN (for himself and Mrs. LINCOLN):

S. 874. A bill to establish a national health program administered by the Office of Personnel Management to offer health benefits plans to individuals who are not Federal employees, and for other purposes; read the first time.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 874

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 ''Small Employers Health Benefits Program Act of 2005''.

SEC. 2. DEFINITIONS.

(a) IN GENERAL.—In this Act, the terms ''member of family'', ''health benefits plan'', ''carrier'', ''employee organizations'', and ''dependent'' have the meanings given such terms in section 8901 of title 5, United States Code.

(b) OTHER TERMS.—In this Act:

(1) EMPLOYEE.—The term ''employee'' has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)). Such term shall not include an employee of the Federal Government.

(2) EMPLOYER.—The term ''employer'' has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(5)), except that such term shall include only employers who employed an average of at least 1 but not more than 100 employees on business days during the year preceding the date of application. Such term shall not include the Federal Government.

(3) HEALTH STATUS-RELATED FACTOR.—The term ''health status-related factor'' has the meaning given such term in section 2791(d)(9) of the Public Health Service Act (42 U.S.C. 300gg–91(d)(9)).

(4) OFFICE.—The term ''Office'' means the Office of Personnel Management.

(5) PARTICIPATING EMPLOYER.—The term ''participating employer'' means an employer that—

(A) elects to provide health insurance coverage under this Act to its employees; and

(B) is not offering other comprehensive health insurance coverage to such employees.

(c) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of subsection (b)(2):

(1) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—All persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as 1 employer.

(2) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence for the full year prior to the date on which the employer applies to participate, the determination of whether such employer meets the requirements of subsection (b)(2) shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the employer's first full year.

(3) PREDECESSORS.—Any reference in this subsection to an employer shall include a reference to any predecessor of such employer.

(d) WAIVER AND CONTINUATION OF PARTICIPATION.—

(1) WAIVER.—The Office may waive the limitations relating to the size of an employer which may participate in the health insurance program established under this Act on a case by case basis if the Office determines that such employer makes a compelling case for such a waiver. In making determinations under this paragraph, the Office may consider the effects of the employment of temporary and seasonal workers and other factors.

(2) CONTINUATION OF PARTICIPATION.—An employer participating in the program under this Act that experiences an increase in the number of employees so that such employer has in excess of 100 employees, may not be excluded from participation solely as a result of such increase in employees.

SEC. 3. HEALTH INSURANCE COVERAGE FOR NON-FEDERAL EMPLOYEES.

(a) ADMINISTRATION.—The Office shall administer a health insurance program for non-Federal employees and employers in accordance with this Act.

(b) REGULATIONS.—Except as provided under this Act, the Office shall prescribe regulations to apply the provisions of chapter 89 of title 5, United States Code, to the greatest extent practicable to participating carriers, employers, and employees covered under this Act.

(c) LIMITATIONS.—In no event shall the enactment of this Act result in—

(1) any increase in the level of individual or Federal Government contributions required under chapter 89 of title 5, United States Code, including copayments or deductibles;

(2) any decrease in the types of benefits offered under such chapter 89; or

(3) any other change that would adversely affect the coverage afforded under such chapter 89 to employees and annuitants and members of family under that chapter.

(d) ENROLLMENT.—The Office shall develop methods to facilitate enrollment under this Act, including the use of the Internet.

(e) CONTRACTS FOR ADMINISTRATION.—The Office may enter into contracts for the performance of appropriate administrative functions under this Act.

(f) SEPARATE RISK POOL.—In the administration of this Act, the Office shall ensure that covered employees under this Act are in a risk pool that is separate from the risk pool maintained for covered individuals under chapter 89 of title 5, United States Code.

(g) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to require a carrier that is participating in the program under chapter 89 of title 5, United States Code, to provide health benefits plan coverage under this Act.

SEC. 4. CONTRACT REQUIREMENT.

(a) IN GENERAL.—The Office may enter into contracts with qualified carriers offering health benefits plans of the type described in section 8903 or 8903a of title 5, United States Code, without regard to section 5 of title 41, United States Code, or other statutes requiring competitive bidding, to provide health insurance coverage to employees of participating employers under this Act. Each contract shall be for a uniform term of at least 1 year, but may be made automatically renewable from term to term in the absence of notice of termination by either party. In entering into such contracts, the Office shall ensure that health benefits coverage is provided for individuals only, married individuals without children, and families.

(b) ELIGIBILITY.—A carrier shall be eligible to enter into a contract under subsection (a) if such carrier—

(1) is licensed to offer health benefits plan coverage in each State in which the plan is offered; and

(2) meets such other requirements as determined appropriate by the Office.

(c) STATEMENT OF BENEFITS.—

(1) IN GENERAL.—Each contract under this Act shall contain a detailed statement of benefits offered and shall include information concerning such maximums, limitations, exclusions, and other definitions of benefits as the Office considers necessary or desirable.

(2) NATIONWIDE PLAN.—The Office shall develop a benefit package that shall be offered in the case of a contract for a health benefit plan that is to be offered on a nationwide basis.

(d) STANDARDS.—The minimum standards prescribed for health benefits plans under section 8902(e) of title 5, United States Code, and for carriers offering plans, shall apply to plans and carriers under this Act. Approval of a plan may be withdrawn by the Office only after notice and opportunity for hearing to the carrier concerned without regard to subchapter II of chapter 5 and chapter 7 of title 5, United States Code.

(e) CONVERSION.—

(1) IN GENERAL.—A contract may not be made or a plan approved under this section if the carrier under such contract or plan does not offer to each enrollee whose enrollment in the plan is ended, except by a cancellation of enrollment, a temporary extension of coverage during which the individual may exercise the option to convert, without evidence of good health, to a nongroup contract providing health benefits. An enrollee who exercises this option shall pay the full periodic charges of the nongroup contract.

(2) NONCANCELLABLE.—The benefits and coverage made available under paragraph (1) may not be canceled by the carrier except for fraud, over-insurance, or nonpayment of periodic charges.

(f) RATES.—Rates charged under health benefits plans under this Act shall reasonably and equitably reflect the cost of the benefits provided. Such rates shall be determined on a basis which, in the judgment of the Office, is consistent with the lowest schedule of basic rates generally charged for new group health benefits plans issued to large employers. The rates determined for the first contract term shall be continued for later contract terms, except that they may be readjusted for any later term, based on past experience and benefit adjustments under the later contract. Any readjustment in rates shall be made in advance of the contract term in which they will apply and on a basis which, in the judgment of the Office, is consistent with the general practice of carriers which issue group health benefits plans to large employers. Rates charged for coverage under this Act shall not vary based on health-status related factors.

(g) REQUIREMENT OF PAYMENT FOR OR PROVISION OF HEALTH SERVICE.—Each contract entered into under this Act shall require the carrier to agree to pay for or provide a health service or supply in an individual case if the Office finds that the employee, annuitant, family member, former spouse, or person having continued coverage under section 8905a of title 5, United States Code, is entitled thereto under the terms of the contract.

SEC. 5. ELIGIBILITY.

An individual shall be eligible to enroll in a plan under this Act if such individual—

(1) is an employee of an employer described in section 2(b)(2), or is a self employed individual as defined in section 401(c)(1)(B) of the Internal Revenue Code of 1986; and

(2) is not otherwise enrolled or eligible for enrollment in a plan under chapter 89 of title 5, United States Code.

SEC. 6. ALTERNATIVE CONDITIONS TO FEDERAL EMPLOYEE PLANS.

(a) TREATMENT OF EMPLOYEE.—For purposes of enrollment in a health benefits plan under this Act, an individual who had coverage under a health insurance plan and is not a qualified beneficiary as defined under section 4980B(g)(1) of the Internal Revenue Code of 1986 shall be treated in a similar manner as an individual who begins employment as an employee under chapter 89 of title 5, United States Code.

(b) PREEXISTING CONDITION EXCLUSIONS.—

(1) IN GENERAL.—Each contract under this Act may include a preexisting condition exclusion as defined under section 9801(b)(1) of the Internal Revenue Code of 1986.

(2) EXCLUSION PERIOD.—

(A) IN GENERAL.—A preexisting condition exclusion under this subsection shall provide for coverage of a preexisting condition to begin not later than 6 months after the date on which the coverage of the individual under a health benefits plan commences, reduced by 1 month for each month that the individual was covered under a health insurance plan immediately preceding the date the individual submitted an application for coverage under this Act.

(B) LAPSE IN COVERAGE.—For purposes of this paragraph, a lapse in coverage of not more than 63 days immediately preceding the date of the submission of an application for coverage under this Act shall not be considered a lapse in continuous coverage.

(c) RATES AND PREMIUMS.—

(1) IN GENERAL.—Rates charged and premiums paid for a health benefits plan under this Act—

(A) shall be determined in accordance with this subsection;

(B) may be annually adjusted and differ from such rates charged and premiums paid for the same health benefits plan offered under chapter 89 of title 5, United States Code;

(C) shall be negotiated in the same manner as rates and premiums are negotiated under such chapter 89; and

(D) shall be adjusted to cover the administrative costs of the Office under this Act.

(2) DETERMINATIONS.—In determining rates and premiums under this Act, the following provisions shall apply:

(A) IN GENERAL.—A carrier that enters into a contract under this Act shall determine that amount of premiums to assess for coverage under a health benefits plan based on an community rate that may be annually adjusted—

(i) for the geographic area involved if the adjustment is based on geographical divisions that are not smaller than a metropolitan statistical area;

(ii) based on whether such coverage is for an individual, a married individual with no children, or a family; and

(iii) based on the age of covered individuals (subject to subparagraph (B)).

(B) AGE ADJUSTMENTS.—

(i) IN GENERAL.—With respect to subparagraph (A)(iii), in making adjustments based on age, a carrier may not use age brackets in increments that are smaller than 5 years, which begin not earlier than age 30 and end not later than age 65.

(ii) AGE 65 AND OLDER.—With respect to subparagraph (A)(iii), a carrier may develop separate rates for covered individuals who are 65 years of age or older for whom medicare is the primary payor for health benefits coverage which is not covered under medicare.

(iii) LIMITATION.—In making an adjustment to premium rates under subparagraph (A)(iii), a carrier shall ensure that such adjustment does not result in an average premium rate applicable to enrollees under the plan involved that is more than 200 percent of the lowest rate for all age groups.

(d) TERMINATION AND REENROLLMENT.—If an individual who is enrolled in a health benefits plan under this Act terminates the enrollment, the individual shall not be eligible for reenrollment until the first open enrollment period following the expiration of 6 months after the date of such termination.

(e) PREEMPTION.—

(1) HEALTH INSURANCE OR PLANS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the terms of any contract entered into under this Act that relate to the nature, provision, or extent of coverage or benefits shall supersede and preempt any State or local law, or any regulation issued thereunder, which relates to the nature, provision, or extent of coverage or benefits.

(B) LOCAL PLANS.—With respect to a contract entered into under this Act under which a carrier will offer health benefits plan coverage in a limited geographic area, subparagraph (A) shall not apply to the extent that a mandated benefit law is in effect in the State in which the plan is offered. Such mandated benefit law shall continue to apply to such health benefits plan.

(C) RATING RULES.—The rating requirements under subsection (c)(2) shall supercede State rating rules for qualified plans under this Act.

(2) LIMITATION.—Nothing in this subsection shall be construed to preempt—

(A) any State or local law or regulation except those laws and regulations described in subparagraphs (A) and (C) of paragraph (1); and

(B) State network adequacy laws.

(f) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to limit the application of the service-charge system used by the Office for determining profits for participating carriers under chapter 89 of title 5, United States Code.

SEC. 7. ENCOURAGING PARTICIPATION BY CARRIERS THROUGH ADJUSTMENTS FOR RISK.

(a) APPLICATION OF RISK CORRIDORS.—

(1) IN GENERAL.—This section shall only apply to carriers with respect to health benefits plans offered under this Act during any of calendar years 2006 through 2010.

(2) NOTIFICATION OF COSTS UNDER THE PLAN.—In the case of a carrier that offers a health benefits plan under this Act in any of calendar years 2006 through 2010, the carrier shall notify the Office, before such date in the succeeding year as the Office specifies, of the total amount of costs incurred in providing benefits under the health benefits plan for the year involved and the portion of such costs that is attributable to administrative expenses.

(3) ALLOWABLE COSTS DEFINED.—For purposes of this section, the term ''allowable costs'' means, with respect to a health benefits plan offered by a carrier under this Act, for a year, the total amount of costs described in paragraph (2) for the plan and year, reduced by the portion of such costs attributable to administrative expenses incurred in providing the benefits described in such paragraph.

(b) ADJUSTMENT OF PAYMENT.—

(1) NO ADJUSTMENT IF ALLOWABLE COSTS WITHIN 3 PERCENT OF TARGET AMOUNT.—If the allowable costs for the carrier with respect to the health benefits plan involved for a calendar year are at least 97 percent, but do not exceed 103 percent, of the target amount for the plan and year involved, there shall be no payment adjustment under this section for the plan and year.

(2) INCREASE IN PAYMENT IF ALLOWABLE COSTS ABOVE 103 PERCENT OF TARGET AMOUNT.—

(A) COSTS BETWEEN 103 AND 108 PERCENT OF TARGET AMOUNT.—If the allowable costs for the carrier with respect to the health benefits plan involved for the year are greater than 103 percent, but not greater than 108 percent, of the target amount for the plan and year, the Office shall reimburse the carrier for such excess costs through payment to the carrier of an amount equal to 75 percent of the difference between such allowable costs and 103 percent of such target amount.

(B) COSTS ABOVE 108 PERCENT OF TARGET AMOUNT.—If the allowable costs for the carrier with respect to the health benefits plan involved for the year are greater than 108 percent of the target amount for the plan and year, the Office shall reimburse the carrier for such excess costs through payment to the carrier in an amount equal to the sum of—

(i) 3.75 percent of such target amount; and

(ii) 90 percent of the difference between such allowable costs and 108 percent of such target amount.

(3) REDUCTION IN PAYMENT IF ALLOWABLE COSTS BELOW 97 PERCENT OF TARGET AMOUNT.—

(A) COSTS BETWEEN 92 AND 97 PERCENT OF TARGET AMOUNT.—If the allowable costs for the carrier with respect to the health benefits plan involved for the year are less than 97 percent, but greater than or equal to 92 percent, of the target amount for the plan and year, the carrier shall be required to pay into the contingency reserve fund maintained under section 8909(b)(2) of title 5, United States Code, an amount equal to 75 percent of the difference between 97 percent of the target amount and such allowable costs.

(B) COSTS BELOW 92 PERCENT OF TARGET AMOUNT.—If the allowable costs for the carrier with respect to the health benefits plan involved for the year are less than 92 percent of the target amount for the plan and year, the carrier shall be required to pay into the stabilization fund under section 8909(b)(2) of title 5, United States Code, an amount equal to the sum of—

(i) 3.75 percent of such target amount; and

(ii) 90 percent of the difference between 92 percent of such target amount and such allowable costs.

(4) TARGET AMOUNT DESCRIBED.—

(A) IN GENERAL.—For purposes of this subsection, the term ''target amount'' means, with respect to a health benefits plan offered by a carrier under this Act in any of calendar years 2006 through 2010, an amount equal to—

(i) the total of the monthly premiums estimated by the carrier and approved by the Office to be paid for enrollees in the plan under this Act for the calendar year involved; reduced by

(ii) the amount of administrative expenses that the carrier estimates, and the Office approves, will be incurred by the carrier with respect to the plan for such calendar year.

(B) SUBMISSION OF TARGET AMOUNT.—Not later than December 31, 2005, and each December 31 thereafter through calendar year 2009, a carrier shall submit to the Office a description of the target amount for such carrier with respect to health benefits plans provided by the carrier under this Act.

(c) DISCLOSURE OF INFORMATION.—

(1) IN GENERAL.—Each contract under this Act shall provide—

(A) that a carrier offering a health benefits plan under this Act shall provide the Office with such information as the Office determines is necessary to carry out this subsection including the notification of costs under subsection (a)(2) and the target amount under subsection (b)(4)(B); and

(B) that the Office has the right to inspect and audit any books and records of the organization that pertain to the information regarding costs provided to the Office under such subsections.

(2) RESTRICTION ON USE OF INFORMATION.—Information disclosed or obtained pursuant to the provisions of this subsection may be used by officers, employees, and contractors of the Office only for the purposes of, and to the extent necessary in, carrying out this section.

SEC. 8. ENCOURAGING PARTICIPATION BY CARRIERS THROUGH REINSURANCE.

(a) ESTABLISHMENT.—The Office shall establish a reinsurance fund to provide payments to carriers that experience one or more catastrophic claims during a year for health benefits provided to individuals enrolled in a health benefits plan under this Act.

(b) ELIGIBILITY FOR PAYMENTS.—To be eligible for a payment from the reinsurance fund for a plan year, a carrier under this Act shall submit to the Office an application that contains—

(1) a certification by the carrier that the carrier paid for at least one episode of care during the year for covered health benefits for an individual in an amount that is in excess of $50,000; and

(2) such other information determined appropriate by the Office.

(c) PAYMENT.—

(1) IN GENERAL.—The amount of a payment from the reinsurance fund to a carrier under this section for a catastrophic episode of care shall be determined by the Office but shall not exceed an amount equal to 80 percent of the applicable catastrophic claim amount.

(2) APPLICABLE CATASTROPHIC CLAIM AMOUNT.—For purposes of paragraph (1), the applicable catastrophic episode of care amount shall be equal to the difference between—

(A) the amount of the catastrophic claim; and

(B) $50,000.

(3) LIMITATION.—In determining the amount of a payment under paragraph (1), if the amount of the catastrophic claim exceeds the amount that would be paid for the healthcare items or services involved under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), the Office shall use the amount that would be paid under such title XVIII for purposes of paragraph (2)(A).

(d) DEFINITION.—In this section, the term ''catastrophic claim'' means a claim submitted to a carrier, by or on behalf of an enrollee in a health benefits plan under this Act, that is in excess of $50,000.

SEC. 9. CONTINGENCY RESERVE FUND.

Beginning on October 1, 2010, the Office may use amounts appropriated under section 14(a) that remain unobligated to establish a contingency reserve fund to provide assistance to carriers offering health benefits plans under this Act that experience unanticipated financial hardships (as determined by the Office).

SEC. 10. EMPLOYER PARTICIPATION.

(a) REGULATIONS.—The Office shall prescribe regulations providing for employer participation under this Act, including the offering of health benefits plans under this Act to employees.

(b) ENROLLMENT AND OFFERING OF OTHER COVERAGE.—

(1) ENROLLMENT.—A participating employer shall ensure that each eligible employee has an opportunity to enroll in a plan under this Act.

(2) PROHIBITION ON OFFERING OTHER COMPREHENSIVE HEALTH BENEFIT COVERAGE.—A participating employer may not offer a health insurance plan providing comprehensive health benefit coverage to employees other than a health benefits plan that—

(A) meets the requirements described in section 4(a); and

(B) is offered only through the enrollment process established by the Office under section 3.

(3) OFFER OF SUPPLEMENTAL COVERAGE OPTIONS.—

(A) IN GENERAL.—A participating employer may offer supplementary coverage options to employees.

(B) DEFINITION.—In subparagraph (A), the term ''supplementary coverage'' means benefits described as ''excepted benefits'' under section 2791(c) of the Public Health Service Act (42 U.S.C. 300gg-91(c)).

(c) RULE OF CONSTRUCTION.—Except as provided in section 15, nothing in this Act shall be construed to require that an employer make premium contributions on behalf of employees.

SEC. 11. ADMINISTRATION THROUGH REGIONAL ADMINISTRATIVE ENTITIES.

(a) IN GENERAL.—In order to provide for the administration of the benefits under this Act with maximum efficiency and convenience for participating employers and health care providers and other individuals and entities providing services to such employers, the Office is authorized to enter into contracts with eligible entities to perform, on a regional basis, one or more of the following:

(1) Collect and maintain all information relating to individuals, families, and employers participating in the program under this Act in the region served.

(2) Receive, disburse, and account for payments of premiums to participating employers by individuals in the region served, and for payments by participating employers to carriers.

(3) Serve as a channel of communication between carriers, participating employers, and individuals relating to the administration of this Act.

(4) Otherwise carry out such activities for the administration of this Act, in such manner, as may be provided for in the contract entered into under this section.

(5) The processing of grievances and appeals.

(b) APPLICATION.—To be eligible to receive a contract under subsection (a), an entity shall prepare and submit to the Office an application at such time, in such manner, and containing such information as the Office may require.

(c) PROCESS.—

(1) COMPETITIVE BIDDING.—All contracts under this section shall be awarded through a competitive bidding process on a bi-annual basis.

(2) REQUIREMENT.—No contract shall be entered into with any entity under this section unless the Office finds that such entity 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 Office finds pertinent.

(3) PUBLICATION OF STANDARDS AND CRITERIA.—The Office shall publish in the Federal Register standards and criteria for the efficient and effective performance of contract obligations under this section, and opportunity shall be provided for public comment prior to implementation. In establishing such standards and criteria, the Office shall provide for a system to measure an entity's performance of responsibilities.

(4) TERM.—Each contract under this section shall be for a term of at least 1 year, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term, except that the Office may terminate any such contract at any time (after such reasonable notice and opportunity for hearing to the entity involved as the Office may provide in regulations) if the Office finds that the entity 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 program established by this Act.

(d) TERMS OF CONTRACT.—A contract entered into under this section shall include—

(1) a description of the duties of the contracting entity;

(2) an assurance that the entity will furnish to the Office such timely information and reports as the Office determines appropriate;

(3) an assurance that the entity will maintain such records and afford such access thereto as the Office finds necessary to assure the correctness and verification of the information and reports under paragraph (2) and otherwise to carry out the purposes of this Act;

(4) an assurance that the entity shall comply with such confidentiality and privacy protection guidelines and procedures as the Office may require; and

(5) such other terms and conditions not inconsistent with this section as the Office may find necessary or appropriate.

SEC. 12. COORDINATION WITH SOCIAL SECURITY BENEFITS.

Benefits under this Act shall, with respect to an individual who is entitled to benefits under part A of title XVIII of the Social Security Act, be offered (for use in coordination with those medicare benefits) to the same extent and in the same manner as if coverage were under chapter 89 of title 5, United States Code.

SEC. 13. PUBLIC EDUCATION CAMPAIGN.

(a) IN GENERAL.—In carrying out this Act, the Office shall develop and implement an educational campaign to provide information to employers and the general public concerning the health insurance program developed under this Act.

(b) ANNUAL PROGRESS REPORTS.—Not later than 1 year and 2 years after the implementation of the campaign under subsection (a), the Office shall submit to the appropriate committees of Congress a report that describes the activities of the Office under subsection (a), including a determination by the office of the percentage of employers with knowledge of the health benefits programs provided for under this Act.

(c) PUBLIC EDUCATION CAMPAIGN.—There is authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2006 and 2007.

SEC. 14. APPROPRIATIONS.

(a) MANDATORY APPROPRIATIONS.—There are authorized to be appropriated, and there are appropriated, to carry out sections 7 and 8—

(1) $4,000,000,000 for fiscal year 2006;

(2) $4,000,000,000 for fiscal year 2007;

(3) $4,000,000,000 for fiscal year 2008;

(4) $3,000,000,000 for fiscal year 2009; and

(5) $3,000,000,000 for fiscal year 2010.

(b) OTHER APPROPRIATIONS.—There are authorized to be appropriated to the Office, such sums as may be necessary in each fiscal year for the development and administration of the program under this Act.

SEC. 15. REFUNDABLE CREDIT FOR SMALL BUSINESS EMPLOYEE HEALTH INSURANCE EXPENSES.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 36 as section 37 and inserting after section 35 the following new section:

''SEC. 36. SMALL BUSINESS EMPLOYEE HEALTH INSURANCE EXPENSES.

''(a) DETERMINATION OF AMOUNT.—In the case of a qualified small employer, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the sum of—

''(1) the expense amount described in subsection (b), and

''(2) the expense amount described in subsection (c), paid by the taxpayer during the taxable year.

''(b) SUBSECTION (b) EXPENSE AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The expense amount described in this subsection is the applicable percentage of the amount of qualified employee health insurance expenses of each qualified employee.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The applicable percentage is equal to—

''(i) 25 percent in the case of self-only coverage,

''(ii) 35 percent in the case of family coverage (as defined in section 220(c)(5)), and

''(iii) 30 percent in the case of coverage for married adults with no children.

''(B) BONUS FOR PAYMENT OF GREATER PERCENTAGE OF PREMIUMS.—The applicable percentage otherwise specified in subparagraph (A) shall be increased by 5 percentage points for each additional 10 percent of the qualified employee health insurance expenses of each qualified employee exceeding 60 percent which are paid by the qualified small employer.

''(c) SUBSECTION (c) EXPENSE AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The expense amount described in this subsection is, with respect to the first credit year of a qualified small employer which is an eligible employer, 10 percent of the qualified employee health insurance expenses of each qualified employee.

''(2) FIRST CREDIT YEAR.—For purposes of paragraph (1), the term 'first credit year' means the taxable year which includes the date that the health insurance coverage to which the qualified employee health insurance expenses relate becomes effective.

''(3) ELIGIBLE EMPLOYER.—For purposes of paragraph (1), the term 'eligible employer' shall not include a qualified small employer if, during the 3-taxable year period immediately preceding the first credit year, the employer or any member of any controlled group including the employer (or any predecessor of either) established or maintained health insurance coverage for substantially the same employees as are the qualified employees to which the qualified employee health insurance expenses relate.

''(d) LIMITATION BASED ON WAGES.—

''(1) IN GENERAL.—The percentage which would (but for this subsection) be taken into account as the percentage for purposes of subsection (b)(2) or (c)(1) for the taxable year shall be reduced (but not below zero) by the percentage determined under paragraph (2).

''(2) AMOUNT OF REDUCTION.—

''(A) IN GENERAL.—The percentage determined under this paragraph is the percentage which bears the same ratio to the percentage which would be so taken into account as—

''(i) the excess of—

''(I) the qualified employee's wages at an annual rate during such taxable year, over

''(II) $25,000, bears to

''(ii) $5,000.

''(B) ANNUAL ADJUSTMENT.—For each taxable year after 2006, the dollar amounts specified for the preceding taxable year (after the application of this subparagraph) shall be increased by the same percentage as the average percentage increase in premiums under the Federal Employees Health Benefits Program under chapter 89 of title 5, United States Code for the calendar year in which such taxable year begins over the preceding calendar year.

''(e) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED SMALL EMPLOYER.—The term 'qualified small employer' means any employer (as defined in section 2(b)(2) of the Small Employers Health Benefits Program Act of 2005) which—

''(A) is a participating employer (as defined in section 2(b)(5) of such Act), and

''(B) pays or incurs at least 60 percent of the qualified employee health insurance expenses of each qualified employee.

''(2) QUALIFIED EMPLOYEE HEALTH INSURANCE EXPENSES.—

''(A) IN GENERAL.—The term 'qualified employee health insurance expenses' means any amount paid by an employer for health insurance coverage under such Act to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

''(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance coverage pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

''(3) QUALIFIED EMPLOYEE.—

''(A) IN GENERAL.—The term 'qualified employee' means, with respect to any period, an employee (as defined in section 2(b)(1) of such Act) of an employer if the total amount of wages paid or incurred by such employer to such employee at an annual rate during the taxable year exceeds $5,000.

''(B) WAGES.—The term 'wages' has the meaning given such term by section 3121(a) (determined without regard to any dollar limitation contained in such section).

''(f) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 52 shall apply.

''(g) CREDITS FOR NONPROFIT ORGANIZATIONS.—Any credit which would be allowable under subsection (a) with respect to a qualified small business if such qualified small business were not exempt from tax under this chapter shall be treated as a credit allowable under this subpart to such qualified small business.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period '', or from section 36 of such Code''.

(2) The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the last item and inserting the following new items:

''Sec. 36 Small business employee health insurance expenses

''Sec. 37 Overpayments of tax''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2005.

SEC. 16. EFFECTIVE DATE.

Except as provided in section 10(e), this Act shall take effect on the date of enactment of this Act and shall apply to contracts that take effect with respect to calendar year 2006 and each calendar year thereafter.

By Mr. BINGAMAN (for himself, Ms. SNOWE, Mr. LIEBERMAN, and Mr. OBAMA):

S. 875. A bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to increase participation in section 401(k) plans through automatic contribution trusts, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today to introduce the Save More for Retirement Act of 2005 with my colleagues Senator SNOWE, Senator LIEBERMAN and Senator OBAMA. This legislation is designed to achieve two important savings goals. First, it will encourage workers who are not currently participating in their employer's retirement plan to do so. Second, it will encourage workers who are currently investing in 401(k) plans to save even more. At a time when national savings is at a near all-time low, Congress needs to look at ways to expand retirement savings, particularly savings garnered through an employer-provided retirement plan. This legislation is a commonsense approach that is based on research undertaken and compiled by a host of retirement policy experts from both academia and business. It is imperative that the Congress continues to look for new and innovative ways to help workers save for their retirement through the existing employer-provided plan system. This legislation accomplishes that goal by creating incentives for employers to modify their existing plans to add features that have been proven to increase savings.

The first step is to encourage employers to add a feature to its 401(k) or similar plans to enroll its employees in the plan upon being hired unless the employee notifies the employer that he or she does not want to participate in the plan. The decision to participate still rests entirely with the employees, as they can opt out before participation begins or at any time afterward. Although some employers do offer these types of plans now, most maintain a more traditional structure under which the employee must opt into participating. Studies have indicated that such a seemingly minor change in how employees are enrolled can dramatically increase participation rates. It has been reported that one large company experienced an increase in employee participation in their retirement plan of 50 percent once the features were changed to automatically enroll its employees. Clearly the first step towards increasing our national savings rate is to get more people saving.

Obviously the second step is to get those who are saving to set aside even more for their retirement years. For this reason, the legislation would encourage plans to add a feature that increases employees' contributions annually until it reaches at least 10 percent of the employees' compensation. Again, studies have repeatedly demonstrated that people are more likely to agree to save more in the future than they currently do. It has also been demonstrated that people are more likely to agree to save more in the future if they make the decision today and do not wait until future years to make that decision. In our legislation, the employee can stop a future increase or change the contribution rate. The employer has the discretion to tie these automatic increases to either an annual increase or to increases in salary or compensation. This is closely modeled on the Save More Tomorrow, SMarT, plan advocated by Shlomo Benartzi from UCLA and Richard Thaler from the University of Chicago. These behavioral finance experts claim that although participants in this plan may start saving at a lower rate—3.5 percent—than the average, within 4 years increases averaged 13.6 percent—a greater than 10 percent increase. Compared to the control group saving rate of slightly more than 8 percent of their compensation, the end result is quite extraordinary.

To encourage employers to make these two changes to the plan, the legislation creates a new safe harbor that, if all the criteria are met, treats the plan as being nondiscriminatory. In order to qualify for the safe harbor, the employer must provide either a nonelective match of 3 percent of the employee's compensation or an elective match of 50 percent of the first 7 percent of the employee's compensation. These criteria can be met also if the employer contributes a comparable amount to another qualified plan for the same employees. The employer must also allow its contributions to vest in either 2 years, if the employer enrolls the employees in its pension plan before the employees' first paycheck, or in 1 year if the employer enrolls the employees within the first quarter of being hired. It is important to note that both of these vesting periods are shorter than current law allows and are comparable to what employers can do under the existing safe harbor.

Finally, in an effort to help ensure employees are invested wisely, the legislation directs the Department of Labor to provide guidance for employers in selecting ''default'' investments so that employers have options besides money market accounts and investment contracts. A default investment is the investment that is made when

employees fail to indicate how they would like their retirement savings invested. Due to liability concerns, retirement plans tend to invest these funds in either investment contracts or money market accounts. The benefit of compounding interest that would occur with even modest returns in broad-based funds that have an equity component is lost. This guidance will not allow employers to make default investment decisions that are risky or put the employee's retirement at risk. It is important to note that the employee always retains the ability to invest the funds differently in other investment options offered by the plan if they do not like the default investment offered by the employer.

I thank all of those who have done considerable research into the impact of human behavior on savings, which was quite instrumental to the drafting of this legislation. I look forward to continuing to work with them and others interested in this new approach to addressing our Nation's savings problems.

I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 875

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 ''Save More for Retirement Act of 2005''.

SEC. 2. INCREASING PARTICIPATION IN CASH OR DEFERRED PLANS THROUGH AUTOMATIC CONTRIBUTION ARRANGEMENTS.

(a) IN GENERAL.—Section 401(k) of the Internal Revenue Code of 1986 (relating to cash or deferred arrangement) is amended by adding at the end the following new paragraph:

''(13) NONDISCRIMINATION REQUIREMENTS FOR AUTOMATIC CONTRIBUTION TRUSTS.—

''(A) IN GENERAL.—A cash or deferred arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement constitutes an automatic contribution trust.

''(B) AUTOMATIC CONTRIBUTION TRUST.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'automatic contribution trust' means an arrangement—

''(I) except as provided in clauses (ii) and (iii), under which each employee eligible to participate in the arrangement is treated as having elected to have the employer make elective contributions in an amount equal to the applicable percentage of the employee's compensation, and

''(II) which meets the requirements of subparagraphs (C), (D), (E), and (F).

''(ii) EXCEPTION FOR EXISTING EMPLOYEES.—In the case of any employee—

''(I) who was eligible to participate in the arrangement (or a predecessor arrangement) immediately before the first date on which the arrangement is an automatic contribution trust, and

''(II) whose rate of contribution immediately before such first date was less than the applicable percentage for the employee,

clause (i)(I) shall not apply to such employee until the date which is 1 year after such first date (or such earlier date as the employee may elect).

''(iii) ELECTION OUT.—Each employee eligible to participate in the arrangement may specifically elect not to have contributions made under clause (i), and such clause shall cease to apply to compensation paid on or after the effective date of the election.

''(iv) APPLICABLE PERCENTAGE.—For purposes of this subparagraph—

''(I) IN GENERAL.—The term 'applicable percentage' means, with respect to any employee, the percentage (not less than 3 percent) determined under the arrangement.

''(II) INCREASE IN PERCENTAGE.—In the case of the second plan year beginning after the first date on which the election under clause (i)(I) is in effect with respect to the employee and any succeeding plan year, the applicable percentage shall be a percentage (not greater than 10 percent or such higher percentage specified by the plan) equal to the sum of the applicable percentage for the employee as of the close of the preceding plan year plus 1 percentage point (or such higher percentage specified by the plan). A plan may elect to provide that, in lieu of any increase under the preceding sentence, the increase in the applicable percentage required under this subclause shall occur after each increase in compensation an employee receives on or after the first day of such second plan year and that the applicable percentage after each such increase in compensation shall be equal to the applicable percentage for the employee immediately before such increase in compensation plus 1 percentage point (or such higher percentage specified by the plan).

''(C) MATCHING OR NONELECTIVE CONTRIBUTIONS.—

''(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement, the employer—

''(I) makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount equal to 50 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 7 percent of compensation; or

''(II) is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to at least 3 percent of the employee's compensation,

The rules of clauses (ii) and (iii) of paragraph (12)(B) shall apply for purposes of subclause (I). The rules of paragraph (12)(E)(ii) shall apply for purposes of subclauses (I) and (II).

''(ii) OTHER PLANS.—An arrangement shall be treated as meeting the requirements under clause (i) if any other plan maintained by the employer meets such requirements with respect to employees eligible under the arrangement.

''(D) NOTICE REQUIREMENTS.—

''(i) IN GENERAL.—The requirements of this subparagraph are met if the requirements of clauses (ii) and (iii) are met.

''(ii) REASONABLE PERIOD TO MAKE ELECTION.—The requirements of this clause are met if each employee to whom subparagraph (B)(i) applies—

''(I) receives a notice explaining the employee's right under the arrangement to elect not to have elective contributions made on the employee's behalf, and how contributions made under the arrangement will be invested in the absence of any investment election by the employee, and

''(II) has a reasonable period of time after receipt of such notice and before the first elective contribution is made to make such election.

''(iii) ANNUAL NOTICE OF RIGHTS AND OBLIGATIONS.—The requirements of this clause are met if each employee eligible to participate in the arrangement is, within a reasonable period before any year (or if the plan elects to change the applicable percentage after any increase in compensation, before the increase), given notice of the employee's rights and obligations under the arrangement.

The requirements of clauses (i) and (ii) of paragraph (12)(D) shall be met with respect to the notices described in clauses (ii) and (iii) of this subparagraph.

''(E) PARTICIPATION, WITHDRAWAL, AND VESTING REQUIREMENTS.—The requirements of this subparagraph are met if—

''(i) the arrangement requires that each employee eligible to participate in the arrangement (determined without regard to any minimum service requirement otherwise applicable under section 410(a) or the plan) commences participation in the arrangement no later than the 1st day of the 1st calendar quarter following the date on which employee first becomes so eligible,

''(ii) the withdrawal requirements of paragraph (2)(B) are met with respect to all employer contributions (including matching and elective contributions) taken into account in determining whether the arrangement meets the requirements of subparagraph (C), and

''(iii) the arrangement requires that an employee's right to the accrued benefit derived from employer contributions described in clause (ii) (other than elective contributions) is nonforfeitable after the employee has completed—

''(I) at least 1 year of service, or

''(II) in the case of an employee who is eligible to participate in the arrangement as of the first day on which the employee begins employment with the employer maintaining the arrangement, at least 2 years of service.

''(F) CERTAIN WITHDRAWALS MUST BE ALLOWED.—

''(i) IN GENERAL.—Notwithstanding any other provision of this subsection, the requirements of this subparagraph are met if the arrangement allows employees to elect to withdraw elective contributions described in subparagraph (B)(i) (and earnings attributable thereto) from the cash or deferred arrangement in accordance with the provisions of this subparagraph.

''(ii) TIME FOR MAKING ELECTION.—Clause (i) shall not apply to an election by an employee unless the election is made no later than the close of the latest of the following payroll periods occurring after the first payroll period to which the automatic enrollment system applies to the employee:

''(I) The payroll period in which the aggregate elective contributions made under subparagraph (B)(i) first exceed $500.

''(II) The second payroll period following such first payroll period.

''(III) The first payroll period which begins at least one month after the close of the first payroll period to which the automatic enrollment system applies.

''(iii) AMOUNT OF DISTRIBUTION.—Clause (i) shall not apply to any election by an employee unless the amount of any distribution by reason of the election is equal to the amount of elective contributions made with respect to the first payroll period to which the automatic enrollment system applies to the employee and any succeeding payroll period beginning before the effective date of the election (and earnings attributable thereto).

''(iv) TREATMENT OF DISTRIBUTION.—In the case of any distribution to an employee pursuant to an election under clause (i)—

''(I) the amount of such distribution shall be includible in the gross income of the employee for the taxable year of the employee in which the distribution is made, and

''(II) no tax shall be imposed under section 72(t) with respect to the distribution.

''(v) EMPLOYER MATCHING CONTRIBUTIONS.—In the case of any distribution to an employee by reason of an election under clause (i), employer matching contributions shall be forfeited or subject to such other treatment as the Secretary may prescribe.''

(b) MATCHING CONTRIBUTIONS.—Section 401(m) of the Internal Revenue Code of 1986 (relating to nondiscrimination test for matching contributions and employee contributions) is amended by redesignating paragraph (12) as paragraph (13) and by inserting after paragraph (11) the following new paragraph:

''(12) ALTERNATE METHOD FOR AUTOMATIC CONTRIBUTION TRUSTS.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

''(A) meets the contribution requirements of subparagraphs (B)(i) and (C) of subsection (k)(13);

''(B) meets the notice requirements of subparagraph (D) of subsection (k)(13); and

''(C) meets the requirements of paragraph (11)(B) (ii) and (iii).''.

(c) EXCLUSION FROM DEFINITION OF TOP-HEAVY PLANS.—

(1) ELECTIVE CONTRIBUTION RULE.—Clause (i) of section 416(g)(4)(H) of the Internal Revenue Code of 1986 is amended by inserting ''or 401(k)(13)'' after ''section 401(k)(12)''.

(2) MATCHING CONTRIBUTION RULE.—Clause (ii) of section 416(g)(4)(H) of such Code is amended by inserting ''or 401(m)(12)'' after ''section 401(m)(11)''.

(d) DEFINITION OF COMPENSATION.—

(1) BASE PAY OR RATE OF PAY.—The Secretary of the Treasury shall, no later than December 31, 2006, modify Treasury Regulation section 1.414(s)–1(d)(3) to facilitate the use of the safe harbors in sections 401(k)(12), 401(k)(13), 401(m)(11), and 401(m)(12) of the Internal Revenue Code of 1986, and in Treasury Regulation section 1.401(a)(4)–3(b), by plans that use base pay or rate of pay in determining contributions or benefits. Such modifications shall include increased flexibility in satisfying section 414(s) of such Code in any case where the amount of overtime compensation payable in a year can vary significantly.

(2) APPLICATION OF REQUIREMENTS TO SEPARATE PAYROLL PERIODS.—Not later than December 31, 2006, the Secretary of the Treasury shall issue rules under subparagraphs (B)(i) and (C)(i) of section 401(k)(13) of such Code and under clause (i) of section 401(m)(12)(A) of such Code that, effective for plan years beginning after December 31, 2006, permit such requirements to be applied separately to separate payroll periods based on rules similar to the rules described in Treasury Regulation sections 1.401(k)–3(c)(5)(ii) and 1.401(m)–3(d)(4).

(e) SECTION 403(b) CONTRACTS.—Paragraph (11) of section 401(m) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(C) SECTION 403(b) CONTRACTS.—An annuity contract under section 403(b) shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if such contract meets requirements similar to the requirements under subparagraph (A).''.

(f) PREEMPTION OF CONFLICTING STATE REGULATION.—Section 514 of the Employee Retirement Income Security of 1974 (29 U.S.C. 1144) is amended by inserting at the end the following new subsection:

''(e) AUTOMATIC CONTRIBUTION ARRANGEMENTS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this section, any law of a State shall be superseded if it would directly or indirectly prohibit or restrict the inclusion in any plan of an eligible automatic contribution arrangement.

''(2) ELIGIBLE AUTOMATIC CONTRIBUTION ARRANGEMENT.—For purposes of this subsection, the term 'eligible automatic contribution arrangement' means an arrangement—

''(A) under which a participant may elect to have the employer make payments as contributions under the plan on behalf of the participant, or to the participant directly in cash,

''(B) under which the participant is treated as having elected to have the employer make such contributions in an amount equal to a uniform percentage of compensation provided under the plan until the participant specifically elects not to have such contributions made (or specifically elects to have such contributions made at a different percentage),

''(C) under which contributions described in subparagraph (B) are invested in accordance with regulations prescribed by the Secretary under section 404(c)(4), and

''(D) which meets the requirements of paragraph (3).

''(3) NOTICE REQUIREMENTS.—

''(A) IN GENERAL.—The administrator of an individual account plan shall, within a reasonable period before each plan year, give to each employee to whom an arrangement described in paragraph (2) applies for such plan year notice of the employee's rights and obligations under the arrangement which—

''(i) is sufficiently accurate and comprehensive to apprise the employee of such rights and obligations, and

''(ii) is written in a manner calculated to be understood by the average employee to whom the arrangement applies.

''(B) TIME AND FORM OF NOTICE.—A notice shall not be treated as meeting the requirements of subparagraph (A) with respect to an employee unless—

''(i) the notice includes a notice explaining the employee's right under the arrangement to elect not to have elective contributions made on the employee's behalf (or to elect to have such contributions made at a different percentage),

''(ii) the employee has a reasonable period of time after receipt of the notice described in clause (i) and before the first elective contribution is made to make such election, and

''(iii) the notice explains how contributions made under the arrangement will be invested in the absence of any investment election by the employee.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to plan years beginning after December 31, 2005.

(2) SECTION 403(b) CONTRACTS.—The amendments made by subsection (e) shall apply to years ending after the date of the enactment of this Act.

SEC. 3. TREATMENT OF INVESTMENT OF ASSETS BY PLAN WHERE PARTICIPANT FAILS TO EXERCISE INVESTMENT ELECTION.

(a) IN GENERAL.—Section 404(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104(c)) is amended by adding at the end the following new paragraph:

''(4) DEFAULT INVESTMENT ARRANGEMENTS.—

''(A) IN GENERAL.—For purposes of paragraph (1), a participant in an individual account plan meeting the notice requirements of subparagraph (B) shall be treated as exercising control over the assets in the account with respect to the amount of contributions and earnings which, in the absence of an investment election by the participant, are invested by the plan in accordance with regulations prescribed by the Secretary. The regulations under this subparagraph shall provide guidance on the appropriateness of designating default investments that include a mix of asset classes consistent with long-term capital appreciation.

''(B) NOTICE REQUIREMENTS.—

''(i) IN GENERAL.—The requirements of this subparagraph are met if each participant—

''(I) receives, within a reasonable period of time before each plan year, a notice explaining the employee's right under the plan to designate how contributions and earnings will be invested and explaining how, in the absence of any investment election by the participant, such contributions and earnings will be invested, and

''(II) has a reasonable period of time after receipt of such notice and before the beginning of the plan year to make such designation.

''(ii) FORM OF NOTICE.—The requirements of clauses (i) and (ii) of section 401(k)(12)(D) of the Internal Revenue Code of 1986 shall be met with respect to the notices described in this subparagraph.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2005.

(2) REGULATIONS.—Final regulations under section 404(c)(4)(A) of the Employee Retirement Income Security Act of 1974 (as added by this section) shall be issued no later than 6 months after the date of the enactment of this Act.

By Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. SPECTER, Mr. KENNEDY, and Mr. HARKIN):

S. 876. A bill to prohibit human cloning and protect stem cell research; to the Committee on the Judiciary.

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

Mr. HATCH. Mr. President, I am very pleased to join with Senators FEINSTEIN, SPECTER, KENNEDY, and HARKIN to introduce the Human Cloning Ban and Stem Cell Research Protection Act of 2005. This bill could help usher in the next great era of medical treatment. At the same time, it will criminalize the offensive practice of reproductive cloning.

If you remember when Jonas Salk discovered the polio vaccine, you will recall what a revolutionary step that was, to be able to stop ravaging diseases before they hit their victims. It led to a whole new way of practicing medicine and paved the way for the vaccines and treatments that we take for granted today.

I believe we are on the verge of a similar step, a new generation in medical research and treatment, thanks to the incredible potential of stem cells. Stem cell research—particularly, embryonic stem cell research—holds great promise. To quote Nobel Laureate Dr. Harold Varmus, ''The development of cell lines that may produce almost every tissue of the human body is an unprecedented scientific breakthrough. It is not too unrealistic to say that this research has the potential to revolutionize the practice of medicine and improve the quality and length of life.''

As Dr. Varmus noted, embryonic stem cells appear to have the amazing potential to transform themselves into any of the more than 200 types of cells that form the human body. These cells

could be the key to understanding much about human health and disease and may yield new diagnostic tests, treatments, and cures for diseases such as diabetes, cancer, heart disease, Parkinson's, autoimmune diseases, and many, many others.

Stem cell research could potentially be the scientific advance that takes the practice of medicine not just to the next level, but to five or ten levels above and beyond. Like my colleagues, I believe there is an urgent need for uniformity in the rules governing stem cell research in America. But let me just stress one aspect of that need: ethics. Without the National Institutes of Health setting the ethical guidelines for stem cell research, we invite a host of problems. Most of us feel strongly that human reproductive cloning is wrong, for example. But where should the lines be drawn with regard to embryonic stem cell research—particularly, somatic cell nuclear transfer and the use of cell lines derived from IVF embryos?

The NIH is the obvious and crucial choice to help set the ethical boundaries. Our bill will ban outright any attempt at bringing to life a cloned human being. It will also prohibit research on any embryo created through somatic cell nuclear transfer beyond 14 days, require informed consent of donors, prohibit profiteering from donated eggs, and mandate separation of the egg collection site from the research laboratory.

The NIH will help determine other suitable ethical guidelines in allowing this critical research to go forward with Federal funding and at federally-funded institutions. There is no question in my mind that, when they do, the rest of the world will follow.

Now, the last time we introduced this bill, there was interest in the fact that I, as a strongly pro-life senator, would be the lead sponsor. I think we have put that issue behind us, as more pro-life lawmakers have expressed their support for this research. The fact is, I have never believed that life begins in a Petri dish. And as I travel across my home State of Utah, more and more Utahns, whether they are pro-life or not, come up to me and say, ''ORRIN, we're with you on this. You're doing the right thing.''

That support is building across the country, and we must act. If we do not seize this opportunity, other countries could take the leading role in medicine's next great advance. We will lose the chance to set ethical guidelines, we will lose doctors to overseas research institutions, and most importantly, we will lose the chance to offer new hope to American and other patients who are waiting in desperation for treatments and cures.

I urge the Senate to take up and pass this bill, and I look forward to the work ahead.

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. 876

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 ''Human Cloning Ban and Stem Cell Research Protection Act of 2005''.

SEC. 2. PURPOSES.

It is the purpose of this Act to prohibit human cloning and to protect important areas of medical research, including stem cell research.

TITLE I—PROHIBITION ON HUMAN CLONING

SEC. 101. PROHIBITION ON HUMAN CLONING.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 15, the following:

''CHAPTER 16—PROHIBITION ON HUMAN CLONING

''301. Prohibition on human cloning

''§ 301. Prohibition on human cloning

''(a) DEFINITIONS.—In this section:

''(1) HUMAN CLONING.—The term 'human cloning' means implanting or attempting to implant the product of nuclear transplantation into a uterus or the functional equivalent of a uterus.

''(2) HUMAN SOMATIC CELL.—The term 'human somatic cell' means any human cell other than a haploid germ cell.

''(3) NUCLEAR TRANSPLANTATION.—The term 'nuclear transplantation' means transferring the nucleus of a human somatic cell into an oocyte from which the nucleus or all chromosomes have been or will be removed or rendered inert.

''(4) NUCLEUS.—The term 'nucleus' means the cell structure that houses the chromosomes.

''(5) OOCYTE.—The term 'oocyte' means the female germ cell, the egg.

''(6) UNFERTILIZED BLASTOCYST.—The term 'unfertilized blastocyst' means an intact cellular structure that is the product of nuclear transplantation. Such term shall not include stem cells, other cells, cellular structures, or biological products derived from an intact cellular structure that is the product of nuclear transplantation.

''(b) PROHIBITIONS ON HUMAN CLONING.—It shall be unlawful for any person or other legal entity, public or private—

''(1) to conduct or attempt to conduct human cloning;

''(2) to ship the product of nuclear transplantation in interstate or foreign commerce for the purpose of human cloning in the United States or elsewhere; or

''(3) to export to a foreign country an unfertilized blastocyst if such country does not prohibit human cloning.

''(c) PROTECTION OF RESEARCH.—Nothing in this section shall be construed to restrict practices not expressly prohibited in this section.

''(d) PENALTIES.—

''(1) CRIMINAL PENALTIES.—Whoever intentionally violates paragraph (1), (2), or (3) of subsection (b) shall be fined under this title and imprisoned not more than 10 years.

''(2) CIVIL PENALTIES.—Whoever intentionally violates paragraph (1), (2), or (3) of subsection (b) shall be subject to a civil penalty of $1,000,000 or three times the gross pecuniary gain resulting from the violation, whichever is greater.

''(3) FORFEITURE.—Any property, real or personal, derived from or used to commit a violation or attempted violation of the provisions of subsection (b), or any property traceable to such property, shall be subject to forfeiture to the United States in accordance with the procedures set forth in chapter 46 of title 18, United States Code.

''(e) RIGHT OF ACTION.—Nothing in this section shall be construed to give any individual or person a private right of action.''.

SEC. 102. OVERSIGHT REPORTS ON ACTIONS TO ENFORCE CERTAIN PROHIBITIONS.

(a) REPORT ON ACTIONS BY ATTORNEY GENERAL TO ENFORCE CHAPTER 16 OF TITLE 18.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall prepare and submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report that—

(1) describes the actions taken by the Attorney General to enforce the provisions of chapter 16 of title 18, United States Code (as added by section 101);

(2) describes the personnel and resources the Attorney General has utilized to enforce the provisions of such chapter; and

(3) contain a list of any violations, if any, of the provisions of such chapter 16.

(b) REPORT ON ACTIONS OF STATE ATTORNEYS GENERAL TO ENFORCE SIMILAR STATE LAWS.—

(1) DEFINITION.—In this subsection and subsection (c), the term ''similar State law relating to human cloning'' means a State or local law that provides for the imposition of criminal penalties on individuals who are determined to be conducting or attempting to conduct human cloning (as defined in section 301 of title 18, United States Code (as added by section 101)).

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall prepare and submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report that—

(A) describes any similar State law relating to human cloning;

(B) describes the actions taken by the State attorneys general to enforce the provisions of any similar State law relating to human cloning;

(C) contains a list of violations, if any, of the provisions of any similar State law relating to human cloning; and

(D) contains a list of any individual who, or organization that, has violated, or has been charged with violating, any similar State law relating to human cloning.

(c) REPORT ON COORDINATION OF ENFORCEMENT ACTIONS AMONG THE FEDERAL AND STATE AND LOCAL GOVERNMENTS WITH RESPECT TO HUMAN CLONING.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall prepare and submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report that

(1) describes how the Attorney General coordinates the enforcement of violations of chapter 16 of title 18, United States Code (as added by section 101), with enforcement actions taken by State or local government law enforcement officials with respect to similar State laws relating to human cloning; and

(2) describes the status and disposition of—

(A) Federal appellate litigation with respect to such chapter 16 and State appellate litigation with respect to similar State laws relating to human cloning; and

(B) civil litigation, including actions to appoint guardians, related to human cloning.

(d) REPORT ON INTERNATIONAL LAWS RELATING TO HUMAN CLONING.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall prepare and submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report that—

(1) describes the laws adopted by foreign countries related to human cloning;

(2) describes the actions taken by the chief law enforcement officer in each foreign country that has enacted a law described in paragraph (1) to enforce such law; and

(3) describes the multilateral efforts of the United Nations and elsewhere to ban human cloning.

TITLE II—ETHICAL REQUIREMENTS FOR NUCLEAR TRANSPLANTATION RESEARCH

SEC. 201. ETHICAL REQUIREMENTS FOR NUCLEAR TRANSPLANTATION RESEARCH.

Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end the following:

''PART J—ETHICAL REQUIREMENTS FOR NUCLEAR TRANSPLANTATION RESEARCH

''SEC. 499A. ETHICAL REQUIREMENTS FOR NUCLEAR TRANSPLANTATION RESEARCH, INCLUDING INFORMED CONSENT, INSTITUTIONAL REVIEW BOARD REVIEW, AND PROTECTION FOR SAFETY AND PRIVACY.

''(a) DEFINITIONS.—

''(1) IN GENERAL.—The definitions contained in section 301(a) of title 18, United States Code, shall apply for purposes of this section.

''(2) OTHER DEFINITIONS.—In this section:

''(A) DONATING.—The term 'donating' means giving without receiving valuable consideration.

''(B) FERTILIZATION.—The term 'fertilization' means the fusion of an oocyte containing a haploid nucleus with a male gamete (sperm cell).

''(C) VALUABLE CONSIDERATION.—The term 'valuable consideration' does not include reasonable payments—

''(i) associated with the transportation, processing, preservation, or storage of a human oocyte or of the product of nuclear transplantation research; or

''(ii) to compensate a donor of one or more human oocytes for the time or inconvenience associated with such donation.

''(b) APPLICABILITY OF FEDERAL ETHICAL STANDARDS TO NUCLEAR TRANSPLANTATION RESEARCH.—Research involving nuclear transplantation shall be conducted in accordance with subpart A of part 46 of title 45, or parts 50 and 56 of title 21, Code of Federal Regulations (as in effect on the date of enactment of the Human Cloning Ban and Stem Cell Research Protection Act of 2003), as applicable:

''(c) PROHIBITION ON CONDUCTING NUCLEAR TRANSPLANTATION ON FERTILIZED EGGS.—A somatic cell nucleus shall not be transplanted into a human oocyte that has undergone or will undergo fertilization.

''(d) FOURTEEN-DAY RULE.—An unfertilized blastocyst shall not be maintained after more than 14 days from its first cell division, not counting any time during which it is stored at temperatures less than zero degrees centigrade.

''(e) VOLUNTARY DONATION OF OOCYTES.—

''(1) INFORMED CONSENT.—In accordance with subsection (b), an oocyte may not be used in nuclear transplantation research unless such oocyte shall have been donated voluntarily by and with the informed consent of the woman donating the oocyte.

''(2) PROHIBITION ON PURCHASE OR SALE.—No human oocyte or unfertilized blastocyst may be acquired, received, or otherwise transferred for valuable consideration if the transfer affects interstate commerce.

''(f) SEPARATION OF IN VITRO FERTILIZATION LABORATORIES FROM LOCATIONS AT WHICH NUCLEAR TRANSPLANTATION IS CONDUCTED.—Nuclear transplantation may not be conducted in a laboratory in which human oocytes are subject to assisted reproductive technology treatments or procedures.

''(g) CIVIL PENALTIES.—Whoever intentionally violates any provision of subsections (b) through (f) shall be subject to a civil penalty in an amount that is appropriate for the violation involved, but not more than $250,000.''.

Mrs. FEINSTEIN. Mr. President, today Senators HATCH, KENNEDY, SPECTER, HARKIN and I are introducing legislation to ban human reproductive cloning, while ensuring that important medical research goes forward under strict oversight by the federal government.

Simply put, this legislation will enable research to be conducted that provides hope to millions of Americans suffering from paralysis and debilitating diseases including Juvenile Diabetes, Parkinson's, Alzheimer's, cancer and heart disease.

Every member of this body knows someone—whether it's a parent or grandparent, a child or a friend—who suffers from one of these diseases. That is why this legislation is so critical. We must act now to protect promising research that will bring hope to those who suffer.

I now that every member of this body would agree that human reproductive cloning is immoral and unethical. It should be outlawed by Congress and the President. That is exactly what this bill does.

It prohibits any person from conducting or attempting to clone a human being. It also prohibits shipping materials for the purpose of human cloning in interstate or foreign commerce and prohibits the export of an unfertilized blastocyst to a foreign country if such country does not prohibit human cloning.

Any person that violates this prohibition is subject to harsh criminal and civil penalties. They include: imprisonment of up to 10 years in federal prison.

Fines of up to $1 million or three times the gross profits resulting from the violation, whichever is greater.

This legislation draws a bright line between human reproductive cloning and promising medical research using somatic cell nuclear transplantation for the sole purpose of deriving embryonic stem cells.

Somatic cell nuclear transplantation is the process by which scientists derive embryonic stem cells that are an exact genetic match as the patient. Those embryonic stem cells will one day be used to correct defective cells such as non-insulin producing or cancerous cells. Then those patients will not be forced to take immuno-suppressive drugs and risk the chances of rejection since the new cells will contain their own DNA.

It is truly astonishing that somatic cell nuclear transplantation research may one day be used to regrow tissue or organs that could lead to treatments and cures for diseases that afflict up to 100 million Americans. What we are talking about here is research that does not even involve sperm and an egg.

I believe it is essential that this research be conducted with Federal Government oversight and under strict ethical requirements.

That is why the legislation: Mandates that eggs used in this research be unfertilized.

Prohibits the purchase or sale of unfertilized eggs—to prevent ''embryo farms'' or the possible exploitation of women.

Imposes strong ethics rules on scientists, mandating informed consent by egg donors, and include safety and privacy protections.

Prohibit any research on an unfertilized blastocyst after 14 days—After 14 days, an unfertilized blastocyst begins differentiating into a specific type of cell such as a heart or brain cell and is no longer useful for the purposes of embryonic stem cell research.

Requires that all egg donations be voluntary, and that there is no financial or other incentive for egg donations.

Requires that nuclear transportation occur in labs completely separate from labs that engage in in vitro fertilization.

And for those who violate or attempt to violate the ethical requirements of the legislation, they will be subject to civil penalties of up to $250,000 per violation.

Embryonic stem cell research that is currently being done using private funds, in animal models, and by scientists overseas continues to show great promise and potential. This progress will not be sustained in the U.S. without additional stem cell lines for federally-funded research and without strict federal oversight of this research.

Senator HATCH and I have argued this point for years. What has happened since the President limited federally-funded research to only those embryonic stem cell lines derived prior to August 9, 2001?

Researchers have made a number of advancements confirming the promise of embryonic stem cells using animal models and private research dollars. In the absence of federal policy on embryonic stem cell research and human reproductive cloning, States have taken action creating a patchwork of state laws under varying ethical frameworks. Fewer researchers are choosing to go into this field given the void created by Federal inaction.

Last January, a study published by researchers from the University of California San Diego and the Salk Institute for Biological Studies confirmed that all 22 existing federally-approved stem cell lines are tainted by mouse feeders cells and cannot be used in humans.

Researchers at the Whitehead Institute in Cambridge, MA, used embryonic stem cells created by somatic cell nuclear transplantation to cure a genetic defect in mice.

Researchers at Sloan-Kettering Cancer Center in New York found that embryonic stem cells produce proteins

that can help ailing organs repair themselves.

Stanford scientists were able to relieve diabetes symptoms in mice by using special chemicals to transform undifferentiated embryonic stem cells of mice into cell masses that resemble islets found in the mouse pancreas.

In the absence of federal legislation, we have seen a patchwork of State laws under varying ethical frameworks and this is extremely worrisome. In total, 30 States have passed laws pertaining to stem cell research and there is tremendous variety in those laws.

California launched a $3 billion initiative to fund embryonic stem cell research including somatic cell nuclear transplantation research which bans human reproductive cloning.

At least 6 academic centers in California including UC San Francisco, Stanford, UCLA, UC Berkeley, UC Irvine and UC Davis have already begun developing facilities where this embryonic stem cell research will be conducted and are all actively recruiting stem cell biologists from across the country.

New Jersey has proposed a $380 million initiative to fund embryonic stem cell research.

Wisconsin has proposed investing $750 million to support embryonic stem cell research.

By contrast, Arkansas, Iowa, North Dakota, South Dakota and Michigan have specifically prohibited nuclear transfer used to create stem cells. And 22 other States have enacted laws on the matter.

What this means is researchers and research money are now moving to States with pro-research laws and pro-research Governors.

There is clearly a void that needs to be filled—and it can only be filled by the Federal Government.

To be clear, this is research that involves an unfertilized blastocyst. No sperm are involved. It is conducted in a petri dish and cannot occur beyond 14 days. It is also prohibited from ever being implanted into a woman to create a child.

For those who believe that the clump of cells in a petri dish that we are talking about is a human life, that is a moral decision each person must make for himself, but to impose that view on the more than 100 million of our parents, children and friends who suffer from Parkinson's, diabetes, Alzheimer's and cancer is immoral.

As former Senator and Episcopal minister John C. Danforth said recently in an op-ed in the New York Times, ''Criminalizing the work of scientists doing such research would give strong support to one religious doctrine, and it would punish people who believe it is their religious duty to use science to heal the sick.

This is exactly why the legislation I am introducing with my colleagues Senators HATCH, KENNEDY, SPECTER and HARKIN is needed. I urge the Senate to take up and pass this bill and help turn the hopes of millions of Americans into reality.

I ask unanimous consent that the attached letter be printed in the RECORD.

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

COALITION FOR THE ADVANCEMENT OF MEDICAL RESEARCH,
Washington, DC, April 21, 2005.

Senator DIANNE FEINSTEIN,
U.S. Senate, 331 Hart Senate Office Building Washington, DC.

DEAR SENATOR FEINSTEIN, On behalf of the Coalition for the Advancement of Medical Research (CAMR), I am writing to add our strong support for the introduction of the Human Cloning Ban and Stem Cell Research Protection Act of 2005. Along with Senator ORRIN HATCH (R–UT), Senator ARLEN SPECTER (R–PA), Senator TED KENNEDY (D–MA), and Senator TOM HARKIN (D–IA), your leadership in protecting research using somatic cell nuclear transfer (SCNT), also known as therapeutic cloning, is greatly appreciated.

This year, Congress will address the future of biomedical research and the Nation's efforts to prevent, treat, and cure such debilitating diseases as cancer, juvenile diabetes, ALS, Parkinson's disease, spinal cord injuries and many more. Let me be clear, CAMR supports a ban on reproductive cloning; it is unsafe and unethical. Given the scientific potential of SCNT and regenerative medicine, however, we strongly support the bill's effort to allow for this research, which may provide essential tools allowing scientists to develop the promise of embryonic stern cell research. I am sure you will agree, therapeutic cloning is about saving and improving lives. It is fW1damemally different from human reproductive cloning; it produces stem cells, not babies.

CAMR applauds your leadership in sponsoring legislation that ensures cures for devastating diseases continue to be developed. We look forward to working with you.

Thank you,

DANIEL PERRY,
President.

Mr. KENNEDY. It is a privilege to join Senator HATCH, Senator FEINSTEIN, Senator SPECTER and Senator HARKIN in sponsoring the Human Cloning Ban and Stem Cell Research Protection Act of 2005. This bipartisan proposal will outlaw human cloning and open the way to proper, ethical cures for our most feared diseases.

Using cloning to reproduce a child is improper and immoral—and our legislation will make it illegal. Medicine must advance hand in hand with ethics, and the legislation we introduce today will make certain that American research sets the gold standard for ethical oversight.

But it is wrong to deny the great potential of medical research using the remarkable new techniques of stem cell research, which can save lives by preventing, treating, and curing a wide range of severe diseases and disabilities.

We see the benefits of investment in biotechnology all around us. Fifty years ago last week, Jonas Salk announced the first polio vaccine. Imagine a world without that extraordinary discovery—where peoples everywhere lived in fear of the polio virus and the devastation it brings.

Thirty years ago, Congress was considering whether to ban research on recombinant DNA—the very foundation of biotechnology.

Time after time, we heard of the medical advances that this new field of research would bring. Then—as now—some dismissed this promise as a pipe dream and urged Congress to forbid it. We chose instead to vote for new hope and new cures. Today, countless Americans and persons throughout the world are already benefiting from the new treatments that biotechnology has brought. Why call a halt?

In the 1980s Congress made the right choice, again, by rejecting attempts to outlaw in vitro fertilization, a technique that has fulfilled the hopes and dreams of thousands of parents who would never have been able to have a child.

Our debate today is no different and Congress should do all it can to support lifesaving research, not prohibit it.

Other nations are more than willing to leave us behind. The potential of this research is so immense that some of our best scientists are already leaving America to pursue their dreams in research laboratories in other countries. We need to stop that exodus before it becomes a nightmare. Do we really want to wake up 10 years from now and hear that a former American scientist in another land has won the Nobel Prize in medicine for a landmark discovery in stem cell research?

The misguided fears of today can't be allowed to deny the cures of tomorrow. I commend my colleagues for their leadership on this important legislation, and I hope the Senate will act quickly to approve this urgently needed bill.

By Mr. DOMENICI (for himself, Mr. LIEBERMAN, Mr. FRIST, Mr. LUGAR, Mr. ISAKSON, Mr. ENZI, Mr. FEINGOLD, Mr. CRAPO, Mr. ALEXANDER, Mr. BUNNING, Mr. SESSIONS, Mr. ALLARD, and Mr. CORZINE):

S. 877. A bill to provide for a biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government; to the Committee on the Budget.

Mr. DOMENICI. Mr. President, on behalf of Senator LIEBERMAN, the distinguished Ranking Member of the Governmental Affairs Committee and eleven other Senators, I rise to introduce the ''Biennial Budgeting and Appropriations Act,'' a bill to convert the annual budget and appropriations process to a two-year cycle and to enhance oversight of federal programs.

Our most recent experience with the Omnibus Consolidated Appropriations Act shows the need for a biennial appropriations and budget process. That one bill clearly demonstrated Congress is incapable of completing the budget, authorizing, and appropriations process on an annual basis. That 1,000 plus paged bill contained nine of the regular appropriations bills.

Congress should now act to streamline the system by moving to a two-

year, or biennial, budget process. This is the most important reform we can enact to streamline the budget process, to make the Senate a more deliberative and effective institution, and to make us more accountable to the American people.

Moving to a biennial budget and appropriations process enjoys very broad support. President Bush has supported a biennial budgeting process. Presidents Clinton, Reagan and Bush also proposed a biennial appropriations and budget cycle. Leon Panetta, who served as White House Chief of Staff, OMB Director, and House Budget Committee Chairman, has advocated a biennial budget since the late 1970s. Former OMB and CBO Director Alice Rivlin has called for a biennial budget the past two decades. The Majority Leader is a co-sponsor of this legislation.

Vice President Gore's National Performance Review and the 1993 Joint Committee on the Reorganization of Congress both recommended a biennial appropriations and budget cycle.

A biennial budget will dramatically improve the current budget process. The current annual budget process is redundant, inefficient, and destined for failure each year. Look at what we struggle to complete each year under the current annual process. The annual budget process consumes three years: one year for the Administration to prepare the President's budget, another year for the Congress to put the budget into law, and the final year to actually execute the budget.

Today, I want to focus just on the Congressional budget process, the process of annually passing a budget resolution, authorization legislation, and multiple appropriation bills. The record clearly shows that last year's experience was nothing new. Under the annual process, we consistently fail to complete action on multiple appropriations bills, to authorize programs, and to meet our deadlines.

While we have made a number of improvements in the budget process, the current annual process is redundant and inefficient. The Senate has the same debate, amendments and votes on the same issue three or four times a year—once on the budget resolution, again on the authorization bill, and finally on the appropriations bill.

A few years ago, I asked the Congressional Research Service (CRS) to update and expand upon an analysis of the amount of time we spend on the budget. CRS looked at all votes on appropriations, revenue, reconciliation, and debt limit measures as well as budget resolutions. CRS then examined any other vote dealing with budgetary levels, Budget Act waivers, or votes pertaining to the budget process. Beginning with 1980, budget related votes started dominating the work of the Senate. In 1996, 73 percent of the votes the Senate took were related to the budget.

If we cannot adequately focus on our duties because we are constantly debating the budget throughout the authorizing, budgeting, and appropriations process, just imagine how confused the American public is about what we are doing. The result is that the public does not understand what we are doing and it breeds cynicism about our government.

Under the legislation I am introducing today, the President would submit a 2-year budget and Congress would consider a 2-year budget resolution and 2-year appropriation bills during the first session of a Congress. The second session of the Congress would be devoted to consideration of authorization bills and for oversight of government agencies.

Most of the arguments against a biennial budget process will come from those who claim we cannot predict or plan on a two year basis. For most of the budget, we do not actually budget on an annual basis. Our entitlement and revenue laws are under permanent law and Congress does not change these laws on an annual basis. The only component of the budget that is set in law annually are the appropriated, or discretionary, accounts.

The most predictable category of the budget are these appropriated, or discretionary, accounts of the federal government. Much of this spending is associated with international activities or emergencies. Because most of this funding cannot be predicted on an annual basis, a biennial budget is no less deficient than the current annual process. My bill does not preclude supplemental appropriations necessary to meet these emergency or unanticipated requirements.

In 1993 I had the honor to serve as co-Chairman on a Joint Committee that studied the operations of the Congress. Senator BYRD testified before that Committee that the increasing demands put on us as Senators has led to our ''fractured attention.'' We simply are too busy to adequately focus on the people's business. This legislation is designed to free up time and focus our attention, particularly with respect to the oversight of Federal programs and activities.

Frankly, the limited oversight we are now doing is not as good as it should be. Our authorizing committees are increasingly crowded out of the legislative process. Under a biennial budget, the second year of the biennium will be exclusively devoted to examining federal programs and developing authorization legislation. The calendar will be free of the budget and appropriations process, giving these committees the time and opportunity to provide oversight, review and legislate changes to federal programs. Oversight and the authorization should be an ongoing process, but a biennial appropriations process will provide greater opportunity for legislators to concentrate on programs and policies in the second year.

Mr. President, a biennial budget cannot make the difficult decisions that must be made in budgeting, but it can provide the tools necessary to make much better decisions. Under the current annual budget process we are constantly spending the taxpayers' money instead of focusing on how best and most efficiently we should spend the taxpayers' money. By moving to a biennial budget cycle, we can plan, budget, and appropriate more effectively, strengthen oversight and watchdog functions, and improve the efficiency of government agencies.

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. 877

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 ''Biennial Budgeting and Appropriations Act''.

SEC. 2. REVISION OF TIMETABLE.

Section 300 of the Congressional Budget Act of 1974 (2 U.S.C. 631) is amended to read as follows:

''TIMETABLE

''SEC. 300. (a) IN GENERAL.—Except as provided by subsection (b), the timetable with respect to the congressional budget process for any Congress (beginning with the One Hundred Tenth Congress) is as follows:

''First Session

''On or before:	Action to be completed:
First Monday in February.	President submits budget recommendations.
February 15	Congressional Budget Office submits report to Budget Committees.
Not later than 6 weeks after budget submission.	Committees submit views and estimates to Budget Committees.
April 1	Budget Committees report concurrent resolution on the biennial budget.
May 15	Congress completes action on concurrent resolution on the biennial budget.
May 15	Biennial appropriation bills may be considered in the House.
June 10	House Appropriations Committee reports last biennial appropriation bill.
June 30	House completes action on biennial appropriation bills.
August 1	Congress completes action on reconciliation legislation.
October 1	Biennium begins.

''Second Session

''On or before:	Action to be completed:
February 15	President submits budget review.
Not later than 6 weeks after President submits budget review.	Congressional Budget Office submits report to Budget Committees.
The last day of the session.	Congress completes action on bills and resolutions authorizing new budget authority for the succeeding biennium.

''(b) SPECIAL RULE.—In the case of any first session of Congress that begins in any year immediately following a leap year and during which the term of a President (except a President who succeeds himself or herself) begins, the following dates shall supersede those set forth in subsection (a):

''First Session

''On or before:	Action to be completed:

''First Session—Continued

First Monday in April.	President submits budget recommendations.
April 20	Committees submit views and estimates to Budget Committees.
May 15	Budget Committees report concurrent resolution on the biennial budget.
June 1	Congress completes action on concurrent resolution on the biennial budget.
July 1	Biennial appropriation bills may be considered in the House.
July 20	House completes action on biennial appropriation bills.
August 1	Congress completes action on reconciliation legislation.
October 1	Biennium begins.''.

SEC. 3. AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.

(a) DECLARATION OF PURPOSE.—Section 2(2) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621(2)) is amended by striking ''each year'' and inserting ''biennially''.

(b) DEFINITIONS.—

(1) BUDGET RESOLUTION.—Section 3(4) of such Act (2 U.S.C. 622(4)) is amended by striking ''fiscal year'' each place it appears and inserting ''biennium''.

(2) BIENNIUM.—Section 3 of such Act (2 U.S.C. 622) is further amended by adding at the end the following new paragraph:

''(11) The term 'biennium' means the period of 2 consecutive fiscal years beginning on October 1 of any odd-numbered year.''.

(c) BIENNIAL CONCURRENT RESOLUTION ON THE BUDGET.—

(1) SECTION HEADING.—The section heading of section 301 of such Act is amended by striking ''annual'' and inserting ''biennial''.

(2) CONTENTS OF RESOLUTION.—Section 301(a) of such Act (2 U.S.C. 632(a)) is amended—

(A) in the matter preceding paragraph (1) by—

(i) striking ''April 15 of each year'' and inserting ''May 15 of each odd-numbered year'';

(ii) striking ''the fiscal year beginning on October 1 of such year'' the first place it appears and inserting ''the biennium beginning on October 1 of such year''; and

(iii) striking ''the fiscal year beginning on October 1 of such year'' the second place it appears and inserting ''each fiscal year in such period'';

(B) in paragraph (6), by striking ''for the fiscal year'' and inserting ''for each fiscal year in the biennium''; and

(C) in paragraph (7), by striking ''for the fiscal year'' and inserting ''for each fiscal year in the biennium''.

(3) ADDITIONAL MATTERS.—Section 301(b)(3) of such Act (2 U.S.C. 632(b)) is amended by striking ''for such fiscal year'' and inserting ''for either fiscal year in such biennium''.

(4) VIEWS OF OTHER COMMITTEES.—Section 301(d) of such Act (2 U.S.C. 632(d)) is amended by inserting ''(or, if applicable, as provided by section 300(b))'' after ''United States Code''.

(5) HEARINGS.—Section 301(e)(1) of such Act (2 U.S.C. 632(e)) is amended by—

(A) striking ''fiscal year'' and inserting ''biennium''; and

(B) inserting after the second sentence the following: ''On or before April 1 of each odd-numbered year (or, if applicable, as provided by section 300(b)), the Committee on the Budget of each House shall report to its House the concurrent resolution on the budget referred to in subsection (a) for the biennium beginning on October 1 of that year.''.

(6) GOALS FOR REDUCING UNEMPLOYMENT.—Section 301(f) of such Act (2 U.S.C. 632(f)) is amended by striking ''fiscal year'' each place it appears and inserting ''biennium''.

(7) ECONOMIC ASSUMPTIONS.—Section 301(g)(1) of such Act (2 U.S.C. 632(g)(1)) is amended by striking ''for a fiscal year'' and inserting ''for a biennium''.

(8) TABLE OF CONTENTS.—The item relating to section 301 in the table of contents set forth in section 1(b) of such Act is amended by striking ''Annual'' and inserting ''Biennial''.

(d) COMMITTEE ALLOCATIONS.—Section 302 of such Act (2 U.S.C. 633) is amended—

(1) in subsection (a)

(A) in paragraph (1), by—

(i) striking ''for the first fiscal year of the resolution,'' and inserting ''for each fiscal year in the biennium,'';

(ii) striking ''for that period of fiscal years'' and inserting ''for all fiscal years covered by the resolution''; and

(iii) striking ''for the fiscal year of that resolution'' and inserting ''for each fiscal year in the biennium''; and

(B) in paragraph (5), by striking ''April 15'' and inserting ''May 15 or June 1 (under section 300(b))'';

(2) in subsection (b), by striking ''budget year'' and inserting ''biennium'';

(3) in subsection (c) by striking ''for a fiscal year'' each place it appears and inserting ''for each fiscal year in the biennium'';

(4) in subsection (f)(1), by striking ''for a fiscal year'' and inserting ''for a biennium'';

(5) in subsection (f)(1), by striking ''the first fiscal year'' and inserting ''each fiscal year of the biennium'';

(6) in subsection (f)(2)(A), by—

(A) striking ''the first fiscal year'' and inserting ''each fiscal year of the biennium''; and

(B) striking ''the total of fiscal years'' and inserting ''the total of all fiscal years covered by the resolution''; and

(7) in subsection (g)(1)(A), by striking ''April'' and inserting ''May''.

(e) SECTION 303 POINT OF ORDER.—

(1) IN GENERAL.—Section 303(a) of such Act (2 U.S.C. 634(a)) is amended by—

(A) striking ''the first fiscal year'' and inserting ''each fiscal year of the biennium''; and

(B) striking ''that fiscal year'' each place it appears and inserting ''that biennium''.

(2) EXCEPTIONS IN THE HOUSE.—Section 303(b)(1) of such Act (2 U.S.C. 634(b)) is amended—

(A) in subparagraph (A), by striking ''the budget year'' and inserting ''the biennium''; and

(B) in subparagraph (B), by striking ''the fiscal year'' and inserting ''the biennium''.

(3) APPLICATION TO THE SENATE.—Section 303(c)(1) of such Act (2 U.S.C. 634(c)) is amended by—

(A) striking ''fiscal year'' and inserting ''biennium''; and

(B) striking ''that year'' and inserting ''each fiscal year of that biennium''.

(f) PERMISSIBLE REVISIONS OF CONCURRENT RESOLUTIONS ON THE BUDGET.—Section 304(a) of such Act (2 U.S.C. 635) is amended—

(1) by striking ''fiscal year'' the first two places it appears and inserting ''biennium''; and

(2) by striking ''for such fiscal year'' and inserting ''for such biennium''.

(g) PROCEDURES FOR CONSIDERATION OF BUDGET RESOLUTIONS.—Section 305 of such Act (2 U.S.C. 636(3)) is amended—

(1) in subsection (a)(3), by striking ''fiscal year'' and inserting ''biennium''; and

(2) in subsection (b)(3), by striking ''fiscal year'' and inserting ''biennium''.

(h) COMPLETION OF HOUSE ACTION ON APPROPRIATION BILLS.—Section 307 of such Act (2 U.S.C. 638) is amended—

(1) by striking ''each year'' and inserting ''each odd-numbered year'';

(2) by striking ''annual'' and inserting ''biennial'';

(3) by striking ''fiscal year'' and inserting ''biennium''; and

(4) by striking ''that year'' and inserting ''each odd-numbered year''.

(i) COMPLETION OF ACTION ON REGULAR APPROPRIATION BILLS.—Section 309 of such Act (2 U.S.C. 640) is amended—

(1) by inserting ''of any odd-numbered calendar year'' after ''July'';

(2) by striking ''annual'' and inserting ''biennial''; and

(3) by striking ''fiscal year'' and inserting ''biennium''.

(j) RECONCILIATION PROCESS.—Section 310(a) of such Act (2 U.S.C. 641(a)) is amended—

(1) in the matter preceding paragraph (1), by striking ''any fiscal year'' and inserting ''any biennium''; and

(2) in paragraph (1) by striking ''such fiscal year'' each place it appears and inserting ''any fiscal year covered by such resolution''.

(k) SECTION 311 POINT OF ORDER.—

(1) IN THE HOUSE.—Section 311(a)(1) of such Act (2 U.S.C. 642(a)) is amended—

(A) by striking ''for a fiscal year'' and inserting ''for a biennium'';

(B) by striking ''the first fiscal year'' each place it appears and inserting ''either fiscal year of the biennium''; and

(C) by striking ''that first fiscal year'' and inserting ''each fiscal year in the biennium''.

(2) IN THE SENATE.—Section 311(a)(2) of such Act is amended—

(A) in subparagraph (A), by striking ''for the first fiscal year'' and inserting ''for either fiscal year of the biennium''; and

(B) in subparagraph (B)—

(i) by striking ''that first fiscal year'' the first place it appears and inserting ''each fiscal year in the biennium''; and

(ii) by striking ''that first fiscal year and the ensuing fiscal years'' and inserting ''all fiscal years''.

(3) SOCIAL SECURITY LEVELS.—Section 311(a)(3) of such Act is amended by—

(A) striking ''for the first fiscal year'' and inserting ''each fiscal year in the biennium''; and

(B) striking ''that fiscal year and the ensuing fiscal years'' and inserting ''all fiscal years''.

(l) MDA POINT OF ORDER.—Section 312(c) of the Congressional Budget Act of 1974 (2 U.S.C. 643) is amended—

(1) by striking ''for a fiscal year'' and inserting ''for a biennium'';

(2) in paragraph (1), by striking ''the first fiscal year'' and inserting ''either fiscal year in the biennium'';

(3) in paragraph (2), by striking ''that fiscal year'' and inserting ''either fiscal year in the biennium''; and

(4) in the matter following paragraph (2), by striking ''that fiscal year'' and inserting ''the applicable fiscal year''.

SEC. 4. AMENDMENTS TO TITLE 31, UNITED STATES CODE.

(a) DEFINITION.—Section 1101 of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

''(3) 'biennium' has the meaning given to such term in paragraph (11) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(11)).''.

(b) BUDGET CONTENTS AND SUBMISSION TO THE CONGRESS.—

(1) SCHEDULE.—The matter preceding paragraph (1) in section 1105(a) of title 31, United States Code, is amended to read as follows:

''(a) On or before the first Monday in February of each odd-numbered year (or, if applicable, as provided by section 300(b) of the Congressional Budget Act of 1974), beginning with the One Hundred Ninth Congress, the President shall transmit to the Congress, the

budget for the biennium beginning on October 1 of such calendar year. The budget of the United States Government transmitted under this subsection shall include a budget message and summary and supporting information. The President shall include in each budget the following:''.

(2) EXPENDITURES.—Section 1105(a)(5) of title 31, United States Code, is amended by striking ''the fiscal year for which the budget is submitted and the 4 fiscal years after that year'' and inserting ''each fiscal year in the biennium for which the budget is submitted and in the succeeding 4 fiscal years''.

(3) RECEIPTS.—Section 1105(a)(6) of title 31, United States Code, is amended by striking ''the fiscal year for which the budget is submitted and the 4 fiscal years after that year'' and inserting ''each fiscal year in the biennium for which the budget is submitted and in the succeeding 4 years''.

(4) BALANCE STATEMENTS.—Section 1105(a)(9)(C) of title 31, United States Code, is amended by striking ''the fiscal year'' and inserting ''each fiscal year in the biennium''.

(5) FUNCTIONS AND ACTIVITIES.—Section 1105(a)(12) of title 31, United States Code, is amended in subparagraph (A), by striking ''the fiscal year'' and inserting ''each fiscal year in the biennium''.

(6) ALLOWANCES.—Section 1105(a)(13) of title 31, United States Code, is amended by striking ''the fiscal year'' and inserting ''each fiscal year in the biennium''.

(7) ALLOWANCES FOR UNCONTROLLED EXPENDITURES.—Section 1105(a)(14) of title 31, United States Code, is amended by striking ''that year'' and inserting ''each fiscal year in the biennium for which the budget is submitted''.

(8) TAX EXPENDITURES.—Section 1105(a)(16) of title 31, United States Code, is amended by striking ''the fiscal year'' and inserting ''each fiscal year in the biennium''.

(9) FUTURE YEARS.—Section 1105(a)(17) of title 31, United States Code, is amended—

(A) by striking ''the fiscal year following the fiscal year'' and inserting ''each fiscal year in the biennium following the biennium'';

(B) by striking ''that following fiscal year'' and inserting ''each such fiscal year''; and

(C) by striking ''fiscal year before the fiscal year'' and inserting ''biennium before the biennium''.

(10) PRIOR YEAR OUTLAYS.—Section 1105(a)(18) of title 31, United States Code, is amended—

(A) by striking ''the prior fiscal year'' and inserting ''each of the 2 most recently completed fiscal years,'';

(B) by striking ''for that year'' and inserting ''with respect to those fiscal years''; and

(C) by striking ''in that year'' and inserting ''in those fiscal years''.

(11) PRIOR YEAR RECEIPTS.—Section 1105(a)(19) of title 31, United States Code, is amended—

(A) by striking ''the prior fiscal year'' and inserting ''each of the 2 most recently completed fiscal years'';

(B) by striking ''for that year'' and inserting ''with respect to those fiscal years''; and

(C) by striking ''in that year'' each place it appears and inserting ''in those fiscal years''.

(c) ESTIMATED EXPENDITURES OF LEGISLATIVE AND JUDICIAL BRANCHES.—Section 1105(b) of title 31, United States Code, is amended by striking ''each year'' and inserting ''each even-numbered year''.

(d) RECOMMENDATIONS TO MEET ESTIMATED DEFICIENCIES.—Section 1105(c) of title 31, United States Code, is amended—

(1) by striking ''the fiscal year for'' the first place it appears and inserting ''each fiscal year in the biennium for'';

(2) by striking ''the fiscal year for'' the second place it appears and inserting ''each fiscal year of the biennium, as the case may be, for''; and

(3) by striking ''for that year'' and inserting ''for each fiscal year of the biennium''.

(e) CAPITAL INVESTMENT ANALYSIS.—Section 1105(e)(1) of title 31, United States Code, is amended by striking ''ensuing fiscal year'' and inserting ''biennium to which such budget relates''.

(f) SUPPLEMENTAL BUDGET ESTIMATES AND CHANGES.—

(1) IN GENERAL.—Section 1106(a) of title 31, United States Code, is amended—

(A) in the matter preceding paragraph (1), by—

(i) inserting after ''Before July 16 of each year'' the following: ''and February 15 of each even-numbered year''; and

(ii) striking ''fiscal year'' and inserting ''biennium'';

(B) in paragraph (1), by striking ''that fiscal year'' and inserting ''each fiscal year in such biennium'';

(C) in paragraph (2), by striking ''fiscal year'' and inserting ''biennium''; and

(D) in paragraph (3), by striking ''fiscal year'' and inserting ''biennium''.

(2) CHANGES.—Section 1106(b) of title 31, United States Code, is amended by—

(A) striking ''the fiscal year'' and inserting ''each fiscal year in the biennium'';

(B) inserting after ''Before July 16 of each year'' the following: ''and February 15 of each even-numbered year''; and

(C) striking ''submitted before July 16'' and inserting ''required by this subsection''.

(g) CURRENT PROGRAMS AND ACTIVITIES ESTIMATES.—

(1) IN GENERAL.—Section 1109(a) of title 31, United States Code, is amended—

(A) by striking ''On or before the first Monday after January 3 of each year (on or before February 5 in 1986)'' and inserting ''At the same time the budget required by section 1105 is submitted for a biennium''; and

(B) by striking ''the following fiscal year'' and inserting ''each fiscal year of such period''.

(2) JOINT ECONOMIC COMMITTEE.—Section 1109(b) of title 31, United States Code, is amended by striking ''March 1 of each year'' and inserting ''within 6 weeks of the President's budget submission for each odd-numbered year (or, if applicable, as provided by section 300(b) of the Congressional Budget Act of 1974)''.

(h) YEAR-AHEAD REQUESTS FOR AUTHORIZING LEGISLATION.—Section 1110 of title 31, United States Code, is amended by—

(1) striking ''May 16'' and inserting ''March 31''; and

(2) striking ''year before the year in which the fiscal year begins'' and inserting ''calendar year preceding the calendar year in which the biennium begins''.

SEC. 5. TWO-YEAR APPROPRIATIONS; TITLE AND STYLE OF APPROPRIATIONS ACTS.

Section 105 of title 1, United States Code, is amended to read as follows:

''§ 105. Title and style of appropriations Acts

''(a) The style and title of all Acts making appropriations for the support of the Government shall be as follows: 'An Act making appropriations (here insert the object) for each fiscal year in the biennium of fiscal years (here insert the fiscal years of the biennium).'.

''(b) All Acts making regular appropriations for the support of the Government shall be enacted for a biennium and shall specify the amount of appropriations provided for each fiscal year in such period.

''(c) For purposes of this section, the term 'biennium' has the same meaning as in section 3(11) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(11)).''.

SEC. 6. MULTIYEAR AUTHORIZATIONS.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

''AUTHORIZATIONS OF APPROPRIATIONS

''SEC. 316. (a) POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider—

''(1) any bill, joint resolution, amendment, motion, or conference report that authorizes appropriations for a period of less than 2 fiscal years, unless the program, project, or activity for which the appropriations are authorized will require no further appropriations and will be completed or terminated after the appropriations have been expended; and

''(2) in any odd-numbered year, any authorization or revenue bill or joint resolution until Congress completes action on the biennial budget resolution, all regular biennial appropriations bills, and all reconciliation bills.

''(b) APPLICABILITY.—In the Senate, subsection (a) shall not apply to—

''(1) any measure that is privileged for consideration pursuant to a rule or statute;

''(2) any matter considered in Executive Session; or

''(3) an appropriations measure or reconciliation bill.''.

(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 315 the following new item:

''Sec. 316. Authorizations of appropriations.''.

SEC. 7. GOVERNMENT PLANS ON A BIENNIAL BASIS.

(a) STRATEGIC PLANS.—Section 306 of title 5, United States Code, is amended—

(1) in subsection (a), by striking ''September 30, 1997'' and inserting ''September 30, 2005'';

(2) in subsection (b)—

(A) by striking ''five years forward'' and inserting ''6 years forward'';

(B) by striking ''at least every three years'' and inserting ''at least every 4 years''; and

(C) by striking beginning with '', except that'' through ''four years''; and

(3) in subsection (c), by inserting a comma after ''section'' the second place it appears and adding ''including a strategic plan submitted by September 30, 2005 meeting the requirements of subsection (a)''.

(b) BUDGET CONTENTS AND SUBMISSION TO CONGRESS.—Paragraph (28) of section 1105(a) of title 31, United States Code, is amended by striking ''beginning with fiscal year 1999, a'' and inserting ''beginning with fiscal year 2006, a biennial''.

(c) PERFORMANCE PLANS.—Section 1115 of title 31, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter before paragraph (1)—

(i) by striking ''section 1105(a)(29)'' and inserting ''section 1105(a)(28)''; and

(ii) by striking ''an annual'' and inserting ''a biennial'';

(B) in paragraph (1) by inserting after ''program activity'' the following: ''for both years 1 and 2 of the biennial plan'';

(C) in paragraph (5) by striking ''and'' after the semicolon,

(D) in paragraph (6) by striking the period and inserting a semicolon; and inserting ''and'' after the inserted semicolon; and

(E) by adding after paragraph (6) the following:

''(7) cover a 2-year period beginning with the first fiscal year of the next biennial budget cycle.'';

(2) in subsection (d) by striking ''annual'' and inserting ''biennial''; and

(3) in paragraph (6) of subsection (f) by striking ''annual'' and inserting ''biennial''.

(d) MANAGERIAL ACCOUNTABILITY AND FLEXIBILITY.—Section 9703 of title 31, United States Code, relating to managerial accountability, is amended—

(1) in subsection (a)—

(A) in the first sentence by striking ''annual''; and

(B) by striking ''section 1105(a)(29)'' and inserting ''section 1105(a)(28)'';

(2) in subsection (e)—

(A) in the first sentence by striking ''one or'' before ''years'';

(B) in the second sentence by striking ''a subsequent year'' and inserting ''a subsequent 2-year period''; and

(C) in the third sentence by striking ''three'' and inserting ''4''.

(e) PILOT PROJECTS FOR PERFORMANCE BUDGETING.—Section 1119 of title 31, United States Code, is amended—

(1) in paragraph (1) of subsection (d), by striking ''annual'' and inserting ''biennial''; and

(2) in subsection (e), by striking ''annual'' and inserting ''biennial''.

(f) STRATEGIC PLANS.—Section 2802 of title 39, United States Code, is amended—

(1) is subsection (a), by striking ''September 30, 1997'' and inserting ''September 30, 2005'';

(2) by striking ''five years forward'' and inserting ''6 years forward'';

(3) in subsection (b), by striking ''at least every three years'' and inserting ''at least every 4 years''; and

(4) in subsection (c), by inserting a comma after ''section'' the second place it appears and inserting ''including a strategic plan submitted by September 30, 2005 meeting the requirements of subsection (a)''.

(g) PERFORMANCE PLANS.—Section 2803(a) of title 39, United States Code, is amended—

(1) in the matter before paragraph (1), by striking ''an annual'' and inserting ''a biennial'';

(2) in paragraph (1), by inserting after ''program activity'' the following: ''for both years 1 and 2 of the biennial plan'';

(3) in paragraph (5), by striking ''and'' after the semicolon;

(4) in paragraph (6), by striking the period and inserting ''; and''; and

(5) by adding after paragraph (6) the following:

''(7) cover a 2-year period beginning with the first fiscal year of the next biennial budget cycle.''.

(h) COMMITTEE VIEWS OF PLANS AND REPORTS.—Section 301(d) of the Congressional Budget Act (2 U.S.C. 632(d)) is amended by adding at the end ''Each committee of the Senate or the House of Representatives shall review the strategic plans, performance plans, and performance reports, required under section 306 of title 5, United States Code, and sections 1115 and 1116 of title 31, United States Code, of all agencies under the jurisdiction of the committee. Each committee may provide its views on such plans or reports to the Committee on the Budget of the applicable House.''.

(i) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on March 1, 2005.

(2) AGENCY ACTIONS.—Effective on and after the date of enactment of this Act, each agency shall take such actions as necessary to prepare and submit any plan or report in accordance with the amendments made by this Act.

SEC. 8. BIENNIAL APPROPRIATIONS BILLS.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 (2 U.S.C. 631 et seq.) is amended by adding at the end the following:

''CONSIDERATION OF BIENNIAL APPROPRIATIONS BILLS

''SEC. 317. It shall not be in order in the House of Representatives or the Senate in any odd-numbered year to consider any regular bill providing new budget authority or a limitation on obligations under the jurisdiction of any of the subcommittees of the Committees on Appropriations for only the first fiscal year of a biennium, unless the program, project, or activity for which the new budget authority or obligation limitation is provided will require no additional authority beyond 1 year and will be completed or terminated after the amount provided has been expended.''.

(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 316 the following new item:

''Sec. 317. Consideration of biennial appropriations bills.''.

SEC. 9. REPORT ON TWO-YEAR FISCAL PERIOD.

Not later than 180 days after the date of enactment of this Act, the Director of OMB shall—

(1) determine the impact and feasibility of changing the definition of a fiscal year and the budget process based on that definition to a 2-year fiscal period with a biennial budget process based on the 2-year period; and

(2) report the findings of the study to the Committees on the Budget of the House of Representatives and the Senate.

SEC. 10. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in sections 8 and 10 and subsection (b), this Act and the amendments made by this Act shall take effect on January 1, 2007, and shall apply to budget resolutions and appropriations for the biennium beginning with fiscal year 2008.

(b) AUTHORIZATIONS FOR THE BIENNIUM.—For purposes of authorizations for the biennium beginning with fiscal year 2006, the provisions of this Act and the amendments made by this Act relating to 2-year authorizations shall take effect January 1, 2005.

By Mr. CORZINE (for himself and Mr. LAUTENBERG):

S. 878. A bill to amend the Outer Continental Shelf Lands Act to permanently prohibit the conduct of offshore drilling on the Outer Continental Shelf in the Mid-Atlantic and North Atlantic planning areas; to the Committee on Energy and Natural Resources.

Mr. CORZINE. Mr. President, today, along with Senator LAUTENBERG, I am introducing legislation, the Clean Ocean and Safe Tourism Anti-Drilling Act, or COAST Anti-Drilling Act, to ban oil and gas drilling off the Mid-Atlantic and Northern Atlantic coast.

The people of New Jersey, and other residents of States along the Atlantic Coast, do not want oil or gas rigs anywhere near their treasured beaches and fishing grounds. Such drilling poses serious threats not only to our environment, but to our economy, which depends heavily on tourism along our shore. Coastal tourism is New Jersey's second-largest industry, and the New Jersey Shore is one of the fastest growing regions in the country. According to the New Jersey Department of Commerce, tourism in the Garden State generates more than $31 billion in spending, directly and indirectly supports more than 836,000 jobs, more than 20 percent of total State employment, generates more than $16.6 billion in wages, and brings in more than $5.5 billion in tax revenues to the State.

Until the Bush administration came into office, there was no reason to suspect that drilling was even a remote possibility. Since 1982, a statutory moratorium on leasing activities in most Outer Continental Shelf, OCS, areas has been included annually in Interior appropriations acts. In addition, President George H.W. Bush declared a leasing moratorium on many OCS areas on June 26, 1990, under section 12 of the OCS Lands Act. On June 12, 1998, President Clinton used the same authority to issue a memorandum to the Secretary of the Interior that extended the moratorium through 2012 and included additional OCS areas.

Given the longstanding consensus against drilling in these areas, I was deeply disturbed to discover that on May 31, 2001, the Minerals Management Service released a request for proposals, RFP, to conduct a study of the environmental impacts of drilling in the Mid- and North-Atlantic. The RFP noted that ''there are areas with some reservoir potential, for example off the coast of New Jersey.'' In addition, the RFP explained that the study would be conducted ''in anticipation of managing the exploitation of potential and proven reserves.'' I believed that the RFP was inappropriate and misguided, and I was pleased when at my urging and the urging of other coastal Senators, the administration rescinded it.

After our strong bipartisan coalition fought off the Department of the Interior RFP, our coastal coalition came together again to fight off the Outer Continental Shelf inventory provisions of last year's energy bill. The bill directed the Department of the Interior to inventory all potential oil and natural gas resources in the entire Outer Continental Shelf, including areas off of the New Jersey coast. The bill would have allowed the use of seismic surveys, dart core sampling, and other exploration technologies, all of which would leave these areas vulnerable to oil spills, drilling discharges and damage to coastal wetlands.

These provisions run directly counter to language that Congress has included annually in appropriations bills to prevent leasing, preleasing, and related activities in most areas of the Outer Continental Shelf, including areas off the New Jersey coast. Fortunately, this provision was dropped last year, but it is likely that it will resurface during debate on the Energy bill this year, and it is clear that we need to once and for all ban drilling off the coast of New Jersey and the rest of the Mid- and North-Atlantic.

So considering the minimal benefit and significant downside of drilling off the coast of New Jersey, it is not worth threatening over 800,000 New Jersey jobs to recover what the MMS estimated in 2000 to be 196 million barrels

of oil, only enough to last the country barely 10 days.

I certainly don't think it is worth the risk, and it is time for Congress to act to resolve this question once and for all. That is why I am introducing the COAST Anti-Drilling Act. The Clean Ocean and Safe Tourism Anti-Drilling Act would permanently ban drilling for oil, gas and other minerals in the Mid- and North-Atlantic.

I look forward to working with my colleagues to enact this important legislation. Doing so would ensure the people of New Jersey and neighboring States that they need not fear the specter of oil rigs off their beaches.

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. 878

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 ''Clean Ocean and Safe Tourism Anti-Drilling Act'' or the ''COAST Anti-Drilling Act''.

SEC. 2. PROHIBITION OF OIL AND GAS LEASING IN CERTAIN AREAS OF THE OUTER CONTINENTAL SHELF.

Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by adding at the end the following:

''(p) PROHIBITION OF OIL AND GAS LEASING IN CERTAIN AREAS OF THE OUTER CONTINENTAL SHELF.—Notwithstanding any other provision of this section or any other law, the Secretary of the Interior shall not issue a lease for the exploration, development, or production of oil, natural gas, or any other mineral in—

''(1) the Mid-Atlantic planning area; or

''(2) the North Atlantic planning area.''.

By Ms. MURKOWSKI:

S. 879. A bill to make improvements to the Arctic Research and Policy Act of 1984; to the Committee on Homeland Security and Governmental Affairs.

Ms. MURKOWSKI. Mr. President, it has been 20 years since the passage of the Arctic Research and Policy Act of 1984, a bill sponsored by the former Senator Murkowski. The time has come to make some modifications to reflect the experience we've gained over that time.

I'm pleased to note that the amendments I introducing today are really very modest, an indication that the act—and the presidential commission it created—have functioned quite well. These minimal changes will, I hope, make them function even more smoothly.

First, the chairman of the Arctic Research Commission will be authorized compensation for an additional 30 days of work during the course of a year. That is still far less than the actual number of days demanded by the position, but will help. Second, the bill will allow the Commission to stimulate additional interest in Arctic research by establishing a professional award program for excellence in research. Current and former members of the Commission will not be eligible. Awards will be capped at a symbolic amount of $1,000, but the recognition by each winner's scientific peers will be invaluable. Third and finally, the bill will allow the Commission to reciprocate in the expected manner when foreign delegations host a reception or other event. This provision is limited to no more than two-tenths of a percent of the Commission budget—as with the award program, the value is primarily symbolic, but is nonetheless important.

Although these are small changes, they will help ensure a smoothly functioning Arctic Research Act, and that is important. Although it is not something you hear about on a daily basis, the United States is a leader in the very small circle of Arctic nations, and the Congress plays a major role in ensuring that we remain a leader in this critically important sphere. And make no mistake about it, the Arctic is critical to this country for social, strategic, economic and scientific reasons that are simply too plentiful to enumerate at this time.

The main purposes of the Arctic Research and Policy Act are: 1, to establish national policy for basic and applied research on Arctic resources and materials, physical, biological and health sciences, and social and behavioral sciences; 2, to establish the U.S. Arctic Research Commission to promote Arctic research and to recommend research policies; 3, to designate the National Science Foundation as the lead agency for implementing Arctic research; and, 4, to establish the Interagency Arctic Research Policy Committee, IARPC, which is responsible for coordinating a multiplicity of Arctic research efforts throughout the government.

As we continue to see evidence of Arctic warming—whether or not we consider it to be human-caused or natural, global or regional—it is of tremendous importance to prepare as best we can. The future may hold both positives—such as increased agricultural production and access to natural resources—and negatives—such as widespread damage to existing infrastructure, flooding, and sweeping social changes. The Arctic Research Commission plays a vital role and deserves our full support.

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. 879

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 ''Arctic Research and Policy Amendments Act of 2005''.

SEC. 2. CHAIRPERSON OF THE ARCTIC RESEARCH COMMISSION.

(a) COMPENSATION.—Section 103(d)(1) of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4102(d)(1)) is amended in the second sentence by striking ''90 days'' and inserting '', in the case of the chairperson, 120 days, and, in the case of any other member, 90 days,''.

(b) REDESIGNATION.—Section 103(d)(2) of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4102(d)(2)) is amended by striking ''Chairman'' and inserting ''chairperson''.

SEC. 3. COMMISSION AWARDS FOR EXCELLENCE IN RESEARCH.

(a) AUTHORITY.—Section 104 of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4103) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

''(b) COMMISSION AWARDS FOR EXCELLENCE IN RESEARCH.—

''(1) IN GENERAL.—Each year, the Commission may make a cash award to any person in recognition of excellence in Arctic research conducted by such person or outstanding support of Arctic research provided by such person.

''(2) AMOUNT.—The amount of a cash award made to a person under paragraph (1) shall be fixed by the Commission and shall not exceed $1,000.

''(3) INELIGIBILITY OF COMMISSION MEMBERS.—An individual who is or has been a member of the Commission shall be ineligible to receive an award under paragraph (1).''.

(b) TECHNICAL AMENDMENTS.—Section 104 of such Act, as amended by subsection (a), is further amended—

(1) by inserting ''DUTIES OF COMMISSION.—'' before ''The Commission'' in subsection (a); and

(2) by inserting ''REPORT.—'' before ''Not later than'' in subsection (c).

SEC. 4. REPRESENTATION AND RECEPTION ACTIVITIES.

Section 106 of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4105) is amended—

(1) by striking ''and'' at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting ''; and''; and

(3) by adding at the end the following:

''(6) expend for representation and reception expenses each fiscal year not more than 0.2 percent of the amounts made available to the Commission under section 111 for such fiscal year.''.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 880. A bill to expand the boundaries of the Gulf of the Farallones National Marine Sanctuary and the Cordell Bank National Marine Sanctuary; to the Committee on Environment and Public Works.

Mrs. BOXER. Mr. President, today I am introducing the Gulf of the Farallones and Cordell Bank National Marine Sanctuaries Boundary Modification and Protection Act. I am joined in this effort by Senator FEINSTEIN and Representative LYNN WOOLSEY who has introduced the companion bill in the other body.

The Gulf of the Farallones and the adjacent Cordell Bank are rich with wildlife and are visually spectacular. They are one of California's—indeed America's—great natural treasures.

Thirty-three marine mammal species use this area. Over half of these are threatened or endangered. The sanctuaries also contain one of the largest

populations of blue and humpback whales in the world. Every summer, many grey whales dwell in the boundaries and neighboring waters of the sanctuaries. In addition, birds rely on the rich waters and surrounding land for nesting, feeding, and rearing of their young.

As effective as the current boundaries are in protecting this wildlife, new risks and a better understanding of the ecosystem necessitate extending the existing boundaries.

My legislation would expand the boundaries of the two existing national marine sanctuaries to protect the entire Sonoma Coast. By expanding the boundaries of both the Gulf of the Farallones and Cordell Bank National Marine Sanctuaries, the bill will protect the Russian and Gualala River estuaries and the nutrient-rich Bodega Canyon from offshore oil drilling and pollution.

Expanding these marine sanctuaries will help to ensure that they remain the treasures they are. I urge my colleagues to support this bill.

By Ms. CANTWELL (for herself, Mr. MCCAIN, Mr. DORGAN, Mrs. MURRAY, and Mr. INOUYE):

S. 881. A bill to provide for equitable compensation to the Spokane Tribe of Indians of the Spokane Reservation for the use of tribal land for the production of hydropower by the Grand Coulee Dam, and for other purposes; to the Committee on Indian Affairs.

Ms. CANTWELL. Mr. President, I rise today to introduce legislation with my colleague from Washington State, Senator MURRAY, and former Senate Indian Affairs Committee chairman, Senator INOUYE of Hawaii. The bill I submit today, which is identical to S. 1438 which passed the Senate unanimously on November 19, 2004, provides an equitable settlement of a longer standing injustice to the Spokane Tribe of Indians.

For more than half a century, the Columbia Basin Project has made an extraordinary contribution to this Nation. It helped pull the economy out of the Great Depression. It provided the electricity that produced aluminum required for airplanes and weapons that ensured our national security. The project continues to produce enormous revenues for the United States. It is a key component of the agricultural economy in eastern Washington and plays a pivotal role in the electric systems serving the entire western United States.

However, these benefits have come at a direct cost to tribal property that became inundated when the U.S. Government built the Grand Coulee Dam. Before dam construction, the free flowing Columbia River supported robust and plentiful salmon runs and provided for virtually all of the subsistence needs of the Spokane Tribe. After construction, the Columbia and its Spokane River tributary flooded tribal communities, schools, and roads, and the remaining stagnant water continues to erode reservation lands today.

The legislation Senators INOUYE, MURRAY and I are introducing today is similar to P.L. 103–436, which was enacted in 1994 to provide just compensation to the neighboring Confederated Colville Tribes. This bill would provide the Spokane Tribe of Indians with compensation for the use of its lands for the production of hydropower by the Grand Coulee Dam under a formula based in part on that by which the Confederated Tribes of the Colville Reservation were compensated in the Colville Tribes' settlement legislation in 1994. The Spokane Tribe lost lands equivalent in area to 39.4 percent of the lands lost to Colville Tribes a settlement based solely on this factor would result in a proportional payment of 39.4 percent to the Spokane Tribe. This was the formula basis for similar Spokane settlement legislation introduced in the Senate and House in the 107th, 108th, and 109th Congress. However, based upon good faith, honorable and extensive negotiations by and between the Spokane Tribe, the Bonneville Power Administration, the Bureau of Reclamation the National Park Service during the past year, this percentage has been reduced to 29 percent in recognition of the fact that certain lands taken for the construction of the Grand Coulee Dam would be restored to the Spokane Tribe under the terms of this legislation. The legislation reserves a perpetual right, power, and easement over the land transferred to carry out the Columbia Basin Project under the Columbia Basin Project Act, 16 U.S.C. 835 et seq.

The United States has a trust responsibility to maintain and protect the integrity of all tribal lands with its borders. When Federal actions physically or economically impact or harm, our Nation has a legal responsibility to address and compensate the damaged parties. Unfortunately, despite countless effort, half a century has passed without justice to the Spokane people.

In hearings before the Senate Committee on Indian Affairs on October 2, 2003, Robert A. Robinson, Managing Director, Natural Resources and Environment, General Accounting Office testified:

> A reasonable case can be made to settle the Spokane Tribe's case along the lines of the Colville settlement—a one-time payment from the U.S. Treasury for past lost payments for water power values and annual payments primarily from Bonneville [BPA]. Bonneville continues to earn revenues from the Spokane reservation lands used to generate hydropower. However, unlike the Colville Tribes, the Spokane Tribe does not benefit from these revenues. The Spokane Tribe does not benefit because it missed its filing opportunity before the Indian Claims Commission. At that time it was pursuing other avenues to win payments for the value of its land for hydropower. These efforts would ultimately fail. Without congressional action, it seems unlikely that a settlement for the Spokane Tribe will occur.

The time has come for the Federal Government to finally meet its fiduciary responsibility for converting the Spokane Tribe's resource to its own benefit. Senators INOUYE, MURRAY and I believe that the legislation we are proposing today will finally bring a fair and honorable closure to these matters. We are pleased that similar bipartisan legislation was also introduced today in the U.S House of Representatives.

I look forward to working with the Indian Affairs Committee and Senate colleagues as this legislation proceeds through the Congress.

By Mr. DURBIN (for himself, Ms. STABENOW, Mr. WYDEN, Mr. LAUTENBERG, Mr. BAYH, Mr. LEAHY, Mr. LIEBERMAN, Mrs. BOXER, Mr. KENNEDY, Mr. REED, Mrs. CLINTON, Mr. CORZINE, Mr. KERRY, Mr. FEINGOLD, and Mr. SCHUMER):

S. 882. A bill to designate certain Federal land in the State of Utah as wilderness, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DURBIN. Mr. President, I rise today to introduce America's Red Rock Wilderness Act of 2005. This legislation continues our Nation's commitment to preserve our natural heritage. Preservation of our Nation's vital natural resources will be one of our most important legacies.

Unfortunately, remaining wilderness areas are increasingly threatened and degraded by oil and gas development, mining, claims of rights of way, logging and off-road vehicles. America's Red Rock Wilderness Act will designate 9.5 million acres of land managed by the Bureau of Land Management, BLM, in Utah as wilderness under the Wilderness Act. Wilderness designation will preserve the land's wilderness character, along with the values associated with that wilderness; scenic beauty, solitude, wildlife, geological features, archaeological sites, and other features of scientific, educational and historical value.

America's Red Rock Wilderness Act will provide wilderness protection for red rock cliffs offering spectacular vistas of rare rock formations, canyons and desert lands, important archaeological sites, and habitat for rare plant and animal species.

Volunteers have taken inventories of thousands of square miles of BLM land in Utah to help determine which lands should be protected. These volunteers provided extensive documentation to ensure that these areas meet Federal wilderness criteria. The BLM also completed a reinventory of approximately 6 million acres of Federal land in the same area. The results provide a convincing confirmation that the areas designated for protection under this bill meet Federal wilderness criteria.

For more than 20 years Utah conservationists have been working to add the last great blocks of undeveloped BLM-administered land in Utah to the National Wilderness Preservation System. The lands proposed for protection

surround and connect eight of Utah's nine national park, monument and recreation areas. These proposed BLM wilderness areas easily equal their neighboring national parklands in scenic beauty, opportunities for recreation, and ecological importance. Yet, unlike the parks, most of these scenic treasures lack any form of long-term protection.

While my legislation would unambiguously protect Utah's red rock wilderness, the question of preserving these lands for future generations now also looms before the BLM. Not since the BLM conducted its inventories of Utah public lands in the early 1980s has the agency had such a promising opportunity to recognize and care for Utah's wilderness. Whether the BLM realizes this opportunity has yet to be seen.

Today, nearly 6 million acres of wildlands that my legislation would protect are involved in the BLM's land use planning process. As I understand, the BLM will be making lasting decisions about what places should be preserved or developed, roaded or left unroaded, or designated for off-road vehicle travel. These policies will stand for as much as 15 to 20 years, a timespan long enough to leave a lasting mark on this landscape.

We must be clear about the impact of these plans. Fundamentally, the administration is choosing how it will act as stewards for our wild and scenic places. These plans in Utah will profoundly influence many fragile desert lands that would be protected under America's Red Rock Wilderness Act. Places like the San Rafael Swell, the Book Cliffs, the Canyonlands Basin, and Moab/La Sal Region now hang in the balance.

I believe Americans understand the need for wise and balanced stewardship of these wild landscapes. Unfortunately, the administration has proposed little or no serious protections for Utah's most majestic places. Instead, the BLM appears to lack a solid conservation ethic and routinely favors development and consumptive uses of our wild public land.

The administration has a decidedly different approach on the fate of some of our remaining wilderness. Under the Price plan, the BLM leaves 98 percent of the region's lands in America's Red Rock Wilderness Act, outside of already protected areas, open to oil and gas drilling. Sadly, the Green River, which cuts deep into the rugged Book Cliffs forming the sandstone cliffs of Desolation Canyon, and other natural wonders are being jeopardized by the BLM for a negligible amount of oil.

The BLM has made important headway in protecting America's Red Rock Wilderness from off-road vehicle abuse, but more can still be done to safely and effectively plan for off-road vehicle recreation. Just 5 years ago, 94 percent of BLM public land in Utah lacked protection from motorized vehicle abuse. As open BLM areas, many fragile lands in America's Red Rock Wilderness Act and elsewhere were vulnerable to off-road vehicle abuse. Since this free-for-all era, BLM trail designations have helped to educate motorized users and direct use to appropriate areas. Stewardship over the long-term is still needed to ensure that our wilderness legacy remains intact.

America's Red Rock Wilderness Act is a lasting gift to the American public. By protecting this serene yet wild land we are giving future generations the opportunity to enjoy the same untrammeled landscape that so many now cherish.

I'd like to thank all of my colleagues who are original cosponsors of this measure this year, many of whom have supported the bill since it was first introduced. The original cosponsors of the measure are Senators STABENOW, WYDEN, FEINGOLD, LAUTENBERG, BAYH, LEAHY, LIEBERMAN, BOXER, KENNEDY, REED, CLINTON, CORZINE and KERRY. Additionally, I would like to thank The Utah Wilderness Coalition, which includes The Wilderness Society and Sierra Club; The Southern Utah Wilderness Alliance; and all of the other national, regional and local, hard-working groups who, for years, have championed this legislation.

Theodore Roosevelt once stated:

> The Nation behaves well if it treats the natural resources as assets which it must turn over to the next generation increased and not impaired in value.

Enactment of this legislation will help us realize Roosevelt's vision. In order to protect these precious resources in Utah for future generations, I urge my colleagues to support America's Red Rock Wilderness Act.

Mr. FEINGOLD. Mr. President, I am very pleased to again join the senior Senator from Illinois, Mr. DURBIN, as an original co-sponsor of legislation to designate more than one million acres of Bureau of Land Management, BLM, lands in Utah as wilderness.

I had an opportunity to travel twice to Utah. I viewed firsthand some of the lands that would be designated for wilderness under Senator DURBIN's bill. I was able to view most of the proposed wilderness areas from the air, and was able to enhance my understanding through hikes outside the Zion National Park on the Dry Creek Bench wilderness unit contained in this proposal and inside the Grand Staircase-Escalante National Monument to Upper Calf Creek Falls. I also viewed the lands proposed for designation in this bill from a river trip down the Colorado River, and in the San Rafael Swell with members of the Emery County government.

I support this legislation for a number of reasons, but most of all because I have personally seen what is at stake, and I know the marvelous resources that Wisconsinites and all Americans own in the BLM lands of Southern Utah.

Second, I support this legislation because I believe it sets the broadest and boldest mark for the lands that should be protected in Southern Utah. I believe that when the Senate considers wilderness legislation it ought to know, as a benchmark, the full measure of those lands which are deserving of wilderness protection. This bill encompasses all the BLM lands of wilderness quality in Utah. Unfortunately, the Senate has not always had the benefit of considering wilderness designations for all of the deserving lands in Southern Utah. During the 104th Congress, I joined with the former Senator from New Jersey, Mr. Bradley, in opposing that Congress's Omnibus Parks legislation. It contained provisions, which were eventually removed, that many in my home state of Wisconsin believed not only designated as wilderness too little of the Bureau of Land Management's holding in Utah deserving of such protection, but also substantively changed the protections afforded designated lands under the Wilderness Act of 1964.

The lands of Southern Utah are very special to the people of Wisconsin. In writing to me over the last few years, my constituents have described these lands as places of solitude, special family moments, and incredible beauty. In December 1997, Ron Raunikar of Madison, Wisconsin's Capital Times wrote:

> Other remaining wilderness in the U.S. is at first daunting, but then endearing and always a treasure for all Americans. The sensually sculpted slickrock of the Colorado Plateau and windswept crag lines of the Great Basin include some of the last of our country's wilderness, which is not fully protected.
>
> We must ask our elected officials to redress this circumstance, by enacting legislation which would protect those national lands within the boundaries of Utah. This wilderness is a treasure we can lose only once or a legacy we can be forever proud to bestow to our children.

I believe that the measure being introduced today will accomplish that goal. The measure protects wild lands that really are not done justice by any description in words. In my trip I found widely varied and distinct terrain, remarkable American resources of red rock cliff walls, desert, canyons and gorges which encompass the canyon country of the Colorado Plateau, the Mojave Desert and portions of the Great Basin. The lands also include mountain ranges in western Utah, and stark areas like the Grand Staircase-Escalante National Monument. These regions appeal to all types of American outdoor interests from hikers and sightseers to hunters.

Phil Haslanger of the Capital Times, answered an important question I am often asked when people want to know why a Senator from Wisconsin would co-sponsor legislation to protect lands in Utah. He wrote on September 13, 1995 simply that:

> ''These are not scenes that you could see in Wisconsin. That's part of what makes them special.''

He continues, and adds what I think is an even more important reason to act to protect these lands than the landscape's uniqueness:

''the fight over wilderness lands in Utah is a test case of sorts. The anti-environmental factions in Congress are trying hard to remove restrictions on development in some of the nation's most splendid areas.''

Ten years later, Wisconsinites are still watching this test case. I believe that Wisconsinites view the outcome of this fight to save Utah's lands as a sign of where the Nation is headed with respect to its stewardship of natural resources. What Haslanger's comments make clear is that while some in Congress may express concern about creating new wilderness in Utah, wilderness, as Wisconsinites know, is not created by legislation. Legislation to protect existing wilderness simply ensures that future generations may have an experience on public lands equal to that which is available today. The action of Congress to preserve wild lands by extending the protections of the Wilderness Act of 1964 will publicly codify that expectation and promise.

Finally, this legislation has earned my support, and deserves the support of others in this body, because all of the acres that will be protected under this bill are already public lands held in trust by the Federal Government for the people of the United States. Thus, while they are physically located in Utah, their preservation is important to the citizens of Wisconsin, as it is for other Americans.

I am eager to work with my colleague from Illinois, Mr. DURBIN, to protect these lands. I commend him for introducing this measure.

By Mr. MCCAIN (for himself, Mr. ALEXANDER, Mr. LIEBERMAN, Mr. SALAZAR, and Mrs. FEINSTEIN):

S. 886. A bill to eliminate the annual operating deficit and maintenance backlog in the national parks, and for other purposes; to the Committee on Finance.

Mr. MCCAIN. Mr. President, I am pleased to be joined today by Senators ALEXANDER, LIEBERMAN, SALAZAR, and FEINSTEIN in introducing legislation to restore and maintain our National Parks by the centennial anniversary of the National Park System in 2016.

Heralding the establishment of the first National Parks, President Theodore Roosevelt stated, ''We have fallen heirs to the most glorious heritage a people ever received, and each one must do his part if we wish to show that the nation is worthy of its good fortune.''

And what a priceless fortune Americans enjoy—Yellowstone, the Grand Canyon, Yosemite, the Tetons, Mt. Rushmore, the Everglades, and hundreds of other extraordinary national parks that grace our country. Hundreds of millions of families and visitors from all over the world have visited these parks for recreational, educational, and cultural opportunities as well as the sheer pleasure of being surrounded by their natural beauty or historical significance.

Unfortunately, all of this public enjoyment and use coupled with the lack of adequate financial investment in our parks has left them in a state of disrepair and neglect. A multi-billion dollar maintenance backlog has cast a long shadow over the glory of our national park heritage. An annual operating deficit estimated at $600 million has further diminished the integrity of national park programs and facilities.

The National Parks Centennial Act would allow all Americans to contribute to the restoration of the parks through the creation of a Centennial Fund with monies generated by a check-off box on federal tax returns. The funds collected will be directed to the priority maintenance and operation needs of the national parks to make them fiscally sound by 2016. What better way or time to demonstrate that ''we are worthy of the good fortune of our parks''?

I commend the National Parks Conservation Association for promoting this sound and innovative approach to remedying the significant deterioration of our parks. A companion House bill has been introduced by Representatives SOUDER and BAIRD with solid bipartisan support.

Surely this is legislation that we can all agree on and support. All of our lives have been enriched by our National Parks. This bill provides an opportunity to show our appreciation to restore and maintain our country's cultural and natural heritage for generations to come. The passage of this legislation will ensure that our national parks will have a glorious 100th birthday to celebrate. Let's get on with it!

Mr. ALEXANDER. Today I am joining with Senators MCCAIN, LIEBERMAN, SALAZAR and FEINSTEIN in introducing the National Park Centennial Act—a bill to make the National Park System fiscally sound by its 100th birthday in 2016. The park system currently suffers from a multi-billion dollar backlog of maintenance projects and an operating deficit that exceeds $600 million each year.

The Centennial Act aims to remedy this crisis by giving tax-payers the opportunity to check off a box on their tax returns each year that would send a small contribution to a National Park Centennial Fund. Today, taxpayers can contribute $3 to Presidential elections. This Act gives taxpayers an opportunity to contribute directly to our national parks via their tax returns.

Our parks are national treasures, and they deserve to be preserved in all their pristine glory. They are a part of our heritage.

It is a national travesty that they suffer from such a terrible lack of funding. The overall backlog, according to the Congressional Research Service, is about $7 billion, though estimates vary by about $2 billion in either direction.

My own State, along with our neighbor North Carolina, is home to the country's most visited national park, the Great Smoky Mountains National Park. I live just a few miles from the park myself.

In Tennessee, we have tried to deal with the maintenance backlog in a number of different ways. More than 2,100 volunteers have provided over 110,000 man-hours of service to the park, which is the equivalent of 50 staff and $1.9 million in extra funding. That's the third best volunteer rate in the National Park System.

Our local communities in Tennessee and North Carolina have established a non-profit organization to help support the park—''Friends of the Smokies''—which has raised more than $8 million since its founding in 1993 through individual, corporate and foundation contributions, merchandise sales, special events, and sales of specialty license plates in Tennessee and North Carolina. Friends now has over 2,000 members. In addition to its fundraising activities, Friends of the Smokies coordinates more than 80 volunteers who provide direct and indirect assistance with projects that benefit Great Smoky Mountains National Park.

Yet, despite all this extra support, the backlog in the Great Smoky Mountains National Park remains significant. The Park's current maintenance backlog is estimated at approximately $180 million dollars. It is estimated that the Great Smokies will receive up to $36 million over the next 5 years to address the maintenance backlog. There is over a $140 million shortfall at the Great Smokies alone.

Examples of maintenance backlog projects at the Smokies are:

Rehabilitation of North Shore Cemetery access routes; rehabilitation of three comfort stations at Balsam Mountain; rehabilitation of three comfort stations at Chimney Tops picnic area; rehabilitation of Newfound Gap Road, phase one; replace obsolete parkwide key system; repave Clingmans Dome Trail.

We need to do better. It will be hard to do better in this budget environment. So this is an innovative way to help the parks do better.

Sixty percent of this fund will go to maintenance backlogs. Forty percent of this fund will supplement the annual operating deficits at the parks. This program will terminate in 2016.

Parallel legislation has already been introduced in the House of Representatives, including Congressman JIMMY DUNCAN. I hope Congress will move quickly to address this critical need of our national parks.

Our national parks are national treasures. They are a part of our heritage, a part of who we are as Americans. We need to take care of these parks so that they are still there, in all their glory, and still accessible for many generations to come.

By Mr. SALAZAR:

S. 888. A bill to direct the Department of Homeland Security to provide guidance and training to State and local governments relating to sensitive homeland security information, and for other purposes; to the Committee on

Homeland Security and Governmental Affairs.

Mr. SALAZAR. Mr. President, I rise today to introduce an important piece of legislation to help our local first responders and emergency officials better prepare and respond to terrorist attacks.

State and local emergency officials represent more than 95 percent of America's counterterrorism capability. They are on the front lines of the war on terror. Despite this, there is still a fundamental disconnect between what we do in Washington to help and what state and local officials actually need. Too often this happens because people in Washington are not listening to our folks back home.

One familiar example is homeland security grant funding. In the years following 9/11, the Federal Government put more money into homeland security than ever before. Office of Domestic Preparedness Grants increased 2,900 percent from 2001 to 2003. The Federal Government acted quickly to get money out the door, but in too many cases, the Feds did not give States the guidance they needed to best use that money. As a result, State officials were left scratching their heads. Money was wasted and local officials did not get all the help they needed.

The same is true with antiterrorism intelligence. Police and fire departments across the country are being bombarded with terrorism intelligence from more than a dozen Federal sources. State officials are getting expensive Federal security clearances so that they can review spy reports. But State and local officials are not getting the guidance they need to help them talk to each other.

Police, firemen, and EMTs are the first people on site during an emergency, whether it is a terrorist attack or car accident. Our first responders must be given the information they need to safely handle any situation, the training they need to protect the public and the access to grants to purchase the proper tools to do their jobs—this legislation, if passed, will help do just that.

Right now, there are surprisingly few uniform standards for non-Federal agencies to handle sensitive homeland security information. While there are detailed procedures for handling classified documents created by the FBI, CIA and other Federal agencies, there is little real world guidance for how to make decisions about how to manage information from non-Federal sources, including locally generated homeland security plans, State-level grants and intelligence gathered by local law enforcement agencies.

This lack of guidance has real implications for public safety. Over the last few months, Colorado's State government has been fighting over the Secretary of State homeland security information. Currently, Colorado State law makes secret a wide swath of homeland security information, including any document sent to, from, or on behalf of the State Office of Preparedness, Security and Fire Safety. Local officials have trouble acquiring State information to help them develop antiterrorism plans, and even State legislators can't find out where homeland security money is going.

State officials across the country have wasted precious resources battling over what to make public and what to keep secret. They have established a wide array of procedures for sharing sensitive information among emergency management personnel. The current system of distributing homeland security intelligence and grants funding is inefficient and has failed to ensure an adequate balance between protecting sensitive information and ensuring that first responders and the public have the information they need to keep Coloradans and Americans safe.

The legislation I am introducing would take three steps to clearing up this confusion and giving States the tools they need to better prepare and respond to terrorist attacks.

First, it establishes detailed best practices for State and local governments to help them determine what homeland security information should be made public, what should remain classified, and how different government entities and emergency personnel can share and use sensitive information.

Second, it establishes a training program to spread these best practices among state and local officials.

Third, it directs the Department of Homeland Security to provide more detailed instructions to State and local officials about how to manage information about homeland security grants that are applied for and awarded by DHS.

This bill will give emergency officials across the country the tools they need so that they do not have to waste precious resources remaking the wheel on homeland security information sharing.

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. 888

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 ''Homeland Security Information Guidance and Training Act of 2005''.

SEC. 2. FINDINGS.

Congress finds that—

(1) there are few uniform standards for State and local government agencies to handle sensitive homeland security information;

(2) there are detailed procedures for handling classified documents created by the Federal Government, but there is little guidance for how to make decisions relating to the management of information from non-Federal sources, including locally generated homeland security plans, State-level grants, and intelligence gathered by local law enforcement agencies;

(3) State and local government officials have—

(A) a wide variety of approaches for handling such information;

(B) wasted precious resources battling over what information to make public and what information to keep secret; and

(C) established a wide array of procedures for sharing sensitive information among emergency management personnel; and

(4) the current system is inefficient and has not ensured the adequate balance between protecting sensitive information and ensuring that public officials and the public have the information needed to keep the Nation safe.

SEC. 3. GUIDANCE FOR BEST PRACTICES RELATING TO SENSITIVE INFORMATION.

(a) IN GENERAL.—Consistent with section 201(d) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)), the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection shall establish best practices for State and local governments to assist State and local governments in making determinations on—

(1) the types of sensitive non-Federal homeland security information (including locally generated homeland security plans, State-level grants, and intelligence gathered by local law enforcement information agencies) that—

(A) should be made available to the public; or

(B) should be treated as information which should not be made available to the public; and

(2) how to use and share sensitive homeland security information among State and local emergency management personnel.

(b) EFFECT ON STATE AND LOCAL GOVERNMENTS.—Nothing under subsection (a) shall be construed to—

(1) require any State or local government to comply with any best practice established under that subsection; or

(2) preempt any State or local law.

SEC. 4. TRAINING.

The Director of the Office for Domestic Preparedness shall—

(1) establish a training curriculum based on the best practices established under section 3; and

(2) provide training to State and local governments using that curriculum.

SEC. 5. GUIDANCE ON GRANT INFORMATION.

Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall publish in the Federal Register detailed instructions for State and local governments on the management of information relating to homeland security grants administered by the Department of Homeland Security.

By Mrs. FEINSTEIN (for herself, Ms. SNOWE, Mr. CORZINE, Mr. LEAHY, Mr. JEFFORDS, Mr. SCHUMER, Ms. COLLINS, Mr. DURBIN, and Ms. CANTWELL):

S. 889. A bill to amend title 49, United States Code, to require phased increases in the fuel efficiency standards applicable to light trucks, to require fuel economy standards for automobiles up to 10,000 pounds gross vehicle weight, to increase the fuel economy of the Federal fleet of vehicles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mrs. FEINSTEIN. Mr. President, I rise today to offer a bill with my colleagues Senators SNOWE, CORZINE, LEAHY, CANTWELL, COLLINS, DURBIN, SCHUMER and JEFFORDS to close the SUV loophole.

This bill would increase Corporate Average Fuel Economy (CAFE) standards for SUVs and other light duty trucks. It would close the ''SUV Loophole'' and require that SUVs meet the same fuel efficiency standards as passenger cars by 2011.

Crude oil prices remain above $50/barrel. On April 1, 2005, crude oil prices hit a record high of $57.70/barrel. Prices at the gas pump continue to soar as well. Today, the average price for regular gasoline was $2.24 per gallon. In California, the average price is almost $2.60.

This is not a problem we can drill our way out of. Global oil demand is rising. China imports more than 40 percent of its record 6.4 million-barrel-per-day oil demand and its consumption is growing by 7.5 percent per year, seven times faster than the U.S.

India imports approximately 70 percent of its oil, which is projected to rise to more than 90 percent by 2020. Their rapidly growing economies are fueling their growing dependence on oil—which makes continued higher prices inevitable.

The most effective step we can take to reduce gas prices is to reduce demand. We must use our finite fuel supplies more wisely.

This legislation is an important first step to limit our nation's dependence on oil and better protect our environment.

If implemented, closing the SUV Loophole would: save the U.S. 1 million barrels of oil a day and reduce our dependence on oil imports by 10 percent.

Prevent about 240 million tons of carbon dioxide—the top greenhouse gas and biggest single cause of global warming from entering the atmosphere each year.

Save SUV and light duty truck owners hundreds of dollars each year in gasoline costs.

CAFE Standards were first established in 1975. At that time, light trucks made up only a small percentage of the vehicles on the road, they were used mostly for agriculture and commerce, not as passenger cars.

Today, our roads look much different, SUVs and light duty trucks comprise more than half of the new car sales in the United States. As a result, the overall fuel economy of our Nation's fleet is the lowest it has been in two decades, because fuel economy standards for these vehicles are so much lower than they are for other passenger vehicles.

The bill we are introducing today would change that. SUVs and other light duty trucks would have to meet the same fuel economy requirements by 2011 that passenger cars meet today.

The National Highway Traffic Safety Administration, NHTSA, has proposed phasing in an increase in fuel economy standards for SUVs and light trucks under the following schedule: by 2005, SUVs and light trucks would have to average 21.0 miles per gallon; by 2006, SUVs and light trucks would have to average 21.6 miles per gallon; and by 2007, SUVs and light trucks would have to average 22.2 miles per gallon.

In 2002, the National Academy of Sciences, NAS, released a report stating that adequate lead time can bring about substantive increases in fuel economy standards. Automakers can meet higher CAFE standards if existing technologies are utilized and included in new models of SUVs and light trucks.

In 2003, the head of the National Highway Traffic Safety Administration said he favored an increase in vehicle fuel economy standards beyond the 1.5-mile-per-gallon hike slated to go into effect by 2007. ''We can do better,'' said Jeffrey Runge in an interview with Congressional Green Sheets. ''The overriding goal here is better fuel economy to decrease our reliance on foreign oil without compromising safety or American jobs,'' he said.

With this in mind, we have developed the following phase-in schedule which would follow up on what NHTSA has proposed for the short term and remain consistent with what the NAS report said is technologically feasible over the next decade or so: by model year 2008, SUVs and light duty vehicles would have to average 23.5 miles per gallon; by model year 2009, SUVs and light duty vehicles would have to average 24.8 miles per gallon; by model year 2010, SUVs and light duty vehicles would have to average 26.1 miles per gallon, by model year 2011, SUVs and light duty vehicles would have to average 27.5 miles per gallon.

This legislation would do two other things: it would mandate that by 2008 the average fuel economy of the new vehicles comprising the Federal fleet must be 3 miles per gallon higher than the baseline average fuel economy for that class. And by 2011, the average fuel economy of the new federal vehicles must be 6 miles per gallon higher than the baseline average fuel economy for that class.

The bill also increases the weight limit within which vehicles are bound by CAFE standards to make it harder for automotive manufacturers to build SUVs large enough to become exempted from CAFE standards. Because SUVs are becoming larger and larger, some may become so large that they will no longer qualify as even SUVs anymore.

We are introducing this legislation because we believe that the United States needs to take a leadership role in the fight against global warming.

We have already seen the potential destruction that global warming can cause in the United States.

Snowpacks in the Sierra Nevada are shrinking and will almost entirely disappear by the end of the century, devastating the source of California's water.

Eskimos are being forced inland in Alaska as their native homes on the coastline are melting into the sea.

Glaciers are disappearing in Glacier National Park in Montana. In 100 years, the park has gone from having 150 glaciers to fewer than 30. And the 30 that remain are two-thirds smaller than they once were.

Beyond our borders, scientists are predicting how the impact of global warming will be felt around the globe.

It has been estimated that two-thirds of the glaciers in western China will melt by 2050, seriously diminishing the water supply for the region's 300 million inhabitants. Additionally, the disappearance of glaciers in the Andes in Peru is projected to leave the population without an adequate water supply during the summer.

The United States is the largest energy consumer in the world, with 4 percent of the world's population using 25 percent of the planet's energy.

And much of this energy is used in cars and light trucks: 43 percent of the oil we use goes into our vehicles and one-third of all carbon dioxide emissions come from our transportation sector.

The U.S. is falling behind the rest of the world in the development of more fuel efficient automobiles. Quarterly auto sales reflect that consumers are buying smaller more fuel efficient cars and sales of the big, luxury vehicles that are the preferred vehicle of the American automakers have dropped significantly.

Even SUV sales have slowed. First quarter 2005 deliveries of these vehicles are down compared to the same period last year—for example, sales of the Ford Excursion is down by 29.5 percent, the Cadillac Escalade by 19.9 percent, and the Toyota Sequoia by 12.6 percent.

On the other hand, the Toyota Prius hybrid had record sales in March with a 160.9 percent increase over the previous year.

The struggling U.S. auto market cannot afford to fall behind in the development of fuel efficient vehicles. Our bill sets out a reasonable time frame for car manufacturers to design vehicles that are more fuel efficient and that will meet the growing demand for more fuel efficient vehicles.

We can do this, and we can do this today. I urge my colleagues to support this legislation.

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. 889

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 ''Automobile Fuel Economy Act of 2005''.

SEC. 2. INCREASED AVERAGE FUEL ECONOMY STANDARD FOR LIGHT TRUCKS.

(a) DEFINITION OF LIGHT TRUCK.—Section 32901(a) of title 49, United States Code, is amended—

(1) in each of paragraphs (1) through (14), by striking the period at the end and inserting a semicolon;

(2) in paragraph (15), by striking the period at the end and inserting ''; and'';

(3) by redesignating paragraphs (12) through (16) as paragraphs (13) through (17), respectively; and

(4) by inserting after paragraph (11) the following:

''(12) 'light truck' has the meaning given that term in regulations prescribed by the Secretary of Transportation in the administration of this chapter;''.

(b) REQUIREMENT FOR INCREASED STANDARD.—Section 32902(a) of title 49, United States Code, is amended—

(1) by inserting ''(1)'' after ''**AUTOMOBILES**.—'';

(2) by striking ''The Secretary'' and inserting ''Subject to paragraph (2), the Secretary''; and

(3) by adding at the end the following :

''(2) The average fuel economy standard for light trucks manufactured by a manufacturer may not be less than 27.5 miles per gallon, except that the average fuel economy standard for light trucks manufactured by a manufacturer in a model year before model year 2011 and—

''(A) after model year 2008 may not be less than 23.5 miles per gallon;

''(B) after model year 2009 may not be less than 24.8 miles per gallon; and

''(C) after model year 2010 may not be less than 26.1 miles per gallon.''.

(c) APPLICABILITY.—Section 32902(a)(2) of title 49, United States Code, as added by subsection (b)(3), shall not apply with respect to light trucks manufactured before model year 2009.

SEC. 3. FUEL ECONOMY STANDARDS FOR AUTOMOBILES UP TO 10,000 POUNDS GROSS VEHICLE WEIGHT.

(a) VEHICLES DEFINED AS AUTOMOBILES.—Section 32901(a)(3) of title 49, United States Code, is amended by striking ''rated at—'' and all that follows and inserting ''rated at not more than 10,000 pounds gross vehicle weight.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2011.

SEC. 4. FUEL ECONOMY OF THE FEDERAL FLEET OF VEHICLES.

(a) DEFINITIONS.—In this section—

(1) the term ''class of vehicles'' means a class of vehicles for which an average fuel economy standard is in effect under chapter 329 of title 49, United States Code;

(2) the term ''executive agency'' has the meaning given the term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)); and

(3) the term ''new vehicle'', with respect to the fleet of vehicles of an executive agency, means a vehicle procured by or for the agency after September 30, 2007.

(b) BASELINE AVERAGE FUEL ECONOMY.—The head of each executive agency shall determine the average fuel economy for all of the vehicles in each class of vehicles in the agency's fleet of vehicles in fiscal year 2006.

(c) INCREASE OF AVERAGE FUEL ECONOMY.—The head of each executive agency shall manage the procurement of vehicles in each class of vehicles for that agency to ensure that—

(1) not later than September 30, 2008, the average fuel economy of the new vehicles in the agency's fleet of vehicles in each class of vehicles is not less than 3 miles per gallon higher than the baseline average fuel economy determined for that class; and

(2) not later than September 30, 2011, the average fuel economy of the new vehicles in the agency's fleet of vehicles in each class of vehicles is not less than 6 miles per gallon higher than the baseline average fuel economy determined for that class.

(d) CALCULATION OF AVERAGE FUEL ECONOMY.—For purposes of this section—

(1) average fuel economy shall be calculated in accordance with guidance prescribed by the Secretary of Transportation for the implementation of this section; and

(2) average fuel economy calculated under subsection (b) for an agency's vehicles in a class of vehicles shall be the baseline average fuel economy for the agency's fleet of vehicles in that class.

Ms. SNOWE. Mr. President, I rise today to join my esteemed colleague, Senator FEINSTEIN as the lead cosponsor for the Feinstein-Snowe legislation that will rectify an unacceptable inequity when it comes to obtaining greater fuel economy for the vehicles we choose to drive. This bill allows us to take a road currently less traveled towards decreasing our Nation's need to import greater and greater amounts of foreign oil from the most volatile area of the globe, and at the same time, decrease polluting vehicle emissions that affect both the public's and the planet's health.

What is clear, on the eve of Earth Day, is that the Federal Government must lead in ensuring consumers a choice of vehicles with higher fuel economy, an appropriate degree of safety, and a minimal impact on our environment. Closing what is called the SUV loophole that allows popular SUVs and other light trucks to get only 20.7 miles per gallon while other passenger cars need to meet a 27.5 mile per gallon threshold, will help us meet these environmental, economic, and national security goals, and I think it's an idea whose time has long since arrived.

My colleague from California has been a passionate advocate of this proposal, and I'm proud to work with her again in introducing our practical, attainable bill that can garner the kind of broad support necessary to address this national imperative this year. Now I know when we first introduced our plan in 2001, some believed it was too much too soon, while others felt it didn't go far enough. And around here, that's usually a sign you're onto something. But can anyone honestly say we're better off today without nothing? That we're in better shape because we failed to pass what is possible four years ago?

This legislation is a critical first step to provide real relief from skyrocketing gas prices that have reached over $2 a gallon all across the county are estimated to stay high throughout the year. The increase in Corporate Average Fuel Economy, or CAFE, standards for the light trucks category—mostly SUVs and minivans—will ultimately decrease our need for foreign oil. I would like to bring to my colleagues' attention that every hour, $28 million leaves our country to pay for the Nation's unquenched thirst for foreign oil. When it comes to the fuel economy of America's sport utility vehicles, surely we can do better for our pocketbooks, for our planet, and for our promise for the future.

It is unacceptable to me that a developing country like China has put in place new regulations that are more stringent than U.S. CAFE standards to promote better fuel. economy in their vehicles and rein in that country's energy consumption. Like the U.S., China greatly depends upon foreign oil. However, China's GDP per capita was only approximately $860 in 2004 while the U.S. was at $35,000 per person. The standards that go into force in China in July of 2005, require that all new passenger cars get two miles per gallon more than U.S. CAFE standards. And SUVs will have to achieve 1.7 to 2.7 miles per gallon more depending on the make. By 2008, large cars in China will have to get 30.4 miles per gallon. China, very aware of their rising oil imports, skyrocketing oil prices, and their air pollution, are finding a way to achieve greater fuel economy, but the U.S. cannot? This makes absolutely no sense to me.

Right now, all our vehicles combined consume over 40 percent of our oil, while coughing up over 20 percent of U.S. carbon monoxide emissions—the greenhouse gas linked to global climate change. To put this in perspective, the amount of carbon monoxide emission just from U.S. vehicles alone is the equivalent of the fourth highest carbon monoxide emitting country in the world. Given these stunning numbers, how can we continue to allow SUVs to spew three times more pollution into the air than passenger cars?

Just think for a moment how much the world has changed technologically over the past 25 years. We've seen the advent of the home computer and the information age. Computers are now running our automobiles, and Global Positioning System devices are guiding drivers to their destinations. Are we to believe that technology couldn't have also helped those drivers burn less fuel in getting there? Are we going to say that the whole world has transformed, but America doesn't have the wherewith-all to make SUVs that get better fuel economy?

Well, I don't believe it, and neither does the National Academy of Sciences that issued a report in 2001 in response to Congress' request the previous year that the NAS study the issue. They concluded that it was possible to achieve a more than 40 percent improvement particularly in light truck and SUV fuel economy over a 10–15 year period—and that technologies exist now for improving fuel economy. That was 3½ years ago.

I don't want America's SUV manufacturers to be ''the industry that time forgot?'' and history clearly shows that the Federal Government must play a role in ensuring that consumers have a choice in vehicles with high degrees of fuel economy, an appropriate degree of

safety and a minimal impact on our environment. As the 2001 NAS Report also stated, ''Because of the concerns about greenhouse gas emissions and the level of oil imports, it is appropriate for the Federal Government to ensure fuel economy levels beyond those expected to result from market forces alone.'' How can we do anything less?

So many questions that we already have the answers to but not the initiative or will to do so. Closing the SUV loophole will help us achieve so many goals, and it's an idea whose time has long since arrived.

I ask for my colleagues' support for closing the SUV loophole, and I thank the Chair.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 118—RECOGNIZING JUNE 2 THROUGH JUNE 5, 2005, AS THE ''VERMONT DAIRY FESTIVAL,'' IN HONOR OF HAROLD HOWRIGAN FOR HIS SERVICE TO HIS COMMUNITY AND THE VERMONT DAIRY INDUSTRY

Mr. JEFFORDS (for himself and Mr. LEAHY) submitted the following resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. RES. 118

Recognizing June 2 through June 5, 2005, as the ''Vermont Dairy Festival'', in honor of Harold Howrigan for his service to his community and the Vermont dairy industry.

Whereas the town of Enosburg Falls, Vermont, will host the ''Vermont Dairy Festival'' from June 2 through June 5, 2005;

Whereas the men and women of the Enosburg Lions Club will sponsor the Vermont Dairy Festival, which celebrates its 49th year;

Whereas the Vermont Dairy Festival is a beloved expression of the civic pride and agricultural heritage of the people of Enosburg Falls and Franklin County, Vermont;

Whereas the people of Enosburg Falls and Franklin County have long-held traditions of family owned and operated dairy farms;

Whereas the St. Albans Cooperative Creamery, Inc., which was established in 1919, is a farmer-owned cooperative;

Whereas Harold Howrigan served on the Board of the St. Albans Cooperative for 24 years;

Whereas Mr. Howrigan was the President of the Board of the St. Albans Cooperative for 17 years;

Whereas Mr. Howrigan recently retired from his position as President of the Board of the St. Albans Cooperative; and

Whereas Mr. Howrigan led the St. Albans Cooperative to uphold the region's traditions and to meet future challenges: Now, therefore, be it

Resolved, That the Senate recognizes June 2 through June 5, 2005, as the ''Vermont Dairy Festival'', in honor of Harold Howrigan for his service to his community and the Vermont dairy industry.

AMENDMENTS SUBMITTED AND PROPOSED

SA 564. Mr. CRAIG (for himself and Mr. AKAKA) proposed an amendment to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

SA 565. Mr. STEVENS (for Mr. DEWINE) submitted an amendment intended to be proposed by Mr. STEVENS to the bill H.R. 1268, supra.

SA 566. Mr. STEVENS (for Mr. FRIST) submitted an amendment intended to be proposed by Mr. STEVENS to the bill H.R. 1268, supra.

TEXT OF AMENDMENTS

SA 564. Mr. CRAIG (for himself and Mr. AKAKA) proposed an amendment to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ____. TRAUMATIC INJURY PROTECTION.

(a) IN GENERAL.—Subchapter III of chapter 19, Title 38, United States Code, is amended—

(1) in section 1965, by adding at the end the following:

''(11) The term 'activities of daily living' means the inability to independently perform 2 of the 6 following functions:

''(A) Bathing.

''(B) Continence.

''(C) Dressing.

''(D) Eating.

''(E) Toileting.

''(F) Transferring.''; and

(2) by adding at the end the following:

''§ 1980A. Traumatic injury protection

''(a) A member who is insured under subparagraph (A)(i), (B), or (C)(i) of section 1967(a)(1) shall automatically be issued a traumatic injury protection rider that will provide for a payment not to exceed $100,000 if the member, while so insured, sustains a traumatic injury that results in a loss described in subsection (b)(1). The maximum amount payable for all injuries resulting from the same traumatic event shall be limited to $100,000. If a member suffers more than 1 such loss as a result of traumatic injury, payment will be made in accordance with the schedule in subsection (d) for the single loss providing the highest payment.

''(b)(1) A member who is issued a traumatic injury protection rider under subsection (a) is insured against such traumatic injuries, as prescribed by the Secretary, in collaboration with the Secretary of Defense, including, but not limited to—

''(A) total and permanent loss of sight;

''(B) loss of a hand or foot by severance at or above the wrist or ankle;

''(C) total and permanent loss of speech;

''(D) total and permanent loss of hearing in both ears;

''(E) loss of thumb and index finger of the same hand by severance at or above the metacarpophalangeal joints;

''(F) quadriplegia, paraplegia, or hemiplegia;

''(G) burns greater than second degree, covering 30 percent of the body or 30 percent of the face; and

''(H) coma or the inability to carry out the activities of daily living resulting from traumatic injury to the brain.

''(2) For purposes of this subsection—

''(A) the term 'quadriplegia' means the complete and irreversible paralysis of all 4 limbs;

''(B) the term 'paraplegia' means the complete and irreversible paralysis of both lower limbs; and

''(C) the term 'hemiplegia' means the complete and irreversible paralysis of the upper and lower limbs on 1 side of the body.

''(3) The Secretary, in collaboration with the Secretary of Defense, shall prescribe, by regulation, the conditions under which coverage against loss will not be provided.

''(c) A payment under this section may be made only if—

''(1) the member is insured under Servicemembers' Group Life Insurance when the traumatic injury is sustained;

''(2) the loss results directly from that traumatic injury and from no other cause; and

''(3) the member suffers the loss before the end of the period prescribed by the Secretary, in collaboration with the Secretary of Defense, which begins on the date on which the member sustains the traumatic injury, except, if the loss is quadriplegia, paraplegia, or hemiplegia, the member suffers the loss not later than 365 days after sustaining the traumatic injury.

''(d) Payments under this section for losses described in subsection (b)(1) shall be—

''(1) made in accordance with a schedule prescribed by the Secretary, in collaboration with the Secretary of Defense;

''(2) based on the severity of the covered condition; and

''(3) in an amount that is equal to not less than $25,000 and not more than $100,000.

''(e)(1) During any period in which a member is insured under this section and the member is on active duty, there shall be deducted each month from the member's basic or other pay until separation or release from active duty an amount determined by the Secretary of Veterans Affairs as the premium allocable to the pay period for providing traumatic injury protection under this section (which shall be the same for all such members) as the share of the cost attributable to provided coverage under this section, less any costs traceable to the extra hazards of such duty in the uniformed services.

''(2) During any month in which a member is assigned to the Ready Reserve of a uniformed service under conditions which meet the qualifications set forth in section 1965(5)(B) of this title and is insured under a policy of insurance purchased by the Secretary of Veterans Affairs under section 1966 of this title, there shall be contributed from the appropriation made for active duty pay of the uniformed service concerned an amount determined by the Secretary of Veterans Affairs (which shall be the same for all such members) as the share of the cost attributable to provided coverage under this section, less any costs traceable to the extra hazards of such duty in the uniformed services. Any amounts so contributed on behalf of any member shall be collected by the Secretary of the concerned service from such member (by deduction from pay or otherwise) and shall be credited to the appropriation from which such contribution was made in advance on a monthly basis.

''(3) The Secretary of Veterans Affairs shall determine the premium amounts to be

charged for traumatic injury protection coverage provided under this section.

''(4) The premium amounts shall be determined on the basis of sound actuarial principles and shall include an amount necessary to cover the administrative costs to the insurer or insurers providing such insurance.

''(5) Each premium rate for the first policy year shall be continued for subsequent policy years, except that the rate may be adjusted for any such subsequent policy year on the basis of the experience under the policy, as determined by the Secretary of Veterans Affairs in advance of that policy year.

''(6) The cost attributable to insuring such member under this section, less the premiums deducted from the pay of the member's uniformed service, shall be paid by the Secretary of Defense to the Secretary of Veterans Affairs. This amount shall be paid on a monthly basis, and shall be due within 10 days of the notice provided by the Secretary of Veterans Affairs to the Secretary of the concerned uniformed service.

''(7) The Secretary of Defense shall provide the amount of appropriations required to pay expected claims in a policy year, as determined according to sound actuarial principles by the Secretary of Veterans Affairs.

''(8) The Secretary of Defense shall forward an amount to the Secretary of Veterans Affairs that is equivalent to half the anticipated cost of claims for the current fiscal year, upon the effective date of this legislation.

''(f) The Secretary of Defense shall certify whether any member claiming the benefit under this section is eligible.

''(g) Payment for a loss resulting from traumatic injury will not be made if the member dies before the end of the period prescribed by the Secretary, in collaboration with the Secretary of Defense, which begins on the date on which the member sustains the injury. If the member dies before payment to the member can be made, the payment will be made according to the member's most current beneficiary designation under Servicemembers' Group Life Insurance, or a by law designation, if applicable.

''(h) Coverage for loss resulting from traumatic injury provided under this section shall cease at midnight on the date of the member's separation from the uniformed service. Payment will not be made for any loss resulting from injury incurred after the date a member is separated from the uniformed services.

''(i) Insurance coverage provided under this section is not convertible to Veterans' Group Life Insurance.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 19 of title 38, United States Code, is amended by adding after the item relating to section 1980 the following:

''1980A. Traumatic injury protection.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the first day of the first month beginning more than 180 days after the date of enactment of this Act.

(2) RULEMAKING.—Before the effective date described in paragraph (1), the Secretary of Veterans Affairs, in collaboration with the Secretary of Defense, shall issue regulations to carry out the amendments made by this section.

SA 565. Mr. STEVENS (for Mr. DEWINE) submitted an amendment intended to be proposed by Mr. STEVENS to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 169, between lines 8 and 9, insert the following:

SENSE OF SENATE ON INCREASED PERIOD OF CONTINUED TRICARE COVERAGE OF CHILDREN OF MEMBERS OF THE UNIFORMED SERVICES WHO DIE WHILE SERVING ON ACTIVE DUTY FOR A PERIOD OF MORE THAN 30 DAYS

SEC. 1122. It is the sense of the Senate that—

(1) Congress should enact an amendment to section 1079 of title 10, United States Code, in order to increase the period of continued TRICARE coverage of children of members of the uniformed services who die while serving on active duty for a period of more than 30 days under that section such that the period of continued eligibility is the longer of—

(A) the three-year period beginning on the date of death of the member;

(B) the period ending on the date on which the child attains 21 years of age; or

(C) in the case of a child of a deceased member who, at 21 years of age, is enrolled in a full-time course of study in a secondary school or in a full-time course of study in an institution of higher education approved by the administering Secretary and was, at the time of the member's death, in fact dependent on the member for over one-half of the child's support, the period ending on the earlier—

(i) the date on which the child ceases to pursue such a course of study, as determined by the administering Secretary; or

(ii) the date on which the child attains 23 years of age; and

(2) Congress should make the amendment applicable to deaths of members of the Armed Forces on or after October 7, 2001, the date of the commencement of military operations in Afghanistan.

SA 566. Mr. STEVENS (for Mr. FRIST) submitted an amendment intended to be proposed by Mr. STEVENS to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 231, between lines 3 and 4, insert the following new section:

RECIPROCAL VISAS FOR NATIONALS OF AUSTRALIA

SEC. 6047. (a) Section 101(a)(15)(E) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)) is amended—

(1) by adding at the end ''or (iii) solely to perform services in a specialty occupation in the United States if the alien is a national of the Commonwealth of Australia and with respect to whom the Secretary of Labor determines and certifies to the Secretary of Homeland Security and the Secretary of State that the intending employer has filed with the Secretary of Labor an attestation under section 212(t)(1);''; and

(2) in clause (i), by striking ''or'' after ''national;''.

(b) Section 202 of such Act (8 U.S.C. 1152) is amended by adding at the end the following new subsection:

''(f) SPECIAL RULE FOR AUSTRALIA.—The total number of aliens who may acquire nonimmigrant status under section 101(a)(15)(E)(iii) may not exceed 5000 for a fiscal year.''.

(c) Section 214(i)(1) of such Act (8 U.S.C. 1184(i)(1)) is amended by inserting '', section 101(a)(15)(E)(iii),'' after ''section 101(a)(15)(H)(i)(b)''.

(d) Section 212(t) of such Act (8 U.S.C. 1182(t)), as added by section 402(b)(2) of the United States-Chile Free Trade Agreement Implementation Act (Public Law 108–77; 117 Stat. 941), is amended—

(1) by inserting ''or section 101(a)(15)(E)(iii)'' after ''section 101(a)(15)(H)(i)(b1)'' each place it appears;

(2) in paragraph (3)(C)(i)(II), by striking ''or'' in the third place it appears;

(3) in paragraph (3)(C)(ii)(II), by striking ''or'' in the third place it appears; and

(4) in paragraph (3)(C)(iii)(II), by striking ''or'' in the third place it appears.

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the Subcommittee on National Parks has scheduled a hearing to review the National Park Service's funding needs for administration and management of the national park system.

The hearing will be held on Tuesday May 10, 2005, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364 Dirksen Senate Office Building, Washington, DC.

For further information, please contact Tom Lillie at (202) 224–5161 or Brian Carlstrom at (202) 224–6293.

COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, April 27, 2005, at 9:30 a.m. in Room 485 of the Russell Senate Office Building to conduct an Oversight Hearing on Regulation of Indian Gaming.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, May 11, 2005, at 9:30 a.m. in Room 485 of the Russell Senate Office Building to conduct an Oversight Hearing on Federal Recognition of Indian Tribes.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on April 21, 2005, at 10 a.m., in open session to consider the following nominations: Mr. Kenneth J. Krieg to be Under Secretary of Defense for Acquisition, Technology and Logistics; and Lieutenant General Michael V. Hayden, USAF, for appointment to the grade of General and to be Deputy National Intelligence Director.

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

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. ROBERTS. 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 April 21, 2005, at 10 a.m. to conduct a hearing on ''Regulatory Reform on the Housing Government-Sponsored Enterprises.''

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

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. ROBERTS. 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 April 21, 2005, at 2:30 p.m. to conduct a hearing on ''HUD's Fiscal Year 2005 Budget.''

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

COMMITTEE ON FINANCE

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Thursday, April 21, 2005, at 10 a.m., in 628 Dirksen Senate Office Building, to consider the nomination of Robert J. Portman to be United States Trade Representative.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERTS. 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 21, 2005 at 9:30 a.m. to hold a hearing on multilateral development banks.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to hold a hearing during the session of the Senate on Thursday, April 21, 2005 at 10 a.m. in SD–430

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

COMMITTEE ON THE JUDICIARY

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, April 21, 2005 at 9:30 a.m. in Dirksen room 226.

I. Nominations

Terrence W. Boyle, II, to be U.S. Circuit Judge for the Fourth Circuit; Priscilla R. Owen, to be U.S. Circuit Judge for the Fifth Circuit; and Janice Rogers Brown, to be U.S. Circuit Judge for the District of Columbia Circuit.

II. Bills

S. 378, Reducing Crime and Terrorism at America's Seaports Act of 2005, BIDEN, SPECTER, FEINSTEIN, KYL, CORNYN; and S. 629, Railroad Carriers and Mass Transportation Act of 2005, SESSIONS, KYL.

III. Matters

Asbestos, Senate Judiciary Committee Rules.

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

JOINT COMMITTEE ON PRINTING

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Joint Committee on Printing be authorized to meet during the session of the Senate on Thursday, April 21, 2005 at 2 p.m. to conduct an organizational meeting.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 21, 2005 at 2:30 p.m., to hold a hearing.

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

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION AND INTERNATIONAL SECURITY

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Subcommittee on Federal Financial Management, Government Information, and International Security be authorized to meet on Thursday, April 21st, 2005, at 2:30 p.m., for a hearing regarding ''An Assessment of the President's Management Agenda''.

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

SUBCOMMITTEE ON INTELLECTUAL PROPERTY

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Subcommittee on Intellectual Property be authorized to meet to conduct a hearing on ''The Patent System Today and Tomorrow'' on Thursday, April 21, 2005 at 2:30 p.m., in Dirksen 226.

Panel I: Jon W. Dudas, Undersecretary of Commerce for Intellectual Property, Director of the U.S. Patent and Trademark Office, Department of Commerce, Arlington, VA.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet on Thursday, April 21, 2005 at 10:30 a.m. for a hearing entitled, ''Employing Federal Workforce Flexibilities: A Progress Report.''

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

SUBCOMMITTEE ON PERSONNEL

Mr. ROBERTS. Mr. President, I ask unanimous consent that the subcommittee on Personnel be authorized to meet during the session of the Senate on April 21, 2005, at 1:30 p.m., in open session to receive testimony on the Present and Future Costs of Department of Defense Health Care, and National health Care Trends in the Civilian Sector.

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

SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation and Merchant Marine be authorized to meet on Thursday, April 21, 2005, at 9:30 a.m. on Amtrak Reauthorization.

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

ORDER FOR STAR PRINT—S. 786

Mr. FRIST. I ask unanimous consent S. 786 be Star Printed with the changes at desk.

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

MEASURES READ THE FIRST TIME—S. 870, S. 871, S. 872, S. 873, S. 874

Mr. FRIST. I understand there are five bills at the desk and I ask for their first reading en bloc.

The PRESIDING OFFICER. The clerk will report the bills by title.

The assistant legislative clerk read as follows:

A bill (S. 870) to prohibit energy market manipulation.

A bill (S. 871) to amend title 10, United States Code, to ensure that the strength of the Armed Forces and the protections and benefits for members of the Armed Forces and their families are adequate for keeping the commitment of the people of the United States to support their servicemembers, and for other purposes.

A bill (S. 872) to amend the Internal Revenue Code of 1986 to provide for the taxation of income of controlled foreign corporations attributable to imported property.

A bill (S. 873) to amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the medicare program.

A bill (S. 874) to establish a national health program administered by the Office of Personnel Management to offer health benefits plans to individuals who are not Federal employees, and for other purposes.

Mr. FRIST. I now ask for a second reading and, in order to place the bills on the calendar under the provisions of rule XIV, I object to my own requests, all en bloc.

The PRESIDING OFFICER. Objection having been heard, the bills will be read the second time on the next legislative day.

AMENDING THE AGRICULTURAL CREDIT ACT OF 1987

Mr. FRIST. Mr. President, I ask unanimous consent the Agriculture Committee be discharged from further consideration of S. 643 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 643) to amend the Agricultural Credit Act of 1987 to reauthorize State mediation programs.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements be printed in the RECORD.

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

The bill (S. 643) was read the third time and passed, as follows:

S. 643

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REAUTHORIZATION OF STATE MEDIATION PROGRAMS.

Section 506 of the Agricultural Credit Act of 1987 (7 U.S.C. 5106) is amended by striking ''2005'' and inserting ''2010''.

ORDERS FOR FRIDAY APRIL 22, 2005

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Friday, April 22. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then to begin 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.

PROGRAM

Mr. FRIST. Mr. President, tomorrow the Senate will be in a period of morning business. There will be no rollcall votes during tomorrow's session. The next vote will occur on Tuesday of next week. It is my hope we will be able to begin consideration of the highway bill early next week, and I will have more to say on next week's schedule tomorrow.

Before we close, I do want to congratulate Chairman COCHRAN as well as the ranking member for their efforts on the emergency supplemental today. With the passage vote of 99 to zero, that bill shortly will go to conference committee for a final product. I thank the two managers for their time and patience on the floor during the consideration of the bill.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:58 p.m., adjourned until Friday, April 22, 2005, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 21, 2005:

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. ROBERT W. WAGNER, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT AS DIRECTOR, ARMY NATIONAL GUARD AND FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.C.C., SECTION 10506:

To be lieutenant general

MAJ. GEN. CLYDE A. VAUGHN, 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JOHN W. BERGMAN, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR TEMPORARY APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 5721:

To be lieutenant commander

JOEL P. BERNARD, 0000
JOSHUA D. BIGHAM, 0000
CHAD A. BOLLMANN, 0000
DERRICK D. BOOM, 0000
LESTER A. BROWN, JR., 0000
FRANKIE J. CLARK, 0000
ERIC D. COLE, 0000
KENNETH S. DOUGLAS, 0000
JESSE G. ESPE, 0000
JEFFREY P. FENDICK, 0000
MICHAEL E. FREED, 0000
KEVIN P. GALLAGHER, 0000
PATRICK M. GESCHKE, 0000
LARRY S. HAND, 0000
INDALECIO M. HERNANDEZ, 0000
CHRISTOPHER T. HORGAN, 0000
PATRICK J. HOUGH, 0000
SCOTT A. JONES, 0000
HARRY L. JUNEAU, 0000
DANIEL B. MCFALL, 0000
GREGORY L. MORRIS, 0000
PAUL M. NIELSON, 0000
SCOTT A. NOE, 0000
MITCHELL K. OCONNOR, 0000
BRIAN S. ONEILL, 0000
ANDREW L. PRESBY, 0000
JAMES T. ROBINSON, 0000
DARREN C. ROE, 0000
SCOTT E. SHEA, 0000
TIMOTHY C. SPENCE, 0000
MATTHEW J. STEENO, 0000
ANDREW P. THOMAS, 0000
JAMES E. THOMAS, 0000
CHRISTOPHER J. WILLIAMS, 0000
MARC K. WILLIAMS, 0000

CONFIRMATIONS

Executive nominations confirmed by the Senate Thursday, April 21, 2005:

EXECUTIVE OFFICE OF THE PRESIDENT

JOHN D. NEGROPONTE, OF NEW YORK, TO BE DIRECTOR OF NATIONAL INTELLIGENCE.

LIEUTENANT GENERAL MICHAEL V. HAYDEN, UNITED STATES AIR FORCE, TO BE PRINCIPAL DEPUTY DIRECTOR OF NATIONAL INTELLIGENCE.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. MICHAEL V. HAYDEN