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# Senate

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

## PRAYER

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

Let us pray.

Almighty God, thank You for Your promise to guide us by Your spirit. Give us wisdom to clearly comprehend Your promptings in our hearts so that we may follow You. Guide us away from contention and teach us to build bridges instead of walls. Keep us from sowing seeds of negativity so we will not reap a harvest of regret.

Bless the Members of this body in their legislative work, and keep them safe from harm. Give them a patience that persuades and a speech that brings unity. As they wrestle with the conundrums of our times, help them to seek timely advice.

Empower us all with the self-control that will enable us to honor Your Name.

We pray this in Your powerful Name. Amen.

## PLEDGE OF ALLEGIANCE

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

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

## RESERVATION OF LEADER TIME

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

## MORNING BUSINESS

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

## RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

## SCHEDULE

Mr. FRIST. Mr. President, this morning after our 60 minutes of morning business, we will resume debate on the Interior appropriations bill. Last night we reached an agreement which provides for debate and votes on the final amendments. We will start off with two amendments relating to pesticides. If all time is used on those two amendments, we will be voting at approximately 12:30. I hope we will not need all that debate time, but that we can expedite some of the votes in order to finish the bill at an early hour today. We will be voting on the bill throughout the day on the remaining amendments to the Interior bill. We will finish the bill today.

As a reminder to my colleagues, we need to keep things moving as efficiently as we possibly can because we have a lot of other work to consider this week, including the Homeland Security bill, possibly the CAFTA legislation, a highway extension, in all likelihood a welfare extension, and there are other appropriation measures and nominations that may become available for Senate consideration.

I know we have a lot of Members who are traveling and, specifically for BRAC reasons, are going back to their States. But we need to keep voting, keep the amendments coming forward to make progress for the American people.

We have today, Thursday, and Friday to accomplish a great deal. I encourage my colleagues to come to the floor. If you don't need extended debate, please take into consideration that we have a lot to do to finish this bill today.

## RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

## APPROPRIATIONS

Mr. REID. Mr. President, through the Chair to the distinguished majority leader, it is my understanding that sometime this morning CAFTA will be marked up and likely come out of committee. Is that the leader's understanding?

Mr. FRIST. That is my understanding.

Mr. REID. As the leader mentioned, we are going to go to Homeland Security appropriations next, is that right?

Mr. FRIST. That is the plan, although right now the Interior bill is taking an extra day, a day longer than I thought, so we are going to have to adjust the schedule appropriately given the fact the Interior bill was not finished yesterday as we had anticipated.

Mr. REID. As I spoke to the leader, because Senator DOMENICI and I have done the bill for so long, if we needed to do a bill in a shorter period of time, an appropriations bill, I think we could do ours in a day at the longest. I don't anticipate any trouble with that.

As I said privately and now I say publicly, I think we have a tremendous obligation to see what we can do to move appropriations bills. Before we leave, I would like to get two of them done. When we get back in July, after the obligations that you and I have set up—stem cells, China trade, native Hawaiians—then I hope we could get some more appropriation's bills done, but I know that is a big order.

In relation to what the majority leader has said, I do not think anyone should plan on staging their votes

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



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when they think there are going to be a lot of people here, when everybody will be here, because all week we will have a lack of attendance. People are flying all over the country attending BRAC hearings. That will be the way it is all week long.

I think we have to plow forward and try to get as much done as we can as soon as we can because we do have the Fourth of July festivities around the country starting as early as Saturday.

The PRESIDENT pro tempore. The majority leader.

Mr. FRIST. Mr. President, in part in response to the distinguished Democratic leader, the week right now, with just Wednesday, Thursday, Friday—we have a lot to do. He looked ahead to next month. Again, that is the short list. We have a possible flag amendment, we have a possible gun liability, so July—in addition to stem cells and the others he mentioned, in addition to the appropriations. I say all that because we have Members who, on Mondays and Fridays say, We are not going to be there.

This Friday, even though it is before a recess, we are going to be gone and we will have the opportunity to go back to our States and do all the things that are very important for us to do. But we need to keep plowing through, working Wednesday, Thursday, and Friday. I made it clear to my caucus if it is necessary we will be voting Friday. I don't want to give a time on Friday, but our colleagues right now in their minds say, well, it is Thursday, time to get out, we are on recess, and therefore we are not going to stick around.

I want to put our side on notice, and I hope the distinguished Democratic leader will do likewise, because we have the appropriations bills—and I think there are several, Energy and Water—legislative branch should not take much time, but we have a number of others that will. Homeland Security is probably going to take some time to do. I again encourage our colleagues to offer amendments today, let's finish this bill, and then move on to other business. Then also, Friday, if we can't finish our business, we are going to need to be voting on Friday.

The PRESIDENT pro tempore. The Senator from Rhode Island.

## PROGRESSIVE PRICE INDEXING

Mr. REED. Mr. President, I rise today to express my deep concern about the President's proposal to peg initial Social Security benefits to the growth in prices rather than wages, and the negative impact this so-called progressive price indexing scheme would have on future retirees.

The current method of calculating retirees' Social Security benefits was first put into place in 1979. Since then, the initial benefit level has risen with the growth in wages, ensuring that benefits reflect increases in living standards over time. Wages tend to grow faster than prices, so the effect of the President's proposed change would be a substantial reduction over time in initial benefit levels to people making more than $20,000 per year.

Two recent reports by the Democratic staff of the Joint Economic Committee indicate the extent of the benefit cuts that future retirees would face under the President's proposal. The first report, entitled ''What If President Bush's Plan For Cuts In Social Security Benefits Were Already In Place?'' finds that if a price indexing approach like President Bush's had gone into effect in 1979 instead of the current method, middle-class workers retiring this year would receive a benefit 9 percent smaller than they will get under current law.

This chart illustrates that for 65-year-olds, if we had adopted in 1979 this indexing proposal, they would be receiving roughly $1,400 less per year than they would under the current system. The current system replaces wages. It keeps up with a growing standard of living. It keeps seniors out of poverty and able to afford all their expenses. This chart illustrates the fact that these cuts would have been very real and very significant.

This second chart indicates that Social Security under the President's plan will replace a smaller percentage of wages because it would be tied to prices, not wages. This chart also shows that if in 1979 we had adopted progressive price indexing rather than wage indexing—for 65-year-olds, they would be receiving upon retirement 4 percent less than under current law, but for the 45-year-olds, the drop is significant. In effect, we are not keeping up with the cost of living. We are not keeping up with the standard of living. That is the essence of the President's proposal.

What we are seeing with this proposal is another way to cut benefit levels for seniors. It will affect, if it is put in place, not just the seniors who are retiring after that date, the 65-year-olds, but the whole generation of Americans who will follow.

Price indexing would also hit middle-income workers much harder than upper income workers because middle-income workers rely on Social Security for a much larger percentage of their retirement income than do upper income workers. While the highest earners retiring until 2045 would experience a bigger benefit cut, their total retirement income would fall by less.

This chart shows what would happen to a 25-year-old if the President's proposal had been adopted in 1979. For the medium earner, they would see a 26-percent reduction in Social Security benefits, but it would translate into a 17-percent reduction in their overall retirement income because they don't have many alternate sources to Social Security to rely on when they retire. Upper income workers would see a cut in benefits that is larger, but again their overall retirement income and benefits would be cut much less. So the impact really hits the medium worker if this scheme is advanced.

There is a second report the Democratic staff of the Joint Economic Committee has done, entitled ''How President Bush's Social Security Proposals Would Affect Late Baby Boomers.'' There has been a lot of talk about how the President's proposal would not affect those 55 and above, but there is a whole large group of Americans—ages 40 to 45, sometimes called the late baby boomers—who would be significantly impaired by the proposal.

This chart shows the impact on benefits for today's 40-year-olds, those who are at the beginning of this late baby boom period. Under current law, they could expect retirement—these are medium-income earners, making $36,600 in 2005—they could expect annual benefits of $17,000. The President's plan cuts it to $15,450 if his benefit indexing plan alone is adopted.

With private accounts, it is further reduced to $12,470, if you adopt a very safe Treasury security investment approach—which, again, for the 40 and 45-year-olds, just 20 years or so from retirement, is probably the best, safest approach—you would still get less money than the current law benefit. The impact of progressive indexing, even with the private accounts, would be to reduce the benefits middle-income workers would receive.

Over all, this whole approach is one that will reduce benefits for middle Americans. It is one that, if it had been placed in effect in 1979, we would already see significant cuts in benefits to our seniors. I don't think there is any senior out there complaining they are receiving too much in their Social Security check. If this approach was adopted in 1979, they would be receiving on the order of 10 percent less, and their financial constraints would be even more severe.

There is another aspect to this whole issue of pension benefits and Social Security. In the past 25 years, there has been a major shift away from traditional defined benefit plans to defined contribution plans. This chart shows the late baby boomers are already assuming more of the risk in investing their own retirement assets than older generations. This line of the chart represents all pension plans, which this line shows defined benefit plans that essentially have been flat over many years, going back to 1980, to 1998, and beyond. The third line of the chart we see is the rise of defined contribution plans.

Most plans are offered to newer workers as they come into the workforce. These younger workers are assuming more of the risk of their retirement. They are assuming it under the defined contribution plans. As a result, they do not have the certainty that older generations of Americans had. They had the certainty of two defined benefit plans—one from their factory

workplace, office place, their private defined benefit plan; and the second, of course, is from Social Security.

As we consider cutting benefits from the defined benefit plans, we are putting additional pressure on young Americans and middle-aged Americans who now see most of their assets tied up in defined contribution plans. The middle-income workers, the middle-aged workers of today, and the younger workers of today will face a future with less certainty and less security than other generations have enjoyed. That is another strong argument against using a progressive index to cut the one defined benefit plan most Americans can still count on—Social Security.

In addition, the President's price indexing proposal does not close the 75-year gap between promised Social Security benefits and the taxes expected to be paid into the system. It falls short by about 25 percent. Adding on private accounts would worsen Social Security solvency and increase the Federal debt enormously. If price indexed benefits were combined with private accounts, future generations would face the double burden of large cuts in their guaranteed Social Security benefits and paying down a much higher debt.

We all want to work with President Bush to promote a system of Social Security that is solvent, that will encourage savings throughout the United States. But we have to find a plan that works, that does not penalize, particularly, the middle-income Americans.

We have to also address not just the issue of Social Security but the issue of private pensions. We are seeing tremendous pressure on our private pension plans. When you have huge companies such as United Airlines trying to eliminate their pension obligations through the Pension Benefit Guaranty Corporation, that is a wakeup call. Twenty years ago, no one thought when they got a job at United they would have to worry about their pension. That would be the last thing on their minds. Today, United workers and many workers in many other fields worry desperately about their private pensions. We have to pay attention to that. I argue that is probably a more pressing problem than the solvency issues of Social Security.

We hope to work with the President to devise a system to ensure the solvency of Social Security but a system that does not unduly penalize working middle-class Americans. I hope we can do that. From my perspective, it is incumbent, of course, that we move away from the issue of private accounts that certainly makes the system less solvent and does not provide sufficient benefits, particularly for Americans 40 years and older, and that we move to looking at other issues. I hope we can do that. Our commitment should be to ensure we have a Social Security system that works for all Americans and provides that true sense of security: People can count on it, it will be there, and it will be sufficient to support them when they are old.

I yield the floor.

The PRESIDING OFFICER (Mr. VITTER). The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, how much time is remaining in morning business?

The PRESIDING OFFICER. There is approximately 19 minutes remaining.

## PRESIDENT BUSH'S SPEECH

Mr. DURBIN. Last night, President Bush stood in front of the soldiers of the 82nd Airborne and the members of the Special Forces and gave an important speech. Thankfully, he did not profess the unfounded optimism of Vice President CHENEY, who recently declared that the Iraqi insurgency was in ''its last throes.'' Nor did he express the pessimistic view of Secretary of Defense Donald Rumsfeld, who said this last Sunday that this insurgency had an expected life of 5 to 12 years, adding he hoped the American troops could come home long before that.

In fact, Mr. Bush did not use the word ''insurgency,'' although that is what is raging in Iraq. That insurgency is partially fueled and financed from outside groups. Those who come to Iraq to fight in this insurgency come from Saudi Arabia, Syria, and many other places. There is also a domestic war within Iraq against Americans and against many other Iraqis.

President Bush did not use the word ''insurgency,'' but he did make at least six references to September 11. He said that he was drawing on the lessons of September 11. Well, on September 12, 2001, the day after the tragedy of September 11, virtually the whole world stood with the United States. One of the most important lessons I would draw from September 11 is that we can't afford to waste the support of friends and allies.

President Bush says he will not set a timetable. I understand that. I recognize the danger of posting a date and announcing that on that specific day, America will leave. But the fact is, the Iraqi people have their own timetable which they established. By August 15 of this year, they are charged with drawing up a constitution. By next February, they are to have adopted that constitution. These are clear deadlines, clear benchmarks. We do not need a timetable for withdrawal, but America needs a strategy for success with clear benchmarks.

The President announced nothing new last night. He repeated what he said before about the ultimate goal in Iraq of establishing democracy and bringing our troops home. He did not give any sign that he sees a need to change course.

In Iraq, 1,744 American soldiers have died in combat. Almost 13,000 have been grievously wounded. The insurgency continues. Insurgents are now using more sophisticated roadside bombs that can even pierce our armored vehicles. Our troops have done everything we have asked of them, but for each insurgent they kill, another seems to spring up, either from the cities and towns of Iraq or slipping across the porous border. For every IED that our soldiers detect and destroy, another one seems to be planted in its place, sometimes within hours.

There is an estimate that in Iraq today, unguarded, there are some 800,000 tons of ammunition and armament. It is a free market, a flea market, a bazaar of deadly weapons for insurgents and those who would use them against our troops. That is what our brave men and women are up against.

The streets are not safe for our troops. The streets are not safe for Iraqis. Without security, it is unlikely the Iraqis have much faith in a new government.

Unemployment levels in Iraq are as high as 50 percent. Without jobs, the Iraqis wonder what their future will be. More of the same is not good enough.

Our soldiers are doing everything right, everything that we ask of them. They are learning and adapting to the situation on the ground. Their Commander in Chief needs to do the same. We need benchmarks that will measure progress in security, reconstruction, governance, and international savings. And we need to ask ourselves, What do we do next if the benchmarks are not met?

Yesterday, a letter was sent by Senator CARL LEVIN and Senator SUSAN COLLINS to the President urging him to include in the speech an accountability of the Iraqi Government, saying that they must hold to their deadlines, they must understand that this is serious and that we are not going to stay there indefinitely. A New York Times editorial recently stated, ''If the war is going according to plan, someone needs to rethink the plan.'' I believe they are right.

Finally, we also need to take better care of our soldiers when they come home. We are going to have an amendment in a few moments offered by Senator PATTY MURRAY of Washington. Make no mistake, she has been our leader in the Senate when it comes to funding for the Veterans' Administration. Time and again in the Committee on the Budget, with the budget resolution and with the supplemental appropriations, she has made the argument that there wasn't enough money in the VA to take care of our returning soldiers and veterans from other wars. She has been ignored, rejected, and criticized for standing up and saying the obvious—that we have a debt to our soldiers and our veterans.

Last week, Senator MURRAY was vindicated. The Veterans' Administration announced they made a gross miscalculation and were at least $1 billion short in the money they need right now to provide quality health care to our soldiers and veterans.

Senator MURRAY has fought the good fight, and she will win that fight today. In fact, it is going to be interesting to see many from the other side of the aisle who were critical of her call for more money for the VA rushing to provide even greater sums so they can argue that they are on the side of the VA and the veterans.

This is the way it should end. This debate should end with Senator MURRAY's leadership creating a bipartisan coalition for the Veterans' Administration. This should have been a bipartisan issue from the start. She was a lonely voice and faced a lot of criticism for a long time. Today, she will be vindicated. More importantly, the veterans will receive the quality health care which they deserve. That means the newly returning veterans of Fallujah and Baghdad, many suffering terrible wounds in battle and some facing invisible wounds of post-traumatic stress disorder, will have a chance for the kind of treatment they deserve at the Veterans' Administration.

The administration, when it comes to the Veterans' Administration as well as waging the war in Iraq and Afghanistan, has not anticipated the real costs of war. We can do better. We owe these men and women who are fighting these battles and those who have fought in past wars not only our thoughts and prayers, we owe them our resources so they can wage this war successfully, come home safely, and return to their families and their lives.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. How much time is left on our side?

The PRESIDING OFFICER. There is approximately 11½ minutes remaining.

Mrs. MURRAY. Would the Presiding Officer indicate when 1 minute remains.

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

## VETERANS' ADMINISTRATION SHORTFALL

Mrs. MURRAY. Mr. President, I rise this morning to again talk about the situation facing our veterans. I thank my colleague from Illinois for his dedication to this issue and his tremendous work and support as we have tried to raise this issue for a number of months.

So all of my colleagues know, I came to the floor of the Senate early this year to talk about the situation facing those soldiers who have worked so honorably for this country in past wars and for those who are returning home from Iraq and Afghanistan today and the need to keep the promise that we gave to all of them that when they return we will provide them with the health care they need.

When I was in my State earlier this year, in January, I met with a number of the service organizations and the military to talk about reintegration, to talk about what happens to our soldiers when they return home, to make sure they have the services available to them, and to make sure they are taken care of. Many in those meetings were deeply concerned that we would not have the facilities available for them. They told me of already long waiting lines at our veterans clinics and our VA hospitals. They told me of soldiers who could not get appointments for as many as 6 months or 3 years. They told me of a looming budget crisis.

When I heard that, I talked to other organizations across the country and realized that we were, indeed, facing a tremendous shortfall at the VA. That is why in the Committee on the Budget I offered an amendment to increase the funding for VA. It was rejected by those on the majority side by an almost party-line vote. That is why, throughout the appropriations process and then on the emergency supplemental, I continued to come to the Senate to say that this is a looming crisis that we need to deal with.

In the Senate, I offered an amendment for $1.98 billion for an emergency supplemental, saying this is critical. Our soldiers are not getting the care they need. I was defeated on that amendment on an almost party-line vote because of the letter sent by the Secretary of VA to KAY BAILEY HUTCHISON, the Senator who is the chairman of the Subcommittee on Military Construction, saying they do not indicate a dire emergency. He said:

> I can assure you that the VA does not need emergency supplemental funds in fiscal year 2005 to continue to provide the timely quality service that is always our goal.

Based on that letter, many on the other side voted against my amendment because they believed the Secretary was being honest with them. Well, I continue to raise this specter saying we are going to face a crisis. Even several weeks ago, in a Committee on Veterans' Affairs hearing, the Secretary of the VA came before our committee and once again said there is no budget crisis.

Well, last Thursday, finally the truth came out. The VA told us they were well over $1 billion short in funding for this year. What was their solution? Their solution was to go back into this year's appropriations that have already been approved by this body, for which we already have the money flowing to construction and maintenance projects throughout the country—these are projects for seismic upgrades in our VA facilities, for asbestos abatement, for hazardous waste cleanup, for clinics that are being built where contracts are already let—and the VA is saying: We are going to take money away from those projects.

We cannot allow that to happen. These contracts are already being let. These facilities already need the maintenance. It has already been deferred for 2 years. We cannot go back to our States and tell these clinics: Gee, sorry. There was a mistake made at the VA. They didn't do the calculations correctly. You are not going to get the services.

That is not the promise we made to our men and women when we sent them overseas. We said we will be there. We said we will be there. That is a promise we need to keep now, as we face this budget crisis.

We looked at the VA and said, ''How could you make such a mistake?'' particularly when I was raising the specter of this for the past 6 months and knew from the ground, knew from looking at the VA's own numbers, that they were going to be facing this crisis.

Yesterday, Secretary Nicholson came before the Committee on Veterans' Affairs and said they had assumed that only 25,000 veterans from Iraq and Afghanistan would seek care at the VA in this fiscal year. Instead, what they have seen is 103,000 veterans already—already. And, as we know, many are still there, many more are to go, many more to be returning.

So the Committee on Veterans' Affairs was basing their calculations on 2002 numbers rather than saying, as we all know, that we are at war, that over a million men and women have been sent to Iraq and Afghanistan. They are in what the generals call a 360-degree war, meaning there are intense times for each one of those soldiers, 24/7, knowing, when they return, they will need help for mental health care and post-traumatic stress disorder. The VA never took that into account. They never looked at the world of what was happening and said: We are going to have increased costs for Veterans Affairs because we have more veterans returning.

So I find it appalling that the VA, the VA Secretary, and those who are required to be giving us honest numbers failed to look past their own desks and recognize what all of us throughout the country know; that is, we have a high number of veterans returning who need both physical care and mental health care. It is our job to appropriate the money to take care of them.

So where are we today? Senator BYRD and I and others on this side are offering an amendment on the Interior appropriations bill that we will be debating later this afternoon to add, again, $1.42 billion as an emergency supplemental to provide the funding for this year. I am very proud of the Members of this Senate who have stood time and again to say we need to be there for our soldiers who are returning from war, and we need to do it responsibly.

Senator CRAIG, the chairman of the Committee on Veterans' Affairs, told me, when we were on the floor debating this during the supplemental, when he used Secretary Nicholson's letter to justify voting no against my amendment, that if he was proved wrong, he would be out here to work with me to provide the funds.

I commend Senator CRAIG and Senator KAY BAILEY HUTCHISON for coming to the plate now and saying we need to

deal with this, this year. They will be offering a second-degree amendment to my amendment this afternoon to add $80 million so we can provide the funds for this year. I am happy to join with them in making sure this body adopts that amendment, as well as the underlying Murray amendment, to the Interior bill so we can deal with this crisis today.

That is the responsible thing to do. The irresponsible thing to do is to say we can take care of this by moving the budget numbers; we can take care of this with budget gimmicks; we can ignore this; we can paper this over.

We have done that already for far too long. I commend my colleagues on the other side for now joining with us to say we need an emergency supplemental to provide the dollars for our veterans when they return home to make sure the facilities are there. No gimmicks, no just talking about it; we are going to do the right thing in the Senate body.

We now have to follow that through. We will have to make sure the House of Representatives comes to the table in negotiations and works with us to get this done. And I call on the President and the White House now to recognize this crisis, as well, and to not gloss over it, not to paper it over but to work with us to pass an emergency supplemental.

Every one of us is going to go home for the Fourth of July recess. Every one of us is either going to be in parades or talk to veterans or be out there making sure the country knows we are so proud of the men and women who are serving us regardless of how we voted on the war. Every Member of this body and every citizen in this country is proud of our soldiers and the work they have done for us.

We can show them that we keep our promises, today on the floor of the Senate, by passing the Murray amendment and the second-degree amendment that is going to be offered by the Senators from the other side to keep that commitment. We then have the responsibility to make sure the House of Representatives works with us to pass this as well and that the White House takes it on as a priority.

I listened to the President of the United States, last night, address this country. I listened to his impassioned plea to stay the course. What I did not hear was the President calling on the American public to make the sacrifice that is necessary in war. That sacrifice includes making sure we keep the promise to the men and women we are asking to serve in the war overseas, by being there to provide the health care services they will need when they come home and not in facilities that are falling down or crumbling, not with equipment that is failing, not with shortages and lines, but with real care and not just for the veterans who are returning home today but for the veterans who served us in prior conflicts.

Today, we are seeing an increase in the number of veterans in our VA facilities because—no surprise—the veterans from the Vietnam war are now reaching the age where they need additional health care dollars. Those figures have to be taken into account at the VA. They cannot bury their heads in the sand and look at reports from 10 years ago. They need to be real about what the costs are today. When we pass this amendment, we will hopefully get the President to work with us on an emergency supplemental to provide those funds. I will work with any Senator on this floor to make sure our Committee on Veterans' Affairs looks at the real numbers we need so we can project into the future the real costs and make sure we are doing the right thing on this end of Pennsylvania Avenue, to make sure we are providing the funds that our service men and women need.

The PRESIDING OFFICER. The Senator does have a minute remaining.

Mrs. MURRAY. Mr. President, last night, when I listened to the President of the United States, he called on the American public—he called on all of us—asking our young men and women to consider service to our country overseas. Part of that commitment is not just asking them to serve but being there for them.

He also called on all of us to put our flags up on the Fourth of July and to be proud as Americans and to honor those who are serving us and to tell them we are proud of them by raising our flags.

The other thing we can do is adopt this amendment on the supplemental and get the White House to agree with us to make it an emergency to provide the services that are necessary. We will raise our flags, we will honor our veterans, we will be proud of our soldiers, but we will also be there to take care of them when they come home.

That is what the Murray amendment will do today. I am proud to join with Senator CRAIG, Senator HUTCHISON, and others from the other side to do what is right. I call on the other Members of Congress, as well as the White House, to join us in this effort.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mrs. HUTCHISON. Mr. President, I want to start this morning by finishing something that Senator MURRAY just talked about and say that today the Veterans' Administration is going to step to the plate, along with Members of the Senate.

Senator MURRAY has been so helpful in working out some agreements that will allow us to pour another $1.5 billion into the veterans programs. We will talk more about that later today. But Senator SANTORUM, Senator KYL, Senator CRAIG, myself, Senator MURRAY, Senator BYRD, and Senator ROCKEFELLER have come together as a united front to assure that veterans who are coming back from this war in Iraq and Afghanistan are not shortchanged. This is the way we should work with the administration and the Senate.

## IRAQ

Mrs. HUTCHISON. Mr. President, I do want to start our morning business time to talk about the President's speech last night, when he was talking to those wonderful soldiers at Fort Bragg, NC, and laying out for the American people not only the victories and the successes we are having in Iraq but also talking about the hard pull that we are making, that those soldiers are making.

I thought the President's candor was refreshing. He did not say: This is all hunky-dory. He said this is a long, hard road. He said: In the beginning, I said it would be. It has certainly proven to be. I think he was candid about exactly where we are, that we have had some great successes, and we have had some setbacks. Certainly, the vote of the Iraqi people was a huge success. That has set the stage for the next phase of trying to secure Iraq and making a difference in the Middle East.

When people talk about what is happening in Iraq, I do not think we hear enough about how much better off the Iraqi people are today. Oh, yes, it is hard to see suicide bombers taking innocent lives. It is. But remember how many innocent lives were taken by Saddam Hussein.

When Saddam Hussein was taking innocent lives, there was no hope for those people. There was no way out. Today innocent lives are being taken, but they are not being taken in vain. They are being taken in a cause for freedom that will end in democracy for Iraq. That is what the President laid out last night. The President has taken the Iraqi people from a despot who was torturing and killing innocent people—sometimes for sport—and is turning Iraq into a country that is trying to get its own feet on the ground and establish the roots of democracy.

When I look at some of the improvements that are being made in Iraq that I hear about from our armed services personnel returning from Iraq—and I have been to Iraq, but I always like to talk to the people who have been there most recently—when I talk to the young men and women on their R&R leave in the middle of their term, then I see that there are roads being built. The oil industry is being repaired. The electricity grids are being restored and improved. Schools are being opened. The Iraqis see Americans teaching in the schools and providing medical care, rebuilding their infrastructure. Within

a year after the fall of Saddam Hussein, electricity generation was higher than prewar levels, and it has increased since then. Water supplies have been repaired and sewage systems have been fixed. It is incredible the progress that has been made.

We have to look at the big picture. What the President was saying last night is that we are on the cusp of beginning to show people throughout the Middle East that self-governance is something all people can achieve. We are beginning to see the seeds of that self-governance today.

Our distinguished assistant leader, Senator MCCONNELL, is here. I want him to have his full 5 minutes, so I will close my remarks.

I am proud that our President especially chose to go to Fort Bragg, NC, and give his report to the American people in front of those wonderful soldiers who are protecting freedom for America, just as those in World War I and World War II did. The people of America will stay the course. We will protect freedom for our children, and we are being led by our President to do so.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, I rise to discuss the situation in Iraq. President Bush, last night, reiterated America's commitment and resolve to finishing the job in Iraq. First, I think the President made it clear how high the stakes are in Iraq by demonstrating that Iraq is front and center in the global war on terror. Just listen to Osama bin Laden. Bin Laden is quoted as saying: ''The whole world is watching this war'' and that the Iraq war will result in either ''victory and glory or misery and humiliation.'' Al-Qaida certainly recognizes how high the stakes are. So do our European allies.

German Chancellor Gerhard Schroeder said the other day that ''[t]here can be no question a stable and democratic Iraq is in the vested interest of not just Germany, but also Europe.'' That was Schroeder, who was not exactly a cheerleader for the Iraq war.

Yet we continue to hear the refrain from some quarters that it is time to cut and run, that we should set arbitrary deadlines for withdrawal, to get out while we can. If September 11 taught us anything, it is that retreating in the face of terrorism and hoping for the best is not the way to protect American lives. Quite the opposite. It is a display of weakness, and it is an invitation to America's enemies. As the President forcefully conveyed last night, we must take the fight to the enemies, or they will take the fight to us on our shores and on their terms.

Second, the President outlined a clear plan regarding the future of our engagement in Iraq. He explained his two-tier strategy there, involving both the democracy building side and the military side of the equation.

On the democracy building side, the President rightly reminded the American people of the important progress that has been made in just 1 year. The terrorists, for all of their heinous acts, simply could not interrupt the transfer of sovereignty, nor could the terrorists derail the January elections. The Iraqi people were too determined to move their country forward. The Iraqi people cast their ballots for freedom and democracy and against terrorism. In so doing, the Iraqi people set an example other democracy activists in the Middle East have begun to follow. The Iraqi people are also moving forward in the drafting of their constitution, which their political leaders have publicly declared will indeed be completed by the August 15 deadline.

On the military side, President Bush discussed his new approaches to training the Iraqi security forces to fight the enemy and defend freedom. Some in this country belittled the Iraqi security forces. They have been running them down. Frankly, I find this reprehensible. More than 2,000 members of the Iraqi security forces have laid down their lives defending freedom in their country, fighting alongside our troops, and more Iraqis keep enlisting every single day. These volunteers are Iraqi patriots, and the President was right to acknowledge the supreme sacrifice made by these friends of freedom.

Iraq has two ways it can go. We can leave the country to be preyed upon by murderers who want to turn the country into a Taliban-like nation, a haven for terrorist camps, and a factory of hatred, or we can stand and fight by defending liberty and democracy in Iraq and demonstrating an alternative to the ways of terror and of Saddam Hussein. We can help Iraqis help themselves and, in the process, help the United States by making the Middle East a more democratic and peaceful region. And when Iraq is strong enough to stand up on its own two feet and Iraqi security forces can fully defend their own country, our troops will stand down and come home.

Third, the President rightly noted the progress that is being made on the ground. The elite media in our country, however, is always focusing on bad news. They teach them in journalism school that only bad news is news. You would never know, for example, that more than 600 Iraqi schools have been renovated to date, or that construction is underway at 144 new primary health care facilities across that country. You won't find that written about in the elite media.

Finally, I was pleased to see the President pay tribute to our brave men and women in uniform. They are an inspiration to all of us, and I am confident that the American people throughout our great land will take up the President's invitation to honor them over the Independence Day holiday.

Our work in Iraq is challenging, but it is a noble endeavor, an endeavor in which progress is being made every single day—a message President Bush delivered very clearly last night.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I yield 4 minutes to the Senator from Arizona.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I thank the Senator from Texas.

The President's remarks last night on the 1-year anniversary of handing power over to the Iraqi Government was a good opportunity to remind Americans why it is so critical that we stay the course in Iraq. Interestingly, just a year ago, there was one Iraqi battalion. Today there are 100 Iraqi battalions. That is a good metaphor for what we are doing there and how we are going to succeed. And it is a good answer to those who say we need a plan. We need an exit strategy.

People who talk about that have not been listening to the President. His plan, as he outlined last night, is simple, and it is a plan that we have been following since over a year ago, when the transfer of power occurred. The plan is to enable the Iraqis to take over the security of their own country, and then we can leave. We are not going to leave before that job is done. No one knows exactly how long it will take, but the fact that we have increased a hundredfold the number of Iraqi units in the year since we turned over power is a good indication of what we intend to do and what we have been able to do.

The President noted last night that not all of these units are trained to the same level that the U.S. units are. That is obvious. But as we are able to do so, those Iraqi units will be able to take over more and more of the operation.

Eventually, as the President noted last night, the United States might be able to do more by simply embedding some of our officers in those units, thus reducing, again, the amount of American manpower actually on the ground.

There is a way that the United States is approaching this that will result in the United States withdrawing and the Iraqis being able to take care of their own security. That is the plan, and it is a wise one.

What is at stake if we were to either announce an early withdrawal or pull out early? The President made it clear last night that you don't announce to the enemy when you are going to leave. The enemy simply takes note of that and says, fine, waits until you leave, and then does all the bad stuff that it wants to do without any fear of retribution by the United States. That is not workable. Nor would it be workable for the United States to pull out too soon.

Think about what would happen. If the terrorists were to take back over in

Iraq, even Saddam Hussein could be returned to power. That would become a hot bed of terrorism in the Middle East. The progress that has been made in surrounding countries such as Pakistan, the efforts that are being made toward democracy in places such as Lebanon and Egypt and Saudi Arabia, all of those would go up in smoke. The problems that a country such as Pakistan would have would be horrendous. Countries such as Syria and Iran would decide that to be on the winning side, they want to continue their support of the terrorists. Our credibility would be absolutely destroyed. An opportunity to create a democracy in that part of the Middle East would have evaporated.

I can't think of anything worse than losing in Iraq. And since victory is within our grasp, we need to pursue that course.

The President was on the right track last night. There will be some who will never respond favorably toward his message because they are simply in such disagreement with him politically that they can't force themselves to acknowledge anything that he does is correct or good. Those people are not going to be persuaded. But the vast majority of Americans who were listening will appreciate the fact that we do have a good strategy, that the President is not trying to engage in happy talk. He repeatedly said this was going to be difficult. But it is also important for him to point out the successes because the news media is not likely to do that as fully as it should.

The President combined both a sober assessment of the realities, a pragmatic assessment, along with a good report of the progress that has been made, and we believe will continue to be made.

In all of these things, I believe President Bush should be complimented and that we, as a nation, should join behind him, just as the soldiers and the families of the soldiers at Fort Bragg did last night. It was evident to me that they support the President. It is important that the American people and we support the President as well.

Mrs. HUTCHISON. Mr. President, how much time remains on the Republican side?

The PRESIDING OFFICER. Approximately 14 minutes remain.

Mrs. HUTCHISON. Mr. President, I yield 5 minutes to Senator STEVENS.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. I thank the Senator from Texas.

Mr. President, yesterday marked the 1-year anniversary of the transfer of sovereignty to the people of Iraq. We now stand at a crucial point in history. We can see how far we have come, but we know the final chapter has not been written. This is the time to take stock, both of our challenges and our achievements.

Many ignore the good news in Iraq, but there is good news. And we can't prepare for the road ahead without a balanced picture of where we are today. In the past year, there have been many accomplishments which stand as milestones on the paths of progress. Since the transfer of sovereignty, thousands of Iraqis have answered the call to serve their country. The Iraqi security force now numbers over 168,000, and another 50- to 70,000 Iraqis serve as site protection personnel.

By October, the number of trained Iraqi security personnel will reach 200,000.

This time last year only one Iraqi battalion was capable of deploying. Today, more than 100 stand ready.

In the past year, the Iraqi Government has taken shape. In January, more than 8 million Iraqis voted in free and fair elections for the first time in 50 years.

Today, Iraq has an interim constitution with checks and balances, separation of powers, and protection for individual rights, and women are involved.

The Iraqi National Assembly is drafting a new constitution, which is on schedule to be released on August 15. The Government is preparing for the October referendum on the constitution, and they are planning for a new set of elections which will be held in December.

Freedom has begun to take root in Iraq. Political parties, civil society groups, and a free press have emerged. A government once shrouded in secrecy now answers directly to the people and communicates with them through Iraqi newspapers, television, and radio stations.

In the past year, the reconstruction has moved forward. Many of these successful projects are part of the Commander's Emergency Response Program, a tool that enables our men and women on the ground to fund small-scale projects that have an immediate and visible impact on the lives of the Iraqi people.

This month, for the first time since October 2004, the electricity supply exceeded 100,000 megawatt hours. On average, 12 hours of power are now available across the nation each day.

More than 94 water treatment projects are underway. And we have broken ground on 144 new primary health care facilities across the country.

In the past year, 628 schools have been renovated. Another 86 are now under construction.

The international community has rallied around the new Iraqi Government. Just last week more than 80 nations and organizations from around the world attended the International Conference on Iraq in Brussels. The Iraqi Government shared their vision, and the international community reaffirmed their commitment to help Iraq secure its future.

I list these accomplishments because we must remember the path to progress is slow and steady. With the televised reports of car bombings and other terrorist attacks, it is easy to lose sight of the goals we have already reached.

Some of us have recently called upon President Bush to keep the American people informed so our constituents understand what we are doing and know how we plan to proceed. My concern has been that rising sentiments about the continued redeployment of Reserve and National Guard units could jeopardize the important work we are doing in Iraq and Afghanistan.

Last night, President Bush answered our calls for more information. In a speech before the American people, he outlined his strategy for completing the mission. Now, it is time to rededicate ourselves to the challenges that remain.

We still have work to do in Iraq. Today, the Iraqi Government has control of Najaf and Fallujah. The insurgents have lost their safe havens. Unable to expand their operations, they have resorted to acts of terrorism and targeted innocent Iraqi civilians. These are the facts of desperate men—men whose only comfort is the hope that we will lose our will and weaken our resolve.

The only way we can lose in Iraq is if we defeat ourselves—if we fail to stay the course. The American people—and those of us who have been chosen to represent them—cannot let that happen.

Americans do not abandon friends in hard times. We do not run from the duty and responsibility of history. Our will does not waver. Our resolve does not break.

More than 2 years ago, I joined many of you and supported the President's bipartisan resolution to commence this action in Iraq. When the Senate debated the resolution, I urged my colleagues to support it. I came to the floor of this Chamber and said: ''A new history of international courage can be written now.''

I repeat this call today—our Nation must have the courage to help the Iraqi people write the next chapter of their proud history in which the seeds of democracy—which have been sown by the Iraqi people and nurtured by the sacrifices of our men and women in uniform—will grow into a strong, free Iraq.

I urge the Senate not to divide over Iraq. Some continue to compare this situation to the one we faced in Vietnam. Iraq is not Vietnam. Those who make this comparison ignore the history.

I outlined the differences between these two conflicts in April and will not reiterate each of those differences today. The simple fact is we are in Iraq for reasons entirely different from the reasons we went into Vietnam. We can and will successfully conclude our operations in Iraq.

We must succeed. The stakes are high. Iraq is the central front in the war on terror. By their own admission, what terrorists fear most is a free, stable and democratic Iraq.

Over a year ago, we intercepted a message Abu Musab al-Zarqawi, a terrorist in Iraq, sent to Osama bin Laden. In the message, al-Zarqawi said, ''The future has become frightening'' for terrorists because democracy has gained a foothold in Iraq. He told Osama bin Laden, ''Democracy is coming and there will be no excuse thereafter for the attacks.''

Iraq has become the proving ground of our commitment to the war on terror. If we waver, our enemies will read our hesitation as victory. If we do not fight the terrorists abroad, we will be forced to fight them on our shores.

We must remain united behind our troops and committed to this mission. I urge the Senate to continue to support the strategy President Bush outlined last night.

I yield the floor.

Mrs. HUTCHISON. Mr. President, I thank the Senator from Alaska. He has been such a strong leader as chairman of the Appropriations Committee and chairman of the Defense Appropriations Committee as well. No one knows better how the troops in Iraq and Afghanistan are performing their duties and how this administration has stepped up to the plate to make sure they have what they need to do the job. He has been to Iraq and Afghanistan. He has visited the troops, as have I, and his words were very helpful in talking to the American people about this subject.

Mr. President, as we begin this day, we are also going to have a very important amendment that will help our veterans be able to have the service they need as they are coming home from Iraq and Afghanistan, as well as many of the veterans of previous wars who are now in the Veterans' Administration system.

Secretary Jim Nicholson, Secretary of Veterans Affairs, came to the Congress just this past week and said that there has been a surge in the use of veterans facilities that has caused the ability to determine what will be needed in the future to be skewed. All of the patterns of the past are now not in place for use today because we have more veterans coming into the system. That is not a bad thing.

We owe the veterans the care they thought they would receive when they entered the military service and which they so richly deserve. Whether they fought in a war or not, they were there to serve, and many of them did fight in wars—brutal wars. The one we are in now is a brutal war. There are actually more injuries and fewer deaths in the kind of war that we are fighting. That means that many people are coming back from Iraq and Afghanistan injured.

Our President has said unequivocally that we are going to take care of those people who have served, and we are going to treat their injuries because they deserve to have that treatment. So Secretary Nicholson has come to us and asked for an emergency appropriation. We are going to give Secretary Nicholson, of course, an emergency appropriation.

Senator MURRAY and Senator BYRD are working on an amendment. I have a second-degree amendment with Senators SANTORUM, KYL, and CRAIG. It is a leadership amendment because we put it together with the White House, the OMB, and the Veterans Affairs Department, to try to get the numbers. We wanted to know what we will need for this year, going into next year.

I am chairman of the Veterans Affairs Appropriations Subcommittee. I have worked with Senator CRAIG, who is the chairman of the Veterans' Affairs Committee, which authorizes the policies that affect veterans. We have put together a second-degree amendment to Senator MURRAY's and Senator BYRD's amendment that will put $1.5 billion into the system immediately, and it will be there until it is spent. It will take us into the next fiscal year, because we are not going to scrimp on serving our veterans. We need more prostheses; we need improved ability to help people who have lost arms or legs, or who have been burned. We are going to provide that help, Mr. President, and our amendment is going to be a consensus that will come together with everybody at the table.

We are going to do the right thing by our veterans with an emergency appropriation that will come to the Senate floor this afternoon. It will be put on the Interior appropriations bill. We worked with Senator BURNS and his staff to put this emergency in at the first possible vehicle, and the first vehicle is on the Senate floor today. We just got the numbers this week. That is why we are going to immediately put in force an emergency appropriation that will assure that our Veterans' Administration has the funds it needs to treat these veterans. It also is going to assure that we don't take from the building funds because we know there are many veterans facilities in the process of being built or promised to be built. We need more veterans facilities, not fewer. So taking from maintenance accounts or capital accounts didn't seem like the right thing to do.

We worked together with the Veterans' Administration, with the leadership of our President, with Democrats and Republicans, to come up with the right numbers to put it on the first bill that will go through the Senate this week. We hope the House will work with us to fund this appropriation and that nothing will be, in any way, delayed or denied to a veteran, either one coming back from Iraq or one coming back from Afghanistan or from anywhere in the world, or a veteran who has served previously.

Mr. President, I so appreciate the President's speech last night. I appreciate that he gave his speech at Fort Bragg, NC, in front of those men and women serving our country in the most noble way. I appreciate that the President said we hope more people will volunteer for the Army. We need more volunteers right now. We are ramping up the end strength of the Army by 30,000. This is part of our ongoing effort to revamp the Army. The Army is doing a fabulous job in Iraq. So are the Marines. The Navy and the Air Force are helping. But we need to have America come together.

I was so pleased that the President asked Americans to do something next week, on July 4, Independence Day. He asked every American to reach out to a family of someone serving today in Iraq or Afghanistan. I know the people of America will respond. I know they will go to that Web site and start the process of finding out how they can do more to give those young men and women with boots on the ground overseas fighting terror the opportunity to talk to their folks back home, to talk to their families.

The President is taking the lead, and the Senate—Republicans and Democrats—must come together to lead our country to do the right thing in the war on terror.

Mr. President, I yield the floor.

Mr. BURNS. Mr. President, I ask unanimous consent that we may proceed with a unanimous-consent request.

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

## UNANIMOUS-CONSENT AGREEMENT—BILLS DISCHARGED

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be discharged from further consideration, and the Senate proceed to the immediate consideration of the following postal naming bills en bloc: S. 571, S. 775, S. 904, H.R. 120, H.R. 289, H.R. 324, H.R. 504, H.R. 627, H.R. 1001, H.R. 1072, H.R. 1082, H.R. 1236, H.R. 1460, H.R. 1524, H.R. 1542, and H.R. 2326.

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

Mr. BURNS. Mr. President, I ask unanimous consent that these bills be read the third time and passed, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the bills be printed at this point in the RECORD.

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

## CONGRESSWOMAN SHIRLEY A. CHISHOLM POST OFFICE BUILDING

The bill (S. 571) to designate the facility of the United States Postal Service located at 1915 Fulton Street in Brooklyn, New York, as the ''Congresswoman Shirley A. Chisholm Post Office Building'' was read the third time and passed, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CONGRESSWOMAN SHIRLEY A. CHISHOLM POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 1915

Fulton Street in Brooklyn, New York, shall be known and designated as the ''Congresswoman Shirley A. Chisholm Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Congresswoman Shirley A. Chisholm Post Office Building.

## BOONE PICKENS POST OFFICE

The bill (S. 775) to designate the facility of the United States Postal Service located at 123 W. 7th Street in Holdenville, Oklahoma, shall be known and designated as the ''Boone Pickens Post Office'' was read the third time and passed, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. BOONE PICKENS POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 123 W. 7th Street in Holdenville, Oklahoma, shall be known and designated as the ''Boone Pickens Post Office''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the ''Boone Pickens Post Office''.

## BRIAN P. PARRELLO POST OFFICE BUILDING

The bill (S. 904) to designate the facility of the United States Postal Service located at 1560 Union Valley Road in West Milford, New Jersey, as the ''Brian P. Parrello Post Office Building''was read the third time and passed, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. BRIAN P. PARRELLO POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 1560 Union Valley Road in West Milford, New Jersey, shall be known and designated as the ''Brian P. Parrello Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the ''Brian P. Parrello Post Office Building''.

## DALIP SINGH SAUND POST OFFICE BUILDING

The bill (H.R. 120) to designate the facility of the United States Postal Service located at 30777 Rancho California Road in Temecula, California, as the ''Dalip Singh Saund Post Office Building'' was read the third time and passed.

## SERGEANT FIRST CLASS JOHN MARSHALL POST OFFICE BUILDING

The bill (H.R. 289) 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'' was read the third time and passed.

## ARTHUR STACEY MASTRAPA POST OFFICE BUILDING

The bill (H.R. 324) to designate the facility of the United States Postal Service located at 321 Montgomery Road in Altamonte Springs, Florida, as the ''Arthur Stacey Mastrapa Post Office Building'' was read the third time and passed.

## RAY CHARLES POST OFFICE BUILDING

The bill (H.R. 504) 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'' was read the third time and passed.

## LINDA WHITE EPPS POST OFFICE

The bill (H.R. 627) to designate the facility of the United States Postal Service located at 40 Putnam Avenue in Hamden, Connecticut, as the ''Linda White-Epps Post Office'' was read the third time and passed.

## SERGEANT BYRON W. NORWOOD POST OFFICE BUILDING

The bill (H.R. 1001) 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'' was read the third time and passed.

## JUDGE EMILIO VARGAS POST OFFICE BUILDING

The bill (H.R. 1072) 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'' was read the third time and passed.

## FRANCIS C. GOODPASTER POST OFFICE BUILDING

The bill (H.R. 1082) to designate the facility of the United States Postal Service located at 120 East Illinois Avenue in Vinita, Oklahoma, as the ''Francis C. Goodpaster Post Office Building'' was read the third time and passed.

## MAYOR TONY ARMSTRONG MEMORIAL POST OFFICE

The bill (H.R. 1236) to designate the facility of the United States Postal Service located at 750 4th Street in Sparks, Nevada, as the ''Mayor Tony Armstrong Memorial Post Office'' was read the third time and passed.

## CAPTAIN MARK STUBENHOFER POST OFFICE BUILDING

The bill (H.R. 1460) to designate the facility of the United States Postal Service located at 6200 Rolling Road in Springfield, Virginia, as the ''Captain Mark Stubenhofer Post Office Building'' was read the third time and passed.

## ED EILERT POST OFFICE BUILDING

The bill (H.R. 1524) to designate the facility of the United States Postal Service located at 12433 Antioch Road in Overland Park, Kansas, as the ''Ed Eilert Post Office Building'' was read the third time and passed.

## HONORABLE JUDGE GEORGE N. LEIGHTON POST OFFICE BUILDING

The bill (H.R. 1542) to designate the facility of the United States Postal Service located at 695 Pleasant Street in New Bedford, Massachusetts, as the ''Honorable Judge George N. Leighton Post Office Building'' was read the third time and passed.

## FLOYD LUPTON POST OFFICE

The bill (H.R. 2326) to designate the facility of the United States Postal Service located at 614 West Old County Road in Belhaven, North Carolina, as the ''Floyd Lupton Post Office'' was read the third time and passed.

## MEASURES PLACED ON CALENDAR—S. 590, S. 867, S. 892, S. 1206, AND S. 1207

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be discharged from further consideration of S. 590, S. 867, S. 892, S. 1206, and S. 1207 en bloc, and these bills placed on the calendar.

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

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. I ask for the regular order.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

## DEPARTMENT OF INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 2361, which the clerk will report.

The journal clerk read as follows:

A bill (H.R. 2361) making appropriations for the Department of the Interior, Environment, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.

Mr. BURNS. Mr. President, I ask unanimous consent that we proceed to the regular order.

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

AMENDMENT NO. 1023

Under the regular order, the Boxer amendment is now pending. The Senator from California.

Mrs. BOXER. Mr. President, what is the order? As I understand it, Senator BURNS will be offering an amendment, or has an amendment, and there will be a vote on my amendment and his side by side. First, mine; is my understanding correct?

Mr. BURNS. That is correct.

Mrs. BOXER. And then his.

The PRESIDING OFFICER. The vote will be on the Burns amendment first, followed by the Boxer amendment.

Mrs. BOXER. The time is equally divided an hour a side to debate both amendments; is that correct?

The PRESIDING OFFICER. That is correct.

Mrs. BOXER. Mr. President, I ask unanimous consent that any quorum calls when placed be divided evenly.

The PRESIDING OFFICER. Without objection, it is so ordered. The Chair notes that the Senator from Montana has not yet called up his amendment.

Mrs. BOXER. I defer to him. I yield the floor.

Mr. BURNS. Mr. President, we do not have it yet.

The PRESIDING OFFICER. The Chair believes that the amendment is not at the desk yet.

Mr. BURNS. Mr. President, I assure the Senator from California, I know we have it somewhere, and I will find it.

Mrs. BOXER. That is reassuring.

Mr. BURNS. That is reassuring; isn't it? Everybody gets to read it—that is different in the Senate. We have it.

AMENDMENT NO. 1068

Mr. BURNS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The journal clerk read as follows:

The Senator from Montana [Mr. BURNS], for himself, Mr. CHAMBLISS, and Mr. INHOFE, proposes an amendment numbered 1068.

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

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

The amendment is as follows:

(Purpose: To direct the Administrator of the Environmental Protection Agency to conduct a review of all third-party intentional human dosing studies to identify or quantify toxic effects)

On page 200, after line 2, add the following:

SEC. . ( a) The Administrator of the Environmental Protection Agency shall conduct a thorough review of all third-party intentional human dosing studies to identify or quantify toxic effects currently submitted to the Agency under FIFRA to ensure that they:

(1) address a clearly defined regulatory objective;

(2) address a critical regulatory endpoint by enhancing the Agency's scientific data bases;

(3) were designed and being conducted in a manner that ensured the study was adequate scientifically to answer the question and ensured the safety of volunteers;

(4) was designed to produce societal benefits that outweigh any anticipated risks to participants;

(5) adhered to all recognized ethical standards and procedures in place at the time the study was conducted; and

(6) are consistent with section 12(a)(2)(P) of the Federal Insecticide, Fungicide, and Rodenticide Act and all other applicable laws.

(b) The Administrator shall, within 60 days of the enactment of this Act, report to the House and Senate Committees on Appropriations; the Senate Committee on Agriculture, Nutrition and Forestry; and the House Committee on Agriculture on the results of the review required under subsection (a) and any actions taken pursuant to the review.

(c) Within 180 days of the enactment of this Act, the Administrator shall issue a final rule that addresses applying ethical standards to third party studies involving intentional human dosing to identify or quantify toxic effects.

The PRESIDING OFFICER. Who yields time?

Mr. BURNS. Mr. President, I ask unanimous consent that the amendment be set aside and that the Senator from California be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from California.

AMENDMENT NO. 1023

Mrs. BOXER. Mr. President, is it necessary to now call up amendment No. 1023?

The PRESIDING OFFICER. That amendment is currently pending.

Mrs. BOXER. Mr. President, I think we are about to have a very important debate about a very moral subject which deals with intentional dosing of human beings, including children, with dangerous pesticides. I say this is a moral issue. As a matter of fact, I believe I can call my amendment a faith-based amendment because every major religious organization in this country supports my amendment.

My amendment passed the House without a single dissenting vote. It was by unanimous consent. I am shocked and stunned that we even have opposition to this very simple amendment.

The amendment that was offered by my good friend, the Senator from Montana, in my opinion and in the opinion of people who know about ethics and science and pesticide testing, it is actually a very dangerous amendment. It is offered as, I call it a CY amendment, cover yourself amendment. You can vote for his amendment and then against mine. If you look at his amendment, it is a step back to what is happening currently. It is a dangerous amendment because we will push through a new regulation that already has been condemned by, as I say, every major religious organization in this country.

We will debate this for the next couple of hours, but I wanted to make a statement in reaction to the President's speech last night.

PRESIDENT BUSH'S SPEECH

Mr. President, the President had every opportunity last night to lay out his plan for success in Iraq. I had given a number of interviews where I urged him to do that, and colleagues on both sides urged him to do that. Instead, what we got was a defense of the status quo and absolutely no mention of the need to be ready when our troops come back, 13,000 plus, with horrific injuries, physical and mental—an opportunity to say our troops will have everything they need when they come home and every bit of equipment they need on the field in Iraq was blown last night. And then there was no plan of how we are going to get out of this thing, and a continuation of the myth that the war in Iraq had something to do with 9/11, which it did not.

I looked back yesterday at the Department of State as they looked at where al-Qaida was on September 11. Not one al-Qaida cell was in Iraq on September 11. There were more al-Qaida cells in my home State of California.

I am very sorry to see we are on that status quo and the daily news continues with the disastrous effects of a policy that is not geared toward success.

AMENDMENT NO. 1023

Mr. President, I am now going to talk about my amendment. I see the Senator from Florida is here. At an appropriate moment, I will yield to him. I want to lay out the general aspects of my amendment.

The amendment that I offer will simply say we need to take a timeout in terms of the environmental protections action on accepting for review and, in essence, condoning pesticide testing on human beings. We need a timeout. Christy Todd Whitman thought we needed a moratorium. She put one in place. Carol Browner, under President Clinton, put a moratorium in place. But now the moratorium has lapsed and, shockingly, EPA is considering and encouraging intentional dosing of human beings with dangerous pesticides. This is not rhetoric. I am going to show the charts and show the experiments.

What my friend and colleague is offering is a figleaf cover amendment: Don't vote for Boxer, it actually does something; vote for the Burns amendment which—listen to what it does—speeds up a regulation that is already going through EPA that is downright dangerous and involves testing of human beings, including newborn babies—very ill newborn babies—pregnant women, and fetuses. That is why every major religious organization in America has entered on the side of the Boxer amendment and opposed to the Burns amendment.

I am going to show the actual language of the Boxer amendment. It is exactly the language of the House-passed amendment:

None of the funds made available in this Act may be used by the Administrator of the Environmental Protection Agency to

(1) accept, consider, or rely on third-party intentional dosing human studies for pesticides; or

(2) to conduct intentional dosing human studies for pesticides.

It is simply a straightforward timeout so that we can look at the ethical, moral, and health issues surrounding the current policy at the EPA.

As I said, Carol Browner, a Democrat, put that moratorium in place; Christy Todd Whitman, a Republican, put that moratorium in place. But now it has been allowed to lapse.

I recently released a staff report with Congressman WAXMAN that reviewed 22 of the studies that EPA is currently looking at. I want to tell you what we found after reviewing these studies.

We found that human testing of pesticide moratorium was allowed to lapse by the EPA; that over 20 human dosing studies are currently being reviewed by the EPA; and that the studies—and this is the most important point, Mr. President—the studies routinely violate ethical and scientific standards laid out in the Nuremberg Code, the Declaration of Helsinki, the ''Common Rule,'' and the National Academy of Sciences recommendations on human testing. In other words, we have nothing in place that would guide these experiments.

I am going to show you one of these experiments that is being reviewed by the EPA. So let's go to the UC San Diego study.

I care a lot about this because this happened in my State.

This is a study on chloropicrin. What is chloropicrin? It is a fumigant. It is an active ingredient in tear gas, and it was a chemical warfare agent in World War I.

I told you about chloropicrin. In the material safety data sheet which is put out by the manufacturer, this is what it says about chloropicrin which was given to UC San Diego students, and I will talk about the dose they received.

Warning statements and warning properties, this is what it says:

Danger. May be fatal if inhaled or swallowed. Severe burn follows liquid contact with eyes or skin. May cause severe respiratory tract irritation. Causes eye and skin irritation. Lachrymator—

This means it is the tear gas property—

poison may cause lung damage.

Chloropicrin was categorized as a category 1, which is the most toxic due to acute lethality and severe irritation.

Let's look at how the students got these doses. They were paid $15 an hour. They were told that this was not dangerous. They signed liability waivers. This is all unethical, and nothing in the Burns amendment will stop any of this and nothing in the Burns amendment addresses these issues.

Here we can see the students receiving this dangerous fumigant through this hose and breathing it in. This is right from the study:

Figure 10. Showing subjects sampling from two cones through yokes that directed flow from the right cone into the right nostril and from the left cone into the left nostril. The subjects needed to decide whether they felt the chloropicrin on the right or the left.

Do you want your daughter breathing in this dangerous chemical at doses that are very large, which I will explain?

This is a picture of a young woman taking part in an experiment where the chloropicrin dose was up to 1.2 parts per million. I want you to remember 1.2 parts per million because this is the point. The workplace safety standard for chloropicrin is .1 parts per million. This experiment dosed these kids with 12 times higher than the average level allowed in the workplace.

Let me repeat that. This experiment dosed these students with 12 times the level that is considered safe. And this is a recent experiment. It ended in December of 2004.

I am going to show you what OSHA says you should wear when you are exposed to chloropicrin at levels higher than .1, 12 times lower than these students were dosed with. It requires a full-face plate respirator or powered air purifying respirator with organic cartridge to protect from the chemical, according to the manufacturer.

I have to say, what more of a moral issue can we be facing than allowing these students to have chloropicrin pumped through their nostrils at a rate 12 times higher than the safety level that OSHA, our Federal Government, says is safe? What right do we have to allow that to go on? Yet the Burns amendment will allow it to go on.

The only way to stop it is with the Boxer amendment, which is the identical amendment to the House amendment where not even TOM DELAY, who comes from the pesticide industry, registered a ''no'' vote.

How can we in the Senate, the most deliberative body in the land, walk away from a simple moratorium on this kind of situation?

Let us look at the next chart. This next chart shows the 20 studies under review since the moratorium was allowed to lapse. I could not even pronounce all of these properly, but I will give a few of them. Carbofuran, ethephon, amitraz, methomyl, oxamyl, malathion, and chloropicrin was the top one.

It also shows the dates. These are all studies similar to this one. Actually, in one study did they not have to swallow pesticide pills for breakfast? That is a fact.

Because I am a member of the Environment and Public Works Committee, as a result of that membership we demanded to see all of these studies. They were being kept from the public and we now know these things are going on.

In some studies subjects were harmed—for example, experiencing heart arrhythmias; that is, an uneven heartbeat, a racing heart, and we now know it was a result of that chemical that was being used. Many of the studies had very misleading consent forms. Some described the pesticide as a drug. In some studies adverse outcomes were dismissed. They said, oh, they went to the hospital because they did not feel good, but it had nothing to do with the dosing of the pesticide. Hard to believe.

Most of the studies had no long-term monitoring reviews and few were large enough to be statistically valid. The deficiencies are significant and widespread and that is why we need this moratorium on this timeout to allow a set of standards to be developed that governs the use of these studies. The development of sound standards is critical, if the problems with human pesticide testing are to be addressed.

At this point, I yield 8 minutes to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I am delighted to join my colleague from California. We have fought these battles before. We fought one of these battles when unbelievably the EPA wanted to conduct an experiment. They called it a study. It was a 2-year study they were going to perform on infants in my State in Jacksonville, FL. This 2-year study was going to expose those infants to pesticides. It was going to be done with the inducement by getting the parents of the infants to sign a contract of which over a 2-year period they were going to be paid $970, were going to be given a T-shirt, were going to be given other kinds of trinkets, and a certificate of appreciation in return for children over that 2-year period being exposed to pesticides that were going to be placed in the home.

Oh, by the way, guess which part of town this was going to occur in. You guessed it. It was going to occur in the lower income and minority sections of Jacksonville.

Senator BOXER and I got wind of it. Well, she got wind of it because she was sitting on the committee having to do with the confirmation of the head of EPA and she announced that, in fact, she was not going to let the EPA nominee go through. Then she came to me and pointed out that, in fact, this was occurring in Florida.

This was one of the brochures, if my colleagues can believe it, that EPA was going to send out. As a matter of fact, they had already sent it out in Jacksonville. They had gotten some 30 parents to already sign up for this program. It states: You're a parent. Learn more about your child's potential pesticide exposure. Am I eligible to participate? Only 60 participants will be selected. To be selected, you must be a parent of a child less than 3 months old or one between the ages of 9 and 12 months old.

Get this, in order to be eligible, one has to spray or have pesticides sprayed inside their home routinely.

The ad states: Will I be compensated? Oh, of course. You will receive up to $970 over the 2-year period. Your family will receive an official framed certificate of appreciation, a CHEERS bib for your baby, a T-shirt, a calendar, and a study newsletter. You will be allowed to keep the video camcorder they are going to give to you to record this study over the 2 years. You will be allowed to keep the video camcorder at the end of the study provided you have completed all of the study activities.

Can anyone believe this is going on in the United States of America in the year 2005?

Well, we put a stop to it because Senator BOXER put a hold on the nominee. I put a hold on the nominee. I had a conversation with the nominee and I told the nominee I had no objection to the nominee. As a matter of fact, I had heard awfully good things about the nominee. But as a Senator from Florida, I certainly was not going to let that sort of thing go on in my State and it should not be going on in any State. All I wanted the nominee to do was to cancel that study.

What they did not tell the local Jacksonville Health Department was that of the $9 million the study was going to cost, $2 million of the $9 million was being supplied by the pesticide industry. Needless to say, the Duval County Health Department did not like it when they found that out.

This is the kind of stuff we have had to go through with regard to human testing and it just should not be. So it is time to put it in this bill. This is unlike pharmaceutical studies on humans that offer the possibility that a human subject may benefit from the experiment. The human testing of pesticides offers no therapeutic benefit, and under this proposed rule EPA would be allowed to test on humans, children, pregnant women, newborns, and infants.

This senior Senator from Florida has had a bellyful of this kind of stuff to come in on the citizens of the State of Florida, and I want it stopped. Any exposure of an infant child or a pregnant woman to a toxin basically should be prohibited, even in doses that are not expected to do any harm.

With the experience I have had in Jacksonville, it was simply irresponsible for the EPA, whose very mission is to protect human health and the environment, to have proposed such a study. The last time I checked, I thought EPA stood for Environmental Protection Agency. Well, then it needs to fulfill its challenge. It needs to fulfill the goal of its name.

The happy ending to the story in Jacksonville was that we stopped it because the nominee for the head of the EPA cancelled the study. Senator BOXER and I lifted our hold and we send our great wishes to the new administrator of the EPA for a successful administration.

We need to help the administrator of EPA have a successful administration and we can do this with the Boxer-Nelson amendment.

I yield the floor.

Mrs. BOXER. Would the Senator please yield back his extra time to me?

Mr. NELSON of Florida. I certainly will.

Mrs. BOXER. I thank the Senator from Florida. He is a protector of children, families, and the vulnerable of his State. His help on that CHEERS program and getting that stopped was an enormous contribution. Many times we do big things around here that deal with huge issues and we do not know the impact of our work for a long time. When one works for clean air, clean water, it takes a while.

I say to my friend from Florida, this is something he can be proud of because we together, as a team, with the help of some of our colleagues on the Environment and Public Works Committee, were able to use the leverage each Senator has to force a cancellation of a program that was intentionally dosing little children with pesticides, paying off their parents who tended to be poor, giving the parents a video camera, and subjecting these children to dangerous chemicals. So I think we have to be proud that we saved some kids from this.

I want to say why my amendment is so crucial and why the Burns amendment is so bad if one cares about protecting children and families. The amendment I have offered with my colleague from Florida—and, by the way, I ask unanimous consent that the following Senators be added as cosponsors to this amendment: Senators SNOWE, COLLINS, NELSON of Florida, CLINTON, SCHUMER, OBAMA, JEFFORDS, KERRY, LAUTENBERG, REID, and LEVIN.

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

Mrs. BOXER. I think my colleagues can see this is a bipartisan amendment. We want to protect our children. This has nothing to do with politics. We want to protect our families.

Here is what is happening. The Burns substitute, which he is going to try to tell everyone is better than the moratorium, essentially encourages the EPA to continue with their rulemaking. It says, go on, hurry, finish it up, and it does nothing to stop any of the testing that is going on right now. So it is a step back. It is a dangerous step back.

Now, why do I say that? I will tell my colleagues about the EPA rule that is coming at us if we do not stop this. This is straight from the EPA. We are fortunate enough to have this information today.

> The Agency has decided not to include any proposed requirements relating to a Human Studies Review Board as suggested in the National Academy of Sciences recommendation 6–2.

The National Academy of Sciences—we looked for it so that we have ethical guidelines. The EPA has rejected the guidelines of the National Academy of Sciences and the Burns amendment says, oh, go right ahead, EPA, finish your regulations, and the Burns amendment makes no reference to the NAS. This is more from the EPA:

> The promulgation of rules prescribing such details [establishment of the Human Studies Review Board] would unnecessarily confine EPA's discretion . . .

So, in other words, they are admitting they are turning away the guidelines of the National Academy of Sciences because they do not want to be confined in doing what they do.

What do they want to do? When you find that out you will be rather shocked. Are you ready for this? I say to my friend from Montana, if this doesn't shake his confidence in his amendment, nothing will. This is a bombshell that I am about to tell you.

The EPA is considering continuing a limited number of scientific studies involving pregnant women—meaning they will be dosed with pesticides, fetuses—meaning fetuses will be dosed with pesticides, neonates of uncertain viability—and just for those of you who do not know, neonates are newborn babies—of uncertain viability—meaning they are ill; sick babies will be in these experiments, or nonviable neonates—meaning newborns who may not make it. They are going to dose them as well.

If we can't take a stand to protect the sickest of the newborn babies, then we don't deserve to be here. If we are going to stand with the pesticide companies against ill, very ill newborn babies, what are we doing here? We don't belong here.

Let's see what some of the religious groups are saying. For those people who want to have faith-based legislation, you are on the faith-based legislation when you support the Boxer-Snowe-Nelson-Clinton-Collins, et cetera amendment. This is the statement of the Leadership of Diverse Faith Groups on human testing. It is signed by the National Council of Churches and the Coalition on the Environment and Jewish Life.

> Our faiths teach us to protect the vulnerable among us and to do so we need a moratorium on the use of human testing data in the registration of pesticides, not another study or report.

The Burns alternative is another study. But worse than that, the Burns amendment encourages and orders the EPA to get their regulations in place, regulations that, as I told you, allow testing on newborn babies and fetuses and pregnant women and desperately ill newborns. Why are we having a debate? Why aren't we all supporting a moratorium, a timeout, just as Christie Todd Whitman did, just as Carol Browner did? This is a bipartisan effort.

Unfortunately, we have to choose. Instead of walking down this aisle together and saying we will not allow testing on pregnant women—can you imagine testing pesticides on desperately ill newborn babies and testing

pesticides on fetuses? I just can't imagine that that is what we are going to do today by voting on the Burns amendment and telling EPA to hurry up with their regulations instead of taking a timeout.

Let's look at some of the churches that are involved in supporting the Boxer amendment. Let's take a look at the list of these churches and these religious organizations. I will just read some of them: The African Methodist Episcopal Church; the Alliance of Baptists; Archdiocese of America; the Diocese of the Armenian Church; Christian Church (Disciple of Christ); the Church of the Brethren; the Coptic Church; the Evangelical Lutheran Church; Friends United Meeting; Greek Orthodox Archdiocese of America; International Council of Community Churches; Korean Presbyterian Church; Moravian Church in America, Northern Province and Southern Province; National Baptist Convention of America; National Baptist Convention, USA; Orthodox Church in America; Polish National Catholic Church of America; Progressive National Baptist Convention; Syrian Orthodox Church of Antioch; Ukrainian Orthodox Church of the United States of America; United Church of Christ; The United Methodist Church.

It goes on.

The reason I am reading this is this is very unusual to see a faith-based amendment that deals with morality, to have so many of our religious leaders supporting us and opposing the Burns amendment. Why do we even have a debate? Certain things are right and certain things are wrong. Yes, it is an issue of social justice. Who is going to step up to the plate and offer up their newborn baby?

Let's take a look at that again, the statement about testing on newborns. I think Senator DURBIN is interested in this and said he wanted to ask a question about it. The fact is, all of the religious organizations have stepped up to the plate, in part, because of this. This is EPA's own words.

> EPA thinks it likely that it will continue a limited number of scientific studies involving pregnant women, fetuses, neonates [meaning newborns] of uncertain viability, or non-viable neonates [in other words, desperately ill babies] in the future.

It is hard to imagine how anyone in the Senate could vote for an alternative which encourages the EPA to hurry up and produce their regulation, when we can all come together as everyone did in the House of Representatives and say: Time out, EPA. This is a moral issue.

Mr. DURBIN. Will the Senator from California yield for a question?

Mrs. BOXER. I will.

Mr. DURBIN. I direct the question through the Chair. Those tuning in to this debate and starting to listen may not grasp what is at issue. The way you described it to us yesterday in the Senate Democratic caucus luncheon was that the Environmental Protection Agency is testing the toxicity, or poisonous nature, of pesticides on human beings here in the United States. Since this came to the attention of the House of Representatives, they have said this is wrong; we don't want to endanger anyone's life by testing them with pesticides, particularly children, pregnant women, others—for that matter, any person. So they decided to suspend, as I understand it, the authority of the EPA to go forward with this testing.

An argument is being made on the floor today, by those opposing your amendment, that we should go ahead and continue the testing? Is that what is at issue?

Mrs. BOXER. That is the essence. You can put lipstick on it but essentially the opposition is saying no to the Boxer amendment, and let's just tell the EPA to look at ethical guidelines and consider them and hurry up and issue a regulation.

Does it make any reference to the National Academy of Sciences, which has very strict regulations? It doesn't make any reference to any of the guidelines that are internationally recognized. So, in essence, the Burns amendment is the status quo with a kicker that we continue these studies and that, in essence, we say to the EPA: Hurry up with your regulation.

Mr. DURBIN. If the Senator will further yield for a question through the Chair, the photograph she displayed is the same one she brought before us yesterday. It depicts two young people, a man and woman, who are involved in some testing where they are inhaling pesticides to determine what the physical impact would be if they have a certain amount of pesticide in their system. Are you saying the Federal Government is paying for this research, and is paying these people to come forward and submit to this testing?

Mrs. BOXER. This test is being paid for by the pesticide maker, who wants to say that they should be allowed to use more chloropicrin in their pesticide. They have paid the University of San Diego to do this.

The EPA accepted that study. In other words, they are saying fine, we are going to look at the results of that study.

It was Ronald Reagan who put a stop to looking at the tests that came out of World War II. Because after World War II, we saw what was going on with medical studies. Ronald Reagan was the one who said we are going to stop this. We are not going to even look at these studies because they are immoral.

What we are saying today is, it is immoral to take a young woman like this—and tell her, by the way, she is not going to be harmed—make her sign a waiver of liability so she cannot really recover if she is sick, pay her $15 an hour because she is a student and probably needs the money desperately, and not tell her what this other picture shows, the man in the mask, that she is breathing chloropicrin at a rate 12 times the rate that our Federal Government, our OSHA says is dangerous.

If you were to have a concentration of this chemical 12 times less than what these kids are getting into their nostrils, into their lungs, you need to wear this type of full-face plate respirator or powered air purifying respirator with organic cartridge to protect from the chemicals.

Mr. DURBIN. How long has this been going on?

Mrs. BOXER. That is the interesting question. Under Bill Clinton's administration, in the late 1990s, Carol Browner, the Administrator of EPA, stopped this kind of acceptance of these tests by the EPA.

Christie Todd Whitman agreed with her and stopped all of this and said EPA is not going to look at these. It is immoral. It is wrong.

It is only recently that this moratorium was allowed to lapse and the current Administrator—it is Leavitt, I think—started to accept these studies. So it is very recent.

Remember, we had two EPA Administrators who had said no to this. Now, suddenly we are back in the game of utilizing these studies and sending a signal out to the scientific world: Go ahead and do these dosing studies.

Mr. DURBIN. If the Senator will further yield for a question?

Mrs. BOXER. Yes.

Mr. DURBIN. We have people stationed at the borders between the United States and Mexico who are testing fruits and vegetables that come into our country. The Food and Drug Administration does this. The U.S. Department of Agriculture is involved in this testing to determine whether there is pesticide residue on apples and tomatoes, vegetables and fruits that come in. And if there is just the slightest residue of certain pesticides, we confiscate the shipment, stop the shipment from coming into the United States for fear that just the slightest residue of the pesticide or the fruits and vegetables may be a danger to public health in America.

That is why it is so difficult for many of us who listen to this debate to understand that at the same time another agency of our Government, with the cooperation of a special interest group, the pesticide industry, is actually testing concentrations of these same pesticides on innocent people in America.

I think the Senator has gone on to say it is not just college students standing and being paid $15. The testing reaches a level where they are testing on fetuses and on neonates of uncertain viability?

Mrs. BOXER. Yes. Let me take back my time because the Senator from New York is on schedule. I want to make sure she has time to speak. But let me tell you this. The EPA's own words are that, in fact, they will consider testing on these neonates and the rest.

Yes. This is immoral. I would like to tell you, the U.S. Conference of Catholic Bishops, on their Web site, in 2005, say this:

We are very concerned about using humans for the direct testing of pesticides under any conditions, particularly when they will not receive any direct or immediate health benefit but in fact may be harmed.

So we are not here testing pharmaceutical products that may help a baby. We are here looking at harming a baby, harming a pregnant woman.

So the Boxer moratorium vote is very important.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. GRAHAM). The Senator has 18 minutes.

Mrs. BOXER. I will yield 8 minutes to my colleague from New York, with an additional 2 minutes should she require it.

Mrs. CLINTON. Mr. President, I rise in strong, overwhelming support for the Boxer amendment. I agree with my friend and colleague from California that there should not be a single vote against this amendment. As was done in the House, this amendment should pass unanimously, and I hope at the end of this debate, led by the able Senator from California, that will be the conclusion of all of our colleagues, on both sides of the aisle.

This debate is not about whether pesticides can be useful. Pesticide use has improved crop yields, has helped to control insect and other pests. We can all agree on that.

I am sympathetic to the farmers that raised with me the concern they have about how our current system works for testing pesticides. The fact is, we ask our domestic farmers to comply with detailed pesticide requirements. We have no similar controls on overseas farmers. That is not fair. It does not keep our food as safe as it should be. That should be addressed at a later time.

Let's put that aside. What we are talking about is pesticide testing. Pesticides are inherently toxic. They have been linked to a broad range of human health problems, including cancer, damage to the central nervous system, interference with neural development, and the endocrine system. Children are particularly vulnerable to the toxic effects of pesticides.

This debate is about ensuring we protect our children and ourselves from the adverse effects of pesticides that could be administered through these testing programs. We need to ensure that any studies that Congress sanctions are conducted in a safe and ethical manner.

The reason we are debating this, as amazing as it is to many who might be watching, the administration is taking actions that undermine the protection we should be able to count on against misuse of pesticides and pursuing a path that leads to using testing regimens which are ill thought out, poorly conceived, and immoral.

At the urging of the pesticide industry, the EPA has reversed a moratorium on the consideration of studies in which humans are intentionally dosed with pesticides. In addition, the administration will soon propose a regulation that will greatly expand the funding and use of such studies.

This amendment, which I am proud to cosponsor, simply says we need to stop and take a much closer look at this issue before we continue down this dangerous path. At the present time, the EPA is reviewing more than 20 human pesticide studies. Many of them violate widely accepted ethical standards for research involving human subjects.

Specifically, there were instances where those who conducted the studies failed to obtain informed consent, inflicted harm on the human subjects, dismissed adverse outcomes or failed to conduct long-term monitoring.

That is not just my opinion. That is the conclusion of the National Academy of Sciences, in a report issued in 2004, which found that the EPA pesticide studies were in gross violation of ethical standards set out in the Nuremberg Code, the Declaration of Helsinki, and the common rule that guides medical research in our country.

In addition, the NAS concluded that pesticide manufacturers have submitted to EPA intentional oral dosing studies involving humans in order to justify the reduction or elimination of safety factors for the regulation of certain pesticides in food residues.

To begin with, it is clear the EPA should not be using these flawed studies in any way. That is one part of what our amendment would do: Prohibit the EPA from using or relying on third-party human pesticide studies. The amendment would also prohibit the EPA from funding such studies.

The reason it is so important is in plain view in yesterday's news report. According to them, the EPA is on the verge of issuing draft regulations that open the floodgate for new EPA, Government-sponsored studies involving human pesticide testing. These draft regulations are in direct contradiction to the key recommendations made by the National Academy of Sciences. For example, as my colleague from California has pointed out, the draft rule reportedly legitimizes pesticide testing on children, pregnant women, and newborns. It ignores recommendations for the establishment of an independent ethics review board to evaluate proposed studies on a case-by-case basis.

I don't see how any Member cannot be concerned about this regulation. We are going to be monitoring it very closely. It is clear that in addition to preventing the EPA from looking at human studies, we need to prohibit the EPA from conducting and sanctioning human studies.

I point out that this issue goes much further than even what we are discussing in the Senate. It has broad implications for how we protect our children. Pesticide manufacturers want to push for human testing because it may result in less stringent exposure standards. That concerns me. The Food Quality Protection Act of 1996 tightened the regulation of pesticide residues in food and specifically added more stringent safety factors to account for the increased sensitivity of infants and children. It also includes safety factors that apply to animal tests but not to human tests.

The EPA is clearly headed in the wrong direction. We should work diligently to make sure we pass the Boxer amendment. It is so important to take a stand on this. We do not need another study. We know the EPA has studied. They have looked at the National Academy of Sciences' recommendations. It is clear we need to pass this immediately to send a signal, joining with the House which passed such a prohibition, a moratorium by unanimous consent, that this cannot go forward.

I urge my colleagues to reject the second-degree amendment, to pass the Boxer amendment, and to take a stand against this kind of reckless, immoral testing and sanctioning of testing on children, on infants, and on all human subjects.

I thank my colleague for yielding me that time.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, before the Senator leaves, I thank the Senator from New York who has always been such a credible voice for our children and our families and for their health and well-being.

As she said, this should be what the younger generations calls a ''no brainer.'' We need a timeout. We do not need to have the Burns amendment passed, which will speed up the EPA regulation which allows the testing of pesticides on newborn babies who are ill. It specifically says ''ill newborn babies or near-death newborn babies.'' If we stand for something, we should stand with all the religious organizations in this country that support the Boxer amendment and oppose the Burns amendment.

I ask unanimous consent to be able to reserve the balance of my time until the conclusion of Senator BURNS's remarks and that the quorum call not be counted against my side.

If I could explain to the Senator from Alaska, I only have about 5 minutes remaining, and I want to retain that time for when Senator BURNS concludes. He knows this. I don't think he has a problem with it.

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

Mrs. BOXER. I yield the floor, retain my remaining 9 minutes, and wait for the conclusion of the debate.

Mr. BURNS. Mr. President, we better open up this morning and characterize what the Burns-Chambliss-Inhofe amendment does compared to what is being advocated by my friend from California.

Our amendment directs the administrator of EPA to conduct a thorough

review of all third-party intentional human dosage studies based on six principles listed at the National Academy of Sciences in their February 2004 report. The National Academy report found that, in certain cases, the societal benefits of such studies outweigh the risks.

This amendment also directs the administrator to issue a final rule that addresses applying ethical standards to third-party studies involving intentional human dosing to identify or quantify toxic effects within 180 days of enactment of this act. In other words, they have an open end now where they drag their feet as far as offering reports to Congress.

By the way, I ask unanimous consent Senator BROWNBACK of Kansas be added as a cosponsor.

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

Mr. BURNS. Mr. President, we know we can use very emotional examples to draw our attention to this issue. My first thought, I don't think there is a chemical engineer or a scientist in this Senate. I can't say that for sure, without having a degree in chemical engineering. Nonetheless, we have to rely on reports. We also have to rely on reports that are peer reviewed from many different sources.

What the Senator from California has brought to the Senate this morning has a few flaws. First of all, they are quoting from a staff draft of a study, and we do not know what the outcome will be. We do not know what the final rule will look like. The administrator has not even seen it, let alone made any recommendations to be agreed to. That is No. 1.

Basically, the Senator's amendment prohibits the EPA from conducting or accepting research involving intentional dosing of human subjects. She referred to the CHEERS study. What is the CHEERS study? In the CHEERS study, the agency proposed to monitor children's exposure to pesticide in a specific population. That is what it is was for. The proposed CHEERS study, developed by the Office of Research and Development at EPA, was an observational and biomonitoring study and not a dosing study. As a result, her amendment does not impact CHEERS or any other similar type of study. I want that in the RECORD. We should be very clear about that.

We are not chemists or chemical engineers. We are not scientists. All of the warnings and all of the charts we have seen this morning are a result of studies, be they EPA, through peer review or third-party studies with peer review. We would not know this information had there not been studies, third party or by the EPA. Her amendment is very clear. It just says we stop testing.

So I ask my colleagues, on this issue: How do we know? How can we find out? Because we need this information. Do we allow chemists or chemical engineers to do this, with no backup, working for a private corporation in the business of selling pesticides, fumigants, herbicides, detergents, car washes, carpets, the padding on our chairs? Everything we touch or we live with has a so-called chemical element to it. Do we just take their word for it, those who are in the business of selling these products? Unless there are third-party studies, with peer review and EPA studies with the same standards of peer review, that would be the case.

This is not like the testing of prescription drugs. Having no test on chemicals, no information on chemicals that we use in the production of food and fiber and shelter in this country is not a very good idea. It is not a good idea. As I said, would we know about the warnings that were used today had it not been for testing?

Senator BOXER's amendment is so far reaching that between 60 and 70 chemicals and 1,300 tolerances, or the allowable pesticide residue on foods, would be affected. It would mean taking those reports, putting them away, and never referring to them again. That does not make a lot of sense. Not only is there the time, money, and effort involved, but also some of the results we know of today we would not have known this morning in order to make this debate.

For example, I have a letter from the American Mosquito Control Association, which opposes this amendment offered by my good friend from California. By the way, they support our amendment. I am going to offer this letter in its entirety for the RECORD, but I want to read one little paragraph that I think speaks to the essence of this debate. I quote:

> The emergence and spread of West Nile Virus in the United States has re-emphasized the need for safe and effective mosquito control strategies that reduce the risk of acquiring this devastating disease. Personal protective measures such as repellents figure prominently in these strategies—as do federally-registered public health pesticides, when indicated. This amendment, as written, will effectively cease future research on alternatives to DEET and curtail sound, ethical studies on the toxicology of public health pesticides. The AMCA considers the availability of scientifically sound and ethically-obtained toxicology data to be essential in determining levels of risk from both disease and the means used to control it.

Mr. President, I ask unanimous consent that the entire letter be printed in the RECORD.

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

AMERICAN MOSQUITO CONTROL ASSOCIATION,
*North Brunswick, NJ, June 24, 2005.*

DEAR SENATOR: I am writing on behalf of the membership of the American Mosquito Control Association (AMCA) to express our deep concern over the amendment Senator Barbara Boxer (D–CA) recently introduced to the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006. As currently written, the amendment would prohibit research studies having a profound effect on establishing safety and toxicity profiles for a number of public health insect repellents, which are listed as pesticides, In addition, it would preclude the use of sound, ethically-derived data in the registration of several pesticides utilized in protecting public health. These studies are critical in evaluating exposure levels and risk assessment. Without them, extrapolations of risk could be unreliable, placing the public at undue risk.

The sole testing procedure currently accepted by the U.S. EPA (See: Product Performance Test Guidelines OPPTS §810.3700. Insect Repellents for Human Skin and Outdoor Premises, Public Draft. United States Environmental Protection Agency. EPA 712–C–99–369, December 1999 requires repellents be applied to humans to demonstrate efficacy. Furthermore, the National Academy of Sciences (NAS), in a report entitled, Intentional Human Dosing Studies for EPA Regulatory Purposes: Scientific and Ethical Issues published in February 2004 stated that such studies ''contribute significant and useful knowledge for regulatory standard setting and other forms of public protection,'' Indeed, the NAS stated, ''[i]n some cases, intentional dosing of humans may be the only way to obtain data needed to set regulatory standards and protect public health''.

The emergence and spread of West Nile Virus in the United States has re-emphasized the need for safe and effective mosquito control strategies that reduce the risk of acquiring this devastating disease. Personal protective measures such as repellents figure prominently in these strategies—as do federally-registered public health pesticides, when indicated. This amendment, as written, will effectively cease future research on alternatives to DEET and curtail sound, ethical studies on the toxicology of public health pesticides. The AMCA considers the availability of scientifically sound and ethically-obtained toxicology data to be essential in determining levels of risk from both disease and the means used to control it.

Furthermore, members of the United States Armed Forces rely extensively upon repellents and public health pesticides to reduce risk to the various exotic vector-borne diseases to which they are regularly exposed. Development of new repellents is urgently needed to obviate the need for broadcast pesticides to provide protection both here and abroad. To the extent that repellent use is curtailed because of acceptability issues, pesticide applications will have to be increased to afford the same level of protection.

Any reduction of human/mosquito contact commensurately reduces the risk of disease transmission. Newer, more acceptable and effective mosquito repellents would both protect humans while reducing environmental pesticide load. Research on these critical control adjuncts requires human subjects in order to assess their efficacy and safety. Establishment of safety exposure parameters to these and other chemicals that might contact human skin during their approved application can only be reliably obtained through research fully vetted through rigorous institutional review boards specifically organized for those purposes. These are already in place and are fully compliant with current laws and regulations.

Protection of the health of the American public and the environment is a core value of the AMCA. The provisions of this amendment in a very real way conflict with this important value. Indeed, the amendment neither promotes public health and safety nor provides greater protection for your constituents in any foreseeable tangible manner. Therefore, the American Mosquito Control Association strongly urges you to oppose the Boxer Amendment when the Senate considers the FY06 Interior Appropriations bill in the near future. Thank you for your

consideration and attention to this critical matter.

Sincerely,

JOSEPH M. CONLON,
*Technical Advisor, American Mosquito Control Association.*

Mr. BURNS. Studies of this kind on safety must move forward or we will have a public health situation being created by the unintended consequence of not performing those studies.

Now, if I have not convinced you to vote with me yet, I also have an extensive list of pesticides that rely on human studies to determine safe exposure levels for more than 50 crops grown in our States. In fact, these pesticides, cited by Senator BOXER's and Representative WAXMAN's June 25 study, have critical uses in 39 States. A few of these States include: Arkansas, California, Florida, Georgia, Kansas, Louisiana, Maine, Nebraska, Ohio, and West Virginia. I say to the Presiding Officer, I am sorry, they did not mention South Carolina. But these pesticides, for every State listed, are used in the production of food and fiber for this country.

Now, I realize there are a lot of folks who do not really understand agriculture maybe that much, but you have to understand the second thing we do in this country every day—after we get up—is eat. For the first thing we do, we have a lot of options. But the second thing we do is eat.

The largest industry probably contributing to the GDP of California is agriculture. If it is not the largest industry, I would be surprised. Think about your brussel sprouts, strawberries, apples, dry beans. Look at all your almond production, beats, peppers, celery, cauliflower, pistachios. The list goes on and on of these chemicals, these pesticides, these fumigants, these herbicides, all used in the production of food and fiber for this country. It is pretty amazing.

Senator CHAMBLISS and I are offering a reasonable alternative from the amendment offered by the Senator from California. Our amendment is plum simple. It directs the Administrator of the EPA to ''conduct a thorough review of all third-party intentional''—''intentional''—''human dosing studies'' based on the National Academy of Sciences February 2004 report.

I think it is found in this book offered as a guideline. I will give you the headings: ''The Four-Step Process of Human Health Risk Assessment.'' Step one: ''Hazard Identification,'' ''Dose Response Assessment,'' ''Exposure Assessment,'' and ''Risk Characterization.'' That is the guideline. Pretty simple—a little book. Anyone can order it. Send me your check and $5 for handling for mail, and I will get it out to you. But that is what it says.

We are directing the EPA to ''issue a final rule that addresses applying ethical standards to third-party studies involving intentional human dosing'' ''within 180 days of the enactment of this Act.''

We are putting them on a time line. We want to know. The public has a right to know. Everyone involved wants to know. People who work on allergies, many things that are normal in our everyday lives, want to know: Quit dragging your feet. Let's have it. Let's get the report because we think it is pretty important.

There are ethical standards established. They are already in place. Let's get the final rule. That is what we are telling this Director. That is what we are telling this agency—that we want to know—because as policymakers, we do not want to get caught in this idea of an unintentional consequence.

None of these warnings that we have on the label of our shirt or on our detergent when we wash our dishes at night—none of those warnings would be there had there not been extensive work in risk assessment and public health at heart if those tests had not been carried out.

Since that standard is set, what we are saying now is not to proceed just blindly down a path using no guidelines, but to write the rule that allows policymakers to move forward with adopting the public's attitude toward this issue.

And we can make a mistake. We usually base all our decisions on history. As to the history of this, we study this without going blindly off a cliff. We usually use history. If we monkey with it, if we take part of it out, and that is not available to us either, or to the EPA, or anybody else who is making a decision as to the reliability or the safety of that particular product, then we have done an injustice to the people who make the decisions. That seems pretty logical to this nonscientist, nonchemist from the State of Montana.

Let's take the emotion out of it, and let's look at things as they really are in the world around us. We do not touch anything, folks—we do not leave the garage, we do not even get up in the morning, we do not do anything in this environment around us where there are no chemicals. Some of them are even added by man. But we live in that kind of a world, with our relationship even with the Sun, the soil, and the water. We live in a chemically reactive world. The more we know about it, the more we know about our own environment and those steps we have to take in order to protect it.

So what I and my colleagues are proposing in this Burns amendment is that we proceed with standards and direct the EPA to make their rule final and publish it in the Federal record for all to see—and all to either uphold or criticize. That is all we are doing. It is pretty straightforward. But we cannot just say: Stop, stop the clock. We cannot do that. That is not fair to the American people. It is not fair to the American consumer, and it is not fair to the folks who are involved in producing food, fiber, and shelter for this country.

If you want more of your food to come from offshore, where there are no tests, there is no way to regulate, then you just stop the process because that is where it will be coming from, even with our tremendous ability to produce for a society that we think is probably the healthiest in the world.

I reserve the remainder of my time.

I yield the floor.

Mr. OBAMA. Mr. President, I rise today to speak in favor of the amendment offered by Senator BOXER regarding the testing of pesticides on humans. I am pleased to be a cosponsor of this amendment.

Unbeknownst to most of us, the Bush administration has quietly rescinded a ban on the human testing of pesticides even though the EPA is still developing guidelines for such testing. Instead of needlessly exposing people to dangerous pesticides, the 1-year moratorium proposed in this amendment is a reasonable solution until these guidelines are completed.

Let us be clear. We are not talking about the testing of life-saving medications. By definition, pesticides are designed to kill. They are potential carcinogens and neurotoxins. We need guidelines to ensure that human testing of these dangerous chemicals is limited and monitored and that the subjects fully understand the risks they are taking.

Who are the people being exposed to these chemicals? Typically they are young, poor and minorities. Let me give you two examples:

In Florida, an EPA study offered low-income families $970 over 2 years if they let their babies be tested after their homes were sprayed with pesticides. One can easily imagine a young mother trying to make ends meet, trying to pay the rent and put food on the table, reading that she can collect almost $1,000 if she allows her child to be tested.

In another study last year, 127 young adults, mostly Asian and Latino college students, agreed to be exposed to a suspected neurotoxicant for $15 an hour. Some were exposed in a chamber for 1 hour for 4 consecutive days, while others had the chemical shot into their eyes and nostrils at amounts 12 times the OSHA recommended levels. This chemical, chloropicrin, has a history: It was used as a chemical warfare agent in World War I. Yet the consent form for the 2004 study did not disclose that fact; it simply said, ''We expect the discomfort to be short-lived.''

All across America, there are college students working long hours so they can stay in school and get a shot at the American dream. How tempting it must be to pick up a handful of cash for letting a scientist expose you to some chemical. You are healthy, you need the cash, and you are probably not as wise as your parents would like you to be, so you borrow a chance against your future health and sign up for exposure. That is not the kind of government policy we want to be encouraging.

All told, the EPA is considering data from 24 studies that tested pesticides

on humans. Many of these studies are flawed, so the risks these people undertook did not even contribute to a scientifically valid experiment. Many of these studies failed to take the health complaints of the subjects seriously, many failed to disclose the risk to the subjects, and many failed to conduct long-term monitoring of the health effects of the pesticides. All of these deficiencies should be addressed and prevented from occurring again.

Sadly, we do not need to do this human testing. For years, the EPA has worked with pesticide manufacturers and members of the science community without relying on human testing. For years, the agency has accomplished its goals through animal testing.

No one doubts that actual human health data, if properly collected from a sufficient sample size, would be advantageous to know. But sensible guidelines are needed to ensure that the benefits of any study far outweigh the potential risks to the study participants.

The commonsense approach is to temporarily stop this testing, wait for EPA to issue its guidelines, and safeguard the health of the human subjects.

I thank the Senator from California for her commitment to this issue, and I yield the floor.

I reserve the balance of my time and yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from California.

Mrs. BOXER. Mr. President, I yield myself 7 minutes and retain 2 minutes, if I may.

The PRESIDING OFFICER. The Senator is recognized for 7 minutes.

Mrs. BOXER. The Senator from Montana has, as he usually does, made a very good presentation for his side. The only problem is he made a very bad presentation about the amendment I had written. In criticizing it, he is criticizing the Republican-run House of Representatives which passed this same amendment without dissent, including the one and only Congressman I know of who was an exterminator, Tom DeLay. So for all the eloquence about pesticides, the one person who was involved in the pesticide over there did not object.

And with all due respect to my colleague, I don't have to be lectured about agriculture. I have been elected three times from my State. Agriculture is an enormous source of pride to our State. I visited thousands of acres of farmland. I want the Senator from Montana to understand something about my State and my farmers. Not one of them called and said: Oh, Senator BOXER, we want to dose babies and infants and pregnant women and fetuses with pesticides. Not one. So let's set the record straight. Maybe he heard from some of his farmers. Not one called me.

Why? Because this is all scare tactics. They know we are testing pesticides on animals. They know we are using computer modeling. They know that research moves forward. I am one of the biggest proponents of developing new pesticides.

Then he uses the scare tactics. My God, if we have this moratorium—which, by the way, was put in place by Republican and Democratic administrations in the past—we won't be able to fight West Nile virus. Baloney. We are already using DEET. We know what to do. There are continuing studies and modeling going on. So let's get rid of the scare tactics.

I am offering a bipartisan amendment today that is the exact amendment that passed the House without a dissenting vote. The only people who don't like it are the pesticide makers. We have a chance to take a stand for the health of our kids or with the pesticide makers. That is just clear. We have a chance to take a stand with every major religious organization in this country. I have the list of those. The National Council of Churches, Jewish organizations, evangelical Lutherans, the Catholic bishops, all weighed in. My amendment is a faith-based amendment.

Then my colleague says: Let's not get emotional. Are we supposed to walk in here and lose all of our feelings? Are we not supposed to have emotion if we lose, for example, a constituent in the Iraqi war? If we visit Walter Reed Hospital, as many of us have done, are we supposed to check our emotions at the door when we are elected to the Senate? Let me tell you how I feel when I read about the kind of testing they are going to do which my colleague is endorsing with his amendment because he is saying the EPA should hurry up and bring out their regulation. By the way, he is wrong when he tells you it is a draft. It is a final draft, and we have the proof that this regulation was about to go for comment next week. So let's set the record straight.

Here is what my colleague supports. He supports an EPA regulation that says there will be a limited number of scientific studies involving pregnant women, fetuses, newborn babies of uncertain viability or nonviable newborns. Imagine, dosing a fetus with pesticides. Dosing a newborn baby. You want me to check my emotions at the door? Sorry. I will not be here and allow a rule to go into effect without doing everything in my power to stop it that is going to dose a dying newborn baby with pesticides because some poor mother is convinced to take $1,000 for it. This is just wrong. Why do you think we have all of these churches opposing the Burns amendment and supporting our amendment: We are appalled by the effort to go forward with yet another report—that is the Burns amendment—that does nothing to guarantee the well-being of the children and other vulnerable groups who are being subjected to pesticides by the chemical industry. We need a moratorium.

This moratorium was voted for without a dissenting vote in the House. Now my colleague calls for a thorough review based on the National Academy of Sciences standard.

There is not one mention of the National Academy of Sciences in his entire amendment. Not only is there not one mention there, there is not one mention of the Helsinki Accords. There is not one mention of any protocol that has ever been recognized nationally or internationally in his amendment. It is a general amendment. It is exactly what the EPA wants because they have told us, they don't want to be hemmed in. They don't want to have their options limited. They want to be able to dose or accept studies that dose people with chemicals whenever they want to and whoever these people are.

Here is what the EPA says they want: The promulgation of rules prescribing such details would unnecessarily confine EPA's discretion. Wonderful. My opponent is giving them that discretion by not referring to any acceptable scientific guidelines.

Then my opponent defends the CHEERS program. I have never heard anyone defend the CHEERS program. The CHEERS program was going to be done on these babies. Pay their parents in poor areas, give them a cam camera, tell them to continue dosing their homes with pesticides and study the reaction of the children, when we already know it is dangerous for kids to be exposed to pesticides. My esteemed friend—and he is my friend—actually gets up and defends this program which no one else in America has done. But it speaks to the purpose of his amendment which is to move forward with a rule that would allow all of this.

My opponent says I am stopping all testing. False. The testing will continue—animal testing, computer modeling. Do you know what Stephen Johnson of the EPA has said about human testing? I think it is important that Members know. He certainly doesn't agree with Senator BURNS because this is his quote:

> We believe that we have a more than sufficient database, through use of animal studies, to make licensing decisions that meet the standard—to protect the health of the public—without using human studies.

So my friend is contradicting Stephen Johnson, head of the EPA.

The PRESIDING OFFICER. The Senator has used 7 minutes.

Mrs. BOXER. I yield myself 1 more minute.

The PRESIDING OFFICER. The Senator is recognized.

Mrs. BOXER. The fact is the attack Senator BURNS has made on my amendment is false in every way. It is the same amendment as his Republican friends supported over in the House without a dissenting voice. It is the same policy that was put in place by Republicans and Democrats. And then my friend says: Wouldn't it be a waste to throw away studies, even if they did intentionally dose human beings? Ronald Reagan was faced with that same

issue. His head of the EPA said there are certain times when you don't accept studies because there is moral right and there is moral wrong. That is why the Boxer amendment—supported by Senators SNOWE and COLLINS, Senators CLINTON and OBAMA and NELSON and others—is so important.

I ask unanimous consent to add Senator CORZINE as a cosponsor of my amendment.

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

Mrs. BOXER. To quote President Reagan's EPA, they said they would not accept human dosing type of experiments from World War II because they were ''morally repugnant.''

I reserve the remainder of my time.

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

Mr. BURNS. Mr. President, my amendment, to answer the National Academy of Sciences point, the six quantifying objectives, as mentioned, come from the book ''Intentional Human Dosage Studies for the EPA, Respiratory Purposes, Scientific, and Ethical Issues.'' They were taken from that book. The National Academy is found in the amendment.

Again, we can characterize it any way we would like. I would just say that we still base our decisions on history. This amendment is paramount. And I understand, nobody likes the idea of human dosing. If we could get around it, if there was any sure way we could get around it, we would. I don't like it either. But nonetheless, as we talk about this, we are holding up testing on the world around us. We cannot afford to lose any time or information. We owe that to the American people, to the consumer. We also owe it to the people who produce food and fiber.

How much time is remaining on the other side?

The PRESIDING OFFICER. The Senator from California has 52 seconds remaining.

Mr. BURNS. Mr. President, we have a vote coming up, and we probably can get to that in the next 5 or 10 minutes, if that is OK with the Senator from California.

Mrs. BOXER. Absolutely.

Mr. BURNS. If you want to close, I will make a short statement. Then we will go to the vote.

Mrs. BOXER. Sure.

Mr. BURNS. I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, this debate is a tough debate because when it comes to protecting the people of our country, there are going to be feelings on either side. This is what it is about. The quote of James Childress of the National Academy of Sciences, chairman of the panel, who said: A lot of us were troubled by the dosing studies. And personally my view is that the House amendment—that is what my amendment is—was within the range of ethically justifiable responses.

The fact is, there is no mention directly of the National Academy of Sciences in my colleague's amendment. My colleague's amendment is just a ''cover yourself'' amendment. I call it a ''CY'' amendment.

People can think they are doing something, but here is what I need to tell my colleagues: If they vote for the Burns amendment, they are taking us back. They are telling the EPA to hurry up with their regulations, regulations that we know will test pregnant women and babies. Every major religious organization views this as a faith-based debate, and the Boxer amendment is on the right side of that debate. I hope Members will vote for the Boxer amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I will recap. Our approach is a commonsense approach. It just makes sense and logic that the information we need is only found in the work that we do on the safety of pesticides, fungicides, herbicides, all of that. It becomes very important to the agricultural producers, but also it is more important to the safety of our consuming public.

It has been a good debate. I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Is my friend going to ask for the yeas and nays on both his and my amendment, his first and then mine second?

Mr. BURNS. That is correct.

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mrs. BOXER. I ask for the yeas and nays on the Burns amendment and the Boxer amendment.

The PRESIDING OFFICER. Without objection, the yeas and nays may be requested on both amendments.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BURNS. Mr. President, I ask unanimous consent that there be 2 minutes of debate equally divided prior to the vote in relation to the Boxer amendment.

Mr. BURNS. The Senator has 1 minute prior to the vote on her amendment.

Mrs. BOXER. That is very good.

Mr. BURNS. I ask unanimous consent for that.

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

Mr. BURNS. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Utah (Mr. BENNETT) and the Senator from Indiana (Mr. LUGAR).

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. LIEBERMAN) is absent due to death in family.

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

The result was announced—yeas 57, nays 40, as follows:

[Rollcall Vote No. 161 Leg.]

YEAS—57

| | | |
|---|---|---|
| Alexander | DeWine | Martinez |
| Allard | Dole | McCain |
| Allen | Domenici | McConnell |
| Baucus | Dorgan | Murkowski |
| Bond | Ensign | Nelson (NE) |
| Brownback | Enzi | Pryor |
| Bunning | Frist | Roberts |
| Burns | Graham | Santorum |
| Burr | Grassley | Sessions |
| Byrd | Gregg | Shelby |
| Chambliss | Hagel | Smith |
| Coburn | Hatch | Stevens |
| Cochran | Hutchison | Sununu |
| Coleman | Inhofe | Talent |
| Conrad | Isakson | Thomas |
| Cornyn | Kyl | Thune |
| Craig | Landrieu | Vitter |
| Crapo | Lincoln | Voinovich |
| DeMint | Lott | Warner |

NAYS—40

| | | |
|---|---|---|
| Akaka | Feingold | Nelson (FL) |
| Bayh | Feinstein | Obama |
| Biden | Harkin | Reed |
| Bingaman | Inouye | Reid |
| Boxer | Jeffords | Rockefeller |
| Cantwell | Johnson | Salazar |
| Carper | Kennedy | Sarbanes |
| Chafee | Kerry | Schumer |
| Clinton | Kohl | Snowe |
| Collins | Lautenberg | Specter |
| Corzine | Leahy | Stabenow |
| Dayton | Levin | Wyden |
| Dodd | Mikulski | |
| Durbin | Murray | |

NOT VOTING—3

| | | |
|---|---|---|
| Bennett | Lieberman | Lugar |

The amendment (No. 1068) was agreed to.

Mr. BURNS. Mr. President, I move to reconsider the vote, and move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1023

The PRESIDING OFFICER. There are now 2 minutes of debate equally divided on the Boxer amendment.

Mr. BURNS. I yield to the Senator from California on her amendment. She has 1 minute.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, if I could have Members' attention just for one moment, I hope they will vote for this. The EPA is about to utilize studies that will actually intentionally dose babies with pesticides, pregnant women with pesticides, newborns with pesticides, newborns of uncertain viability, meaning they might die, nonviable newborns. We are talking about a policy that has won the condemnation of every religious organization in this country who backed the Boxer amendment.

The Boxer amendment passed without a single dissenting vote in the House. If Members voted for Burns they can vote for Boxer. All we are saying is we need a timeout to look at this immoral policy. That is why we have

the Catholic bishops telling us that the intentional dosing of kids is immoral and they are very concerned about it. That is why we have the support of the National Council of Churches. If my colleagues ever wanted to vote for a faith-based amendment, this is the amendment. Stand on the side of the innocent, vulnerable kids and vote for the Boxer amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, it just makes sense that we do not suspend testing at all, as this amendment would do. It is bad logic to throw aside almost over 20 reports that give us the history and the institutional knowledge to complete the work for the safety of the consumer and also the people who produce food, fiber, and shelter in this country. I urge a ''no'' vote on this amendment.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1023. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Utah (Mr. BENNETT), and the Senator from Indiana (Mr. LUGAR).

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. LIEBERMAN) is absent due to death in family.

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

The result was announced—yeas 60, nays 37, as follows:

[Rollcall Vote No. 162 Leg.]

YEAS—60

| | | |
|---|---|---|
| Akaka | Ensign | Murkowski |
| Baucus | Feingold | Murray |
| Bayh | Feinstein | Nelson (FL) |
| Biden | Graham | Nelson (NE) |
| Bingaman | Harkin | Obama |
| Boxer | Hutchison | Pryor |
| Byrd | Inouye | Reed |
| Cantwell | Isakson | Reid |
| Carper | Jeffords | Rockefeller |
| Chafee | Johnson | Salazar |
| Clinton | Kennedy | Sarbanes |
| Coburn | Kerry | Schumer |
| Collins | Kohl | Smith |
| Conrad | Landrieu | Snowe |
| Corzine | Lautenberg | Specter |
| Dayton | Leahy | Stabenow |
| DeWine | Levin | Talent |
| Dodd | Lincoln | Thune |
| Dorgan | McCain | Warner |
| Durbin | Mikulski | Wyden |

NAYS—37

| | | |
|---|---|---|
| Alexander | Crapo | Martinez |
| Allard | DeMint | McConnell |
| Allen | Dole | Roberts |
| Bond | Domenici | Santorum |
| Brownback | Enzi | Sessions |
| Bunning | Frist | Shelby |
| Burns | Grassley | Stevens |
| Burr | Gregg | Sununu |
| Chambliss | Hagel | Thomas |
| Cochran | Hatch | Vitter |
| Coleman | Inhofe | Voinovich |
| Cornyn | Kyl | |
| Craig | Lott | |

NOT VOTING—3

| | | |
|---|---|---|
| Bennett | Lieberman | Lugar |

The amendment (No. 1023) was agreed to.

Mr. DORGAN. I move to reconsider the vote.

Mr. BURNS. I move to lay that motion on the table.

The motion to lay on the table was agreed do.

AMENDMENT NO. 1025

Mr. BURNS. Mr. President, by previous order, we move to the Dorgan amendment No. 1025.

The PRESIDING OFFICER. The Senator is correct.

Mr. DORGAN. Mr. President, I ask for the regular order to consider amendment numbered 1025.

The PRESIDING OFFICER. The amendment is pending.

Mr. DORGAN. Mr. President, let me describe the amendment. This amendment is very simple. It does not require an elaborate explanation. It provides additional resources, desperately needed resources to particularly the Indian Health Service.

We have had a lot of discussion in the Senate in the last several years about the Indian Health Service. We have a responsibility for the health of Indians under trust responsibilities to the Federal Government. The Federal Government also has a responsibility for health care for Federal prisoners. It is interesting to note that the Federal Government spends almost twice as much per person for health care for Federal prisoners as it does to meet its trust responsibility per person for American Indians.

If you travel to Indian reservations in this country, there is a bona fide crisis in health care on reservations and in other areas as well. Go to a reservation, and you will find a dentist practicing out of a trailer house, a small trailer, for 5,000 people. That is the dentistry. Go to a reservation and find half a dozen kids have committed suicide recently. You will discover there is virtually no mental health treatment available for those kids who end up taking their lives.

There is such a desperate need to satisfy the obligation here for health care for American Indians. We are so short of funding, it is unbelievable. This amendment adds $1 billion to funding particularly for Indian Health Service but also to the BIA to provide the other services that are necessary on the reservations.

I have indicated we have a bona fide crisis in health care, housing, and education on Indian reservations. Let me tell a story I have told previously about a young girl named Tamara Demaris. Tamara was a 3-year-old. I read about Tamra in a newspaper. I met with her and her granddad. She was 3 years old and placed in foster care by a person who was handling welfare cases and so on. The woman who was handling the case was handling 150 cases. So this was a case of a 3-year-old child who was put in a foster care situation. But the person did not check out the home to which she was assigning the 3-year-old child. She was working on 150 cases. So Tamara Demaris goes to this home. There is in this home a drunken brawl and party. The aftermath of that drunken brawl and party was this 3-year-old girl named Tamara had a broken nose, a broken arm, and her hair pulled out at the roots.

This is a 3-year-old child. That was our responsibility. We did not provide sufficient funds for available resources to check the foster home in which they would put this little kid. The result is this little kid is scarred for life.

I helped fix it on that particular reservation so that will not happen now. But why did it happen? They do not have the resources. One person handles 150 cases? That is unbelievable. A child gets injured, badly. It is going on all across this country on Indian reservations.

Again, I have told my colleagues about a hearing I held in which a young woman who had just assumed the job on an Indian reservation—this was for child welfare—said on the floor of her office was a stack of folders with allegations of child abuse, including sexual abuse of children. She said they have not even been investigated. Those folders sit there without an investigation because they do not have the resources.

She broke down at the hearing and began to sob, began to cry. She said: I have to beg and borrow to try to get a car to take a kid to a clinic or take a kid to see a psychologist or get mental health treatment. I don't have a vehicle, let alone the money to investigate the cases in the files on the floor.

I could go on at great length about diabetes, about all of the issues faced on these reservations.

My late colleague, Mickey Leland, with whom I traveled to many areas of the world, was a great humanitarian. He died when his plane crashed into a mountain in Ethiopia. He was a Congressman who worked with me and others on hunger issues. Mickey Leland came to the three affiliated tribes in North Dakota to hold a hearing.

This is what we discovered that day in the testimony about diabetes. They do not have double, triple or quadruple the rate of diabetes of the rest of the population; theirs was 10, 12 times the rate of the rest of the population. It is a devastating situation on Indian reservations. It means people are losing their legs, losing their good health, losing their lives, sitting through dialysis in a crowded room.

We have so many challenges to meet, and we are so far from meeting them with the necessary resources. These are the first Americans. I am talking about American Indians. They are the ones who greeted Christopher Columbus. These books that say Columbus discovered America—I am sorry, he was greeted by the American Indians, the first Americans. Yet we are not meeting our trust responsibility.

I suggest now is the time simply to take the step and say, if we care about health care, if we care about funding for these needs on Indian reservations

in this country, let's do it. We have Third World conditions in some of these areas. Sarah Swift talked about a grandmother who goes to bed, lies down on a cot, and freezes to death. She freezes to death in this country. This was a Native-American grandmother, an American-Indian grandmother who at 35 below zero in the middle of the winter was living in a house that had only plastic sheeting on the window. She froze to death. One would think, if you read in the paper, it was a Third World country. No, that wasn't. That was South Dakota. We have to do better. That is the purpose of my amendment.

This amendment is paid for with $1 billion we take from the Federal Reserve surplus funding. Most of my colleagues—perhaps none of my colleagues know—in the Federal Reserve Board, there is an $11 billion—yes, I said it right—an $11 billion surplus fund. I call it the rainy-day fund. They should not have it, first of all. The Federal Reserve Board was created in the nineteen teens. We have a rainy-day fund so that if they run out of money, they have some money—$11 billion. How do you run out of money when you actually create money, for God's sake? The Federal Reserve Board does not need $11 billion.

Senator REID and I had the GAO do an investigation of this back in the 1990s. That was at a time when they had $4 billion to $5 billion. Now they have $11 billion squirreled away. I say take less than one-tenth of that and invest it in the health of America's first citizens, citizens who now all too often are living in Third World conditions.

I will not describe at greater length the health challenges. I have done it before in speeches in the Senate. I want one person to tell me it does not matter that a young kid is lying in bed today on an Indian reservation thinking of committing suicide, and tomorrow or the next day they may find that young child hanging from the closet as they found Avis Littlewind hanging from her closet after missing 90 days of school. Her sister, by the way, committed suicide 2 years before. The mental health services on that reservation did not exist to help these kids.

The question is, Do we want to help these kids? Do we want to meet our responsibility? Do we want to keep our promise and tell people this matters? It does to me.

My hope is, with this amendment, my colleagues will finally decide to do what is right and do what is necessary to invest in the things in which we need to invest to say to the Native Americans: Your health matters, too. Your education matters, too. Housing matters for you as well. That is our obligation.

I recognize I have to make a motion to waive the applicable sections of the Budget Act. The reason is because people with very small glasses and very narrow breadth of thought have decided that $11 billion sitting in a squirreled-away bank account as a rainy-day fund for the Federal Reserve Board, a board full of people wearing gray suits, living in a concrete building, squirreling away $11 billion—there are some people with these tiny glasses who decided this $1 billion cannot be used for this because it would violate the Budget Act.

I might observe, however, that on previous occasions in the Senate other Members of the Senate have found a way to use a portion of this in the normal process. So I suggest perhaps there is not a greater need than doing what we should do for the children I have just described and for those who are suffering, those who are living in poverty, those who through no fault of their own are having a tough time. This would be a great way to reach out our hand and say to them: You are not alone. Let us help you up and out of this situation. Let us help improve your lives.

When my colleague rises, I am sure in aggressive support of my amendment, I will ask for a proper waiver of the Congressional Budget Act.

I ask unanimous consent Senators BINGAMAN and JOHNSON be added as cosponsors of my amendment.

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

Mr. BURNS. Mr. President, we have increased Indian Health Service this year quite a lot at $135 million. I agree with my colleague from North Dakota—it does not cover all the bases. It is one of the places we have increased the funds in this year's budget and this year's appropriation. Committees also provided $82 million over the administration request for the Bureau of Indian Affairs.

The increase comes at a time when all other agency budgets in the bill are not growing. In fact, many are declining. The EPA is reduced by $144 million below their current year level. The Forest Service is $648 million below theirs. The National Park Service is $51 million below theirs. I mention these reductions saying we have done everything this committee could do to channel more money into the places needed. We did that with regard to the Indian Health Service.

There are seven reservations in my State. We are very much aware of the shortcomings. We have one reservation we are trying to work awfully hard with right now because there is a shortfall in health services. Of course, we are trying to take care of that, protect the integrity of the tribe and also their budgets and their expenditures. We are trying to do that now. We have a real job on our hands as to how we balance the act.

Right now, the offset the Senator from North Dakota has proposed is not correct as CBO will not score that. This $1 billion, of course, comes under another category.

Mr. DORGAN. Will the Senator yield?

Mr. BURNS. I will yield.

Mr. DORGAN. The Senator uses the acronym CBO; some call it the Confused Budget Office. Is that the Congressional Budget Office or, on this amendment, the Confused Budget Office?

Mr. BURNS. We will try the Congressional Budget Office.

Of course, there are other things that have entered into this. I have often wondered why they always call it OMB, Office of Management and Budget. I think maybe they call it OB. Nonetheless, we can kick that around.

It does not score with the Congressional Budget Office.

The pending amendment, 1025, offered by the Senator from North Dakota, increases the discretionary spending in excess of the 302(b) allocation to the Subcommittee on Interior and Related Agencies of the Committee on Appropriations. Therefore, I raise a point of order against the amendment pursuant to section 302(f) of the budget.

Mr. DORGAN. Mr. President, pursuant to section 904 of the Budget Act of 1974, I move to waive the applicable sections of the act for the purpose of the pending amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BURNS. I ask unanimous consent this vote be set aside and we have this vote immediately after the debate as to 1026, which is the amendment of Senator SUNUNU to this act.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BURNS. Mr. President, I guess I have some time remaining. I yield back that time.

We are awaiting the arrival of the manager of the Sununu amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

AMENDMENT NO. 1026

Mr. SUNUNU. 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. SUNUNU. Mr. President, is my amendment the pending business?

The PRESIDING OFFICER. The Senator is correct. His amendment is the pending business.

Mr. SUNUNU. I thank the Chair.

The PRESIDING OFFICER. Under the previous order, there is 30 minutes evenly divided.

Mr. SUNUNU. Mr. President, we are preparing to vote on an amendment that I think does justice to the taxpayers. It doesn't make any sense to have a timber program that costs the taxpayers nearly $49 million but yields less than $1 million in revenue. Unfortunately, that is the situation we have in the Tongass. A significant portion of funding goes to building roads that support the efforts of private timber companies. I don't think it is too much to ask to simply require that those companies pay the expense of the road building themselves and not ask the taxpayers to provide that subsidy.

This is a straightforward amendment. It doesn't change any designation on land. It doesn't create any new wilderness area. It doesn't create any new roadless areas. It simply says for timber operations to continue, the private timber firms must put up the money to build the roads.

I am a strong supporter and will remain a strong supporter of a multiuse concept for the national forests. It makes sense because they are important places. They are places that should be able to be enjoyed for recreation hunting or fishing or snowmobiling—and they have economic uses as well. Where the taxpayers are concerned, where Federal funds are concerned, we need to be a little bit more cautious, especially in a time when we have $300 or $350 billion deficits. Spending nearly $49 million, which was the tally in fiscal year 2004, for a program that yields revenues of $800,000 doesn't make any sense.

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

The PRESIDING OFFICER. Who yields time?

The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, it is interesting to stand before the Senate this afternoon to discuss this amendment in the context of fiscal responsibility. The amendment that is proposed by my colleague from New Hampshire is about eliminating a subsidy for the timber industry. But when we look to it, it is very specific. It is not the elimination of subsidies for assistance throughout our National Forest System. It is just specific as to one national forest, and that is the Tongass, located in the State of Alaska. If, in fact, what we are focusing on today is looking at cost cutting, looking at efficiencies, looking at elimination of Federal funding in areas where it doesn't make sense, should we not be looking at this amendment and its application across the country? Wouldn't the supporters want to hold timber programs in all national forests to the same standards to eliminate subsidies and financial waste?

When we look at a list of our national forests, we have some 111 national forests spread across the country. Mr. President, 105 of the 111 national forests spend more on their timber programs than they collect in their receipts. This is not just focusing on the Tongass because it is way out of whack in terms of the costs that are expended on the Tongass; 105 out of 111 of the national forests spend more on their timber programs than they collect in receipts. What we have today is an amendment that singles out the Tongass National Forest and no other national forest in the country.

Let's continue with the fiscal argument and how this doesn't work as it relates to the Tongass. According to the Forest Service, in fiscal year 2004, it cost $6.05 per acre to manage the Tongass National Forest, which is very comparable, if not more efficient, than most of these other national forests for which we have the analysis.

Looking to the White Mountain National Forest in the State of New Hampshire, to manage that forest on a per acre basis is $19.39. Again, the Tongass cost per acre, in terms of management, is $6.05. Why aren't we looking at what is happening in the White Mountain National Forest in New Hampshire?

The Forest Service has in place in the Tongass a program that is designed to produce 150 million board feet a year. Yet 238 million board feet is on hold because of appeals and litigation. That is about a year and a half of product that can't get to market because of litigation. Seventy five percent of the costs associated with the timber program in the Tongass are the result of NEPA appeals and litigation. It is estimated that without these costs, the Tongass timber program could produce on average of about a 13-percent profit margin. So we recognize that we have some issues going on in the State of Alaska, particularly in the Tongass, that we are not seeing outside. We understand that the rate of litigation or the incidence of litigation in the Tongass is four times that of litigation that goes on with sales in any of the other national forests.

The economic argument, I contend, doesn't hold up. You can't separate the economic argument from the frivolous lawsuit argument. The reason the costs are so high is because of the lawsuits. You solve the lawsuit problem and you solve some of the economic problem.

It is interesting. The same organizations that are all about this amendment in trying to shut down any road activity in the Tongass are the same people filing the lawsuits. The reality is that the Tongass National Forest is singled out because it has been on the hit list of environmental groups who really oppose all logging, specifically in the Tongass.

I know my colleague's intention is not to change the status to wilderness. It is not to shut down the timber industry. But, in fact, that is what the impact of this amendment would be, to effectively shut down the industry in the Tongass. It would put hundreds of Alaskans in small rural communities out of work, communities that are dependent on the timber industry for their survival. It would work to eliminate the timber receipts that we receive in our schools that help educate our kids. It would devastate the economy in southeast Alaska, an economy that has already been so hard hit. We are looking at unemployment rates so far above the national average and, in the Southeast, an average that is absolutely unacceptable, 9 percent, 10 percent.

I understand it is not the intention of the Senator from New Hampshire and the Senator from New Mexico to shut down the Tongass, but that is what it is going to do.

If, in fact, we are going to talk about the fiscal side, if we are going to look to the elimination of subsidies, it should not just be about the Tongass. Let's take a look. Maybe we need to have hearings in the Energy Committee's Subcommittee on Public Lands and Forests and bring everybody together, put them at the table—the timber industry, the communities, the taxpayer advocate groups, environmental groups. Let's hear about it.

We have several colleagues who would like to speak on the amendment this afternoon. Before I sit, it is important to correct the record. Supporters of this amendment have said that the Tongass spent $49 million on its logging program in 2004. In fact, the correct amount that was spent on the Tongass program in 2004 was $22.5 million. They also say that the revenue on the Tongass in this same time period was $800,000. In fact, it was $2 million. I want to make sure we have the numbers straight as we are looking at this and where they are being spent.

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

The PRESIDING OFFICER. The Senator reserves the remainder of her time. Who yields time?

Mr. SUNUNU. Mr. President, the issue here isn't the cost to manage a national forest because we recognize national forests are special places. We want to manage them. We want to operate them. We want to run them for the enjoyment of people, and different forests are going to have different requirements and different costs associated with that management. Whether it is $1 an acre or $1,000 an acre, we want them to be run in an efficient way. It is not about the cost of management. It is not about the profitability of a timber program. As was pointed out, most of the timber programs technically lose money on a profit-and-loss basis. What it is really about is, in looking at those timber programs, should the taxpayers pay for the costs of building the roads, or is that a cost that should be borne by the private enterprise?

That is what this debate is about and the answer is no. Certainly, in the case of the Tongass, that is an area where more money is being spent to build more roads to benefit private companies with the least return imaginable.

I yield 4 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I thank my colleague for yielding the time.

I want to speak briefly in support of the Sununu amendment. This amendment is simple. It is narrow. It is clear. It provides that none of the funds appropriated in the bill can be used to plan or construct new logging roads for private logging companies in the Tongass. Some would say: Why single out the Tongass? How does that relate to my State or the area of the country I represent?

I think we have to have a little context for this amendment. We are debating an extremely tight budget for the Forest Service, one that simply does not come close to meeting the needs of the National Forest System. That is the reality that is being brought on by the growing deficits and the resulting cuts in spending.

Let me give a few examples of the cuts that are found elsewhere in this bill. This bill cuts the State and Private Forestry account by $87 million. That includes a 45-percent cut in critical funding to protect communities from wildfires, leaving volunteer fire departments and other responders underfunded and leading to greater risk to life and property. This is made worse by a $353 million cut in the Federal Wildfire Management account. It also includes a 30-percent cut in the Forest Health Management account.

A program that rehabilitates and restores areas burned by wildfires is cut in this budget by 84 percent. The bill cuts more than $180 million from the Capital Improvements and Maintenance accounts, which fund the road construction and maintenance in the Tongass and in the rest of the country. That account already is more than $10 billion in the red. So that gives people some sense of the extreme cuts that are taking place elsewhere in the Forest Service budget.

In stark contrast to that are the accounts used to support logging in the Tongass National Forest. Rejecting the President's proposed cuts in those accounts, this bill would increase funding for logging programs in the Tongass. It takes money from the programs throughout the rest of the country and puts it into the logging program in the Tongass.

That is why it is important that this amendment pass. We need to be sure that taxpayer dollars are going where the most good can be done for the public. It is no wonder that Taxpayers for Common Sense, the National Taxpayers Union, Citizens Against Taxpayer Waste, and many other organizations and businesses have objected to this program and the funding that is being provided.

In February of this year, the Congressional Budget Office joined in and proposed eliminating the Forest Service timber sales in Alaska and elsewhere as a way to save taxpayers $130 million in 2006.

Mr. President, I believe this is a very meritorious amendment. I hope my colleagues will support Senator SUNUNU and me on this. The Federal deficit clearly is too high. It cuts critical programs in our States too deep. Taxpayer money is too precious for us to spend it in this way. This amendment would help correct that problem.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Alaska is recognized.

Ms. MURKOWSKI. I yield 1 minute to the Senator from Nevada.

Mr. ENSIGN. Mr. President, I rise in opposition to this amendment. I have found myself in similar situations as the Senators from Alaska, with my State of Nevada being singled out and, for this reason, I am very sympathetic to their concerns. I believe that we cannot overemphasize the importance of this road funding to the people in southeastern Alaska. Local lumber jobs in the Tongass have decreased from 5,000 in 1990 to just a thousand today, putting a strain on the surrounding communities. Furthermore, the price of lumber has skyrocketed in the United States. My State is home to Las Vegas, which is the fastest growing city in America. We have seen the cost of lumber and other products soar.

I believe it is important to preserve funding for these roads so that we can continue to have a reliable supply of lumber across the country. I urge my colleagues to join with the Senators from Alaska in keeping this small part of the Tongass accessible to development.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SUNUNU. Mr. President, it is always frustrating when different people are working with different numbers. The suggestion was made that the program costs about $22 million. I have here the Forest Service budget submission for the coming fiscal year as well as data on fiscal years 2004 and 2005. For this region's two forests, Chugach and Tongass—there is no forest, paper, or timber program in the Chugach, so we have two line items. One is forest products, $23.342 million. The other is roads, $22.325 million. That adds up to more than $45 million in their budget estimate for fiscal year 2005. If you look at fiscal year 2004, forest products is $27.379 million and roads is $21.273 million. That adds up to nearly $49 million. And if you look at the coming fiscal year, fiscal year 2006, the budget request for forest products is $21.462 million and for roads it is $17.306 million. That adds up to almost $39 million.

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

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

## Allocations to Regions, Stations, Area, FY 2004-2005, Estimated FY 2006

($ in thousands)

| | Region 10 | | | Forest Products Lab | | |
|---|---|---|---|---|---|---|
| | FY04 | FY05 | FY06 PB | FY04 | FY05 | FY06 PB |
| **Forest and Rangeland Research** | **0** | **0** | **0** | **21,555** | **20,632** | **21,532** |
| **State & Private Forestry** | | | | | | |
| Forest Health Management - Federal Lands | 2,025 | 2,133 | 2,053 | 0 | 0 | 0 |
| Forest Health Management - Cooperative Lands | 392 | 834 | 200 | 0 | 0 | 0 |
| State Fire Assistance | 1,132 | 823 | 603 | 0 | 0 | 0 |
| Volunteer Fire Assistance | 111 | 130 | 130 | 0 | 0 | 0 |
| Forest Stewardship | 697 | 705 | 840 | 15 | 0 | 0 |
| Forest Legacy Program | 478 | 57 | 671 | 0 | 0 | 0 |
| Urban and Community Forestry | 220 | 207 | 191 | 0 | 0 | 0 |
| Economic Action Program | 2,075 | 3,160 | 0 | 703 | 314 | 0 |
| Forest Resources Information and Analysis | 0 | 0 | 0 | 0 | 0 | 0 |
| International Forestry | 0 | 0 | 0 | 0 | 0 | 0 |
| **Total, State & Private Forestry** | **7,130** | **8,049** | **4,688** | **718** | **314** | **0** |
| **National Forest System** | | | | | | |
| Land Management Planning | 906 | 1,067 | 857 | 0 | 0 | 0 |
| NFS Hazardous Fuels | 0 | 0 | 1,390 | 0 | 0 | 0 |
| Inventory and Monitoring | 7,934 | 8,004 | 4,837 | 10 | 0 | 0 |
| Recreation, Heritage, and Wilderness | 12,483 | 10,900 | 11,258 | 0 | 0 | 0 |
| Wildlife and Fisheries Habitat Management | 11,113 | 10,267 | 9,453 | 0 | 0 | 0 |
| Grazing Management | 0 | 0 | 0 | 0 | 0 | 0 |
| Forest Products | 27,379 | 23,342 | 21,462 | 0 | 0 | 0 |
| Vegetation and Watershed Management | 6,744 | 7,617 | 5,126 | 0 | 0 | 0 |
| Minerals and Geology Management | 2,175 | 2,318 | 2,535 | 0 | 0 | 0 |
| Landownership Management | 5,463 | 6,024 | 4,319 | 0 | 0 | 0 |
| Law Enforcement Operations | 3,027 | 0 | 0 | 0 | 0 | 0 |
| Valles Caldera National Preserve | 0 | 0 | 0 | 0 | 0 | 0 |
| Centennial of Service | 0 | 1,000 | 0 | 0 | 0 | 0 |
| **Total, National Forest System** | **77,224** | **70,539** | **61,237** | **10** | **0** | **0** |
| **Wildland Fire Management** | | | | | | |
| Fire Preparedness | 3,237 | 3,397 | 3,394 | 0 | 0 | 0 |
| Fire Operations -- Suppression | 0 | 0 | 0 | 0 | 0 | 0 |
| Hazardous Fuels | 913 | 1,919 | 0 | 152 | 652 | 0 |
| Rehabilitation and Restoration | 0 | 0 | 0 | 0 | 0 | 0 |
| Fire Research and Development | 0 | 0 | 0 | 727 | 708 | 575 |
| Joint Fire Sciences | 0 | 0 | 0 | 0 | 0 | 0 |
| Forest Health Management -- Federal Lands (NFP) | 153 | 196 | 0 | 0 | 0 | 0 |
| Forest Health Management -- Cooperative Lands (NFP | 365 | 336 | 0 | 0 | 0 | 0 |
| State Fire Assistance (NFP) | 6,237 | 6,749 | 842 | 0 | 0 | 0 |
| Volunteer Fire Assistance (NFP) | 279 | 270 | 270 | 0 | 0 | 0 |
| **Total, Wildland Fire Management** | **11,184** | **12,867** | **4,506** | **879** | **1,360** | **575** |
| **Capital Improvement & Maintenance** | | | | | | |
| Facilities | 12,810 | 13,830 | 8,365 | 3,283 | 3,746 | 10,043 |
| Roads | 21,273 | 22,325 | 17,306 | 0 | 0 | 0 |
| Trails | 6,300 | 5,522 | 5,082 | 0 | 0 | 0 |
| Infrastructure Improvement | 2,059 | 758 | 929 | 300 | 162 | 162 |
| **Total, Capital Improvement & Maintenance** | **42,442** | **42,435** | **31,682** | **3,583** | **3,908** | **10,205** |
| **Land Acquisition** | | | | | | |
| Land Acquisition -- Land and Water Conservation Func | 39 | 60 | 60 | 0 | 0 | 0 |
| Acquisition of Lands for National Forests, Special Acts | 0 | 0 | 0 | 0 | 0 | 0 |
| Acquisition of Lands to Complete Land Exchanges | 0 | 0 | 0 | 0 | 0 | 0 |
| **Total, Land Acquisition** | **39** | **60** | **60** | **0** | **0** | **0** |
| **Range Betterment Fund** | 0 | 0 | 0 | 0 | 0 | 0 |
| **Gifts, Donations, and Bequests for Research** | 0 | 0 | 0 | 0 | 40 | 60 |
| **Management of NF Lands for Subsistence Uses** | 5,467 | 5,879 | 5,467 | 0 | 0 | 0 |
| **Permanent Working Funds** | | | | | | |
| Brush Disposal | 0 | 0 | 0 | 0 | 0 | 0 |
| Timber Salvage Sales | 500 | 2,178 | 1,500 | 0 | 0 | 0 |
| Other | 0 | 3,222 | 4,746 | 0 | 0 | 0 |
| **Total, Permanent Working Funds** | **500** | **5,400** | **6,246** | **0** | **0** | **0** |
| **Trust Funds Subtotal** | **1,583** | **2,113** | **1,823** | **0** | **450** | **0** |
| **TOTAL, Regular FUNDS** | **145,569** | **147,342** | **115,709** | **26,745** | **26,704** | **32,372** |

**Total does not include Payments to States**
**Amounts do not include Emergency or Supplemental Funding**

Mr. SUNUNU. Mr. President, I yield 4 minutes to the Senator from Arizona.

Mr. McCAIN. Mr. President, I applaud the Senator for his courage in taking on this issue. I have watched the Senator from Alaska, Senator MURKOWSKI, speak in a passionate and advocating fashion, and I admire her knowledge of the facts and her advocacy. Unfortunately, I am supporting the amendment. It offers Members an opportunity to vote for the taxpayers' interests and put a halt to wasting their hard-earned dollars for the construction of new roads in the Tongass National Forest. The word ''new'' is key here because, according to the U.S. Forest Service, the existing road system already allows loggers access to more timber than the average annual cut in the Tongass for the past 3 years.

Not only do the existing roads—5,000 miles already bought and paid for by taxpayers—offer access to more timber than the timber companies can harvest, the Forest Service can't even sell the harvested timber at rates to recoup the costs of road construction and timber sale preparation.

So this program is a double insult to American taxpayers. Federal funds are first used to construct Tongass roads and prepare the timber sale and then the Forest Service sells that timber for a fraction of the federal investment.

My colleagues from Alaska have argued that this amendment singles out this national forest from all the rest and they are simply seeking equal treatment for Alaska. The reason that this amendment recognizes the Tongass is because it is the most consistently wasteful timber sales program in the entire National Forest System.

While we can't fix the entire broken Forest Service timber sales program today, we can fix this most egregious example of waste and mismanagement of scarce Federal dollars and that is the Tongass.

The Forest Service website indicates that road building in the Tongass is by far the most expensive in the National Forest System, with construction costs of $150,000 per mile—remarkable. At the same time, the existing Tongass roads already face a $100 million maintenance backlog.

My colleagues from Alaska have not denied the fact that hundreds of millions of taxpayer dollars have subsidized the unprofitable Tongass timber program, but instead have made the extraordinary argument that ''the timber sales program on National Forests is not supposed to be profitable''.

When Congress established the Forest Service as stewards of the National Forests one hundred years ago, it was charged with the management of these public lands for commercial, recreational, and other purposes for the benefit of the American public. I'm sure no one conceived of the situation in the Tongass which has been detrimental to public interests for decades. Since 1982, taxpayers have provided more than $850 million subsidizing the logging industry in the Tongass National Forest alone. Between 1982 and 2002, cumulative losses for Tongass timber sales reached $750 million, or an annual average loss of $37 million.

In 2004, the Forest Service spent more than $48 million on the Tongass timber program, but took in less than $800,000 from timber companies. This amounts to a taxpayer subsidy of more than $160,000 per logging job in the Tongass. Nice industry profit, but it is long past time that we stop this.

Ironically, this program isn't even good for the Alaska economy. While a few hundred loggers are benefiting at taxpayers expense, many more Alaskan jobs that depend on recreation, small-scale logging, and tourism-related industries are harmed by the extensive road building, clear-cutting, and resulting degradation of water and wildlife resources.

Perhaps that is why more than 1000 sporting and gun clubs as well as local businesses have joined with taxpayer and conservation groups in opposition to the construction of new roads in the Tongass and in support of this amendment.

Every once in a while, a State or community has to go through a wrenching change. It is time for a change in the Tongass National Forest. I hope my colleagues will approve this amendment. Over time, I hope it will prove beneficial to the State of Alaska.

The PRESIDING OFFICER. Who yields time?

Ms. MURKOWSKI. I yield a minute and a half to my colleague from Idaho, with the balance of the time to be yielded to my colleague from Alaska.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, yesterday, our friend and colleague from New Hampshire said this amendment is not about being a wild-eyed environmentalist, but that it is about being fiscally responsible. So I am going to take the fiscally responsible side of that argument and say, let us open Pandora's box. I think this amendment does it. This bill includes $254 million for State and private forestry assistance. I doubt that New Hampshire gets any of that. It also includes $257 million for recreation, wilderness, and heritage management.

Should we not hold the recreational industry to the same standard we are holding the logging industry—no subsidy and everybody who hikes pay your own way? That is part of the argument. If we are going to hold the Tongass Forest to the standards we would be holding it to in this amendment, to cut the resources—what about the community action programs? The Senator from New Mexico said he made the decision—are we not going to invest in the community forestry program for the State of New Mexico and the communities that benefit from that? Cut them all. If that is the principle we apply here, cut them all. Eighty percent of the timber sales on public lands in this country to supply our fiber needs are now held up in the courts for legal action. Those are the realities, while the timber pours in out of Canada and cuts jobs out from rural America. That is exactly what is going on.

No, not a wild-eyed environmental logic, a fiscal logic; let's take out the programs for recreation and wilderness and trail maintenance and let the public pay their fair share.

Mr. SPECTER. Mr. President, I have sought recognition to discuss my vote on the Sununu-Bingaman amendment No. 1026 to the Interior appropriations bill for fiscal year 2006. I oppose the amendment due to my concerns that it unfairly singled out one national forest in Alaska instead of crafting a policy that may be implemented across the national forest system.

The Sununu-Bingaman amendment would prohibit any funds in the bill from being used to plan, design, study, or construct new forest development roads in the Tongass National Forest for the purpose of harvesting timber by private entities or individuals. I understand that the Federal Government subsidizes timber programs in all 111 national forests, including the Allegheny National Forest in Northwestern Pennsylvania. While the amendment did not prohibit logging in the Tongass, it would have created a special prohibition on new road building for logging operations in that forest when compared to other national forests.

If Congress is to craft rules pertaining to the Federal logging program, it should be done in a more constructive manner than offered today. The issues of road building, maintenance backlogs, and future logging should be dealt with first by each national forest individually, in the context of its management plan. Congressional action should be a last resort. If Congress should reconsider the Federal logging program, I urge the amendment's proponents to submit a plan for consideration.

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

The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, if the other side has time left, I will wait.

The PRESIDING OFFICER. The time is controlled by the Senator from New Hampshire and the Senator from Alaska.

Who yields time?

Ms. MURKOWSKI. Mr. President, I think my colleague from Alaska will allow the other side to go next, if that is OK with my colleague.

Mr. SUNUNU. I yield our remaining time to the Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I rise to express my support for the Sununu-Bingaman Tongass amendment.

I support this amendment for one simple reason: it ends a fruitless subsidy that costs taxpayers millions of dollars a year. Yes, I do want to see the

rare Alaskan Tongass rainforest protected, but that is not what this amendment does. Let me be very clear about this point. This amendment does not place a prohibition on logging. It does, however, place a prohibition on taxpayers footing the bill for logging.

Alaska's Tongass National Forest contains represents the biggest block of intact old-growth forest in Alaska and is the largest intact temperate rainforest in the world. Yet the Tongass is the Forest Service's biggest money-losing timber program. Since 1982, over $850 million has been lost on Tongass logging as a result of subsidies, uncompetitive bidding practices, and vastly undervalued timber sales.

We hear that this amendment will result in a loss of jobs. This argument concerns me because I recognize the timber industry's role in my home State of Wisconsin. Upon closer examination, though, I understand that this year alone, U.S. taxpayers have spent $163,000 for every direct timber job created by logging the Tongass. That is roughly four times the average U.S. household income this year—and certainly more than loggers in Wisconsin are getting paid in Federal dollars. Something is wrong with this picture.

I support the Sununu-Bingaman amendment and urge my colleagues who care about fiscal responsibility and care about the environment to do the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. It is unfortunate that some people don't read numbers correctly. The Tongass land use plan, for instance, cost $13 million. The Forest Service spends most of its money in Alaska on planning and designing the roads and defending the lawsuits brought by the environmental organizations that encouraged these Senators to bring this amendment. As a practical matter, of the 17 million acres in the Tongass, 676,000 acres—4 percent of the forest—is subject to harvesting.

Some time ago, Congress decided the Forest Service should build the roads in Alaska—not the private industry but the Forest Service—because of fish and wildlife concerns, recreation concerns, and concerns of those people who want access to the islands. There are no roads here. The reason we have this problem is we don't have Federal highway money in this area. The area is almost as big as New England. The only roads built there are for access to timber development. The study for those roads takes more money than building the roads. The defense of the litigation takes more money than both. As a matter of fact, 75 percent of the money spent in the Tongass is spent for environmental concerns and defending the litigation that is brought time and again against any contract to allow people to harvest timber.

Four times as many lawsuits are brought against timber sales in Alaska than are brought in all the rest of the country.

This amendment does not cut a dime from the budget—not one dime. It is not saving any money. It just says money cannot be spent in Alaska. Where is it going to be spent? It is going to be spent in the other National forests.

Mr. President, I will submit for the record a chart that shows that in the Tongass in fiscal year 2004, only $3.6 million was actually used in road support.

This is not a case of saving money. As a matter of fact, the Forest Service's planning, designing, and construction of timber roads is for the protection of the wildlife, the fish, and the scenic recreation areas for residents and visitors.

I do believe Alaska's timber roads are more expensive because of the environmental studies that must go on. They plan and design these areas for years before we are allowed access to the timber. We do that, again, to ensure the roads are designed properly.

This was a compromise with the environmental community. In years gone by, the private industry did build the roads. The environmental community did not like it. They said we couldn't do it unless we have a plan and the Forest Service carries out that plan. It designs and plans the roads and does all the environmental work that is not done in the private sector. Actually, only 25 percent of the money is spent for preparation and administration of these areas.

I do believe, unfortunately, that my friends are hiding the fact that they are bringing an environmental amendment. This is not an amendment to cut money. I challenge anyone to show it will save a dime. It will not save one dime because it does not cut money from this budget.

This is not about spending. If it were, it would apply to all forests. If Senators want to bring an amendment to reduce the budget, to cut the money for road building, then that would be another matter. The Tongass has a better monetary rate of return per dollar invested than 13 national forests and the same monetary return as 17 of them.

Mr. President, I ask unanimous consent to print in the RECORD two charts following my remarks.

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

(See exhibit 1)

Mr. STEVENS. Mr. President, this is not a fiscal amendment. This is an amendment to require that no money be spent to plan, design, or construct roads. What for? For timber development. But timber roads are also built for forest management, for fish and wildlife protection, for recreation. The people involved in the administration of fish and wildlife laws use those roads. The hikers and campers use those roads. The roads are built so pedestrians go across the bridges and do not go across the bottom of the streams, as they used to. In the private sector days, the Caterpillars used to go right through the streams, damage the streams, damage the habitat for fish and wildlife, and we changed that. The Forest Service plans and designs the roads, and we construct bridges over every single little stream. We protect the environment.

Now we are being accused of spending too much money because why? We are protecting the environment and defending the lawsuits against the environmental groups that bring them.

I urge the Senate to reject this amendment. As I say, it does not cut a dime from the budget.

EXHIBIT 1

FY 2004 TIMBER ROAD COSTS: TONGASS NATIONAL FOREST

CMRD Allocation: $19.04 million.
Timber Purchase Credit: $228,000.
Maintenance: $3 million.
Timber Road Support: $3.6 million.

The Tongass National Forest's monetary return per dollar invested is 2 percent.

THIRTEEN NATIONAL FORESTS THAT HAVE MONETARY RETURNS LESS THAN THE TONGASS'S

| State/Forest | Monetary return per $ invested (percent) |
|---|---|
| California—Los Padres National Forest | 1 |
| California—Mendocino National Forest | 1 |
| California—Six Rivers National Forest | 1 |
| California—Plumas National Forest | 1 |
| California—San Bernardino National Forest | 1 |
| Illinois—Shawnee National Forest | 0 |
| Indiana—Hoosier National Forest | 0 |
| Montana—Bitterroot National Forest | 1 |
| Nebraska—Nebraska National Forest | 0 |
| New Mexico—Gila National Forest | 1 |
| New Mexico—Lincoln National Forest | 1 |
| Ohio—Wayne National Forest | 1 |
| Tennessee—Land Between the Lakes NF | 0 |

SEVENTEEN NATIONAL FORESTS THAT HAVE THE SAME MONETARY RETURN PER DOLLAR INVESTED AS THE TONGASS—2

| Forest/state | Monetary return per $ invested (percent) |
|---|---|
| Arizona—Apache-Sitgreaves | 2 |
| Arizona—Coconino National Forest | 2 |
| Arizona—Coronado National Forest | 2 |
| Arizona—Prescott National Forest | 2 |
| California—Cleveland National Forest | 2 |
| California—Modoc National Forest | 2 |
| California—Sequoia National Forest | 2 |
| Georgia—Cattahochee-Oconee National Forest | 2 |
| Kentucky—Daniel Boone National Forest | 2 |
| New Mexico—Carson National Forest | 2 |
| New Mexico—Cibola National Forest | 2 |
| New Mexico—Santa Fe National Forest | 2 |
| New Mexico—Tonto National Forest | 2 |
| Nevada—Humboldt-Toiyabe National Forest | 2 |
| Oregon—Ochoco National Forest | 2 |
| Tennessee—Cherokee National Forest | 2 |
| Utah—Manti-La Sal National Forest | 2 |

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

Mr. SUNUNU. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

VOTE ON AMENDMENT NO. 1025

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the motion to waive the Budget Act with respect to amendment

No. 1025. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Utah (Mr. BENNETT).

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. LIEBERMAN) is absent due to death in the family.

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

The yeas and nays resulted—yeas 47, nays 51, as follows:

[Rollcall Vote No. 163 Leg.]

YEAS—47

| | | |
|---|---|---|
| Akaka | Durbin | Murray |
| Baucus | Feingold | Nelson (FL) |
| Bayh | Feinstein | Nelson (NE) |
| Biden | Harkin | Obama |
| Bingaman | Inouye | Pryor |
| Boxer | Jeffords | Reed |
| Byrd | Johnson | Reid |
| Cantwell | Kennedy | Rockefeller |
| Carper | Kerry | Salazar |
| Clinton | Kohl | Sarbanes |
| Coleman | Landrieu | Schumer |
| Conrad | Lautenberg | Smith |
| Corzine | Leahy | Stabenow |
| Dayton | Levin | Thune |
| Dodd | Lincoln | Wyden |
| Dorgan | Mikulski | |

NAYS—51

| | | |
|---|---|---|
| Alexander | DeWine | Martinez |
| Allard | Dole | McCain |
| Allen | Domenici | McConnell |
| Bond | Ensign | Murkowski |
| Brownback | Enzi | Roberts |
| Bunning | Frist | Santorum |
| Burns | Graham | Sessions |
| Burr | Grassley | Shelby |
| Chafee | Gregg | Snowe |
| Chambliss | Hagel | Specter |
| Coburn | Hatch | Stevens |
| Cochran | Hutchison | Sununu |
| Collins | Inhofe | Talent |
| Cornyn | Isakson | Thomas |
| Craig | Kyl | Vitter |
| Crapo | Lott | Voinovich |
| DeMint | Lugar | Warner |

NOT VOTING—2

| | |
|---|---|
| Bennett | Lieberman |

The PRESIDING OFFICER (Mr. SUNUNU). On this vote, the yeas are 47, the nays are 51. Three-fifths of those Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained and the amendment falls.

Mr. STEVENS. 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.

VOTE ON AMENDMENT NO. 1026

The PRESIDING OFFICER (Mr. MARTINEZ). The question now is on agreeing to amendment No. 1026. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Utah (Mr. BENNETT).

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. LIEBERMAN) is absent due to death in family.

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

The result was announced—yeas 39, nays 59, as follows:

[Rollcall Vote No. 164 Leg.]

YEAS—39

| | | |
|---|---|---|
| Bayh | Durbin | Mikulski |
| Biden | Feingold | Murray |
| Bingaman | Feinstein | Nelson (FL) |
| Boxer | Harkin | Obama |
| Cantwell | Jeffords | Reed |
| Carper | Johnson | Reid |
| Chafee | Kennedy | Rockefeller |
| Clinton | Kerry | Salazar |
| Conrad | Kohl | Sarbanes |
| Corzine | Lautenberg | Schumer |
| Dayton | Leahy | Stabenow |
| Dodd | Levin | Sununu |
| Dorgan | McCain | Wyden |

NAYS—59

| | | |
|---|---|---|
| Akaka | DeWine | Martinez |
| Alexander | Dole | McConnell |
| Allard | Domenici | Murkowski |
| Allen | Ensign | Nelson (NE) |
| Baucus | Enzi | Pryor |
| Bond | Frist | Roberts |
| Brownback | Graham | Santorum |
| Bunning | Grassley | Sessions |
| Burns | Gregg | Shelby |
| Burr | Hagel | Smith |
| Byrd | Hatch | Snowe |
| Chambliss | Hutchison | Specter |
| Coburn | Inhofe | Stevens |
| Cochran | Inouye | Talent |
| Coleman | Isakson | Thomas |
| Collins | Kyl | Thune |
| Cornyn | Landrieu | Vitter |
| Craig | Lincoln | Voinovich |
| Crapo | Lott | Warner |
| DeMint | Lugar | |

NOT VOTING—2

| | |
|---|---|
| Bennett | Lieberman |

The amendment was rejected.

Mr. BURNS. I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that I may yield to Senator SMITH for a brief statement without losing my right to the floor.

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

Mr. SMITH. Mr. President, I thank Senator BYRD. I will be very brief. I ask unanimous consent that I be permitted to speak as if in morning business.

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

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

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, there is a crisis in the veterans health care system. The VA has belatedly admitted it is desperately short of cash and cannot make ends meet. What are the results? As a result, our veterans are in real danger of being shut off from the medical care they so urgently need and so rightly deserve. They are already suffering the indignity and the physical toll of understaffed medical facilities and dangerous delays in treatment. This is a shabby way to treat America's veterans.

There are some who will say it is premature to add emergency funding for the VA to this bill and that we need to wait for more data to be collected and more numbers to be crunched. I say we have waited too long already. We have been hearing since the beginning of the year of the difficulties the current budget shortfall has caused the VA hospitals and clinics around the country. Due to budget shortfalls at the regional level, many of our local VA hospitals and clinics are being forced to institute hiring freezes and having to spend money set aside for equipment and maintenance on health care.

Let me give Senators one example. According to information gathered by the Senate Committee on Veterans' Affairs, the Togus Veterans Medical Center in Maine came up against a $14.2 million shortfall in mid-January for this fiscal year. To reduce the budget gap to $7 million, the center has diverted funds intended for equipment and left staff vacancies unfilled. The facility has not been able to purchase a needed magnetic resonance imaging, MRI, machine due to the budget shortfall.

That is just one example. The administration's plan to deal with the current shortfall includes postponing $600 million worth of repairs and equipment such as the MRI machine that the Togus Medical Center cannot afford to provide to its clients. Sophisticated diagnostic and imaging machines that produce MRIs, high-resolution X-rays, Sonograms, and CAT scans are essential to the delivery of first-rate health care.

We cannot have first-class health care in an outdated facility with second-class equipment. I am not willing to postpone fixing the roofs of clinics or purchasing needed equipment, and the VA should not be willing to do so either.

The people at the VA headquarters do not like to talk about these problems. They would like us to believe that everything is just fine. But from the stories many of us—many of us on both sides of the aisle—are hearing from our own States, we know better. The doctors and the nurses and the medical technicians in the field who are working in these understaffed, underequipped facilities, also know better. And our veterans—our veterans, the men and women who have put their lives on the line; our veterans—who are bearing the brunt of the budget shortfall know better, also.

The Department of Veterans Affairs continues to claim that it can work around the budget shortfalls this year, but to do so, they will have to rob Peter to pay Paul. By deferring spending for some items and shuffling money around in other accounts, the VA is just pushing the problem off into next year and compounding the difficulties already facing the VA health care system. Even Secretary Jim Nicholson admits that this is not a one-time problem. According to his testimony yesterday before the Senate Veterans' Affairs Committee, the VA faces a budget shortfall of about $1.5 billion—$1.5 billion, with a capital ''B''—in fiscal year

2006. Mind you, now, mind you, Mr. President, this is on top—this is on top—of the $1-billion-plus shortfall the VA is experiencing this year.

Senator PATTY MURRAY warned of this shortfall 2 months ago. She was right. She was right then and she is right now. One does not wait for depth soundings to throw a lifeline to a drowning man, and we should not wait for the administration to keep testing the water before we throw a lifeline to our deserving veterans. The crisis in veterans' health care is now—now—now—and the time to act is now, today.

The Murray-Byrd-Feinstein amendment addresses the current shortfall. Our amendment provides $1.42 billion to restore the funding that the VA has had to divert from current requirements to balance the books this year and to provide a much needed shot of supplemental funding to the VA's regional operations.

I understand that our colleague, Senator LARRY CRAIG and others, as a result of his Veterans' Affairs Committee hearing yesterday, intend to offer a second-degree amendment to the Murray-Byrd-Feinstein amendment today that would round up—or round off—the amount of 2005 supplemental funding for the VA from $1.42 billion to $1.5 billion. I welcome Senator CRAIG's initiative. I hope we can come to an agreement that the entire Senate can support. And I look forward, to cosponsoring Senator CRAIG's modification.

Make no mistake about it, this amendment addresses only the administration's shortfall for 2005, which is why we are designating these funds as emergency funds. This will not solve the problem in fiscal year 2006 or beyond. To address those problems, we call on the administration—we call on the White House—to send up a 2006 VA budget amendment immediately and to budget responsibly for veterans health care in future budget requests.

But we cannot afford to wait until next year to address the immediate shortfall in the 2005 VA budget. This is not business as usual. This is not business as usual. The ability of the VA to deliver health care to scores and more scores of veterans is at stake. I welcome my Republican colleagues to the table. Come, sit down. Join us. I urge Senators on both sides of the aisle—over to my right and those on my left—to do the right thing for our Nation's veterans. The VA needs this money now. The Senate has both the opportunity and the obligation to provide it now. Let us not delay.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Pennsylvania.

AMENDMENT NO. 1071 TO AMENDMENT NO. 1052

Mr. SANTORUM. Mr. President, I call up a second-degree amendment that is at the desk, the Santorum-Craig-Hutchison-Kyl amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SANTORUM], for himself, Mrs. HUTCHISON, Mr. CRAIG, Mr. KYL, Mr. FRIST, Mr. MCCONNELL, Mr. TALENT, Mr. THUNE, and Ms. COLLINS, proposes an amendment numbered 1071.

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

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

The amendment is as follows:

On page 1, line 2, strike the word ''Sec'' through page 1, line 9 and insert the following:

Sec. 429. (a) From the money in the Treasury not otherwise obligated or appropriated, there are appropriated to the Department of Veterans Affairs $1,500,000,000 for the fiscal year ending September 30, 2005, for medical services provided by the Veterans Health Administration, which shall be available until expended.

Mr. SANTORUM. Mr. President, this is the amendment that was just referred to by my colleague from West Virginia. It is an amendment that takes the level of funding in the underlying amendment up to $1.5 billion and has that money spread to where the need is the greatest with respect to the problems and the shortages within the Veterans' Administration. It leaves the Secretary the ability to make that decision. We think that is vitally important, when there is a shortfall, that the money goes to where it is most needed.

I would say that I do this on behalf of the Senate Republican leadership. All of us in our meetings this week have been quite dismayed by what was apparently bad management, bad forecasting over in the Department of Veterans Affairs, as well as the problems of communicating that information accurately to the Congress.

So as a member of leadership, we wanted to offer this amendment, in I think very strong terms, to show our concern about the lack of communication, about the problems that were going on in the Veterans' Administration in the health care area. It is vitally important, particularly at a time of war, when we have a lot of our men and women who have been injured in that war moving over from the Department of Defense health care facilities to the Veterans' Administration health care facilities, that we get accurate information as to what the impact of that is and that we can budget for it accordingly.

In fact, in April of this year, as the Senator from West Virginia just alluded to, many of us on this side of the aisle voted against an amendment by Senator MURRAY because of the understanding and assurances by the Veterans' Administration that there was sufficient funding to provide for veterans health care. We were in error. Senator MURRAY was right. And I am not happy that we were put in a position to vote against an amendment that, as we now find out, was needed. But we got bad information.

So this is an attempt to rectify that situation. Let's hope it does not happen again. It cannot happen again. I hope the fact that members of the Republican leadership are on this amendment, as well as the chairman of the Veterans' Affairs Committee, and the chairman of the subcommittee of jurisdiction, Senator HUTCHISON, on the Appropriations Committee, sends a very loud and clear message to the administration that we like straight dealing when it comes to the issues of providing quality health care to our Nation's veterans.

I congratulate our colleagues over in the House and the chairman of the Veterans Affairs Committee over there, Congressman BUYER, for his work in digging and getting some of this information to the fore.

I was at a VFW State convention a couple weeks ago, on June 17, and was asked some pretty pointed questions about veterans health care and was told that there were real problems in our State of shortages and the shifting of moneys. And so that was a Friday. The following Monday is when this hearing occurred—on June 20. Subsequently, as a result of the input I was getting from veterans in that hearing, I sent a letter to Secretary Nicholson last week expressing my, shall I say, deep concern about this and about this shortfall of funding and about the lack of candor on the part of the administration in telling us what was going on with the funding of our veterans facilities.

Mr. President, I ask unanimous consent that letter dated June 24, 2005 be printed in the RECORD.

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

U.S. SENATE,
DIRKSEN SENATE OFFICE BUILDING,
*Washington, DC, June 24, 2005.*

Hon. R. JAMES NICHOLSON,
*Secretary of Veterans Affairs, Department of Veterans Affairs, Washington, DC.*

DEAR SECRETARY NICHOLSON: I WRITE TODAY TO EXPRESS MY GRAVE CONCERNS WITH DEPARTMENT OF VETERANS AFFAIRS' FISCAL YEAR 2005 BUDGET SHORTFALL.

News of this shortfall is extremely disturbing in light of your assurances that the Department of Veterans Affairs did not need additional funding in fiscal year 2005 to care for our nation's veterans. It was this assurance that influenced me to oppose emergency supplemental funds for the Department this spring.

Following the Senate's vote to reject these emergency supplemental funds, my staff and I met with veterans concerned about the immediate funding needs of the Department of Veterans Affairs. During these meetings, I learned that medical centers, because of financial constraints, had begun shifting capital funds into health care accounts to maintain health care services for veterans.

I am disappointed that the Department was not more forthcoming about these financial constraints. Had the Department been candid and transparent in its assessment of financial needs during the current fiscal year, the outcome of a recent Senate vote might have been very different.

So that we can be responsive to the health care needs of veterans, I urge you to immediately begin working with the White House, the Office of Management and Budget, and

Congress to address the funding shortfall impacting the Department in fiscal year 2005. With the support of Chairman Craig and Chairman Hutchison of the Senate Appropriations Subcommittee on Military Construction and Veterans Affairs, I am confident the Senate can address this shortfall.

In the future, when providing comment to Congress, I urge you to be candid when asked for your personal views on matters impacting the needs of the Department of Veterans Affairs. There may be instances where you believe that the Administration has erred or provided incomplete information. We look to you to be the person who can inform Congress on the needs of the Department and our nation's veterans.

I appreciate your consideration of this matter and please know of my interest in working with you to address this problem.

Sincerely,

RICK SANTORUM,
*U.S. Senate.*

Mr. SANTORUM. I expressed in this letter that I was disappointed the Department was not forthcoming, and I was hopeful they would come forward and let us know what was necessary, how much money was needed, so we could then respond. And as I mentioned in the letter, I was confident the Senate and the House would respond.

I think what you are seeing here today is my prognostication is correct. We are going to respond, and we are going to respond with the money they say they need.

Now, I would suggest that if you look at the analysis that Senator BYRD provided for us as to where this money is coming from, some of it was unanticipated and, potentially, you could argue was something that could not have been forecasted or budgeted with the number of people who are transferred from the Defense Department over to the VA as a result of the conflict in Iraq and Afghanistan. But a lot of this was simply just poor administration and not accurately forecasting the utilization of the system.

I think we have to do a better job of understanding what the needs are, what the demands are and have a better understanding of what the budget should be and accurately reflect that budget in submissions to the Congress.

So I know the chairman of the Veterans Affairs Committee in the Senate, Senator CRAIG, has had those kinds of candid conversations with the Secretary. I know all of us look forward to working cooperatively with the new Secretary in making sure we can get the information we need to be able to properly provide for the health care needs of the veterans whom we have promised to serve.

Mr. President, I thank my colleagues for joining in putting this amendment forward. I thank the Senator from Washington for her work and for her diligence and early work in this area. I am glad we were able to work together. Hopefully, we will work in a bipartisan way not just to provide these resources but to make sure we get a better and more accurate accounting of the cost of providing the care that our veterans need here in America.

Mr. President, I yield the floor.

Mr. REID. Mr. President, this Monday all over America there will be celebrations regarding the Fourth of July, our Independence Day. It is a time that we celebrate our independence, but at this time in the history of our country, we certainly must celebrate and salute our veterans. Jim Nicholson is a veteran. I am sorry I didn't acknowledge his service to the U.S. military in addition to his being the chair of the NRC prior to his taking over the job as Secretary of the Department of Veterans Affairs. I thank him personally for his service.

But I will not be lectured to about civility by the junior Senator from Pennsylvania who has repeatedly disrespected veterans. Three times he opposed funding for veterans, votes in committee and here on the Senate floor.

I ask unanimous consent that his voting record be printed in the RECORD.

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

RECORD VOTE 55

## BUDGET RESOLUTION, 2006
(VETERANS' MEDICAL CARE)

**S. Con. Res. 18** **AMENDMENT NO. 149**

Akaka, et al., amendment which increases funding for veterans medical care by $2.8 billion in FY 2006; provides $2.8 billion in deficit reduction; and offsets by closing corporate tax loopholes.

**AMENDMENT REJECTED**

| YEAS (47) | | | NAYS (53) | | NOT VOTING (0) | |
|---|---|---|---|---|---|---|
| Democrats (45 or 100%) | | Republicans (2 or 4%) | Democrats (0 or 0%) | Republicans (53 or 96%) | Democrats (0) | Republicans (0) |
| Akaka | Kerry | Chafee, L. | | Alexander | | |
| Baucus | Kohl | Coleman | | Allard | | |
| Bayh | Landrieu | | | Allen | | |
| Biden | Lautenberg | | | Bennett | | |
| Bingaman | Leahy | | | Bond | | |
| Boxer | Levin | | | Brownback | | |
| Byrd | Lieberman | | | Bunning | | |
| Cantwell | Lincoln | | | Burns | | |
| Carper | Mikulski | | | Burr | | |
| Clinton | Murray | | | Chambliss | | |
| Conrad | Nelson (FL) | | | Coburn | | |
| Corzine | Nelson (NE) | | | Cochran | | |
| Dayton | Obama | | | Collins | | |
| Dodd | Pryor | | | Cornyn | | |
| Dorgan | Reed | | | Craig | | |
| Durbin | Reid | | | Crapo | | |
| Feingold | Rockefeller | | | DeMint | | |
| Feinstein | Salazar | | | DeWine | | |
| Harkin | Sarbanes | | | Dole | | |
| Inouye | Schumer | | | Domenici | | |
| Jeffords (I) | Stabenow | | | Ensign | | |
| Johnson | Wyden | | | Enzi | | |
| Kennedy | | | | Frist | | |
| | | | | Graham (SC) | | |
| | | | | Grassley | | |
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| | | | | Specter | | |
| | | | | Stevens | | |
| | | | | Sununu | | |
| | | | | Talent | | |
| | | | | Thomas | | |
| | | | | Thune | | |
| | | | | Vitter | | |
| | | | | Voinovich | | |
| | | | | Warner | | |

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YEAS NAYS VOTE Democratic Policy Committee INFORMATION

RECORD VOTE 89

## EMERGENCY SUPPLEMENTAL APPROPRIATIONS, 2005
(BUDGET WAIVER—VETERANS MEDICAL CARE)

**H.R. 1268** **AMENDMENT NO. 344**

"Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005"

Murray motion to waive section 402 of S. Con. Res. 95 (the FY 2005 Budget Resolution) with respect to the emergency designation provisions of the Murray, et al., modified amendment which provides $1.9 billion, to remain available until expended, for veterans medical care; designates the funding as emergency spending; and specifies that the funds should be used as follows: $610 million to address the needs of servicemembers deployed for Operation Iraqi Freedom and Operation Enduring Freedom, $840 million for the Veterans Integrated Service Network to meet current and pending care treatment requirements, and $525 million for mental health care and treatment.

**MOTION TO WAIVE BUDGET ACT REJECTED (3/5THS VOTE)**

| YEAS (46) | | | NAYS (54) | | | NOT VOTING (0) | |
|---|---|---|---|---|---|---|---|
| Democrats (45 or 100%) | | Republicans (1 or 2%) | Democrats (0 or 0%) | Republicans (54 or 98%) | | Democrats (0) | Republicans (0) |
| Akaka | Kerry | Specter | | Alexander | Gregg | | |
| Baucus | Kohl | | | Allard | Hagel | | |
| Bayh | Landrieu | | | Allen | Hatch | | |
| Biden | Lautenberg | | | Bennett | Hutchison | | |
| Bingaman | Leahy | | | Bond | Inhofe | | |
| Boxer | Levin | | | Brownback | Isakson | | |
| Byrd | Lieberman | | | Bunning | Kyl | | |
| Cantwell | Lincoln | | | Burns | Lott | | |
| Carper | Mikulski | | | Burr | Lugar | | |
| Clinton | Murray | | | Chafee, L. | Martinez | | |
| Conrad | Nelson (FL) | | | Chambliss | McCain | | |
| Corzine | Nelson (NE) | | | Coburn | McConnell | | |
| Dayton | Obama | | | Cochran | Murkowski | | |
| Dodd | Pryor | | | Coleman | Roberts | | |
| Dorgan | Reed | | | Collins | Santorum | | |
| Durbin | Reid | | | Cornyn | Sessions | | |
| Feingold | Rockefeller | | | Craig | Shelby | | |
| Feinstein | Salazar | | | Crapo | Smith (OR) | | |
| Harkin | Sarbanes | | | DeMint | Snowe | | |
| Inouye | Schumer | | | DeWine | Stevens | | |
| Jeffords (I) | Stabenow | | | Dole | Sununu | | |
| Johnson | Wyden | | | Domenici | Talent | | |
| Kennedy | | | | Ensign | Thomas | | |
| | | | | Enzi | Thune | | |
| | | | | Frist | Vitter | | |
| | | | | Graham (SC) | Voinovich | | |
| | | | | Grassley | Warner | | |

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YEAS NAYS VOTE Democratic Policy Committee INFORMATION

RECORD VOTE 90

## EMERGENCY SUPPLEMENTAL APPROPRIATIONS, 2005
(BUDGET WAIVER—VETERANS MEDICAL CARE)

**H.R. 1268** **AMENDMENT NO. 344**

"Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005"

Murray motion to waive section 302 of the Congressioinal Budget Act of 1974 to permit consideration of the Murray, et al., modified amendment which provides $1.9 billion, to remain available until expended, for veterans medical care; and specifies that the funds should be used as follows: $610 million to address the needs of servicemembers deployed for Operation Iraqi Freedom and Operation Enduring Freedom, $840 million for the Veterans Integrated Service Network to meet current and pending care treatment requirements, and $525 million for mental health care and treatment.

**MOTION TO WAIVE BUDGET ACT REJECTED (3/5THS VOTE)**

| YEAS (46) | | | NAYS (54) | | | NOT VOTING (0) | |
|---|---|---|---|---|---|---|---|
| Democrats (45 or 100%) | | Republicans (1 or 2%) | Democrats (0 or 0%) | Republicans (54 or 98%) | | Democrats (0) | Republicans (0) |
| Akaka | Kerry | Specter | | Alexander | Gregg | | |
| Baucus | Kohl | | | Allard | Hagel | | |
| Bayh | Landrieu | | | Allen | Hatch | | |
| Biden | Lautenberg | | | Bennett | Hutchison | | |
| Bingaman | Leahy | | | Bond | Inhofe | | |
| Boxer | Levin | | | Brownback | Isakson | | |
| Byrd | Lieberman | | | Bunning | Kyl | | |
| Cantwell | Lincoln | | | Burns | Lott | | |
| Carper | Mikulski | | | Burr | Lugar | | |
| Clinton | Murray | | | Chafee, L. | Martinez | | |
| Conrad | Nelson (FL) | | | Chambliss | McCain | | |
| Corzine | Nelson (NE) | | | Coburn | McConnell | | |
| Dayton | Obama | | | Cochran | Murkowski | | |
| Dodd | Pryor | | | Coleman | Roberts | | |
| Dorgan | Reed | | | Collins | Santorum | | |
| Durbin | Reid | | | Cornyn | Sessions | | |
| Feingold | Rockefeller | | | Craig | Shelby | | |
| Feinstein | Salazar | | | Crapo | Smith (OR) | | |
| Harkin | Sarbanes | | | DeMint | Snowe | | |
| Inouye | Schumer | | | DeWine | Stevens | | |
| Jeffords (I) | Stabenow | | | Dole | Sununu | | |
| Johnson | Wyden | | | Domenici | Talent | | |
| Kennedy | | | | Ensign | Thomas | | |
| | | | | Enzi | Thune | | |
| | | | | Frist | Vitter | | |
| | | | | Graham (SC) | Voinovich | | |
| | | | | Grassley | Warner | | |

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YEAS NAYS VOTE Democratic Policy Committee INFORMATION

Mr. REID. Now, with an election cycle upon us, he supports, under pressure, voting for veterans. Talk about crass politics. The junior Senator from Pennsylvania can't run from his record. He owes the veterans more.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I have said throughout this debate—as I spoke on the supplemental, as I have been out here on the floor many times and in our committee—veterans are not a Republican issue; they are not a Democratic issue; they are an American issue.

I think what you see happening on the floor this afternoon is exactly to that point. I congratulate the Senator from Pennsylvania, as well as the Senator from Idaho, LARRY CRAIG, and the Senator from Texas, Mrs. HUTCHISON, who have been working diligently with us in a nonpartisan way to address a real need, and that is to take care of the men and women who have served us so nobly in previous wars and in the current conflicts in which we are engaged.

From my side, I thank Senator BYRD, who stood with me valiantly as we have worked to provide the funds for the men and women who are serving us overseas. I thank him for his leadership on this issue. I thank Senator AKAKA, ranking member on the Veterans Committee, who has worked with us to make sure that on our side we are provided with accurate statistics and are moving forward.

At the end of the day who win are the men and women who serve us. It is a real tribute to this Senate that we are now standing here today with the amendment offered by the Senator from Pennsylvania to add $80 million to our amendment, to now be providing $1.5 billion for veterans services. We are here because we know when we ask men and women to serve us overseas, we tell them we will be there for them when they come home. What you see on the floor this afternoon is Republicans and Democrats standing together shoulder to shoulder to say in this body, we will be there for our men and women who serve us overseas.

There is going to be a lot of blame to go around. I have been asked: How did you know 2 months ago when no one else did? I started working with our veterans who are returning from Iraq and Afghanistan late last year, beginning in January, and hearing the same stories that Senator SANTORUM just talked about of how our VA facilities were turning vets away, how there wasn't enough care, particularly for post-traumatic stress syndrome.

I think we all know that in the conflict that is before us today in Iraq, it being a 360-degree war where there is no front line to return back from, we are going to see a number of our service men and women increasingly needing that kind of care. We are also seeing that facilities that have not been maintained well were counting on the appropriations that we had this year. We are talking about veterans from previous wars who are now turning 60 and needing more health care being turned away. I think I began to look realistically at the numbers from the VA and became concerned that their projections were not based on the reality of what was occurring, which is why I offered my amendment to the supplemental.

I especially pay tribute to Senator LARRY CRAIG from Idaho. When Senator AKAKA and I offered the emergency supplemental bill, he was given a letter from the VA that said: We don't need any money. This is not a crisis. Our projections say that we are just fine.

So Senator CRAIG and others from the other side opposed us on that amendment at that time. But Senator CRAIG said to me on the floor, if I am proved wrong, I will stand with you to make sure we provide the dollars for our veterans that are required. Since he was told by the Veterans' Administration last Thursday that there is, indeed, a shortfall of $1.5 billion or more—I hope it is not more, but at least that much—he said that he would work with me, and he has kept to his word. This is a real tribute to this country that we can come together on an issue such as this, recognize that errors have been made, but it is time to move on, time to provide the dollars.

I see Senator HUTCHISON from Texas who has been working with us as well. I want my colleagues to know we are going to stand shoulder to shoulder to meet this debt in front of us. I want to work with all of you so we have the right projections for next year as Senator HUTCHISON puts her 2006 appropriations bill together so we are not sitting here 6 months from now, a year from now, 2 years from now saying we were wrong again. This has given us a tremendous opportunity to get it right. I can't think of anybody it is more important to get it right for than those who serve our country.

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

Mrs. MURRAY. I am happy to yield.

Mr. DURBIN. I was in my office as I heard the Senator debating. I would like to ask a question through the Chair. I am heartened by the fact that this is such a strong bipartisan effort. I salute Senator CRAIG, in particular, who joined us in the press conference as soon as there was an announcement of this shortfall, and I salute your efforts to bring this issue before the Senate which you have worked on diligently for months.

You made a particular reference to post-traumatic stress disorder, which is a concern I have within the Veterans' Administration. I would like to ask you if you believe these additional funds will allow the Veterans' Administration to put appropriate professional staff at clinics and hospitals to deal with veterans not only from wars in the past but currently coming home from Iraq and Afghanistan, as well as family therapy for their families, if they are faced with this disorder.

Mrs. MURRAY. I assure the Senator from Illinois that it is my understanding that this money in the amendment that has been offered by the Senator from Pennsylvania is specifically for medical services provided by the Veterans Health Administration which does include mental health services and post-traumatic stress syndrome.

Mr. DURBIN. I thank the Senator from Washington again. This is something that is growing in intensity and seriousness. It has been overlooked in previous wars. Our veterans have come home with scars that are not visible but which are serious and affect their lives. I am happy to hear the amendment by the Senator from Pennsylvania, as well as the Senator from Washington, is going to address this important challenge. I thank them for their leadership on both sides of the aisle.

Mrs. MURRAY. Mr. President, I know there are a number of other Senators who would like to speak. Certainly, I would like to yield to the Senator from West Virginia. Let me say, again, that I appreciate my colleagues on the other side of the aisle for coming together with us right before the Fourth of July recess. I can't think of a better time for all of us to send an American issue forward and to stand up for our vets. I thank them for working with us.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I compliment the distinguished Senator from Pennsylvania and the other Senators, including Senator CRAIG, for their offering of this amendment. As I indicated earlier, I want to be a cosponsor of the amendment, and I ask the distinguished Senator from Pennsylvania if he would ask that I be included as a cosponsor.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senator from West Virginia be added as a cosponsor to the amendment.

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

Mr. BYRD. I thank the Senator.

Mrs. MURRAY. I ask unanimous consent to be added as a cosponsor as well.

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

Mr. SANTORUM. I yield to the chairman of the subcommittee of the Appropriations Committee that is responsible for the veterans appropriations, Senator HUTCHISON, such time as she may consume.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I want to, first of all, read the cosponsors of the amendment in the proper order. They are Senators SANTORUM, HUTCHISON, CRAIG, KYL, FRIST, MCCONNELL, TALENT, THUNE, COLLINS, MURRAY, and BYRD. That is the order of everyone coming on board. I so appreciate Senator MURRAY and Senator

BYRD also being cosponsors of this amendment. Frankly, all of us were taken aback last week when we got this information, and we did come together in a bipartisan way to try to address the issue very quickly. That is why we are now trying to put an emergency amendment on the vehicle that is on the floor today. We want to make sure the Veterans' Administration has the money it needs and that it doesn't take from other very essential accounts, such as maintenance or capital. We want to have sound financial management as well as serving veterans needs.

It would be terrible to go into the next fiscal year, starting October 1, in any kind of a deficit situation. My bill, the Veterans' Administration and Military Construction Appropriations bill, was scheduled to be marked up tomorrow. Clearly, when we heard that the Veterans' Administration did have problems with its projections, we decided to put that off until mid-July. I hope—and it is my intention—by mid-July to have better information so that we will know what the $1.5 billion will cover between now and October 1 and what is going to be necessary for the 2006 budget, if anything, beyond the $1.5 billion. I will say that through the great cooperation of my ranking member, Senator FEINSTEIN, and the chairman and ranking member of the full committee, which would be Senator COCHRAN and Senator BYRD, we were able to get $1.3 billion above the allocation that we had originally been given for veterans even before this happened. So because of Senator COCHRAN, Senator BYRD, and Senator STEVENS, we were able to go forward with an extra $1.3 billion, knowing that the Veterans' Administration has been called on more than any projections would have anticipated. But today we are trying to now pass $1.5 billion over and above that $1.3 billion for 2005 purposes so that we are in a sound financial situation.

The President, speaking last night, started reminding people why we are in a war on terrorism and what it means to America and what it means to our security. Part of the war on terrorism, part of any war for freedom, is making sure that those Active-Duty and Reserve units serving right now with boots on the ground know that if they are injured, if they can no longer serve because they are injured, when they leave the service they will be taken care of. That is part of our responsibility as the stewards of our Government and certainly our appropriations process.

As the chairman, along with my ranking member, Senator FEINSTEIN, of the committee that will be doing the appropriations for veterans, this is an amendment that is very important. It is an emergency, and it will take us into fiscal year 2006 so that we will not have any kind of fiscal restraints. But we certainly are going to have to look at fiscal year 2006 as we go down the road and work with the Veterans' Administration and the OMB and our Democratic colleagues and our House colleagues to make sure that we are not in any way shortchanging the veterans.

I am pleased to work with Senator SANTORUM representing the leadership on our side of the aisle, and Senator MURRAY and Senator BYRD and the leaders on their side of the aisle to come together through the second-degree amendment offered by Senators SANTORUM, HUTCHISON, CRAIG, KYL, FRIST, MCCONNELL, TALENT, THUNE, COLLINS, MURRAY, and BYRD. This second-degree amendment will bring us in line, and it will assure that the Veterans' Administration has the flexibility to put this money where it is needed. That was a very important part of the amendment.

Also, it is important we keep the projects that are in the pipeline. There are veterans hospitals and clinics that are in the process of beginning to be built. We certainly did not want those to be delayed because the administration was having to use money for those purposes instead for the operations of this year.

I am pleased to be a part of this amendment, pleased to work with the Senator from Pennsylvania and the Senator from Washington and the Senator from West Virginia, along with Senator CRAIG, who has done an outstanding job as chairman of the Veterans' Affairs Committee. When we started working on this issue a few days ago, both of us talked to Secretary Nicholson. We talked to Josh Bolton at OMB to try to get the best approach. It is still up in the air exactly where this will come out. But I know we are working in a bipartisan way to do what is right by our veterans, to work with the administration. I know it is our President's clear commitment that we will assure there is no shortfall in the Veterans' Administration. This emergency appropriation will make sure that is the case.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I wish to thank the very distinguished senior Senator from the State of Texas for her leadership, her dedication. She is a member of the Appropriations Committee, a very fine member. I thank her for her leadership, and I thank her for her kind remarks today.

I ask unanimous consent that Senator FEINSTEIN be added as a cosponsor of the amendment that has been offered by the distinguished Senator from Pennsylvania, Mr. SANTORUM.

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

Mrs. HUTCHISON. Mr. President, I am pleased about Senator BYRD's comments and especially to have Senator FEINSTEIN as a cosponsor of this amendment. She has been a part of this process all through the time we have wrestled with it. She has more veterans in her State than all of us do, so it is quite appropriate for her, as one of the leaders in this area, to be a cosponsor. I thank you.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I ask unanimous consent that Senators CONRAD and MIKULSKI be added as cosponsors to the original amendment.

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

Mrs. MURRAY. I yield to the ranking member on the Veterans Committee, the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. AKAKA. Mr. President, I rise today to laud this bipartisan effort to address the funding crisis in VA health care.

Yesterday, the Veterans Affairs Committee held a hearing on VA's admission that it is more than $1 billion in the hole this year.

With this announcement, we have the long overdue realization that VA hospitals and clinics are in crisis.

I think one of the lessons we can all take from this is: reach out to VA nurses and doctors and reach out to the veterans service organizations.

So many advocates have been bravely forthcoming about the desperate financial picture in VA over the past 6 months.

I welcome the administration's admission that there is a shortfall. But I caution that VA officials are not the only source of information.

By waiting for this revelation, we forced veterans to wait longer for needed care and providers to go for months with substandard medical equipment.

That said, I am delighted that we now have bipartisan recognition that there truly is a problem at VA. Both sides of the aisle are now working together to improve the quality of care for our Nation's veterans.

We shared with the Budget Committee what was needed for next year. This was based on early warnings from sources out in the field. And we raised the funding issue twice on the Senate floor.

During the budget resolution debate in March, I offered an amendment to increase VA's funding by $2.8 billion for next year. With the support of my colleagues, I stood before this body and outlined the case for a significant increase for VA.

But we were rejected because the administration claimed VA needed far less.

Then, again, during the war supplemental debate in April—while VA was beginning to see signs of a problem—we were denied in our efforts to secure more funding for this year.

Again, this was due to the administration's failure to acknowledge the plight that VA providers and patients were facing.

I do not believe that this is a scenario my colleagues would like to repeat in the future. Waiting until VA

hits rock bottom and then taking action is simply not rational. We can do better.

Clearly, we have been able to force this issue, and now we do not have to wait for the administration. Let us move to fix the problem and fulfill our obligation to our veterans.

Because at the very least, this crisis will result in deferred maintenance, as VA is raiding capital accounts just to make ends meet. And my colleagues familiar with the military know that deferred maintenance puts troops in danger.

The same is true for veterans in need of health care. The purchase and replacement of equipment directly impacts the quality of care provided.

Raiding money for capital projects means that needed VA clinics are in jeopardy. I remind my colleagues that there are more than 120 new clinics waiting to be opened.

The list of jeopardized clinics includes locations in States where rural access to health care is a serious issue—such as in Maine, North Dakota, Texas, and 11 clinics in Tennessee alone.

In closing, I too appreciate the work that Senators CRAIG and HUTCHISON and our other colleagues have done to tackle this problem. I believe we have found a solution.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Mr. President, I ask unanimous consent that Senator LINCOLN be added as a cosponsor to the amendment.

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

The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, we have a number of colleagues who wanted to come and say a few words about this amendment and about service for veterans. I urge them to come to the floor, because it is clear we are ready to move at any time. If anybody has additional comments, please come.

I have been out on the floor several times over the last several days and I have expressed my anger at the Veterans' Administration for not being up front and honest about the numbers in the projections, even though it was clear to those of us looking at the numbers that we were facing a very severe crisis in the VA. That was the reason I offered an amendment for the Veterans' Administration on the emergency supplemental. It is why I have repeatedly raised this issue throughout the budget process, appropriations process, and throughout the last several months.

I think it is very clear that those of us who have been out on the ground talking to our veterans know this is a crisis. Yesterday, the VA came before the Veterans' Committee. Senator CRAIG had a hearing and had the Secretary before us. He was continuing to say we could fix this problem today by taking money from construction and maintenance projects that we had appropriated and allocated money for for 2005. I think it is very clear that the Senate now shortly will be on record saying we believe those maintenance projects need to go forward, that those construction projects need to go forward, and the medical equipment promised to our VA services needs to be in place. That is so important.

I was in Iraq a couple months ago, and our service men and women from Washington State met with me there. The very first question they asked me was: Is my country going to be there for me when I get home? Will I have health care?

I feel it is important that when we look our soldiers in the eye, we answer them honestly. Today, with the Senate going on record with an emergency supplemental to deal with this, we are going to be able to say we are doing the best we can to make sure the services are there. I urge the Veterans' Administration to do the same. I think it is disheartening and disconcerting to all of us when we rely on the Secretary and his agency to make sure they are honest about what the numbers are and they are incorrect. We need that so we can do our job in providing for our service men and women.

We are doing that with this amendment today. We all know there is work to come, and with the 2006 budget and appropriations bill, we need to have an honest assessment. We cannot continue to project a 2-percent increase for veterans when we already know the number of men and women coming back is much higher than that. We already know that the service men and women, particularly from the Vietnam war, who are reaching the age of 60, are increasingly accessing our veterans facilities. We already know that the maintenance projects out there are critical. We have to do the right thing. We have to make sure the funding is there.

Again, I commend Members on both sides of the aisle. I see the Senator from Idaho, Senator CRAIG, is here. I take this opportunity to thank him. He has been most generous in working with us, as we have moved this issue forward because information given to him that was erroneous at the time. He did give me his word that should things change, he would be there to work with us. He has kept his word in an admirable way, bringing the Secretary before the committee, working on this amendment on the floor, and he is here to speak as well. I tell him how much I appreciate his forthrightness and his willingness to work with us to solve this dilemma.

We will be voting on the Santorum amendment, which adds $80 million to our amendment that has $1.42 billion, making sure we have a total of $1.5 billion to provide for our veterans services for the 2005 budget and make sure we don't have to go into funds for other projects and put them in a waiting line, which would be a disservice.

I urge our Democratic colleagues who want to speak to this amendment to come to the floor as soon as they can. I thank my colleagues for working with us, the House, and the White House to hopefully have a supplemental in place before the July 4 recess.

I yield the floor.

Mr. SANTORUM. Mr. President, I will yield time to the chairman of the Veterans Affairs Committee. I thank Senator HUTCHISON, whose principal responsibility is the appropriations process. I thank her and her staff tremendously for the work they have done. I thank Senator CRAIG and his staff for the tremendous work they have done, in coming forward and digging and getting the proper language for this amendment so we can provide funding for this year and for next year, as it is needed, to make sure we are providing the quality care our veterans deserve.

With that, I yield such time as he may consume to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho, Mr. CRAIG, is recognized.

Mr. CRAIG. Mr. President, I thank Senator SANTORUM, a member of the Republican leadership, a gentleman who has brought forth this amendment, who recognized the problem that has very rapidly emerged in the last several weeks with veterans health care.

At the outset—and I know a good deal has already been said and we are collectively working on this issue—health care, as you know, is a very dynamic entity. It is subject to a variety of forces that are not as predictable as we would like to have them be in the normal budgeting processes of Government.

The difficulty inside the Veterans' Administration today is health care. That is the area that is consuming these large amounts of dollars at this moment at a very aggressive rate, just like health care is costing more everywhere around the United States, both public and private.

We found in the last several weeks something that we didn't know a month or two ago. It is something I wish we had known. I stood here on the floor telling my colleagues one thing, both in a supplemental and in amendments, as it relates to veterans' needs and, therefore, veterans health care services that at that time was not true. It was a frustration to me and an embarrassment. But that doesn't mean I hunkered down or that anybody else did. It means we solve a problem, because while we are dealing with a dynamic entity known as veterans health care, we are first and foremost concerned about caring for veterans and making sure they have access to the health care system we have promised them, and that they are being provided the best care.

Having said all of that, we were talking about a 2006 budget, feeling we had adequately resourced a 2005 budget. Here is what we didn't know, and probably some have already talked about it; that is, the peculiarity of the budgeting process inside our Government and inside the second largest bureaucracy in Government, known as Veterans' Administration—the difficulty of projecting a reasonable, contemporary budget 18 months out from implementation.

We did not do it well. The Veterans' Administration did not do it well. The actuarial organization that was doing it for the Veterans' Administration and has a great reputation around the country did not have a model that was feeding in all the right indices. So they were looking at 2003 expenditure levels in veterans health care to project a 2005 budget and factored in about a 2.3- or 4-percent growth rate. That is what we thought would work.

It did not work. It did not work for a lot of reasons. It did not work because the model was probably wrong. It did not have all the inflationary costs in that were needed. It did not foresee that in 2003, 2004, and 2005 we would invest nearly 10 percent more on an annualized basis in the veterans health care system and that it would improve it to the extent that it became a health care system of first choice to veterans when to some it had been a health care system of second choice.

You know the old adage: Build it and they will come. We did. We improved it dramatically, and they came. They came in numbers that could not be addressed effectively by the models. That is one part of the problem.

Here is the other part of the problem: The 2003 numbers had no reflection of Iraq, no reflection of Afghanistan, no reflection of active service personnel who would find themselves substantially injured in a way that they would have to seek the services of the veterans health care system. That is something in the 30-plus-percent range of these new figures.

The Veterans' Administration began to see this problem and did not communicate it to us effectively and responsibly. Then they did their midyear review. If you were going to graph this, you would have to graph it as a spike. All of a sudden, they saw their numbers spiking up. So that 2003 model of actuarial soundness of service at 2.3 percent all of a sudden becomes a 5-plus percent, 5.3, 5.4. Some would say, 3 percent in big business is not a bad miss. But 3 percent in a nearly $80 billion budget is big money.

When it comes to delivery of services, when it comes to the improvement of services, and you have to curtail that to fund other kinds of services, you have a problem. That is where we are today.

The Senator from Washington is absolutely right. Her view of it was different than mine at the time. She saw a different picture and proposed a different level of funding. I opposed her at the time, believing the numbers I had were accurate. I was successful. But I did tell her that if these numbers changed, if there were any indication of change, I would be the first to tell her and we would be back solving this problem. Why? We may disagree on some things, but we do all agree on one thing, and that is that the service to America's veterans should never be jeopardized and that we would stand united and bipartisan in that effort.

Within 4 or 5 hours after I knew these numbers, I was visiting with the Senator from Washington. The Senator from Texas, who has been an active partner and is chairman of the Appropriations Subcommittee for MILCON and Veterans Affairs, was engaged with us immediately, and we began to try to figure out how to solve the problem.

Solving the problem is getting the best numbers we can get in as factual a way as we can get them. I must tell you that all of us were a little suspicious that we had not been told what we needed to be told in a timely fashion. That is why I insisted and Secretary Nicholson responded yesterday to the full committee with a very valuable hearing in which a lot of these issues began to be laid out.

I must also tell you I believe the Secretary was every bit as frustrated as we were. He is new on the job, but he is a very skilled and successful businessman. If there is one thing he believes in, it is getting the numbers right and being able to deal from a position of truthfulness and understanding. You do not work that way in Government. You sure do not work that way in business, and Secretary Nicholson knows it. He was very forthright with us and very clear in what is necessary.

Do we know at this moment exactly what the numbers ought to be? No, we do not. The fair analysis is we do not, but we have a very good idea of where they probably will be and what is most important at this moment. As the agency borrows from one account and uses up another account, we effectively replenish that so services do not go lagging in certain areas.

As important is that the capital expenditure and the reinvestment in equipment and health care-related services to our veterans stays on schedule so the quality of health care to America's veterans does not slip.

While we are figuring all of that out, and they are scrambling at this moment—they, the Veterans' Administration, along with the Office of Management and Budget—while they are scrambling to get the numbers right, we are going to act. You can see by the character of what we are doing now it is going to be bipartisan once again, and we are going to stand united in behalf of America's veterans.

The Republican leadership understands that, the Democratic leadership understands that, I as chairman of the Veterans' Affairs Committee understand that, the ranking member, Senator AKAKA, who has been on the floor, clearly understands that, and certainly Senator MURRAY, who has been a strong advocate for veterans, understands that.

I see the Senator from West Virginia on the floor, Mr. ROCKEFELLER. He, too, has been the same and, of course, Senator KAY HUTCHISON of Texas, now chairman of the subcommittee that appropriates all this money, understands it. It is why we want to speak in a united voice today on behalf of America's veterans.

While that is going on, we have to figure out the rest of the story, and that we will. It will be accurate, and we will make sure that this—you never say ''never''—will not happen again. But I have had conversations with the Secretary, and he is a very frustrated Secretary at this moment to find out on his watch that the numbers are not right and that what he was advocating has now slipped out from under him.

I am confident that he, working with his people, and the system will not only come up with a better way to do the numbers, but we are going to be insistent they come up with a better way to do the numbers. We are going to be insistent they report to us, not on an annual basis, but how about a quarterly basis, how about a quarterly analysis of where the expenditure of this kind of money is, because it is big money serving an awful lot of needy and worthy people, and we want to make sure it sustains itself in the appropriate way.

We also understand the limited nature of the public resource. It is not an endless system of money. We would expect efficiencies at the Veterans' Administration. We would expect responsibility at the Veterans' Administration. And what we do not expect and what we will not have happen again is for them to quietly think they can spend the money out and then, knowing they can come back to us and under the argument of motherhood and responsibility to America's brave men and women, we are going to fork over more money and never look back. This is one chairman who will look back, who is going to demand that systems are accurately accounted for, and that there is a reasonable and responsible quarterly measurement of the resources expended and the resources allocated.

As much as we owe to the veterans, we owe to the American taxpayers, who have agreed to help these veterans, a similar kind of responsibility and dedication to cost. That is not an unmanageable, an unsolvable, or an unmergeable concept. That is what we are about here, to deal with this in a direct way, and that we will. I think we are going to see a very strong vote today in behalf of what we are proposing.

The House is struggling with the numbers now. They may do something differently. But in the end, we will come together.

Our language is specific in one form. It is specific in recognizing that we do not have the exact figures yet. So we say the moneys that this authorizes are to be expended in 2005 and 2006, and then the chairman of the appropriations subcommittee and I and the ranking member—all of us together—will look at the 2006 needs in light of potential carryover that could come out of the appropriation we are talking about here. We will bring those numbers together and, very frankly, we will bring them together in a way that will cause the Veterans' Administration to come forward on a quarterly basis to report to us about their categories of expenditures and where they are in all of this issue.

We have to know the numbers. They have to be accurate. Our cause to serve America's veterans cannot be modified, nor will it be deterred. But it has to be accurate and it needs to be responsible. I support this amendment. I think it is the right thing to do now. It is now our job to make sure the future is one that is clear, understandable to all, and, most importantly, responsible both to the veteran and to America's taxpayers.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I ask unanimous consent that Senators JOHNSON, KENNEDY, and LINCOLN be listed as cosponsors.

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

Mrs. MURRAY. I yield to the Senator from West Virginia whatever time he may use.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, I thank the floor manager, and I thank the chairman of the committee who had a lot to say and who operates the committee in a spirit which is very bipartisan and which is aimed at trying to solve problems. I say that at the beginning of every meeting and I say it here on the Senate floor.

I rise to support the Murray-Byrd amendment. It responds to a VA funding shortfall that is in excess of $1 billion. I will get into that in a moment.

What I have in my mind right now is about 5 days ago, I spent 2½ hours with 12 veterans, men and women who had come back from Iraq, one from Afghanistan—one several years ago, most of them within the last several months. They had sustained wounds and had healed some of those physical wounds. But what was particularly stunning to me was the degree of the psychological wounds, self-defined by them, after a period of relaxing. It takes time for veterans to open up when somebody with a dark suit and tie walks into their little circle. But they began to talk about their problems. They would not talk about what they had done because veterans do not do that. World War II veterans do not do that, Vietnam veterans do not do that, Operation Iraqi Freedom veterans do not do that. They talk about what hurts, the uncontrollable violence. They talk about deep depression. They talk about having no sense of the future. They talk about problems with their not being able to communicate with their wives—all kinds of problems.

These were mostly guardsmen and reservists, but there were some regular military. They were assembled at the Beckley, WV, Vet Center. I sort of point that out because one of the secrets of treating veterans in rural areas is you have to have Vet Centers near where veterans are. They can't all be expected to make long journeys to distant major veterans hospitals.

These folks at the Beckley Vet Center and other Vet Centers are about to be overwhelmed. They are going to be more overwhelmed when the other 130,000 soldiers return home whenever they do. And of course some soldiers will be returning to combat.

These soldiers had a very harsh and harrowing series of experiences serving their country. Once discharged, they still faced problems. They talked about difficulties in getting reimbursed. They all talked about VA appointments being put off for a long time.

As I indicated, they were reluctant to talk at all. But when they did talk, they made you very proud when they told you what they felt, not necessarily what they had been through, which they usually decline to do.

When our country called upon these brave West Virginians—and that would apply to each and every State—to serve, they answered the call of duty without question. In the case of Guard and Reserve, of course, they are always ready to do that and have to make enormous sacrifices to do that, often not being able to hold on to their jobs and retain the benefits which they had.

When they come back to West Virginia, they deserve the full care and support they have earned. Yet again, we just learned that our VA health care is well over $1 billion short on funding this year. This is outrageous, and it is shameful. Our veterans earned their VA health care benefits through their distinguished service.

They should not be delayed or denied care because of mismanagement at VA or OMB over poor budget models. This is where I disagreed a little bit with the distinguished chairman of the committee. This is not just about the Secretary of Veterans Affairs. This is not about the fact that he is new on the job. The Veterans' Administration is second only to the Pentagon in terms of the number of people who work there. If they were using a 2002 model—and at one point the Secretary said they were using the 2002 model, and then at another point he said the 2003 model—nevertheless it is a very old model. In 2002, we had not gone to war.

All of these months have passed. What was the magic that did not happen where VA or OMB management said, ''gee, if we are going to go to war and we are sending all kinds of troops first to one combat zone in one nation and then to another combat zone in another nation, and plus there is the war on terrorism, what is going to happen with our returning veterans?'' We have troops deployed all around the world and, yet nobody in VA or OMB of figures there is going to be a surge in the number of veterans we have to take care of so they do not change their model.

Well, I am sorry, I do not care whether the Secretary has been there for 6 years or 6 days, that does not work. It is the VA that has professionals who have worked there for years who should be able to adjust those models. That is no excuse whatsoever.

Yesterday, Secretary Nicholson testified that the VA had to borrow money for current accounts to cover immediate health care needs for this year, this year being 2005. Such borrowing would create at least a $1.5 billion shortfall for next year, that being fiscal year 2006. But the $1.5 billion is really at least $1.9 billion. We are not actually going to vote on either of those numbers. I sort of wish we were because of something which is not brought out but which I am going to bring out. The VA assumes the President's VA budget, which includes at least $400 million in health fees, will be collected from the veterans—what? Wait a second.

Yes, the VA Secretary is still seeking to double the co-payments for prescription drugs for veterans, and he is still supporting an enrollment fee of at least $250 for some veterans. So, yes, there is a shortfall, but then there is income VA expects but won't be collected, the shortfall will be larger. I think that requires a very sharp analysis on the part of the Veterans' Affairs Committee.

This Senator opposes such fees. I do not understand how that is done. How does one take somebody who gives up their job potentially, for example a National Guard member who works for the 130th Air Guard wing in Charleston, WV, which has complete control over the evacuation of the National Capital area, and then charge them for being able to get health care after they serve in combat? That is not what Abraham Lincoln wrote over the Veterans' Administration building.

So the VA budget is at least $1.9 billion short. Let that be understood by my colleagues. Our Members have not been told that amount, but that is because of the $400 million that VA assumes, but Congress never tries to charge our veterans. We should understand that. It is at least $1.9 billion if we fully respond to the health needs of returning veterans.

I expect, frankly, it will be more than $1.9 billion. In fact, I would say to the good Senator from the State of Washington that we discussed higher figures in our Veterans Affairs' Committee meeting.

Experts who I immediately reject, because I reject their theory on this,

suggest that up to 40 percent of our veterans will have psychological wounds such as PTSD, post-traumatic stress disorder. I have yet to meet with a single group of veterans who would put the figure at anything less than 60 or 70 percent, and that is just post-traumatic stress disorder. We are also talking about depression. We are talking about schizophrenia. We are talking about uncontrollable violence. We are talking about rage. We are talking about nightmares. We are talking about people waking up sweating and screaming. This goes all the way back to World War I, the science now proves.

These West Virginia veterans who typify veterans from around the country return from Baghdad and Afghanistan, and they describe the experiences of their colleagues, and I truly fear that VA mental health care is going to cost a whole lot more than the two amendments that we will both be voting on and voting for, I hope, this afternoon. My view is that whatever the needs of our returning veterans are, they must be met, particular right now during a time of war.

Finally, I am personally stunned by the fact that the administration's budget experts and managers use these old models, and did not warn or advise Congress until now. I will go right back to that, their models did not fully estimate the effect of the war on VA health care spending. Again, blaming a poor old model from 2002 or 2003 does not cut it in anybody's book. It is unsustainable as an argument. As I say, the VA is second only to the Pentagon in the number of people it has. A lot of those folks work on budgets. They know what models are. They can come up with new models. They did not come up with new models, and that is the point. Each time this year, VA officials have testified they were confident of sufficient VA funding. That is what they told the committee in February, in March and in April. They were dead wrong. It is stunning. It is sad.

So we asked over and over whether they were prepared for the returning troops, and we were told mission accomplished; they had everything under control. Again, they were wrong. Our soldiers are returning home and expecting the VA health care they were promised. They are not going to be able to get it. The budget shortfall is unconscionable, and our troops deserve better. We must pass this amendment or any other amendments which raise this amendment. It will still not be enough money, and it will only take care of the present situation that we are in. We must ensure that such a significant shortfall never—and I rarely say never''—happens again.

I am committed to fighting for our veterans. I believe that is the duty of the Congress.

I yield the floor.

Mrs. FEINSTEIN. Mr. President, I want to start by thanking Senator MURRAY and Senator BYRD for working tirelessly with me to try and find a solution to the VA budget crisis that faces our Nation's veterans. I very much appreciate their leadership on this issue.

During the emergency supplemental under Senator MURRAY's leadership we brought this issue before the body and warned of the impending crisis.

As we all know, at that point Secretary Nicholson sent a letter to Chairman HUTCHISON stating that ''I can assure you that VA does not need emergency supplemental funds in fiscal year 2005 to continue to provide the timely, quality service that is always our goal.''

We now know this is not the case. Yesterday, Secretary Nicholson testified before the Senate Veterans Affairs Committee and acknowledged that in fact the VA is at least $1 billion short this year in veterans' medical care.

The VA is resorting to shifting funds from capital accounts as well as spending money budgeted as carry over for next year to make up the shortfall. Additionally, the Secretary stated that the VA budget request for next year is short by at least $1.5 billion.

As I have always stated, the care for our veterans should never get tangled up in partisan gamesmanship. This is why we have been working hard with our Republican colleagues to find a solution to this problem.

I am pleased that the modifying amendment would add an additional $80 million to help shore up this year's budget problems at the VA, and I commend Senator HUTCHISON, my chairman on the Military Construction and Veterans Affairs Appropriations Subcommittee, for her leadership and commitment to the needs of America's veterans.

However, let us not forget that while the emergency funds that I hope we will pass today helps solve the problem for this year, Secretary Nicholson testified yesterday that the budget request for next year is insufficient as well.

I am hopeful that the administration will take the necessary steps to transmit to the Congress an amended budget which provides an accurate estimate of the VA's needs for fiscal year 2006, and a realistic blueprint for meeting those needs.

I look forward to working with Senator HUTCHISON, Senator COCHRAN, Senator BYRD and my other colleagues on the Appropriations Committee to make sure that we provide sufficient funding in 2006 to keep the VA from being awash in red ink again next year.

Let me close by again thanking Senator MURRAY and Senator BYRD. Their leadership has been instrumental in helping to solve this problem.

I also want to thank Senator HUTCHISON and Senator CRAIG for working hard with us to try and ensure that veterans receive the care they need.

Ms. SNOWE. Mr. President, Less than 3 months ago, Congress was informed that the Department of Veterans Affairs would not require emergency appropriations for the current fiscal year. The Senate acted accordingly in supporting the existing appropriation. In the past week, we have been informed that the VA now faces a budget shortfall of approximately $1 billion.

Many of my colleagues are today discussing how we got here, and where the fiscal projections went wrong. The failure to consider the needs of returning veterans from Iraq and Afghanistan in forecasting expenditures demonstrates a critical and inexcusable deficit in planning. Some suggest a new means of budgeting the VA. These are vital issues and they will undoubtedly be discussed as in the context of future appropriations. However, what is most critical today is addressing the immediate and pressing needs of our veterans. We simply must maintain our commitment to those who have given so much in their service to our country.

Secretary Nicholson had told us that the current budget shortfall would be made up in two ways. The first would be to use approximately $600 million from maintenance and capital expenditure accounts, redirecting approximately half of such moneys to operating expenses. According to the Secretary, new construction would not be affected. Yet that leaves undone many pressing projects such as critical repairs and renovations. In many cases, these projects cannot be wisely deferred. The second means of addressing the shortfall would be to use approximately $400 million from a carryover account. This approach simply depletes resources and digs a deeper hole for the Department in the next fiscal year.

The answer to this problem does not lie in amplifying the shortfall in this fiscal year. We do not undertake emergency appropriations lightly, but we simply cannot deplete resources, and fail to properly budget for the needs of veterans. Those who have served us in the past, and those who continue to serve today, must know that VA services will not be disrupted. Thus I join my colleagues in supporting an emergency appropriation for the Department of Veterans Affairs to ensure that our veterans shall receive the timely services and support which they so deserve.

The Department faces great challenges. As our veterans grow older, their health care needs increase. The VA faces the same challenges in managing health care costs which all of America faces, yet anyone who has met a veteran with a service-connected injury or disability understands the many additional needs which we must meet, especially in light of the service of millions have given this country. Even today, as over 130,000 stand in areas of conflict to promote liberty for others, we must make clear that we will always stand by them, today, and tomorrow.

Mr. KYL. Mr. President, I am pleased to join with Senator HUTCHISON, Senator CRAIG, and others to offer this amendment responding to new information about shortfalls in the fiscal 2005 budget for the Department of Veterans Affairs.

Naturally, every Member of this body is distressed to learn that the Department is in these fiscal straits and that the Department has made the extent of the problem clear at this date late in the fiscal year.

I am pleased that the Appropriations and Veterans Affairs Committees have moved so quickly to pursue the oversight we now urgently need to determine: 1. How this could have occurred, and 2. what Congress and the VA will need to do differently to ensure that we do not confront shortfalls of this nature next year and thereafter.

But today, we will accomplish the even more urgent work of ensuring that the necessary funds—$1.5 billion—are available on an emergency basis for the current fiscal year so that there is absolutely no deterioration in the quality of services and facilities for our veterans.

I suppose it is inevitable that everything sooner or later becomes the subject of partisan dispute in Washington, DC, but it is disappointing that some have seen fit to make support for our veterans a partisan weapon.

I hope the action we take today will go some distance toward demonstrating that the irresistible temptation some feel to try to take partisan advantage notwithstanding and that Congress stands united in support of those who have served and sacrificed.

Mr. MCCAIN. Mr. President, I will be necessarily absent for the later part of the day as I will be attending the Oath of Office Ceremony at the United States Naval Academy where my son is being sworn in as a midshipman.

I want to express my strong support for the two amendments that will be voted on today to address the unexpected and unacceptable funding shortfall for Veterans Administration medical services. I strongly endorse the two amendments that I am confident will be adopted overwhelmingly. It is incumbent on the Congress and the administration to continue to monitor the VA's funding situation closely and ensure proper medical assistance is readily available to our deserving veterans.

The PRESIDING OFFICER. Who yields time? The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, first I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be sufficient second.

The yeas and nays were ordered.

Mr. SANTORUM. Mr. President, I believe we are out of speakers, and we are prepared to yield back time. So I would yield to the Senator from Nevada, who I guess will wrap up debate, and then we can move on.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. How much time do we have remaining on our side?

The PRESIDING OFFICER. The Senator has 15 minutes 29 seconds remaining.

Mrs. MURRAY. I yield to the Senator from Nevada. I believe the Senator from Colorado will be here for a couple of minutes. I will use the last 2, and we will be done on our side.

I yield to the minority leader.

The PRESIDING OFFICER. The minority leader is recognized.

PRESIDENT BUSH'S ADDRESS TO THE NATION

Mr. REID. If the Presiding Officer would alert me when I have used 9 minutes.

The PRESIDING OFFICER. The Chair would be happy to.

Mr. REID. Mr. President, like many Americans, I listened carefully to the President's Iraq speech last night. As I said in a letter to him yesterday prior to his speech, his address to the Nation afforded him an excellent opportunity to present to the American people his plan for success, to discuss the costs and sacrifices that will be required in the days ahead, and to assure our troops, active and retired, that he is committed to doing everything he possibly can to see that they get the services they have earned.

Unfortunately, I believe the President's address fell short on all of those accounts, and I will have more to say in the days and weeks ahead about the speech and the path forward in Iraq. But having said this, there is one part of the President's address that bears directly on my letter and the matters before the Senate right now. At the end of his speech, the President called on Americans to find a way to thank the men and women defending our freedom by flying a flag, sending letters to our troops in the field, helping the military families down the street, or going to the new Defense Department Web site. I think we owe the men and women in uniform—of course we owe them flying flags, mailing letters, and logging on to this new DOD Web site, but we owe them far more than that.

I share and support the sentiment and will continue to make sure we recognize the services and sacrifices of our military personnel and their families. Although the President chose not to mention our veterans in his address last night, as I suggested, I believe we have an equally solemn obligation—I choose that word purposely—to recognize their sacrifices and to thank them for their willingness to defend our freedom. The amendments before us give us the opportunity to do just that.

Just as the obligation is clear, so is the need. At the start of the year, we knew that over 130,000 troops had returned home from Iraq and Afghanistan. Analysts told us to expect that an additional 150,000 soldiers, sailors, and airmen would return in the months ahead. That is why in January and February Democrats, led by Senators MURRAY and BYRD, warned that the war in Iraq and the war on terror were generating hundreds of thousands of new veterans who would soon swamp the existing capacity of the VA health care system.

The Senator from Washington said this over and over again. She called me during her campaign last October and indicated there was a problem. After the election, she was concerned about the veterans, and we talked several times about veterans. So I applaud and commend the Senator from Washington for being so deliberate, so consistent and persistent in these efforts.

In addition to that, we were warned that many of the soldiers had suffered traumatic injuries that would require extended and intensive care. When I say this, my mind goes back to last Thanksgiving when I went to Bethesda and visited marines who had returned home with missing limbs, some who had been damaged in other ways. But before I left they asked me to go into the intensive care ward, and that is something that I will never, ever forget, the pictures of those men. Thank goodness I did not see any women. It would have been even more traumatic for me, I am sorry to say. I still feel that. I could see my little daughter there, which I did not—but it was very bad, terrible head injuries.

We had all these warnings, Democrats and independent veterans groups, to conclude that the veterans health care system was massively underfunded and unless drastic steps were taken immediately, tens of thousands of veterans, men and women, would be denied access to the health care this Nation owes them. Unfortunately, the Republicans responded by denying a problem existed. The Senate addressed issues that do not make a difference to most Americans. We worked for almost 2 months on something called the nuclear option, which was a way to try to help five people the President wanted to be judges. Other matters were just put to the side. Of course, this administration has wasted day after day, week after week, month after month talking about privatizing Social Security, but a problem does exist, and instead of talking about those issues, we should have been talking about veterans health care.

Keep in mind, the majority defeated Democratic efforts to provide our veterans the health care and resources they so clearly and desperately needed. At a time when hundreds of thousands of veterans were returning home in need of health care, the Bush administration submitted a budget request in February that did not contain a single dollar in additional resources to care for the newest generation of veterans. The administration budget was so out of step with reality that the head of the VFW, Veterans of Foreign Wars, called it shameful. That is a quote, ''shameful.''

The national commander of AMVETS called it, ''woefully inadequate.''

What did our Republican colleagues in the Senate do with that woefully inadequate and shameful budget? Did they support Democratic efforts to support veterans benefits, needed additional benefits? No.

Did they support Democratic efforts to increase veterans funding on other legislative vehicles? Did they make veterans a top priority of this session of the Congress?

The answer to every one of those questions, unfortunately, is no, no, no, no. While Senate Republicans found plenty of time to pursue issues that didn't matter, and don't matter, to the American people—I have named a few. We spent quite a lot of time on a matter that I don't think mattered for most Americans, but some of the things we worked on were intervening in the most private and personal decision a family can make—they found no time for tens of thousands of soldiers who they knew were coming home soon to a health care system that lacked resources to meet their needs.

On three separate occasions this year Senator MURRAY and Senate Democrats, led by Senator PATTY MURRAY, asked the Senate to vote on additional resources for the veterans health care system. On each occasion, Senate Republicans, including the lead sponsor of one of the amendments we will soon vote on, voted no: ''no'' to add additional funding for our veterans, ''no'' to giving them the quality health care they have earned, ''no'' to keeping our Nation's commitment to those who have served.

Three strictly party-line ''no'' votes by the Republicans.

The response of the Bush administration was similar and similarly out of touch. Rather than acknowledge there was a problem and addressing the concerns raised by Democrats and outside groups, the Bush administration initially chose a path of denial that ultimately bordered on outright deceit.

In April, after Senator MURRAY offered an amendment on the emergency supplemental to increase veterans health care funding by $1.9 billion, VA Secretary Nicholson—by the way, his qualifications are he was chairman of the national Republican Party. He is head of the veterans benefits now—he said:

> I can assure you that the VA does not need emergency supplemental funds in fiscal year 2005 to continue to provide the timely, quality service that is always our goal. . . . I do not foresee any challenges. . . .

The PRESIDING OFFICER. The Senator has used 9 minutes.

Mr. REID. I will use leader time now for the rest of my remarks.

Continuing with Mr. Nicholson:

> I do not foresee any challenges that are not solvable with our own management decision capability.

The concerns raised by this head-in-the-sand statement were greatly exacerbated yesterday. At a hearing before the Senate Veterans' Affairs Committee, Veterans Affairs officials from the Bush administration made two astonishing admissions. First, Mr. Nicholson acknowledged that funding for veterans health care programs is short by at least $2.6 billion because the administration dramatically underestimated the number of military personnel returning from Iraq and Afghanistan. This is the latest example of how poorly the administration planned for and prepared this Nation for what would be required in Iraq and the war on terror.

Second, and even more troubling, VA Under Secretary Perlin testified to Congress that at the same time Secretary Nicholson was assuring Congress no additional resources were needed, the VA was already dipping into reserve funds to meet its operational needs. And Secretary Nicholson admitted that a management decision had been made in early April—that is why I called what he said before ''deceitful''—made in early April to also dip into capital funds to keep veterans health care operations going.

What does this mean? Taking away from capital projects, hospitals that need to be renovated and repaired, outpatient clinics that need to be rebuilt. They were dipping into those funds when he was before competent committees of this Congress not telling the truth, misleading us, being deceitful.

Think about this for just a bit. The administration sends hundreds of thousands of men and women, our troops, abroad to fight in Iraq and elsewhere but says it didn't expect they would return home and need health care services? The administration then fails to provide any additional funds to address the health care needs of these soldiers and, when pushed by Democrats, tells Congress no additional funds are needed. And in the final act, the administration acknowledges that the very time it was insisting no additional funds were needed, the VA was tapping into reserve funds, and the VA Secretary had decided to pay for day-to-day health care expenses by dipping into capital funds, which would severely impact medical facilities across our whole country—including, I might say, a major medical center that is needed in the most rapidly growing veterans population of any place in America, in Las Vegas, NV. Quite a performance.

Fortunately, today the Senate has a new day before it. At long last, we have the administration and Senate Republicans acknowledging there is a problem. And at long last, Senate Republicans are now willing to join Senate Democrats to do something about it. Although Republican support for our veterans has been long in coming, I welcome the 11th-hour conversion. While the needs of our veterans were not enough to get the attention of some of our colleagues on the other side of the aisle, apparently the 2006 elections are.

Regardless of their motivation, we welcome their support. I only hope the administration and Senate Republicans remain willing and eager to join with us in the future to ensure that our troops—active and retired—and their families, receive the respect and recognition they deserve.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Idaho.

Mr. CRAIG. Mr. President, I thought my comments on this issue had concluded, but I feel the statements just made by the Democratic leader deserve some response.

I will work very hard to sustain a calm tone and a bipartisan tone, as has been the character of the debate on this issue up until just a few moments ago when it took a dramatically partisan tone, tuned to the November 2006 elections. To me, that is disappointing, at best, and it is, at best, very misdirected.

To suggest that the Secretary of Veterans Affairs is only a party chairman means that that minority leader has not even read his bio, nor does he care to. So let me suggest that this Secretary of Veterans Affairs is a 1961 graduate of the U.S. Military Academy at West Point, he served 8 years on active duty as a paratrooper and Ranger-qualified Army officer, then 22 years in the Army Reserves. While he was in the Army Reserves, he finished his master's degree at Columbia University in New York City and his law degree at Denver University.

It means that you have to be highly qualified to be ''just'' a party chairman.

No, I am sorry, Democratic leader. This Secretary is highly qualified to be Secretary.

I am disappointed, at best, and I hope my colleagues will join with me in an overwhelming disappointment at a dramatically partisan statement at a time when this chairman has worked in good faith to be extremely bipartisan to resolve a problem.

The minority leader forgets that every year during the Clinton administration they proposed to underfund the Veterans Affairs and Veterans' Administration and we, in a bipartisan way, said ''no.'' And every year since then, in the Bush administration, they funded it less than the Congress did. And we said ''no,'' because we expected a higher level of service than the budget crunchers down at OMB would admit; Democrats and Republicans, that is the fact that the minority leader has forgotten for the purpose of partisan politics.

Minority Leader REID, I am highly disappointed. I will step back from the level of anger. You have impugned the integrity of a brave American, who is serving as Secretary of our Veterans' Administration, and you have impugned my integrity as a Senator, and I am disappointed.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, how much time is left?

The PRESIDING OFFICER. Five minutes and fifty seconds.

Mrs. MURRAY. The Senator from Colorado is here and would like to make a statement. I ask if he could use 3 minutes, and I can use the remaining time.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 3 minutes.

Mr. SALAZAR. Mr. President, let me at the outset say that the problem we are trying to deal with in the Senate is a matter of great importance to our veterans. Let me also say I believe the Senate Veterans' Affairs Committee has jumped on this problem to try to figure out a way that we can move forward. I think the most important response to this kind of crisis, where we are leaving so many veterans out of the fold in America, given the kind of shortfall we are seeing in health care, is that we acknowledge a problem, first of all; and, second of all, once having acknowledged the problem, that we move to fix the problem; and then, third, that we make sure that the problem does not happen again.

What we are doing with today's amendment sponsored by Senator MURRAY and Senator BYRD is fixing the problem for this year so we are able to provide the health care services to which our veterans are entitled. It is not good enough for us to support our troops in Iraq, as we all should. It is also necessary—mandatory—for us to make sure that when our troops return from Iraq or Afghanistan, we take care of them here at home.

The Veterans' Administration and the budgets that they have proposed have failed to do that because of the chronic underfunding that they have put on the table. If you analyze the underfunding we are looking at today, we potentially could be looking at a cut to veterans health services of somewhere between 10 percent and 15 percent. This is a problem which we need to address as a Congress for the years ahead as well.

This amendment that Senator MURRAY and Senator BYRD have put forward is a step in the right direction because it will help us fix a problem for this year. I am a proud cosponsor of that amendment. I believe both Senator BYRD and Senator MURRAY have done the right thing. I applaud Senator MURRAY's leadership in the committee to raise this issue to the attention of Senator CRAIG and the rest of the members of that committee.

But it is also very important that the Veterans' Administration, through Veterans Health, helps us figure out a way of avoiding this problem in the future. We should not let our soldiers from Iraq and Afghanistan down, and the only way we can do that is if we fix the funding formulas and fix the assumptions that are currently made.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized. She has 2 minutes and 15 seconds.

Mrs. MURRAY. Mr. President, as we wind up the debate, it would be easy for me to stand here on the floor of the Senate—after months of saying we need to address this issue, we need an emergency supplemental and we are finally here—to say I told you so. But that is not how I feel right now.

What I am thinking about at this point is my own father, who was a veteran of World War II, one of the first soldiers into Okinawa, who was injured, sent to Hawaii, was in the hospital there for 3 months, and he went back to serve in Okinawa again and then was in a wheelchair for most of my life before he passed away.

I am thinking of the men and women in the veterans' hospital in Seattle WA, back in 1972 when I was a senior in college and I volunteered at the veterans' hospital there during the Vietnam war, working on the psychiatric ward with young men and women my age who were returning from Vietnam and understanding what they were going through, and then going back onto the street and the public not aware of the sacrifice of these soldiers.

I am thinking of the young men and women I recently met in Iraq serving us today, who were asking us: Will my country be there for me?

I can assure you none of those soldiers were saying: Will the Republicans be there for me? Will the Democrats be there for me? They were asking: Will we, as Americans, be there for them? With Democrats and Republicans alike just about to vote for this amendment—that will make the underlying amendment $1.5 billion with the amendment of the Senator from Pennsylvania—what we can say is that this Senate stands in full support of our soldiers, from previous conflicts as well as the ones who are serving us today. I think that is a powerful message and one of which I am very proud.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Mr. President, I thank the Senator from Washington again, as I did earlier, for her work. I thank her also for the tone and for the way she presented her case. I think it would express the concern and frustration on both sides of the aisle about the problems we are confronting and have confronted for many years in providing adequate funding through administration after administration—at least three I am aware of, three administrations I am aware of where the administration has not properly funded veterans' health care in particular. The Congress has always had to come and add more money. This is nothing new. What is new in this case is that we have had to come at a late time and add additional resources. I think it is unfortunate.

As I said earlier, I was very critical of this administration for not being more forthright and felt, as the Senator from Idaho suggested, that when we cast our votes against the Murray amendment, we did so not with the information we needed. The administration, justifiably, should be criticized for that.

Unfortunately, the tone the Senator from Nevada took, the Democrat leader, was not one of frustration that all were sharing but simply an attempt to launch into a partisan attack which, given the nature and tenor of what we have been working on, was very unfortunate. One of the most unfortunate comments, which I hope the Senator from Nevada will think better of and come back and correct the record, was to suggest that ''the only qualifications of the Secretary of Veterans Affairs is that he was chairman of the Republican National Committee'' is an insult to the Secretary of Veterans Affairs and his service to this country.

This is a man who is a West Point graduate who served 8 years in active military and served tours in Vietnam. He earned the Bronze Star. He earned the Combat Infantryman Badge, the Meritorious Service Medal, and two Air Medals. This is not a man whose only qualification was he was chairman of the RNC. He went on and served in the Reserves for 20 years, earned additional degrees, ran and started a business, and was ambassador to the Holy See. This man has a lot more qualifications as Secretary of Veterans Affairs than many prior Secretaries. I hope the Senator from Nevada would reconsider his shot at this Secretary.

Do I have concerns about the information provided? Absolutely. Does the Secretary have to come and have an accounting for what he said and what he did in his short term now as Secretary? Absolutely. Has he been called on the carpet in both the House and Senate? Absolutely. Will he be over the next few months? Absolutely. But to take a shot at him personally in such a partisan fashion is beneath the leader of the Democrat Party. I hope the leader of the Democrat Party would show some leadership in civility when it comes to addressing people who have served this country honorably and continue to do their best.

I yield back the remainder of my time and ask the votes on the Santorum and Murray amendments be stacked sequentially at a time so designated by the leaders.

I ask that Senator SNOWE be added as a cosponsor to the Santorum amendment.

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

Mrs. MURRAY. I ask that Senator CORZINE be added as a cosponsor to the Murray amendment, as well.

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

Mrs. MURRAY. We will shortly vote on the Santorum amendment, then the Murray amendment, as amended. I urge all of my colleagues to support both amendments.

The PRESIDING OFFICER. Those votes will occur at a time to be ascertained.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1059

Mr. DORGAN. Mr. President, my understanding is the next order of business would be my amendment numbered 1059, and there is 10 minutes per side?

The PRESIDING OFFICER. That is correct.

Mr. DORGAN. Mr. President, I ask to claim as much time as I may consume from the 10 minutes. Perhaps we can move through this rather quickly.

This relates to an issue I have already spoken to the Senate about on two occasions. It relates to a soldier named Carlos Lazo. Carlos Lazo escaped Cuba on a raft. He tried to escape once and was caught and put in prison in Cuba. The second time he escaped on a raft, he got to this country. His wife and children were not able to get out of Cuba. After he got to this country, he subsequently joined the National Guard, and went to Iraq on behalf of this country to fight in Iraq. Sergeant Lazo received the Bronze Star for from his country for courage and bravery in fighting in Iraq. He is now back in the U.S. from his service in Iraq.

He has a son who has been quite ill in Cuba, so he wanted to go see his sick son in Cuba. His Government, the U.S. Government, the Government that he served by going to fight for freedom in Iraq, said: No, you are not free to travel to Cuba to see your son. Why is that the case? Because the President of the United States has created a new regulation, and the regulation says you can only travel to Cuba once every 3 years.

So this soldier, the soldier that wins the Bronze Star fighting for this country in Iraq, is told he can't go to see his sick son because he does not have the freedom to do that. He visited me and asked me about it. I called Condoleezza Rice. She didn't call back, Bob Zoellick her deputy did. I called the Secretary of the Treasury, Secretary Snow. He did not call back. One of his underlings did. I called Karl Rove at the White House. He called back, and later the Chief of Staff's office called me and said that relative to Karl Rove's call, Bob Zoellick in the State Department would handle it. And I have not heard back from him. We talked once. He said he would call back, and I have not had the call.

The question is this, Is there a humanitarian relief exception to the travel ban for someone with a sick kid in Cuba, for a soldier to go see his sick kid? The answer, according to the head of the Office of Foreign Assets Control at Treasury, which runs this is, no, there is no humanitarian relief. He said: We get calls from people who say my mother is going to die in a few days, and we can't give them the opportunity to go to Cuba to see them if they have traveled once before in the 3-year period.

He said: I understand what you are saying, Mr. Senator, but we turn them all down because we must.

I said: But you created the regulation. What on Earth are you thinking about?

This soldier's story—and I have told the story about the woman that distributed free Bibles in Cuba, who gets fined by her Government, the U.S. Government, for doing it—this soldier's story begs out and screams for attention by this Congress. So I have offered an amendment that will provide for humanitarian circumstances under which Americans can travel to Cuba to visit or care for a member of the person's family who is seriously ill, injured, or dying; make funeral or burial arrangements for a member of the individual's family.

I am just wondering who in this Chamber is going to stand up for this soldier and this soldier's right. It is not just him, it is the others who are applying who say their mother or father or child is dying and now they are now being turned down by the Federal Government because there is no humanitarian exception.

This is unforgivable. There ought to be a humanitarian exception. I hope my colleagues will stand up for this soldier's rights. He fought for freedom in Iraq and now doesn't have the freedom to see his sick son? What can we be thinking about? Why do I need to go further?

I have spoken about this issue previously, but Sergeant Lazo obviously comes to us because he has a selfish interest. It is in seeing his sick son. That is a pretty good selfish interest as far as I am concerned. Others have come to me. Joan Slote, who is in her midseventies, took a bicycle trip in Cuba and got fined by her Government. It is unbelievable what is going on.

I come to the Senate today only because I am persuaded from last week's visit with Sergeant Lazo that this ought to stop. This Congress ought to have the courage to stand up and do what is right. If we don't have the courage to do this, we don't have the courage to object to anything the White House does. This came from the White House. This is all about politics. This rule that says Americans visit their family in Cuba only once in three years is all about Florida politics. Everybody in this Chamber knows it.

This amendment does not overturn the travel rule with Cuba. I happen to think people ought to be able to travel to Cuba. I know Fidel Castro pokes his finger in America's eye. The quicker we get rid of that Government, the better. But the fact is, we will do that, it seems to me, by allowing trade and allowing travel, just as we do with Communist China and Communist Vietnam. But that is not the way this country deals with Cuba because of Florida politics. We have decided that Sergeant Lazo shall not be allowed to go see his sick child.

The question is, Will the Senate, will the men and women in the Senate, have the courage and the good sense to cast the right vote and say to Sergeant Lazo and others, If you have a member of your family who is seriously ill, injured, or dying, you have a right to go see them? We will give you the license to do that.

We have had vote after vote on these issues. The question today is will we have enough Senators to decide to use a little common sense? If you care about families—a lot of people are talking about profamily these days—if you care about family, if you are profamily, cast the right vote. Cast the right vote on this amendment.

My understanding is the Senator from Montana will have some time, as well.

I reserve my remaining 3 minutes 50 seconds.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, the Senator from North Dakota brings up a good point on humanitarian needs. I don't know what the specifics are in the case of the sergeant. I have a strong feeling toward the sergeant. If he has family, and with the service to his country, I am prone to find out why his permission to travel to that country under these circumstances was denied. There must be something out there that we do not know.

We have been reluctant in our dealings with Mr. Castro and Cuba. Embargos and this type thing only hurt the people who are the average citizens of a country. I have a feeling for this. However, there is an objection to it. We will have a vote on it. I appreciate the Senator from North Dakota bringing up this circumstance. We should look into it and find out what the circumstance is behind it. There are some more maybe pending that we do not know anything about. Nonetheless, we will vote on this amendment.

Mr. President, I have no more comments on this. I reserve the remainder of my time. There was a speaker to come to the floor, and he has not arrived yet, so I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER (Mr. COBURN). Who yields time?

The Senator from North Dakota.

Mr. DORGAN. Well, Mr. President, if we are going to use the other time for someone who opposes the amendment, I would like to use my several minutes to close the debate on this amendment. So I ask unanimous consent to reserve my time.

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

Mr. BURNS. 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. ENSIGN. 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. ENSIGN. Mr. President, I rise to oppose Senator DORGAN's attempt to waive the rules of the Senate. All of us operate under the constraints of the rules. The rules create a level playing field, provide stability, and bind the Senate together. According to CRS, similar attempts to waive the rules to legislate on appropriations bills have been tried twice since 1989, and failed both times. There is a good reason why the rules have not been successfully waived in recent Congresses. If waiving the rules becomes the practice of the Senate, just another tool for Senators, there will be chaos.

Many of my colleagues were Senators during times when authorizing on appropriations was routine. Do we want to potentially go down this path again? I think not.

Is my colleague seeking to waive the rules for a national emergency, an emergency in his State, relief from a terrorist attack, or a wartime emergency? No. He is seeking to waive the rules of the Senate to overturn regulations on travel to Cuba.

The regulations targeted by Senator DORGAN's amendment do not eliminate family travel. They simply limit the amount of times you can travel to Cuba for family visits—once every 3 years; in case of necessity—and limit it to visiting actual direct relatives. There used to be a tremendous abuse of people vacationing in Cuba claiming to visit their third uncle on their grandmother's side.

According to the State Department, the new regulations, which went into effect in July 2004, have cost the Castro dictatorship up to $375 million in lost revenue. I believe this is a good thing. Most of the money from travel, dollar stores, and hotels go directly to Cuba's military.

Recently, great media attention has been given to the case of SGT Carlos Lazo of Spokane, WA, who has two sons in Cuba. It is for cases of this nature that U.S. law allows his sons to visit him in the United States on a visitor's visa or to immigrate to the United States.

The proper statement for the Senate at this time is to go on record to demand that Castro let these boys go so they can see their father. I, for one, will do everything possible to see that his sons get here and have been assured that our State Department will work to facilitate this. The proper statement for the Senate is not to waive the rules of the Senate to create chaos in this Chamber and let more money go to subsidize Castro's repressive regime.

Mr. President, I yield the floor and yield back the remainder of our time.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, it will be unbelievable to me if the Senate buys this line that somehow waiving the rules creates chaos in the Senate. That must be confusing appealing the ruling of the Chair with waiving the rules. Waiving the rules does not create any chaos. It simply says in this circumstance, with this set of facts, this Senate says that soldier, who fought in Iraq and won a Bronze Star, ought to have the right to see his sick kid. If this Senate cannot find that common sense, then there is something wrong, something dreadfully wrong.

So we are told: Well, why don't you have the kids come to the United States. Did you forget the word ''sick''? We have a sick kid here, among other things. But this is not about common sense; it is about politics. It is about Florida politics. That is why a new regulation went into effect that replaced the old one. And, by the way, the old regulation did have a humanitarian exception. It did have a circumstance where this soldier would have been able to go to Cuba to see his sick son.

But when the President made it a new rule, a new regulation—only one visit every 3 years—they eliminated all exemptions. It does not matter. Your mother is dying on Saturday? Tough luck. A real ''profamily'' stand, as far as I am concerned. It seems to me there ought to be a humanitarian exception.

Look, if I were doing what I wanted here, I would lift the travel limitations completely. I am not doing that. I am providing a humanitarian exemption to say that if a member of your immediate family is seriously ill, injured, or dying, you ought to be able to get a license to go see them 90 miles off the coast of Florida.

So if you want to come to the floor and decide we should not do this, then, please, if you don't mind, call Sergeant Lazo tonight—I will give you his telephone number—and tell him why you don't think he has the freedom to see his sick kid. A guy who put on the uniform and traveled halfway around the world to fight for this country does not have the freedom to go see his sick child. There is something fundamentally bankrupt with that thought process.

If this Senate does not have the backbone to stand up to the White House on this—and, yes, it is the White House; that is who formed the rule, a rule with no exemption at all, no humanitarian exemption—if we do not have the backbone to stand up on this, I probably will not come with another story like this, because if you cannot do it for this soldier, you cannot do it for anybody. But it ought not just be this soldier, it ought to be anybody who has a sick or a dying relative who ought to have the right to go see them 90 miles off the coast of Florida.

This is not rocket science. For all the times that people stand up and talk about being compassionate, caring about the individual, talking about freedom, for all of those occasions they talk about being profamily, let's see it. Let's see it manifested on this vote, at this time. Do not vote against this and say: Oh, it had something to do with suspension, it had something to do with this, that, or the other thing.

This is simple. You cannot misunderstand this vote: Do you believe this guy ought to have the right to see his sick kid or not? Do you believe the American people ought to have the right to travel in circumstances where one of their relatives is sick, injured, or dying? If you do not, then vote against my amendment. But if you believe in some common sense here, then, please, support this amendment. Send the right message.

This does not eliminate the travel ban. It does provide the humanitarian exemption that used to always exist and should exist again.

I yield the floor.

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

Mr. BURNS. Mr. President, we have another speaker coming on our side who is on his way.

In the meantime, Mr. President, I ask unanimous consent that I yield time to Senator KYL for the purpose of withdrawing his amendment.

Mr. DORGAN. Mr. President, I will support that request, but I want to mention to my colleague from Montana that prior to going to the final vote, I believe Senator REID wishes time to speak. So I want to make sure that is preserved prior to final passage.

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

The Senator from Arizona.

Mr. KYL. Mr. President, I thank the Senator from Montana.

AMENDMENT NO. 1050 WITHDRAWN

Mr. President, I first ask unanimous consent to withdraw amendment No. 1050.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KYL. Mr. President, let me explain briefly what the amendment is, and why I filed it, and why we need to deal with that subject matter in the future.

I have spoken with Senator BURNS about this and have his agreement that he will try to work with us to find a way around the problem that the amendment was designed to resolve. I appreciate his cooperation in that regard.

Actually, for several years I have discussed this on the floor. We have had agreements in the past that the authorizing committees would work with us to change the formula for the Clean Water Act. We have not been able to get that done yet. So I am, once again, noting the fact that under the EPA-funded study to determine the needs of the States—a similar study which is used under the Clean Water Act—Arizona ranks 10th in terms of needs in the country, 10th out of all of the States.

In terms of the funding provided by the formula under this act, Arizona

ranks 51st among the 50 States. Now, you may say: 51st? There are only 50 States. That is right. Actually, Arizona ranks behind Guam and Puerto Rico. So here we have one of the fastest growing States, with some of the greatest needs—according to the EPA, 10th in the country in needs—and the formula puts Arizona worse than any other State in the Union. That has to be fixed.

I believe my colleagues will understand if I say that in Arizona we cannot allow this situation to continue any longer. So if my colleagues do not like the formula we have put forward that would resolve this issue, then I invite them to come forward with some other kind of formula that would resolve the issue. But we are not going to very long abide by a situation which has been going on now for years that continues to put Arizona at the very bottom when our needs rank very close to the top.

Again, I appreciate the commitments that have been made by the distinguished chairman, the Senator from Montana, to try to work with us to find a way around this. I do appreciate that this is primarily an authorizing problem, so we will be talking to the authorizing chairmen as well. My colleagues will hear more about this in the future. In the meantime I have withdrawn the amendment that would fix this. But I hope my colleagues will work with us in the future.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I thank the Senator from Arizona. There is a larger problem on the Arizona River. We are all aware of it. It is going to take a lot of us working together to deal with that river because of population growth, especially in the wintertime, from Lake Mead and going south. Arizona is only a little piece of that. But, nonetheless, the Senator is very much interested in what happens all the way down, for the simple reason that with Nevada, Arizona, and California, it will take a lot of people working together to deal with that problem. I appreciate the Senator's interest in that, and I do pledge to work with the Senator on authorization.

Mr. President, I yield the floor to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

AMENDMENT NO. 1059

Mr. MARTINEZ. Mr. President, I rise to speak against amendment No. 1059 which would attempt to change foreign policy toward Cuba in an appropriations bill, which I think procedurally, as well as substantively, is the wrong thing to do. I urge my fellow Senators to vote ''no'' on this amendment.

The amendment would seek to unconditionally grant a concession to the repressive Castro regime. This is a government and a country that currently suppresses the human rights of its people. It has been on the list of states that assist terrorism, consistently right there with North Korea and other countries that are not particularly helpful to our global war on terror.

Aside from that, this policy of travel consists as one leg or one part of a more comprehensive travel policy toward Cuba that the United States put in place under the leadership of our President about a year and a half ago. It created some restrictions on travel. It limited travel even among Cuban families.

I know this community well. I know it is a policy that is largely supported by that community. I also would tell you that there is, in my own life, the knowledge that the denial of family reunification is something that for over 40 years the Cuban system has utilized as part of their endeavor in order to control people.

I had lived in this country for 4 years, and during those 4 years of separation from my mother and father—between the ages of 15 and 19—my family was not able to travel here to visit me. They were not allowed by the Cuban Government to at any point leave Cuba to visit.

The case of this brave soldier, whom I greatly respect and honor, Mr. Lazo, who has served his country bravely in Iraq, has been brought up. Let me say, specifically, on that case, this young man, who has sons in Cuba, wishes to go to Cuba to visit his sons. It is understandable. He has been there in the past 3 years. He wants to go again. His sons are 16 and 19.

We have asked Mr. Lazo if he would allow us to bring his children here so they could visit here. One of them has had some illness. Currently, he is not under medical care, but he has been recently. He could certainly seek medical care here when he came, under his father's auspices.

In addition to that, I believe it would be a nice thing for these children to have an opportunity to visit in a free society and a free country. That request, that offer, has been refused. For family reasons or other reasons, he doesn't care to pursue that. He wants to go there. I understand that. But I don't believe we can change the foreign policy of the United States to suit one individual situation.

I am sympathetic to family travel. I am sympathetic to humanitarian problems that may arise from time to time in people's families. I have lived those in my own family and my own life. However, I believe the policy of the United States, the law of the United States, ought to be followed and that it would be wrong for us in this instance at this time to change what is established foreign policy of our country, established in terms of our relationship with Cuba, simply to take care of this individual situation. I would like to think of how we might work on a humanitarian travel policy that might even include Cuba making concessions but that it would not be a unilateral concession to this tyrannical government.

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

Mr. BURNS. Mr. President, all time has expired.

The PRESIDING OFFICER. The Senator is correct.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1046

Mr. BURNS. Mr. President, we have accepted amendment No. 1046 on both sides. I ask unanimous consent that amendment be agreed to.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 1046) was agreed to.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I ask unanimous consent that the Senator from Tennessee, Mr. ALEXANDER, the Senator from Delaware, Mr. CARPER, and the Senator from Pennsylvania, Mr. SANTORUM, be added as cosponsors to amendment No. 1046.

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

Mr. SARBANES. Mr. President, I express my appreciation to the managers of the legislation for accepting this amendment. The amendment provides for a study of the feasibility of designating the Captain John Smith Chesapeake National Historic Watertrail as a national historic trail. I was joined in this by my able colleague, Senator MIKULSKI, and by the two Virginia Senators, Mr. WARNER and Mr. ALLEN.

The year 2007—less than 2 years from now—marks the 400th Anniversary of the Founding of Jamestown, the first permanent English settlement in America.

The critical role that Captain John Smith played in the founding of Jamestown and in exploring the Chesapeake Bay region during the years 1607 to 1609 was a defining period in the history of our Nation. His contemporaries and historians alike, credit Smith's strong leadership with ensuring the survival of the fledgling colony and laying the foundation for the future establishment of our Nation.

With a dozen men in a 30-foot open boat, Smith's expeditions in search of food for the new colony and the fabled Northwest Passage took him nearly 3,000 miles around the Chesapeake Bay and its tributaries from the Virginia capes to the mouth of the Susquehanna. On his voyages and as President of the Jamestown Colony, Captain Smith became the first point of contact for scores of Native American leaders from around the Bay region. His relationship with Pocahontas is now an important part of American

folklore. Smith's notes describing the indigenous people he met and the Chesapeake Bay ecosystem are still widely studied by historians, environmental scientists, and anthropologists.

The remarkably accurate maps and charts that Smith made of his voyages into the Chesapeake Bay and its tributaries served as the definitive map of the region for nearly a century. His voyages, as chronicled in his journals, ignited the imagination of the Old World, and helped launch an era of adventure and discovery in the New World. Hundreds, and then thousands of people aspired to settle in what Smith described as one of ''. . . the most pleasant places known, for large and pleasant navigable rivers, heaven and earth never agreed better to frame a place for man's habitation.'' Even today, his vivid descriptions of the Bay's abundance still serve as a benchmark for the health and productivity of the Bay.

With the 400th anniversary of the founding of Jamestown quickly approaching, the designation of this route as a national historic trail would be a tremendous way to celebrate an important part of our Nation's story and serve as a reminder of John Smith's role in establishing the colony and opening the way for later settlements in the New World. It would also give recognition to the Native American settlements, culture and natural history of the 17th-century Chesapeake. Similar in historic importance to the Lewis and Clark National Trail, this new historic watertrail will inspire generations of Americans and visitors to follow Smith's journeys, to learn about the roots of our nation and to better understand the contributions of the Native Americans who lived within the Bay region.

Equally important, the Captain John Smith Chesapeake National Watertrail can serve as a national outdoor resource by providing rich opportunities for education, recreation, and heritage tourism not only for more than 16 millions Americans living in the Bay's watershed, but for visitors to this area. The water trail would be the first National Watertrail established in the United States and would allow voyagers in small boats, cruising boats, kayaks and canoes to travel from the distant headwaters to the open Bay—an accomplishment that would inspire today's explorers and would generate national and international attention and participation. The Trail would complement the Chesapeake Bay Gateways and Watertrails Initiative and help highlight the Bay's remarkable maritime history, its unique watermen and their culture, the diversity of its peoples, its historical settlements and our current efforts to restore and sustain the world's most productive estuary.

This proposed trail enjoys bipartisan support in the Congress and in the States through which the trail passes. The proposed trail has been endorsed by the Governors of Virginia, Pennsylvania, Delaware and Maryland. The measure is also strongly supported by The Conservation Fund, Izaak Walton League, the Chesapeake Bay Foundation and the Chesapeake Bay Commission.

But designating a new National Historic Trail is essentially a two-step process. First, Congress must authorize the Department of Interior to undertake a study of the national historic significance of the proposed trail and the feasibility of designating such a trail. National Historic Trails must meet 3 criteria: they must be nationally significant; have a documented route through maps or journals; and provide for recreational opportunities. Once the study is complete—usually a 3-year process that involves public hearings and input—a recommendation is submitted to the Secretary of Interior to designate the trail and Congress must enact legislation to authorize the trail.

We hope to make up some of the time by the work that is already underway by public and private sector organizations to document the history of Jamestown and John Smith's travels.

However, unless we can get this provision enacted shortly, the Park Service will be unable to complete the study and make recommendations on the proposed trail in conjunction with that anniversary.

Mr. President, we hope to get this study done before the Jamestown celebrations. In 2007, they are scheduled for celebrations at Jamestown. It will be a big national event. The Captain John Smith Watertrail is obviously very much connected to the Jamestown settlement. It involves, of course, the Chesapeake Bay. We are very hopeful this study will prove the feasibility of designating this water trail. I am pleased to join with my colleagues in putting this idea forward. Again, I thank the managers of the legislation for accepting the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, may I commend my distinguished colleague from Maryland and Senator MIKULSKI and others. The two Virginians and the two Marylanders have joined together, and it is a very important step to be taken in connection with a national commitment to the recognition of the Jamestown period.

I wish we could in some way reduce this for the record, but we simply can't do it. There is an excellent review in the National Geographic of June of this year, on the whole area. It is something that I think an inordinate number of Americans will be interested in reading about because it goes to the very roots of the foundation of this great Nation.

I thank the distinguished managers of the bill.

Come 2007, we will celebrate the 400th Anniversary of the founding of Jamestown, the first permanent English settlement in the New World, as well as the heroics of its first leader, Captain John Smith.

Lasting from 1607–1609, John Smith's historic 3,000-mile exploration of the Chesapeake's main stem and tributaries made him the first ambassador to the native peoples of the Chesapeake, allowing for the exchange of cultural customs and material goods.

Along his journey, Smith noted the incredible bounty of the Bay, writing that ''oysters lay thick as stones'' and fish were so prevalent you could catch them ''with frying pans.''

What would this trail accomplish? It would allow Americans to retrace the paddle strokes and footsteps of Captain Smith, to gain a better understanding of the perils he and his fellow settlers faced during the voyages they took to better understand the New World.

Ultimately, this proposed trail seeks to celebrate Captain Smith's foresight, the founding steps of America, and the bounty of the Chesapeake Bay. I urge my colleagues to join me in supporting this feasibility study for the Captain John Smith Chesapeake National Historic Watertrail.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, we are ready to move. I would call for the regular order under the previous order.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Parliamentary inquiry: Was the amendment agreed to?

The PRESIDING OFFICER. The amendment was agreed to.

Mr. SARBANES. I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BURNS. Mr. President, I ask unanimous consent that the Senate proceed to a series of stacked votes in relation to the amendments in the order they were offered, to be followed by third reading and a vote on passage of the bill as provided under the previous order. I also ask unanimous consent that there be 2 minutes between each vote.

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

VOTE ON AMENDMENT NO. 1071

The PRESIDING OFFICER. The question is on agreeing to the Santorum amendment to the Murray amendment.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Utah (Mr. BENNETT), the Senator from Florida (Mr. MARTINEZ), and the Senator from Arizona (Mr. MCCAIN).

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. LIEBERMAN) is absent due to death in the family.

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

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 165 Leg.]

YEAS—96

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

NOT VOTING—4

| | |
|---|---|
| Bennett | Martinez |
| Lieberman | McCain |

The amendment (No. 1071) was agreed to.

Mr. BURNS. I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1052, AS AMENDED

The PRESIDING OFFICER. There is now 2 minutes of debate equally divided on the Murray amendment.

The Senator from Washington.

Mrs. MURRAY. Mr. President, we are about to vote on the Murray amendment, as amended. I remind all of our colleagues, this has been a long road in coming to get to the point today where we stand as a united body to make sure we provide the funds for our veterans that are needed in this coming fiscal year.

As I said when we ended this debate, this is not a Republican issue; this is not a Democratic issue; this is an American issue. It is the right thing to do as we head into the Fourth of July recess to know that we are providing the funds in an emergency supplemental to make sure none of our members in the service from prior conflicts or the wars today who are coming home will be denied the services they have been promised.

This is a proud moment for the Senate. I want to work with my colleagues now to make sure the House and the White House work with us to expeditiously get these funds in place for our veterans.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, this is, in a sense, the identical vote we just cast. This is the Murray amendment, as amended by the Santorum-Hutchison-Craig amendment. I encourage my colleagues to vote for this amendment.

I again thank the Senator from Washington. As we said during the debate, she was right and we got bad information. The Senator from Idaho, the Senator from Texas, as well as cooperation on the other side of the aisle, have gotten to the bottom of this. We have a lot more work to do. This is a good first step, and I encourage an ''aye'' vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1052, as amended. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Utah (Mr. BENNETT), the Senator from Florida (Mr. MARTINEZ), and the Senator from Arizona (Mr. MCCAIN).

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. LIEBERMAN) is absent due to death in family.

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

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 166 Leg.]

YEAS—96

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

NOT VOTING—4

| | |
|---|---|
| Bennett | Martinez |
| Lieberman | McCain |

The amendment (No. 1052), as amended, was agreed to.

AMENDMENT NO. 1059—MOTION TO SUSPEND

The PRESIDING OFFICER. There is now 2 minutes of debate equally divided on the motion of the Senator from North Dakota, Mr. DORGAN, to suspend paragraph 4 of rule XVI to consider his amendment No. 1059.

Mr. DORGAN. Mr. President, I am not going to belabor the discussion. I think all Members understand what this is. This vote will be on whether we decide to provide a humanitarian relief piece in the legislation that otherwise does not allow a soldier—who went to Iraq to fight for America's freedom in Iraq, won the Bronze Star, and comes back here to have the freedom—to go see a sick child in Cuba. Why? Because there is no humanitarian relief in the regulation that was passed by the President.

I am not going to go on at great length. I have spoken about this three times. It is not just about this soldier but about others. When I called down to the Treasury Department, they said: No, there is no opportunity for this soldier to go see a sick child. In fact, we have people calling here saying, My mother is going to die on Sunday according to the doctor, and we say, Sorry you can't go. That is the regulation. The new regulation says you get one visit in 3 years. If you had that visit, no matter what is happening to your family in Cuba, you can't go. Period. So this young man goes to Iraq, fights for his country, wins the Bronze Star, and doesn't have the freedom to go see his sick child in Cuba. That is wrong, and everybody in this Chamber ought to know it.

Mr. NELSON of Florida. Mr. President, I rise to oppose suspending the rules to take up the Dorgan amendment to revise rules on family travel to Cuba.

I have always supported a strong economic embargo against Cuba, as well as a ban on tourist travel to the island. I believe it is in our national interest to keep the pressure on the Cuban dictatorship, and not give Fidel Castro access to resources that make it easier for him to oppress the Cuban people.

At the same time, how we treat Cuban-Americans during their moments of family tragedy reflects on our character as a Nation. We should ensure that our policy demonstrates compassion for these fellow citizens in their moments of grief. I have many constituents who have faced such wrenching circumstances in their lives.

Unfortunately, my colleague from North Dakota is proposing a fairly significant change in U.S. foreign policy as part of an unrelated appropriations bill. In order for us to take up the amendment, the Senate would have to vote to suspend its own rules that ban legislating on an appropriations bill.

I am not opposed to a debate about whether our current policies on Cuban-Americans' ability to travel to see their relatives may be too restrictive and whether they are in need of adjustments. But if we are to have such a debate, my colleagues in the Senate deserve enough time to consider fully such a major change in U.S. foreign policy. I would be willing to work with my colleagues to try to fashion a proposal that could gain broad support

and would go through the proper legislative process. But for now, for the reasons I have stated, I must vote not to suspend the rules.

Mr. BURNS. Nobody can sum this argument better than the Senator from Florida and the Senator from Nevada. I would say this: This is a change in policy and regulation, and we should consider that.

I yield the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. HATCH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER (Mr. COBURN). Mr. President, on this vote, the Senator from Florida, Mr. MARTINEZ, is absent and would have voted nay. If I were permitted to vote, I would vote yea. Therefore, I withhold my vote.

## RECESS

The PRESIDING OFFICER. The Senate stands in recess subject to the call of the Chair. Standby for further instructions from Capitol Police.

Thereupon, the Senate, at 6:26 p.m., recessed until 7 p.m. and reassembled when called to order by the Presiding Officer (Mr. COBURN).

The PRESIDING OFFICER. The clerk will resume the rollcall.

The assistant legislative clerk continued with the call of the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Utah (Mr. BENNETT), the Senator from Arizona (Mr. MCCAIN), and the Senator from Florida (Mr. MARTINEZ).

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. LIEBERMAN) is absent due to death in family.

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

The yeas and nays resulted—yeas 60, nays 35, as follows:

[Rollcall Vote No. 167 Leg.]

YEAS—60

| | | |
|---|---|---|
| Akaka | Dodd | Lugar |
| Baucus | Dorgan | Mikulski |
| Bayh | Durbin | Murray |
| Biden | Enzi | Nelson (NE) |
| Bingaman | Feingold | Obama |
| Bond | Feinstein | Pryor |
| Boxer | Hagel | Reed |
| Burr | Harkin | Roberts |
| Byrd | Hutchison | Rockefeller |
| Cantwell | Inouye | Salazar |
| Carper | Jeffords | Sarbanes |
| Chafee | Johnson | Schumer |
| Clinton | Kennedy | Stabenow |
| Collins | Kerry | Sununu |
| Conrad | Kohl | Talent |
| Craig | Kyl | Thomas |
| Crapo | Landrieu | Thune |
| Dayton | Leahy | Voinovich |
| DeMint | Levin | Warner |
| DeWine | Lincoln | Wyden |

NAYS—35

| | | |
|---|---|---|
| Alexander | Domenici | Murkowski |
| Allard | Ensign | Nelson (FL) |
| Allen | Frist | Reid |
| Brownback | Graham | Santorum |
| Bunning | Grassley | Sessions |
| Burns | Gregg | Shelby |
| Chambliss | Hatch | Smith |
| Cochran | Inhofe | Snowe |
| Coleman | Isakson | Specter |
| Cornyn | Lautenberg | Stevens |
| Corzine | Lott | Vitter |
| Dole | McConnell | |

PRESENT AND GIVING A LIVE PAIR—1

Coburn

NOT VOTING—4

| | |
|---|---|
| Bennett | Martinez |
| Lieberman | McCain |

The PRESIDING OFFICER. On this vote, the yeas are 60, the nays are 35. Two-thirds of the Senators voting, a quorum being present, not having voted in the affirmative, the motion is rejected.

Mr. BURNS. Mr. President, I move to reconsider the vote.

Mr. COLEMAN. 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 Montana.

Mr. BURNS. Mr. President, this about winds up our work.

Mr. President, I raise a point of order on the pending amendment.

The PRESIDING OFFICER. The point of order is sustained. The amendment falls.

### GRANTS MANAGEMENT

Mr. INHOFE. Mr. President, amendment number 1051 concerns the manner in which the Environmental Protection Agency awards direct assistance grants. Over the past 10 years, regardless of Presidential administration, the U.S. Government Accountability Office and EPA Inspector General have been extremely critical of the way EPA awards and administers grants programs. As chairman of the Senate Environment and Public Works Committee, I have made oversight of EPA grants management a Committee priority. Each year, the EPA awards half its budget in grants amounting to over $4 billion. This amount is comprised of non-discretionary grants awarded pursuant to regulatory or statutory formula for expenditures such as capitalization funding for State and local programs and comprised of discretionary grants awarded to a variety of recipients. In a hearing before the Environment and Public Works Committee early last year, the Government Accountability Office and EPA inspector general offered testimony critical of the lack of competition in awarding discretionary funds, the lack of measurable environmental results, and an overall lack of accountability of EPA personnel and grant recipients. More specifically, the GAO testified that due to a lack of competition in grants, EPA can't ensure the most qualified applicants receive grant awards. The EPA inspector general even testified that due to a lack of competition, there is an appearance of preferential treatment in grant awards. On March 31, 2005, the inspector general released an audit concluding that EPA needs to compete more grants and recommended that EPA eliminate noncompetitive justifications for national organizations that represent the interests of State, tribal, and local governments. My amendment reflects the inspector general's recommendation and would simply require open competition to ensure the value of those awards. However, the EPA inspector general's recommendation may be too broad of an approach. Perhaps the most important question that can be raised concerning EPA grants is the question, ''What is the benefit to the environment?'' The EPA has an obligation to ensure taxpayers that it is accomplishing its mission of protecting human health and the environment with the funds it awards each year. My interest is ensuring that EPA direct assistance grants demonstrate environmental value and EPA enacts necessary measures to reach that aim. Can I get the commitment from the chairman of the Interior Appropriations subcommittee to work with me to sufficiently address this issue?

Mr. BURNS. I appreciate the concerns raised by the chairman of the Environment and Public Works Committee and commit to working with him to address this issue of importance to him and the Environment and Public Works Committee.

Mr. INHOFE. I thank the Senator from Montana and chairman of the Interior Appropriations subcommittee for his commitment to work with me on this matter of great importance to me, and I congratulate him on a job well done with respect to this appropriations bill. With his commitment I will withdraw my amendment 1051 to H.R. 2361.

### TRIBAL ASSISTANCE GRANTS

Mr. SMITH. Mr. President, in the Senate Report for the FY 2006 Interior and Related Agencies Appropriations bill, S. Rpt. 109–80, under State and Tribal Assistance Grants programs within the Environmental Protection Agency accounts, one of the line items gives a grant to a town in Oregon called Winchester. It is my understanding that the intended town which is seeking the grant of Federal assistance for water improvements is actually Winchester Bay, OR.

Mr. WYDEN. I concur with my colleague and ask through the chair that the managers of this bill fix this small but important typographical error in conference on this bill with the House of Representatives.

Mr. BURNS. Yes, we will certainly do that.

Mr. DORGAN. I concur with my colleague that we will indeed try to fix this conference.

### REPLACEMENT OF THE FILENE CENTER MAIN GATE

Mr. WARNER. I would like to engage the chairman in a colloquy on the facility needs at Wolf Trap National

Park for the Performing Arts. The President's budget request includes $4,285,000 to replace the main gate facility at the Filene Center. This project also includes the replacement of three temporary trailers. The purpose of this project is to vastly improve visitor services and security at the main gate entrance. These facility improvements are seriously needed to replace outdated and inadequate space for park employees, volunteers, park police and visitors. The current facilities, which have been considered ''temporary'' for over 20 years are functionally obsolete leaving visitors to wait in long lines for restrooms, and ticketing services.

I recognize that the Park Service's construction budget is under significant financial constraints, but I must emphasize the financial contributions made by the Wolf Trap Foundation to begin the conception design work of this long-awaited project. I respectfully request that the chairman keep these facts in mind, and ask if he could share with the Senate his views on this important project.

Mr. BURNS. I thank the Senator from Virginia, Mr. WARNER, for his support for this unique Park Service asset. As the Senator from Virginia has indicated, the facilities at the Filene Center's main gate are in serious need of replacement to improve employee space and visitor services. The Senator from Virginia has my commitment to ensure that the needs of this facility are fully evaluated as we work with our colleagues in the House of Representatives on the FY 2006 Interior and Related Agencies Appropriations bill.

Mrs. MURRAY. Mr. President, I engage the Senator from Montana, the distinguished subcommittee Chairman, and the Senator from North Dakota, the distinguished subcommittee ranking member, in a brief colloquy to clarify the location of the Forest Service land acquisition project listed as the ''I–90 Corridor'' on page 87 of the committee report.

Mr. BURNS. The subcommittee would be happy to assist the Senator in this matter.

Mrs. MURRAY. The project called ''I–90 Corridor'' is listed in the committee report as being in the Okanogan-Wenatchee National Forest. The parcels that are designated for acquisition by the Forest Service in FY 2006 are actually located in the Mt. Baker-Snoqualmie National Forest. I ask the Chairman and Senator DORGAN if that is their understanding as well?

Mr. BURNS. It is my understanding.

Mr. DORGAN. I concur and suggest we address this error through the conference report.

Mrs. MURRAY. I thank the chairman and ranking member, and appreciate the suggestion that we clarify this in the conference report accompanying H.R. 2361, so that the report will read ''Mt Baker-Snoqualmie National Forest—I–90 Corridor'' in the State of Washington.

Mr. BURNS. We will see that the change is made.

Mrs. MURRAY. I thank Chairman BURNS and Senator DORGAN for their assistance in clarifying this matter.

BIA WATER TECHNICIAN TRAINING PROGRAM

Mr. DOMENICI. Mr. President, I speak on the pending Interior and Related Agencies Appropriations bill for FY 2006. I would to discuss the Committee recommendation for the Bureau of Indian Affairs, BIA, Water Management and Planning program.

I thank the distinguished Chairman of the Interior Appropriations Subcommittee, Senator BURNS, and the distinguished ranking member, Senator DORGAN, for restoring $2 million to the President's budget request for BIA Water Management and Planning. These funds are very important to the Indian Tribes and Pueblos in the State of New Mexico.

I am particularly interested in the Water Technician Training program that is funded within this BIA program. The BIA Water Technician Training program trains Native Americans to manage water resources on their reservation lands. The program trains tribal members in a broad range of water-related fields, including hydrology, fish and wildlife biology, irrigation, soil surveys, dam operation, surface and ground water pollution, and forest management. Training is offered at university campuses, including New Mexico State University.

The program curriculum is developed with Federal agency partners, including the Bureau of Reclamation, Army Corps of Engineers, Department of Interior agencies, the Environmental Protection Agency, and the Forest Service. With this technical training, tribal members work to manage and preserve water and other natural resources for the benefit of the tribe. The program provides educational and employment opportunities and economic benefits.

May I inquire of the distinguished Chairman if it is the intention of the Subcommittee in restoring $2 million to the BIA Water Management and Planning Program to continue the Water Technician Training program, which is currently receiving $400,000?

Mr. BURNS. The Senator from New Mexico is correct. The committee restored $2 million to the BIA budget request for Water Management and Planning activities and continues funding for the BIA Water Technician Training program, which the administration proposed to eliminate.

Mr. DORGAN. I agree with the distinguished Senator from Montana that this is the intent of the committee bill, and the Senate expects the administration to fund the BIA Water Technician Training program at the current level of $400,000.

Mr. DOMENICI. I thank my colleagues for this assurance. I appreciate their confirmation as to continuation of funding for the BIA Water Technician Training program.

GRAND TETON NATIONAL PARK VISITORS CENTER

Mr. THOMAS. Mr. President, I would like to ask the distinguished chairman for his assistance in solving a problem that I hope he, too, would agree needs fixing.

In the fiscal year 04 and fiscal year 05 appropriations, Congress provided a total of $8 million in the NPS construction account to build a visitors center at Grand Teton National Park. Private partners will contribute $10 million.

The Park Service has asked the private partners to deposit their share in an escrowed Treasury account prior to the start of construction. To meet that requirement, the private partners will borrow the funds from a commercial bank and therefore begin accruing interest expense immediately even though the majority of the funds may not be needed for 12 to 18 months.

The private partners would prefer to meet their commitment by giving the NPS an irrevocable letter of credit due and payable from a bank or financial institution organized and authorized to transact business in the United State. It would save them upwards to $800,000 in interest payments over the construction period—funds that could be used for other park projects.

The National Park Service believes they don't have the authority to accept a letter or credit unless specifically authorized by Congress, Anti-Deficiency Act, 31 U.S.C. 1341(a)(1).

As chairman of the National Parks Subcommittee of the Energy and Natural Resources Committee, it is my goal to encourage partnerships that benefit our parks while at the same time insuring that the Government's interest is protected.

I ask that we work together between now and conference to evaluate ways these two goals can be accomplished. Specifically, I would like to grant the NPS the authority to accept an irrevocable letter of credit if we can be convinced the government's interest would be protected.

Mr. BURNS. Mr. President, the role of partnerships is rapidly changing and our subcommittee has encouraged the Park Service to develop guidelines and standards for their partners. I am encouraged by the progress. It also seems appropriate that we not hobble partners with unnecessary and expensive requirements. I will be glad to look at ways to do that.

RAHWAY VALLEY SEWERAGE AUTHORITY

Mr. LAUTENBERG. Mr. President, I would like to bring to the Senator's attention a very important project in my home State of New Jersey that I believe should be given strong consideration for funding. The Rahway Valley Sewerage Authority is currently undertaking a project on a grand scale. In 1998, the Environmental Protection Agency directed the authority to expand its wastewater treatment capacity in order to meet wet weather sanitary sewage overflow requirements by 2008. The estimated cost of this large project was $68 million at the time.

That estimate proved to be optimistic. The present day cost estimate for the project is $235 million.

Mr. CORZINE. Mr. President, I thank my colleague, Senator LAUTENBERG, for bringing this project to the attention of the ranking member of the Interior Appropriations Subcommittee. This project is quite costly for the authority and the State of New Jersey and will lead to the tripling of sewer rates for residents in 12 communities in the area. I believe that any funding assistance that the federal government can provide would be put to very good use.

Mr. DORGAN. Mr. President, I thank the Senators from the State of New Jersey. This program sounds very important but how does the Rahway Valley Sewerage Authority plan to tackle this large task?

Mr. LAUTENBERG. The authority, as required by the consent order, has developed a comprehensive strategic plan to comply with the order. A critical component of the plan is the construction of a new gravity relief sewer that will convey combined sanitary sewage overflows for enhanced treatment at the upgraded plant. The authority has focused its request for Federal funding exclusively on this gravity relief sewer facility. The gravity relief sewer facility is estimated to cost $10.9 million in its entirety. Federal funding can play an important role in financing this cost and in facilitating the early construction of this much needed project.

Mr. DORGAN. I thank my colleagues from New Jersey and I thank them for bringing this project to my attention. This does sound like a good project and as this bill moves to conference we will try and do what we can for it.

Mr. BURNS. I concur with the ranking member. I believe this project does have merit, and we will see what we can do for this project as this bill moves to conference.

COMPETITIVE SOURCING PROCESS

Mr. FEINGOLD. Mr. President, it is no secret that there have long been concerns about the competitive sourcing process at the Forest Service. I commend the chairman and ranking member for their attention to this issue in the underlying bill, which reflects those concerns by limiting the amount of funding that the Forest Service may use during fiscal year 2006 for competitive sourcing studies and related activities. The underlying bill also requires agencies funded by this bill to ''include the incremental costs directly attributable to conducting the competitive sourcing competitions'' in any reports to the Appropriations Committee about such studies and stipulates that such costs should be reported ''in accordance with full cost accounting principles.'' The fiscal year 2006 Interior appropriations bill that the other body passed last month contains similar language, and also directs the Forest Service to provide quarterly reports on its related business process reengineering efforts.

The American people deserve to know how their tax dollars are being spent and if the Forest Service's competitive sourcing process is resulting in true savings, which should include a full cost accounting of all of the related savings and losses associated with this process.

An amendment I proposed to the bill would have required the General Accountability Office to conduct an audit of existing Forest Service competitive sourcing procedures and to make recommendations on how these procedures can be improved, including recommendations on what accounting practices should be adopted, by the Forest Service to improve accountability.

It is my understanding that the chairman and the ranking member have agreed to work with me to request such an audit.

Mr. BURNS. The Senator is correct. I am willing to work with the Senator from Wisconsin, Mr. FEINGOLD, and the ranking member of the subcommittee, Mr. DORGAN to request in writing this audit by the Government Accountability Office.

Mr. DORGAN. I would be happy to assist with such a request for a GAO audit of the Forest Service's competitive sourcing initiative.

Mr. FEINGOLD. I thank the chairman and the ranking member for their assistance on this important issue. I look forward to reviewing GAO's findings.

NORTHEAST STATES FORESTRY RESEARCH COOPERATIVE

Mrs. CLINTON. Mr. President, I rise today to discuss an important matter with the Chairman and ranking member of the Interior Appropriations Subcommittee regarding a provision in the Senate bill which provides funding for the Northeast States Forestry Research Cooperative.

Congress authorized the creation of the Northeast States Forestry Research Cooperative in the 1998 Agricultural Research Act. The authorization directed the Secretary of Agriculture to provide funding to land grant colleges and universities and natural resources and forestry schools in the States of New York, Maine, New Hampshire, and Vermont for research, technology transfer and other activities related to ecosystem health, forest management, development of forest products and alternative renewable energy.

While I certainly support funding for Maine, Vermont and New Hampshire, I believe that New York, and our lead institution, the SUNY College of Environmental Science and Forestry, has been left out of the funding pool and ought to be included in this year's Interior Appropriations bill.

Mr. BURNS. I thank the Senator from New York for her comments about the Northeast States Forestry Research Cooperative. We did provide additional funding to allow Maine to become integrated into the cooperative and I appreciate the Senator's position with respect to her State of New York. I will consider additional funding as the bill moves to conference.

Mr. DORGAN. Mr. President, I thank the Senator from New York. I know the Senator has advocated for including New York in the account that funds the Northeast States Forestry Research Cooperative. This is a great program that provides significant research, economic development, and technology transfers related to our Nation's forests. I applaud the Senator for her continued advocacy and I want to assure her that I will work with the Chairman to consider additional funding as the Interior bill moves to conference with the House.

Mrs. CLINTON. I thank the Chairman and ranking member of the Interior Appropriations Subcommittee. When one considers that New York's northern forests are more than three times the size of those in New Hampshire and Vermont combined, I believe that adding New York for funding is the right thing to do.

The forest products industry is a major contributor to the New York State and national economy. New York's forest products industry is the fifth largest manufacturing sector employing more than 60,000 people. It is estimated that forest-based manufacturing and forest-related tourism and recreation contribute more than $9 billion to New York State's economy each year. Jobs in these areas must be sustained to ensure our forest communities remain strong. These forests must be managed wisely through sustainable development that recognizes the needs of these communities, but also values the benefits derived from America's forests. This is particularly true when considering that these forests cover 75 percent of the critical New York City watershed.

This investment will provide economic benefits that contribute to ''smart energy'' demonstrations and commercialization of wood-based biorefining technology which will advance biofuels, and other natural industries in New York State.

I thank the chairman and ranking member for their willingness to consider additional funding to include New York as part of the Northeast States Forestry Research Cooperative.

LAKE MEAD NATIONAL RECREATION AREA WATER SYSTEMS

Mr. REID. I am proud to represent a State with so many natural treasures. Of particular importance to me is the Lake Mead Natural Recreation Area, which is managed by the National Park Service. Because of its amazing natural beauty and its proximity to the residents of both southern Nevada and northern Arizona, Lake Mead receives nearly 10 million visitors a year. I rise today to bring attention to a water and wastewater maintenance project at Lake Mead that is need of serious attention. Is the distinguished ranking member familiar with the beautiful Lake Mead National Recreation Area?

Mr. DORGAN. I am indeed. The Senator should be proud to have such a jewel in his State. Lake Mead is not only a great recreation site within Nevada's borders, but is known worldwide for its clean waters and the unforgettable Hoover Dam that was a vital public works project during the Great Depression. I understand that the project that the distinguished minority leader is concerned with was included in the President's budget as one of the Park Service's main priorities. Is that correct?

Mr. REID. The Senator from North Dakota is correct. Because Lake Mead's water and wastewater facilities were constructed in the 1950s, and some as long ago as the 1930s, the National Park Service and the President put these projects forward as priorities. Failure of the water systems—including force mains, gravity mains and manholes—would cause significant risks to public health and the environment due to discharges of raw sewage from these systems. Sewage is generated at the lowest point in these systems due to waste-generating activities occurring close to the lake, so the pristine water quality of Lake Mead and Lake Mohave could be jeopardized if there were a major spill caused by catastrophic failure of one of these mains. Failure of any force main would also virtually shut down all commercial, residential, and recreational use within the development and could expose visitors and employees and their families to the risk of disease transmission via direct physical contact with raw sewage, as well as undermining roads, buildings, utility lines, or other structures due to high-pressure spray. In short, this is no little problem.

Mr. BURNS. It is my understanding, Mr. President, that the administration's budget requested $9.4 million to deal with phase-1 improvements to the water and wastewater systems at Lake Mead.

Mr. REID. The Senator is exactly right.

Mr. BURNS. Well, let me assure the minority leader that we will look for ways to help fund this long overdue maintenance of Lake Mead's water and wastewater systems. One option we can consider is to find funding for the failing wastewater system this year—I am told this is roughly $2.7 million—since it seems to pose the greatest threat to Lake Mead and its visitors. And we will certainly give the rest of the project the attention it deserves.

Mr. REID. The chairman and ranking member are very kind to share my interest in this project. I greatly appreciate their assistance on this important issue.

INDIAN HEALTH FACILITIES IN NEVADA

Mr. REID. The Indian Health Service which is funded by this bill, is the agency charged with providing health care services to Native American people. We in this body must work to ensure that the Indian Health Service is meeting the needs of all Native Americans. My State is home to 22 Indian tribes, all of which are served by the Phoenix area office of the IHS. That same office also provides health services to the Indians of Arizona and Utah, except for the Navajo Nation. Am I correct that this year's appropriations bill contains $8 million in funding for the construction of one of the ambulatory care clinics in the Phoenix area of the IHS?

Mr. BURNS. The Senator is correct. The Phoenix Indian Medical Center Hospital System is at the top of the priority list for replacement of its inpatient facility. As part of this replacement, three ambulatory clinics will be constructed in the region to provide better health care services to the tribes in the area, including those in Nevada. The amount of $4 million in planning funds for design of two of the center's clinics was provided last year. This year, an additional $8 million for the construction of one of the clinics that is part of that project is recommended in the Senate bill.

Mr. REID. I thank the Senator. The tribes in my State are supportive of efforts to improve health care for tribes in Phoenix. They have told me that—of all the challenges that confront tribes today—health care is by far the most urgent, and perhaps the most daunting. I thank the Senator and the members of his subcommittee for realizing the importance of Indian health care and providing resources for it.

However, the tribes in my State face another challenge in terms of the replacement of this medical center system. The current plans call for the replacement of three out-patient clinics in the Phoenix metropolitan area, and will provide for the eventual renovation of the in-patient medical center. These are important projects. However, tribes in Nevada cannot realistically make use of these centers. Tribes in Northern Nevada, for instance, are more than a day's drive from Phoenix.

I am told that the Indian Health Services' plans to replace the Phoenix Indian Medical Center system were developed without adequately accounting for the health care needs of eligible beneficiaries in outlying areas, like Nevada, Utah or rural Arizona. I am also told that should those plans move ahead, the resulting health care delivery system will disadvantage eligible beneficiaries that reside a distance away from the Medical Center.

In order to address these concerns, it is especially important to me that the IHS meet and discuss with Nevada tribes ways to improve health care services in Nevada, including facility needs and the Contract Health Services Program. In addition, I expect that these meetings will result in a report to the committe, with recommendations, to assist the committee in its ongoing efforts to improve the quality of health care for Nevada's Native Americans.

Mr. DORGAN. I thank the Senator. My State has several Indian tribes as well, and I am aware of the challenges that they face. I assure the minority leader that the committee is aware of the Indian health needs in Nevada and expects that IHS will, No. 1, continue to meet and discuss with the 22 tribes in Nevada, as well as the Intertribal Health Board of Nevada and the Intertribal Health Board of Nevada, in an effort to find ways to improve the delivery and quality of health services to Native Americans in Nevada, and, No. 2, will report back to the committee in writing, with recommendations, on how to improve secondary and tertiary care in Nevada.

Mr. BURNS. My State of Montana is home to tens of thousands of Native Americans, and I am familiar with the health care challenges that they and other Native Americans around the Nation face. I understand that the minority leader expects IHS to meet with all Nevada tribes to discuss ways to improve their health care services.

Mr. REID. Mr. President, I look forward to working with the Senators to ensure that Indian beneficiaries in Nevada receive the critical health care funding that they need. I thank the Senators for their work on behalf of Native Americans throughout Nevada and the Nation, and I thank them for engaging in this colloquy.

AMENDMENT NO. 1030

Mr. BINGAMAN. Mr. President, on May 24, 1999, the Bureau of Indian Affairs produced an agreement regarding the funding formula for the two BIA postsecondary schools Southwestern Indian Polytechnic Institute, known as SIPI, and Haskell Indian Nations University. SIPI and Haskell agreed that while base funding for each institution would not be impacted, all new funds would be proportionately distributed to each school based on unmet student need. In accordance with the agreement, BIA developed a formula for unmet need.

In the conference report to Public Law 106–113, the Interior Appropriations bill, Congress then directed BIA to allocate funds for SIPI and Haskell for fiscal year 2000 as determined by such formula. Since then, however, BIA has not used the formula agreed upon by all parties, but should have, as Congress directed.

Mr. BURNS. The Senator from New Mexico is correct.

Mr. DORGAN. I agree with the chair and the Senator from New Mexico.

Mr. BINGAMAN. I ask if the chair and ranking member would work with me, should funding become available, to find $178,730 in conference for SIPI, which is the amount of funds I believe is needed to correct this situation for the period that the formula should have been used according to Congressional direction, up to and including fiscal year 2006.

Mr. BURNS. I will be happy to consider the Senator's request should funding become available.

Mr. DORGAN. I, too, will do my best to help solve this problem.

HIGHLANDS CONSERVATION ACT

Mr. CORZINE. Mr. President, on November 30, 2004, President Bush signed the bipartisan Highlands Conservation Act into law to authorize up to $11 million per year over the next 10 years for land conservation partnership projects and open space purchases from willing sellers in the four-state Highlands Region.

This law recognizes the national significance of land and water resources in the 3.5 million acre Highlands Region which stretches from northwestern Connecticut, across the lower Hudson River Valley in New York, through New Jersey and into east-central Pennsylvania. It will safeguard these critical resources to protect the pristine wilderness and wildlife of the Highlands.

The value of the natural, recreational and scenic resources of the Highlands cannot be overstated. In a study of the New York–New Jersey Highlands region alone, the Forest Service found that 170 million gallons are drawn from the Highlands aquifers daily, providing quality drinking water for over 11 million people; 247 threatened or endangered species live in the New Jersey–New York Highlands region, including the timber rattlesnake, wood turtle, red-shouldered hawk, barred owl, and great blue heron. According to the U.S. Forest Service, over 14 million people visit the New York–New Jersey Highlands for outdoor recreation, more than Yellowstone National Park and our most heavily visited natural treasures.

Mr. LAUTENBERG. According to the Forest Service, more than 5,000 acres of forest and farm land in the New York and New Jersey sections of the Highlands have been lost annually to development between 1995 and 2000, and nearly 300,000 acres of land critical to future water supplies remain unprotected. As the demand for new housing and other types of development continues to alter the vast areas of forest and open space in our region, it is important that Congress acts now to provide funding to preserve the high priority open space that remains. I appreciate the consideration by my colleagues from North Dakota and Montana of the importance of protecting the Highlands Region.

Mr. CORZINE. I was proud to work with my colleagues in the Senate, Senators LAUTENBERG, CLINTON, SCHUMER, SPECTER, SANTORUM, LIEBERMAN and DODD, and my colleague in the House of Representatives, Congressman FRELINGHUYSEN to enact the Highlands Conservation Act into law. To secure appropriations to match the authorization, we requested from the Interior Appropriations Committee $11 million to support open space protection in the four Highlands States for fiscal year 2006. Unfortunately, that funding was not included in the bill. This vital funding is needed to protect the Wyanokie Highlands, Scotts Mountain and Musconetcong Ridge in New Jersey, as well as to protect threatened areas in New York, Connecticut and Pennsylvania. It would also allow the USDA Forest Service to update its 1992 study of the Highlands Region to include the States of Connecticut and Pennsylvania. We would like to work with the chairman and ranking member to ensure they are protected. Will the Senators agree that should funding become available during the conference proceedings that they will work with us to secure funds to meet the goals of the Highlands Conservation Act and protect the Highlands, especially the New Jersey Region?

Mr. DORGAN. I agree with the Senators from New Jersey that the Highlands Region is a vital national resource. If there are funds available in the conference report, I will work with the Senators to see if we can secure the funding needed to protect this region.

Mr. BURNS. I understand the importance of the Highlands Region. Should funding become available during conference proceedings, I will work with my colleagues to seek funds to support land conservation partnership projects and open space purchases from willing sellers in the Highlands region.

AMENDMENT NO. 1031

Mr. BINGAMAN. Mr. President, my amendment provides more opportunities for Youth Conservation Corps to partner with the land management agencies funded through this bill. In addition, according to agency information, it would save the taxpayers money.

For decades, we have included a provision in this bill requiring the land management agencies to carry out some of their projects in partnership with the Youth Conservation Corps. In the mid-1970s, we funded the YCC program at $60 million each year. Unfortunately, Congress has more or less forgotten the YCC for the last 5 years, which is how long it has been since we increased the modest setaside for the programs to about $7 million.

YCC projects range from building trails and campsites, to restoring watersheds and monuments, to eradicating exotic pests and weeds. The Youth Corps bring to the agencies enthusiastic young adults that are ready to work hard to improve our public lands. The youth corps members come away with a good job and invaluable experiences.

In New Mexico, for example, the Rocky Mountain Youth Corps has partnered with all of these agencies to carry our many projects over the years. One project was to create a scenic lakeside trail with an interpretive nature component in the Carson National Forest. Recently, the site was listed as one of the top 15 camping sites in New Mexico, and the lakeside trail is an integral component of that camping experience.

We held a hearing on the YCC program in the Committee on Energy and Natural Resources a few years ago, and the Park Service Director testified that his agency received $1.70 in benefits for every $1.00 it invested in YCC projects. The Fish and Wildlife Service estimated that it received $2.00 dollars for every $1.00 it invested. Supporting this program is good fiscal policy.

My amendment would provide a modest increase of almost $2 million in the YCC setaside, to be spread among the four agencies. This does little more than prevent the program from shrinking from where it was 5 years ago, but it would result in tangible benefits to our youth, our public lands, and our budget.

This amendment is good education policy, good public lands policy, good economic policy, good government policy, and good fiscal policy. I am gratified that this amendment was adopted.

AMENDMENT NO. 1050

Mr. KYL. Mr. President, I rise today to speak to the withdrawal of my amendment No. 1050 to H.R. 2361, the pending Interior Appropriations bill. Although the amendment was withdrawn, I remain committed to addressing the funding inequities in the EPA-administered Clean Water Act State Revolving Fund—CWA SRF—the primary Federal mechanism for financing clean water and wastewater infrastructure projects nationwide.

I applaud both Senator BURNS and Senator DORGAN, the chairman and ranking member respectively, for recognizing the importance of this program and funding it at the fiscal year 2005 level of $1.09 billion in this tight budget year.

Our States do depend on CWA SRF to provide much needed financial assistance in the form of low interest loans to towns and cities to help defray the costs of maintaining and upgrading their water treatment systems. It is especially beneficial for small rural water companies that serve so much of the Western and Midwestern States.

However, providing level funding for the CWA SRF is not enough. We have a more fundamental problem that needs to be addressed with regard to the CWA SRF. That is, the inequities built into the current CWA SRF formula which will determine how much of the $1.09 billion each State gets. Senator BURNS recognizes that too, and has agreed to work with me to correct it.

Congress adopted the current allocation formula in the 1987 amendments to the Clean Water Act. The formula was developed behind closed doors during the conference.

Nowhere in the legislative history of Congress' final action on the 1987 amendments is there a clear statement about how it came up with the final allocation formula—it is even difficult to guess. The conference report on the final legislation merely states: ''The Conference substitute adopts a new formula for distributing construction grant funds and the state revolving loan fund capitalization grant funds and the state revolving loan fund capitalization grants among the states for

fiscal years 1987 through 1990.'' The allocations are fixed, statutory percentages. That is to say, once the Act was signed into law, each would receive the same share of available funds in perpetuity, unless the Act itself is amended.

This is not the first time I have come to the floor to persuade my colleagues to act to change this formula, and I doubt it will be the last. Some of you may remember that we had a very good debate on August 2, 2001, during the Senate's consideration of the VA–HUD appropriations bill on this very issue that resulted in the Senate expressing its sense about the need to report authorizing legislation that included an equitable, needs-based formula.

As my constituents remind me, we have yet to either amend or reauthorize the portion of the Clean Water Act pertaining to the CWA SRF or the faulty formula. Year after year promises are made but nothing happens. The authorizing committee has had years to change the formula and has not done so. There is a reason nothing happens—because the States that benefit from the current formula do not want it to change. There is nothing wrong with that. I do not blame them, but there comes a time when one's patience wears thin. I think we have an obligation to say enough is enough. We must change the formula.

After all, let's look at the current situation we face in the bill before us. We are appropriating dollars to an unauthorized program—it expired in 1990—using a statutory formula set 19 years ago that bears no relationship to the actual needs reported by the states. That is sad, and it needs to change.

It is interesting to note that, when Congress enacted the 1996 Safe Drinking Water Act, we ensured that no such inequity would haunt the newly created Drinking Water State Revolving Fund. From its inception, the Drinking Water Fund was allocated on the basis of a quadrennial infrastructure needs survey conducted by the various States under EPA supervision and guidance. The survey involves the States in determining their own needs for drinking water infrastructure to ensure compliance with EPA regulations. The EPA, in turn, validates the state submissions and compiles them in a report to Congress. The EPA then allocates Drinking Water Fund appropriations on the basis of each State's proportional share of the total need.

There is a fundamental fairness associated with allocating the funds on the basis of the survey. The States themselves participate in the survey. The EPA has oversight, but in the end, valid needs are simply compiled into the aggregate, and the resulting State share of the total national need determine Drinking Water Fund allocations among the States.

Unfortunately, as we all know, the same is not true for the much larger CWA SRF. A Clean Water Needs Survey is performed by the States every 4 years called the ''Clean Watershed Needs Survey'' and the EPA in fashion similar to the compilation of the Drinking Water Needs Survey validates the State's submissions and compiles them in a report to Congress. The Clean Watershed Needs Survey, however, has no impact on CWA SRF allocations.

I believe, as I am sure do most of my fair-minded colleagues, that we must work together to right this wrong. There is no reason for the Drinking Water Fund to be allocated fairly on the basis of actual need, while the CWA SRF is allocated on an arcane set of fixed percentages that were established before most of us were elected to Congress.

So what does my amendment do? What my amendment would do is update the funding formula using the Drinking Water Fund formula as precedent. Under my amendment, each State would receive funds based on its share of the total 20 year-clean watershed infrastructure needs, as documented in the most recent Clean Watershed Needs Survey, with no State receiving less than 1 percent of the total appropriated for the CWA SRF. There would be up to 1.5 percent set aside for Indian Tribes and 0.25 percent for all the U.S. territories.

What I am saying is, let's even out the playing field and make sure that everybody gets at least a share closer to what the EPA says they deserve to have. That is what we are trying to do, make it fair for everybody.

Let me cite some examples that demonstrate the fundamental unfairness of the current formula in contrast to my amendment. There are 12 States that are receiving more funding than the minimum allocation and more than they documented in needs in the survey. These States would lose the windfall they are currently receiving under my amendment.

But there are some States, like New Jersey and Florida, that are receiving significantly less than their share. My amendment would correct this inequity. New Jersey, for example, would receive about $45 million under the current formula. It would receive almost $61 million under my amendment—about a $16 million increase. Florida would receive about $37 million under the current formula but would receive almost $48 million under my amendment—about a $10 million increase. The increases these States receive demonstrate the fact that they have been significantly shortchanged in the past. My home State falls into this category. Arizona ranks 10th in need according to the latest EPA Clean Watershed Needs Survey. However, Arizona ranks dead last, behind all the States and Puerto Rico in the percentage of needs met under the current formula. In terms of dollars, Arizona would receive about $7 million under the current formula, but would receive almost $31 million under my amendment. I am sure now it is clear why I am standing here.

My amendment also helps small States. Those States would receive the minimum allotment, which is actually a greater percentage than they should based on the needs they documented in the needs survey. There are five other States that will see a reduction in what they receive, but these States have had a larger percentage of their total needs funded under the current formula since it was enacted. The state of New York is an example. New York is No. 1 in need and No. 1 in total dollars received out of the CWA SRF. I should point out that although New York's total allocation would go down under my amendment it would continue to rank No. 1 in terms of dollars allocated. New York would receive approximately $95 million.

The formula that I proposed in my amendment assures that each State could meet the clean water needs of its citizens by bringing fundamental fairness to the allocation of the appropriated dollars. It ensures that all States receive a fair share, and recognizes that needs change over time. By changing the formula to comport with the needs survey, it will adjust to changing circumstances and, thus, will protect all states.

If my colleagues have a better formula I urge them to come forward with it. This issue is not going away. Senator BURNS recognizes that. In return for my withdrawal of this amendment, he has agreed to work with me to persuade the authorizing committee to get this done. I thank him for that.

Mr. CHAFEE. Mr. President, I wish to register my opposition to the Kyl amendment No. 1050 to H.R. 2361, the Senate Interior Appropriations bill.

The Clean Water State Revolving Fund Program is essential for protecting public health, watersheds, and the natural environment by providing critical federal seed money for the maintenance and improvement of water infrastructure. Despite important progress in protecting and enhancing water quality since the enactment of the Clean Water Act in 1972, serious water pollution problems persist throughout the Nation.

The need for continued Federal investment in the Nation's water infrastructure is undeniable. The Environmental Protection Agency's September 30, 2002 Clean Water and Drinking Water Infrastructure Gap Analysis found that there will be a $535 billion gap between current spending and projected needs for water and wastewater infrastructure over the next 20 years if additional investments are not made. In November 2002, the Congressional Budget Office estimated that the annual investment in clean water infrastructure needs to be at least $13 billion for capital construction and $20.3 billion for operation and maintenance.

The Kyl amendment would restructure the current formula for distributing federal funding to the states under the Clean Water State Revolving Fund, SRF, Program. As chairman of

the Subcommittee on Fisheries, Wildlife, and Water, with authorizing jurisdiction over the Clean Water Act and the SRF Program, I thank Senator KYL for his interest in the clean water formula.

However, I believe the Interior appropriations bill is the wrong forum for discussion of any statutory changes to the Clean Water SRF formula. Members of the subcommittee and the Environment and Public Works Committee are working closely to craft water infrastructure legislation that would authorize new funding for the Clean Water and Drinking Water SRFs, as well as address the antiquated Clean Water SRF formula.

Senator KYL is correct, the Clean Water SRF formula is in need of revision. Arizona is one of many States that have seen their needs grow since the last time the formula was updated in 1987. The Environment and Public Works Committee is working on the necessary changes to the SRF, and hope to move water infrastructure legislation by the end of the summer.

I encourage my fellow colleagues to oppose the Kyl amendment and support the ongoing process of updating the Clean Water formula by the Environment and Public Works Committee.

Mr. INHOFE. Mr. President, to begin, let me assure my colleague that as chairman of the Environmental and Public Works Committee, I am fully aware of how important this issue is to his State of Arizona. His State's current allocation under the Clean Water Act is well below the State's proportional need.

As my colleague knows, the EPW Committee has for the past two Congresses passed legislation to reauthorize the Clean Water and Drinking Water SRFs. In those bills, the committee also rewrote the clean water formula. My colleagues Senators JEFFORDS, CHAFEE and CLINTON and I are working on a new proposal and feel confident that unlike our previous efforts, this bill will be enacted into law.

My State of Oklahoma would get more money under the Kyl formula than under the current allocation. I would like to support your amendment because it brings more dollars home to Oklahoma. However, all States need more water infrastructure money as their systems age and struggle to meet the ever-growing list of Federal regulations. There is a significant nationwide shortage of funds that is affecting all States.

Given current Federal appropriations, there is simply no way to rewrite the formula so that all States win. If we change the formula, without reauthorizing the State Revolving Loan Funds, some States will have to lose money. In order to assure that each State receives sufficient funds to run an effective program, we need to enact water infrastructure legislation which raises the authorization level for this important program while also addressing the formula. The committee's long-term goal is to keep everyone whole because all States need more money not less. I hope all of my colleagues who care strongly about the Kyl amendment will rally around the bill that we hope to pass out of committee next month.

The committee will do as the Senate promised Senator KYL during the 107th Congress and pass another formula. We will put forth a proposal that minimizes the pain to those States that will see their clean water funding cut while providing modest increases to other States. We will continue to work to increase the authorization to this important program so that the needs of all States can be met.

I appreciate my colleague's willingness to withdraw his amendment and allow the committee to do its work.

Mr. JEFFORDS. Mr. President, I rise in opposition to the Kyl amendment No. 1050.

This amendment seeks to change the distribution formula for the Clean Water State Revolving Fund which sends money to the states for water infrastructure projects.

The Clean Water Act is within the jurisdiction of the Environment and Public Works Committee, of which I am the ranking member. We are aware of the issues raised by Senator KYL in this amendment—the distribution formula is outdated. It was adopted in 1987 and has not changed.

Arizona receives a very small percentage of the total through this formula. However, an appropriations bill is not the right place for this change in authorizing legislation. A change of this magnitude needs to be worked through the authorizing committee.

There are serious consequences to this type of action. For example, under the Kyl formula, the State of Ohio loses 30 percent of its current allocation. Tennessee would lose 32 percent. Michigan would lose 57 percent. Massachusetts would lose 38 percent of its current allocation.

In the last two Congresses, the EPW Committee has acted to update the formula and increase funding levels for the Clean Water State Revolving Fund. This Congress, we are again planning to move this legislation through the committee in just a few weeks.

I cannot support an amendment making a change of this significance on an appropriations bill. There are also some problems with the language in the Kyl amendment.

It calls for States to receive at least 1 percent of the total if their need is less than 1 percent and it simultaneously calls for all other States to receive their need. This is simply impossible to do.

With a finite pot of money, in order to establish a 1 percent floor, it is necessary to take some funds away from nonfloor States. The Kyl amendment fails to include this step in the process.

In addition, the Kyl amendment includes a provision dealing with unallocated balances. Again, there are no unallocated balances in a formula that distributes 100 percent of the available money.

The Senate should not act on an authorizing change of this magnitude on an appropriations bill. The Environment and Public Works Committee is on the verge of marking up legislation dealing with this exact issue.

In addition, there are technical problems with the Kyl amendment that would make it impossible to implement. Therefore, I urge my colleagues to vote ''no'' on the Kyl amendment.

Mr. DODD. Mr. President, I was necessarily absent from the Senate yesterday and missed rollcall votes 158 through 160. There were two reasons for my absence. First, I attended a memorial service for Mrs. Marcia Lieberman, the mother of our colleague, JOSEPH LIEBERMAN. Second, I attended memorial services for Robert Killian Sr., the former Lieutenant Governor of Connecticut, a close friend to me and my family. Had I been present for these votes, I would have voted as follows:

Rollcall vote No. 158: ''Yea''; rollcall vote No. 159: ''Nay''; rollcall vote No. 160: ''yea''.

Mr. JEFFORDS. Mr. President, I would like to spend a moment talking about the funding of critical programs under the jurisdiction of the Environmental Protection Agency, EPA. While I am pleased with the Appropriations Committee's efforts to fund the State Revolving Fund for Wastewater Treatment and for Drinking Water at the highest possible levels, I am gravely concerned about the overall cut in environmental spending contained in the bill before us today.

A clean and healthy environment may be our most important legacy for our children. It saddens me to think that under the guise of fiscal responsibility, the bill before us today cuts spending at the Environmental Protection Agency, EPA, to levels not seen since fiscal year 2001. This bill funds the EPA at $7.88 billion. As recently as fiscal year 2004, the EPA received $8.365 billion. This is a cut of almost $500 million in just 2 years.

Because of the administration's fiscal policies and priorities, which have led to record deficits, we are now going to underfund many programs that are important to the protection of public health and the environment. While I appreciate the dire straits that the Interior Subcommittee members found themselves in, particularly relative to other subcommittee's allocations, I am very concerned with some of the proposed cuts. In addition, I am very concerned that these levels will drop further in conference with the House, which is significantly more hostile to such programs under its current leadership.

I want to highlight a few of the funding reductions in air protection programs that I am concerned about and hope will be increased in conference.

The bill includes a reduction for the Clean Air Allowance Trading program.

This reduction will impede the implementation of the administration's recently and much-touted clean air interstate rule.

The bill recommends a large reduction in EPA's Federal Vehicle and Fuels Standards and Certification Program. Such a cut from the budget request appears designed to harm the Agency's ability to proceed on a number of fronts that would otherwise produce cleaner vehicles and air sooner. Specifically, the cuts will make it harder for EPA to propose and finalize, as promised in regulation and, in some cases, directed by Congress, a rule on mobile source air toxics, on locomotive and marine diesel engine emissions performance, and on small engine emissions standards.

This bill would cut by 10 percent EPA's research on national air quality standards. Such a cut goes against continuing scientific revelations about the significant harm that air pollution at all levels causes to public health. In addition, this cut could further delay the already late implementation rules for PM–2.5 and the second phase on the ozone standard. At a time when EPA should be focusing heavily on revisions to the PM–2.5 and ozone standards, and the necessary scientific research to support those reviews, as well as providing critical advice to the States and local governments on the most effective methods of control and monitoring, these reductions cause me great concern.

The bill would reduce the budget request for Federal Support for Air Quality Management by $22.7 million. This will cut back on plans for the national clean diesel initiative and substantially delay the EPA's efforts to improve the reliability and availability of Air Quality Index forecasts around the Nation. As Senators may know, this is a particularly important tool for the growing population of asthmatic children. Parents need to know ahead of time if the day will be code red, orange or otherwise dangerous to vulnerable populations. Related cuts in the Clean Schoolbus program request also need to be restored.

Finally, while I appreciate that this bill rejects the administration's proposed cuts in the domestic stratospheric ozone program, we seem to be headed again toward underfunding our commitment to the Montreal Protocol. This international treaty has been a resounding success in helping to protect the ozone layer from CFCs. I do not know of a good reason for the United States not to contribute its ratified share of the costs of phasing out ozone depleting substances and developing alternatives on a global basis.

This bill would cut spending at the EPA by $144 million from last year's level, and this does not take into account inflation or the mandatory cost of pay increases. I will vote for this bill in the hopes that it will become better in conference, and with the recognition that the appropriators have done a good job with limited resources.

Mr. OBAMA. Mr. President, I speak about the plight of children afflicted by elevated levels of lead in their blood. Although it has been three decades since lead was a component of paint, the effects of lead paint continue to linger in homes across the country. As the lead paint flakes off, the dust is inhaled, and some kids eat the chips.

Lead is a highly toxic substance that can produce a range of health problems in young children, including damage to the kidneys, the brain, and bone marrow. Even low levels of lead in pregnant women, infants, and children can affect cognitive abilities and fetal organ development and lead to behavioral problems.

Over 430,000 children in America have dangerously high blood lead levels. This is a particularly serious problem for Illinois, which has the highest number of lead-poisoned children in the nation. In Chicago alone, 6,000 children have elevated blood lead levels.

In 1992 Congress passed the Residential Lead-Based Paint Hazard Reduction Act. The law required the Environmental Protection Agency, EPA, to promulgate regulations by October 1996 regarding contractors engaged in home renovation and remodeling activities that create lead-based paint hazards. Renovation and repair of older residences is the principal source of lead-paint exposure to U.S. children. According to Federal studies, a large majority of the approximately 20 to 30 million renovations done on older homes each year are done without lead-safe cleanup and contamination practices.

The EPA analysis has found that a lead paint regulation would protect 1.4 million children and prevent 28,000 lead-related illnesses every year. Such a regulation would also lead to a net economic benefit of between $2.7 billion and $4.2 billion each year.

Despite the clear health and economic benefits, these regulations are now 9 years overdue, and there is no sign that EPA is moving any closer to issuing the required rules. Last month, I joined with Senator BOXER and Representatives WAXMAN, LYNCH, and TOWNS to express our concern about EPA's complete disregard of the statutory mandate to issue lead paint regulations.

To address the problem, I have introduced an amendment that would stop EPA from spending money on any actions that are contrary to Congress' 1992 mandate to issue lead paint regulations, including any delaying of the regulations. I thank the managers of this bill, Senator BURNS and Senator DORGAN, for their support of this amendment and for including it in the bill.

I hope EPA will read this amendment and understand that the time for these common-sense lead regulations is long overdue.

Mr. MCCAIN. Mr. President, today the Senate is considering the Interior, Environment, and Related Agencies Appropriations bill for Fiscal Year 2006. This bill provides approximately $26.2 billion in discretionary spending—approximately $542 million over the President's request—for the Forest Service, the Environmental Protection Agency, the Indian Health Service, most agencies of the Interior Department—except the Bureau of Reclamation, and the National Foundation on the Arts and the Humanities. I commend the members of the Senate Appropriations Committee, and in particular, the efforts of the Interior Appropriations Subcommittee, for completing this appropriation bill in a timely manner.

Unfortunately, as is the case with many of the appropriations bills that come to the floor, this bill and its accompanying report contains earmarks and pork projects which have not been authorized or requested. The bill provides funding for critical programs like forest health and restoration, superfund cleanup, the Land and Water Conservation Fund, and PILT, but all too often, many of these accounts are eroded by unnecessary, unrequested earmarks.

This is especially frustrating given the $600 million annual maintenance backlog that is crippling the National Park system. There is not a single member of this body who does not have a National Park or monument, or other Park Service unit in his or her State that is not in need of attention. And while curbing the use of earmarks might not solve our Nation's enormous deficit or save our National Parks from long-term dilapidation, doing so would be a good step in repairing our broken appropriations process.

Let's take a look at some of the earmarks that are in this bill or its accompanying report: $875,000 for a new water storage tank in the Town of Westerly, RI; $1,000,000 for water treatment projects in the Town of Waitsfield, VT; $2,465,000 for sudden oak death research; $200,000 for a poultry science project at Stephen F. Austin State University, Texas; $1,000,000 for statewide cesspool replacement in the County of Maui, HI; $1,800,000 for eider and sea otter recovery work at the Alaska SeaLife Center; $1,114,000 for a research laboratory in Sitka, AK; $500,000 for the University of Northern Iowa to develop new environmental technologies for small business outreach; $250,000 for paper industry by-product waste reduction research in Wisconsin; $500,000 to continue research on pallid sturgeon spawning in the Missouri River; $400,000 to complete a bear DNA sampling study in Montana—the fourth consecutive year this earmark has been added to an appropriations vehicle; $450,000 for a well monitoring project in Hawaii; $5,100,000 to complete the visitor center at the Little Rock Central High School National Historic Site, Arkansas; $6,059,000 to rehab bathhouses at Hot Springs National Park, AR; $160,000 for soil survey mapping in Wyoming;

$400,000 for studies on the impact of lead mining in the Mark Twain National Forest; $500,000 for restoration at the Mark Twain Boyhood Home National Historic Landmark in Missouri.

In what has become perhaps one of the greatest examples of pork barrel politics, the Forest Service has lost more than $850 million since 1982 on timber sales and the construction of access roads for commercial logging in Alaska's Tongass National Forest. More than 4,000 miles of these roads criss-cross the Tongass and have accrued at least $100 million in deferred maintenance while serving little public purpose. And every year, Congress continues to appropriate funds to build new roads without accounting for the encumbrance imposed by existing roads. I support commercial logging, but not when it requires Federal subsidies that offer no return to the taxpayer. These federally funded roads are meant to stabilize the price of timber logged from the Tongass, but the program actually costs the Federal treasury tens of millions of dollars each year—nearly $48 million in fiscal year 2004 alone—because the value of Tongass lumber is not competitive and so the Forest Service takes a loss on almost every timber contract it manages. To clarify, Mr. President, that is hundreds of millions in Federal subsidies just to lose hundreds of millions in unprofitable logging.

Mark Twain, a cynic of politicians and government, once wrote: ''One of the first achievements of the legislature was to institute a ten-thousand-dollar agricultural fair to show off forty dollars worth of pumpkins.'' I can only speculate what Mark Twain would say about the egregious waste of taxpayer money allocated to continue the timber subsidy program in the Tongass National Forest.

I am pleased to have joined with Senator SUNUNU and others in offering an amendment which would prohibit funding for road building in the Tongas National Forest. I hope my colleagues' will support this amendment.

Many of my colleagues may have forgotten, but it is a violation of Senate rules to legislate on an appropriation bill. Directing or authorizing policy is a function reserved for the authorizing committees, not the appropriations committee. As is done far to frequently, this appropriations bill includes a variety of policy changes. Examples include: Language that authorizes the construction of a replacement IHS facility in Nome, AK, on land owned by the Sound Health Corporation; Language that allows the Secretary of the Interior to collect parking fees at the U.S.S. Arizona Memorial; Language that restricts the use of Forest Service answering machines during business hours unless the answering machine includes an option that enables callers to reach an individual. Why is this appearing in an appropriation bill? Perhaps the appropriators could exert jurisdiction over the waiting lines at the DMV?

Also, language that requires National Recreation Reservation Service call centers to be located within the United States and language that extends Abandoned Mine Land program until June 30, 2006. This is the third time the AML program has been extended via the appropriations process.

I may not have qualms with many of these particular expenditures and policy items. Some of them may be truly needed and deserving of swift passage. However, it is the casual disregard for Senate procedure that concerns me deeply. We need to be protecting the American taxpayer, not waving rules and passing appropriation bills with wasteful spending. We need to be thinking about the future generations who are going to be paying the tab for our continued spending, not delivering pork projects to special interests and their lobbyists. Surely, my colleagues are aware of the fiscal challenges facing this Nation. The national debate is consumed by questions like: How will we pay for rising Medicare and Medicaid costs? Will we be protected from rising energy costs? Will Social Security be there for our children? The answers to those questions fall to the Congress my friends.

Mr. BURNS. Mr. President, I want to thank a lot of folks for their work on this bill we have considered today and over the last few days. This has been a bill we have worked our way through. I wish we could have sped it up. I thank the minority staff, Peter Kiefhaber and Rachael Taylor and Brooke Thomas. Of course, I thank my good friend from North Dakota who has really been good to work with. Also, over on our side, I thank Bruce Evans, Rebecca Benn, Leif Fonnesbeck, Ginny James, Ryan Thomas, Michele Gordon, and Ellis Fisher. I thank that staff because they have done yeomen's work. They have worked very long hours in order to pass this bill.

I ask the Senator, do you have any closing remarks?

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I thank my colleague, Senator BURNS, who I think has done a wonderful job. I appreciate working with him and his staff. I think this is a good bill, produced under difficult circumstances. This bill is actually substantially below the current fiscal year's spending.

The professional staff on the majority side—Virginia James, Leif Fonnesbeck, Ryan Thomas, Rebecca Benn, and Michele Gordon—have done a great job. Also, I thank Rachael Taylor on the minority side. And Bruce Evans and Peter Kiefhaber, the two clerks, both have done a lot of work to get us to this point. I want them to know how much we appreciate their work.

Mr. BURNS. Mr. President, I ask for third reading.

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

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The minority leader.

SENATOR FRANK R. LAUTENBERG CASTS HIS 7,000TH ROLLCALL VOTE

Mr. REID. Mr. President, the next vote that will be cast by my friend from New Jersey, Senator LAUTENBERG, the junior Senator from New Jersey, will be his 7,000th vote.

Senator LAUTENBERG was elected in 1982 to the Senate, and served three terms before taking a ''sabbatical'' in 2000. I repeat, he was not defeated, he took a ''sabbatical.'' He decided to take leave of the Senate for a while. He ran again in 2002, when Senator Torricelli retired, and the Democrats were desperate for someone who could win in New Jersey. He stepped forward because he is always a sure winner. Senator LAUTENBERG has the rare distinction of having held both of New Jersey's Senate seats.

Senator LAUTENBERG may be a ''freshman'' of sorts, but the only other two Senators from New Jersey who have cast more rollcall votes than the junior Senator from New Jersey, my friend Senator LAUTENBERG, are Harrison Williams, who cast 8,349 votes over the course of his career, and Clifford Case, who cast 7,684 votes. Senator LAUTENBERG is third, having cast more votes than Senator Bradley, for example.

Senator LAUTENBERG's parents were poor but hard-working immigrants who came to America through Ellis Island. Senator LAUTENBERG joined the Army when he was 18 and served in the European Theater during World War II. When he returned from the war, he went to Columbia University on the GI bill. Then he and two friends started a payroll company. It was very small. They started from scratch. But they did not just start a company, they started an entire industry: computer services.

Today, that company—that little startup company, ADP—has annual sales of almost $8 billion a year, and employs 42,000 people worldwide. It issues the paycheck of one out of every six private sector workers in America, and it processes over 850 million investor transactions and communications every year.

After establishing and running one of the most successful businesses in America, Senator LAUTENBERG decided to ''give something back,'' so he became a commissioner at the Port Authority of New York and New Jersey. Then after serving as a commissioner at the Port Authority of New York and

New Jersey, FRANK LAUTENBERG became Senator FRANK LAUTENBERG. Senator LAUTENBERG's motto is ''Only in America.''

He has done many great things legislatively. They are too many to list here tonight. But one thing I will always look back at, as to what this great Senator did, is what he did for my children. Years ago, when we traveled back and forth across the country, my children were allergic to cigarette smoke, literally allergic. They did not like it, and the little ones cried. Children in America no longer have to worry about that because of the Senator from New Jersey. He did a favor for me—because it made it so much easier on my children—and the rest of America.

Senator LAUTENBERG is a great Senator. The people of New Jersey are so fortunate this good man, who was financially set, would take public service as his life's work. I so admire him. I know the rest of my colleagues join me in congratulating the ''junior'' Senator from New Jersey on this significant milestone in an already accomplished career.

(Applause, Senators rising.)

Mr. LAUTENBERG. Thank you very much.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I thank the Democratic leader for those kind comments. I had hoped he would go on a little longer.

(Laughter.)

But, in any event, I thank you and all of my colleagues.

There are 7,000 votes. If I were asked to recite which of those I liked the best or which of those I disliked the most, I would be hard pressed to remember them. But the fact is, even though we have disagreements on some issues and agreements on others, I speak sincerely when I say I am proud to serve with all of you.

I know each of us has a responsibility that carries way outside this Chamber. We make the decisions here. But the desire to be of service and the obligation originates in places that we are all too familiar with. So we have differences.

I am going to stick up for my views, and I know others will stick up for theirs. The fact is, we are here to serve. I am proud to serve with each and every one of you. I am grateful for the commentary and thank you all very much.

(Applause, Senators rising.)

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, being the junior Senator from New Jersey, I must say that of all of the people I have watched live the American dream and then believe that it is their obligation to give back—the distinguished minority leader itemized the life of FRANK LAUTENBERG—no one cares more about that American dream and making sure it is available for his children and all the children of America. I have to say as a colleague but, more importantly, as a friend, I am honored to serve with you every day, and I appreciate very much what you have done for the State of New Jersey. I know the people of the State of New Jersey care very deeply about FRANK LAUTENBERG.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, a number of people have asked about the schedule. We will have two more votes tonight. We will have a vote on final passage and then on a motion to proceed to the CAFTA bill. We will be addressing CAFTA tonight, and we will be on it—there are 20 hours—tonight and through tomorrow. We will be completing two appropriations bills before we leave this week, which means tonight will be busy. We will have no rollcall votes after the two which will be back to back shortly. We will be debating CAFTA through tomorrow, and then we will do two other appropriations bills sometime before we leave. It means that we may well be here Friday to vote, which we talked about earlier this morning.

In addition, as we said this morning, both the Democratic leader and I, when we come back after our recess, it is going to be important for people to recognize the huge amount that we have to do. We are competing with people going back to their States, people who are saying we need to work Tuesdays, Wednesdays, and Thursdays, but not Fridays and Mondays because we have other things to do. We are going to have to have people here voting on Mondays when we announce that and also on Fridays. But with that, we have two votes tonight. They will be back to back, and no more rollcall votes after those two.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. I am wondering if we could have unanimous consent that these next two votes be 10 minutes each. Everybody is here—10 minutes on the first one, 10 minutes on the second one. Then we can move on to the CAFTA bill at that time. I ask unanimous consent that be the case.

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

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

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators are necessarily absent: the Senator from Utah (Mr. BENNETT), the Senator from New Hampshire (Mr. GREGG), the Senator from Florida (Mr. MARTINEZ), and the Senator from Arizona (Mr. MCCAIN).

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. LIEBERMAN) is absent due to death in family.

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

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

[Rollcall Vote No. 168 Leg.]

YEAS—94

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

NOT VOTING—6

| | | |
|---|---|---|
| Bennett | Gregg | Martinez |
| Coburn | Lieberman | McCain |

The bill (H.R. 2361), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. CRAIG. Mr. President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## DOMINICAN REPUBLIC-CENTRAL AMERICA UNITED STATES FREE TRADE AGREEMENT IMPLEMENTATION ACT—MOTION TO PROCEED

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, I now ask unanimous consent that the Senate begin consideration of S. 1307, the CAFTA legislation.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FRIST. Mr. President, I move to proceed to S. 1307.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

## UNANIMOUS CONSENT REQUEST—LEGISLATIVE APPROPRIATIONS BILL

Mr. FRIST. Mr. President, I ask unanimous consent that following the vote, Senator ALLARD be recognized for

the purpose of proceeding to the Legislative Branch appropriations bill under a consent agreement that there be 10 minutes equally divided for debate prior to the vote; finally, that this amount of time count against the majority's time under CAFTA.

We have cleared the Legislative Appropriations bill and this would allow us to consider that bill quickly, without a rollcall vote. Then we can begin the debate on CAFTA. Debate on the CAFTA legislation is under a statutory 20-hour time limit. Therefore, I expect the next vote to be the last vote of the evening.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FRIST. Mr. President, for the information of colleagues, this will be the last vote of the evening. We will be proceeding with CAFTA tonight.

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

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Utah (Mr. BENNETT), the Senator from Oklahoma (Mr. COBURN), the Senator from New Hampshire (Mr. GREGG), and the Senator from Florida (Mr. MARTINEZ).

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. LIEBERMAN) is absent due to death in family.

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

The result was announced—yeas 61, nays 34, as follows:

[Rollcall Vote No. 169 Leg.]

YEAS—61

| | | |
|---|---|---|
| Alexander | DeMint | Lugar |
| Allard | DeWine | McCain |
| Allen | Dodd | McConnell |
| Baucus | Dole | Murkowski |
| Bingaman | Domenici | Murray |
| Bond | Ensign | Nelson (NE) |
| Brownback | Feinstein | Pryor |
| Bunning | Frist | Roberts |
| Burns | Graham | Santorum |
| Burr | Grassley | Sessions |
| Cantwell | Hagel | Shelby |
| Carper | Harkin | Smith |
| Chafee | Hatch | Specter |
| Chambliss | Hutchison | Stevens |
| Cochran | Inhofe | Sununu |
| Coleman | Isakson | Talent |
| Collins | Jeffords | Voinovich |
| Conrad | Kyl | Warner |
| Cornyn | Leahy | Wyden |
| Craig | Lincoln | |
| Crapo | Lott | |

NAYS—34

| | | |
|---|---|---|
| Akaka | Inouye | Reid |
| Bayh | Johnson | Rockefeller |
| Biden | Kennedy | Salazar |
| Boxer | Kerry | Sarbanes |
| Byrd | Kohl | Schumer |
| Clinton | Landrieu | Snowe |
| Corzine | Lautenberg | Stabenow |
| Dayton | Levin | Thomas |
| Dorgan | Mikulski | Thune |
| Durbin | Nelson (FL) | Vitter |
| Enzi | Obama | |
| Feingold | Reed | |

NOT VOTING—5

| | | |
|---|---|---|
| Bennett | Gregg | Martinez |
| Coburn | Lieberman | |

The motion was agreed to.

## DOMINICAN REPUBLIC-CENTRAL AMERICA-UNITED STATES FREE TRADE AGREEMENT IMPLEMENTATION ACT

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1307) to implement the Dominican Republic-Central America-United States Free Trade Agreement.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. REID. It is my understanding under the rule there is 10 hours on each side. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I yield 5 hours to the ranking member of the Finance Committee, Mr. BAUCUS, and 5 hours to Senator DORGAN.

The PRESIDING OFFICER. The Senator has that right.

Who yields time on the bill?

The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield myself such time as I may consume.

Tonight the Senate begins its consideration of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act, more commonly known as CAFTA. I will be speaking in some detail on this trade agreement tomorrow, but for tonight I want to open the debate with some observations about the process that brought us here.

CAFTA has proved itself to be the most controversial trade agreement to come before the Congress since the North American Free Trade Agreement a decade ago. It did not have to be this way. When the story of CAFTA is written, whether it passes or fails, the theme will be the politics of the last minute because even as we bring this bill to the floor parts of the CAFTA package are still being negotiated. In fact, they are being negotiated as we speak. We need to do better.

The Founding Fathers, in their wisdom, assigned primary responsibility for trade policy to the legislative branch. Article I, section 8, clause 3 of the Constitution states:

The Congress shall have the power . . . to regulate Commerce with foreign Nations.

It quickly became obvious, however, that Congress is a body ill-suited by structure to negotiate trade agreements. So our predecessors quickly figured that the actual negotiating would have to be delegated to the executive branch. Still, the constitutional responsibility for trade remains with the Congress. That is why under U.S. law no trade agreement is self-executing.

Trade agreements such as CAFTA have no force or effect on domestic law until Congress passes implementing legislation. A system where one branch of the Government negotiates trade agreements and another must approve them and turn them into domestic law presents many challenges. To work well, it requires the highest degree of coordination between executive and legislative priorities.

Over the years, this system of shared responsibilities has been formalized into Senate procedures commonly called fast trade, or more recently, trade promotion authority. These procedures require the executive to negotiate agreements that meet a long list of congressional priorities, and they require very close consultation between the executive and Congress at every stage of the process.

I am sure that Ambassador Portman, our current USTR, and his staff can document that they followed these statutory procedures to the letter for CAFTA. I do not disagree. Their problem is that process for the sake of process does not work if there is no true spirit of cooperation. A statute can require a meeting, but a meeting of the minds cannot be mandated by law. A true meeting of the minds is what we need to make the consultive process work the way it is intended to work.

Congress and the executive need to be working closely together at every stage of a trade negotiation to make sure that everyone's priorities are being addressed, maybe not all agreed to but certainly all addressed. Unfortunately, that is not what happened with CAFTA.

Early on in the CAFTA negotiations, I could see that sugar was going to be a difficult issue so I asked former USTR Ambassador Zoellick to meet with the Senate sugar caucus. That meeting was not required by trade promotion authority, but it made sense to try to address a difficult issue as soon as possible. The meeting took place and views were exchanged, but there was no meeting of the minds and little attempt to continue the dialogue. Not surprisingly, CAFTA's sugar provisions were unacceptable to many Members, but CAFTA sat unchanged for more than a year.

Suddenly, last week, there began a series of around-the-clock sugar negotiations. Those negotiations were ongoing this morning when the Finance Committee marked up CAFTA. They are still ongoing as we speak. So those of us who have sugar producers in our States still do not know for sure what CAFTA means for our constituents.

This would have been resolved and should have been resolved months ago. We should not be on the floor debating an implementation package that is not final. The story is similar for the labor provisions. From the beginning, it was clear that labor rights were going to be a contentious issue in CAFTA. So I, together with a number of colleagues, began a dialogue with Ambassador Zoellick. We sought assurances that CAFTA's labor provisions would be

stronger than those in other recent free-trade agreements, but little progress was made. Suddenly, within the past few weeks, there began a series of around-the-clock meetings between Ambassador Portman and several Democratic Senators and Members of the House.

Just this morning, as the Finance Committee came together to vote on CAFTA, brandnew labor and capacity-building provisions were revealed.

We should not be on the floor debating CAFTA when the ink is not yet dry on these provisions and nobody really knows what they mean. I know that there is another way. I have seen it work.

In the fall of 2003, I put out a series of proposals for strengthening CAFTA's environmental chapter. Ambassador Zoellick and I had a productive yearlong dialogue on these issues. It was very constructive, very rewarding. He was engaged; I was engaged. With commitment on both sides, we agreed on key improvements that are included in the text of this agreement. This is the model I want to follow in the future, not the last minute dealmaking but the long, thoughtful dialogue working to find accommodation, find agreement, which builds a greater consensus for trade, let alone the agreement in question.

Trade promotion authority expires in 2007. At that time, Congress will consider whether there are ways to improve the process. The truth is, the process is only as good as the goodwill of the people using it.

I do not say this to lay blame. We are all responsible. Members of the Senate are caught up in the press of business and do not always focus on their priorities early enough in the trade negotiation process. The executive hears but does not always follow the advice or pay attention to the advice it receives from Members of the Senate. The same would be the case for House Members.

Still, in the end our trade policy is only successful when it reflects the priorities of both the Congress and the executive.

In the coming months and years, let us rededicate ourselves to the purpose behind the process. Let us work together and truly mean it. That is the way we get things done. Again, under the Constitution, Congress has primacy in trade, but because we are not a parliamentary form of government but a constitutional form of government with separate branches we, by necessity, have to delegate the negotiating of trade agreements to the executive. But to make this work and to continue to have a consensus and to build a consensus on trade agreements, the administration must consider the wishes of Congress much more seriously in the future. Otherwise, it runs the real risk of losing, perhaps, trade promotion authority for other similar agreements.

I say this also because we stand at a moment in history, at a time when the United States has to work much more aggressively, much more cooperatively among ourselves, different sectors of the country, to meet the competitive challenges that we face overseas. Whether it is China, Japan, Europe, the flattening of the Earth, or changes in telecommunications technologies, we have to work a lot harder, invest more in education, address the high health care costs that put our American companies at competitive disadvantage, and be much more aggressive in enforcing our trade laws. There are many more actions we must take. When that happens, the more the President and the Congress in good faith can totally put politics aside because this is an American issue. This is not a partisan issue. This is an issue for America. If they were to do so, and we were to do so, we will fulfill the responsibilities we have, and it will help our people at the same time.

At the appropriate time, I will later yield time to the senior Senator from Connecticut, Mr. DODD.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, before I begin my remarks I want to thank the Senator from Montana, the ranking Democrat on the committee, and the former chairman of the committee for his cooperation and good-faith effort to have the Senate and our committee work to get its job done. Even though he has a different view on this legislation than I do, he has been very cooperative in helping things happen, even though he disagreed. I think it is that spirit that gets things done in the Senate. It is kind of the tradition of our committee, but I think it is particularly true of his and my working relationship. So I thank him very much.

Mr. BAUCUS. Mr. President, I must respond to that gracious statement by my good friend from Iowa. No member of this body can be more blessed to have a partner to work with in such cooperation and good spirit than I. I am lucky—more importantly the Senate is lucky—to have the chairman of the Finance Committee. He is a wonderful person to work with. We work very closely together. We are a real team and we think that our States are better for it. We also think that the country is better served as well.

For whatever reason, whether it is true or not, I want to very much give my utmost thanks and compliments to the senior Senator from Iowa.

Mr. GRASSLEY. I thank the Senator. Following on the spirit of the statement that he made and probably not directly germane to this discussion, though, is also the fact that too often the public draws conclusions that all we do is have partisan fights, Republican and Democrat, and that we are always at each other's throats. I think people, including my constituents in Iowa, get that view because conflict makes news. They never hear of the cooperative efforts that we have made.

In fact, the very week this bill was voted out of committee, we had some differences that were not entirely partisan. There were some Republicans who agreed with Senator BAUCUS and some Democrats who agreed with me on this bill. It was a very narrow margin in our committee. But that very same week we voted out a bipartisan Energy bill on a 20-to-0 vote, which shows one gets a lot of attention and the other one doesn't. But I think it shows you can have differences and still make the system work.

As you would expect, I have talked about this legislation over a long period of time. I am glad we are to the point of the Senate consideration of it, so it is no surprise to you or anybody else that I support what is referred to as the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act. I am just going to shortly call that the Central American Free Trade Agreement or CAFTA for short.

The bill before us, then, implements the trade agreement that was negotiated between our executive branch and the leaders of these five countries over the past several months. Our President gets the authority to negotiate through what we call the trade promotion authority legislation, where Congress has the constitutional control over international trade; it is our constitutional responsibility. But since it is impossible for 535 Members of Congress to negotiate legislation, we delegate, under strict procedures, the President making those negotiations. These negotiations went on for several months, maybe even over a period longer than a year, and was signed a year ago.

Congress then has the responsibility of considering it. In most cases, we end up agreeing to it, but we pass these free-trade agreements—whether they are bilateral, multilateral or regional—in the form of legislation, so Congress has control over the final product and implements our constitutional responsibility through the agreements being passed by Congress in the form of legislation.

That is where we are now: The Senate's final consideration of adopting a law that includes the contents of the negotiated agreement between the United States and these five countries of Central America.

This agreement strengthens the ties of friendship, cooperation, and economic growth between our Nation and the growing economies of Central America and the Dominican Republic. It is also an agreement that is fundamentally in our national economic and security interests. If it were not in our national economic and security interests, obviously we would have no business having our President negotiate it. Or if it were not in our interests and he did negotiate it, the Congress should not be passing it as law.

Today, when it comes to the economic interests that we have with this

legislation, most imports from the region enter our market duty free. They come from those countries into our market duty free. In contrast, exports from the United States to those countries face a myriad of tariffs and nontariff barriers in the region. That is where we are now. That is the status quo.

I have a chart here that obviously is not going to contain every product. I am not going to have on the chart every product that goes back and forth between our countries. But this chart illustrates, on this side where you see various products—let's say just on grains. I will just go to the first line. We pay now a 10.6-percent tariff to get our products into these countries. If those countries were shipping the same product to us, they would be paying zero tariffs.

Now, with this agreement before the Senate that we are considering, when it is fully implemented—because some of these are phased in—you will see that we will not have any tariffs that we now pay for getting our products into the countries. And of course it has not changed anything for them.

But this chart shows, if we do not do anything, what the status quo is. The status quo is on that side of the chart. It is kind of a one-way street. All the advantages are from products coming from Central America into America. All of the impediments are against products going from the United States down to those countries. So on this side of the chart, after the legislation is passed, you see a two-way street. You see the status quo has ended.

Let's be clear. A vote against this agreement is a vote for the status quo. It is a vote to maintain unilateral trade and to keep tariff barriers to our exports very high. I could say this another way by saying that the ''F'' in Central American Free Trade Agreement, the ''F'' in CAFTA, once we pass it, is really going to make it a Central American Fair Trade Agreement.

You can see what is unfair to American producers now. What is very unfair to American producers now, shipping to those countries down there, becomes a level playing field. It becomes a fair agreement, a fair, level playing field.

A vote against this agreement is a vote that denies logic. Make no mistake, these tariff barriers to our exports are real. They affect everyday Americans, maybe not in a way that they know, but when you study it, you see how it impacts them.

Under the status quo, an off-road loader manufactured by Caterpillar in Peoria and exported to Costa Rica must pay a 14-percent tariff. This is equal to a $140,000 tax on our export. With CAFTA, the tariff goes to zero—not tomorrow, but immediately. This is good news then for those UAW workers at Caterpillar, in Peoria, who make this vehicle within the United States.

On another example under the status quo is microchips produced in New Mexico and/or Oregon face a 10-percent tariff today. With this Central American Free Trade Agreement this tariff barrier is eliminated.

Under the status quo, manufactured auto parts cannot even sell in the Central American market. You don't get them in. It isn't a question of how high is the tariff; you can't get them into the market. Under CAFTA, we will be able to export these manufactured goods to the Central American market. So this means new opportunities for companies such as CARDONE Industries and their workers in Philadelphia, PA.

Under the status quo—in other words, if we didn't pass this agreement—DVDs produced across the country would be subject to tariffs of up to 20 percent before they can be sold to consumers in Central America. But with this agreement becoming law, those DVDs become tariff free, leveling the playing field, being fair to workers in America.

The story is very similar for products that I am very much involved in, in my State of Iowa, products from U.S. farms. Today, over 99 percent of the food and agricultural products that we import from the region of Central America come into the United States duty free, as evidenced by the zeroes there on the second column. Meanwhile, our food and agricultural exports to Central America are hit with an average 11-percent tariff, with some tariffs ranging as high as 150 percent.

CAFTA levels the playing field for U.S. farmers. It takes one-way trade and makes that one-way trade into a two-way street. It tears down unfair barriers to our agricultural exports. It gives our farmers a chance to compete in a growing and vibrant market of 40 million consumers.

If anybody thinks that globalization is bad, do you know what they are saying? They are saying that the United States ought to concentrate on selling to Americans. We make up 5 percent of the world's population; 95 percent of the world's population is outside the United States. That is a market that we need to be competing in. We are an exporting nation—agriculture, manufacturing, services. If we are an exporting Nation and our market is 95 percent of the people in the rest of the world, we have to be playing on that field. This gives us an opportunity to play on that field, not with all the other 95 percent of the people in the world, but at least with 40 million of those consumers who live in these five countries.

These barriers I have just referred to are real for our U.S. farmers. Pork producers in my home State of Iowa face import tariffs from 15 percent to 40 percent. When we have full implementation of this agreement, Iowa producers will be able to export pork products duty and quota free.

Today, rice producers from across the South must overcome in-quota tariff rates of from 15 percent to 60 percent. These tariffs are phased out and eventually eliminated under this agreement.

Prohibitive tariffs of up to 40 percent lock our beef exports out of the Central American market. This agreement provides immediate duty-free, quota-free access for high-quality U.S. beef, with eventual elimination of all tariffs on U.S. beef. And value-added agricultural products, such as breakfast cereal, will see tariffs reduced from 32 percent to zero immediately, providing new opportunities for U.S. workers.

The fact is, virtually every major agricultural producer in the country, in the United States, will benefit from the passage of this agreement, including dairy, Vermont; poultry, Arkansas; apples, Oregon and New York; barley, Montana; frozen french fries, Maine; nuts, New Mexico; dried beans, Wyoming. All in all, the total given to us by economists at the American Farm Bureau Federation is an estimated net gain to U.S. agriculture of nearly $1.5 billion each year upon full implementation.

The agreement also opens the services market to U.S. service exports. Key sector opportunities include telecommunications, banking, insurance distribution, audiovisual and entertainment, energy, transport and construction.

Our high-tech sector stands to benefit; the Dominican Republic, Guatemala, Honduras, Costa Rica, and El Salvador will join the agreement and eliminate tariffs on imports of high-technology products, thereby saving United States exporters more than $7 million annually on import duties that would be paid today.

The agreement goes far beyond reducing important tariffs, putting into place strong investment protections, anticorruption provisions, intellectual property protections, strong provisions on labor in the environment. This agreement is a solid win for the U.S. economy. It is a solid win also for the neighbors of these Central American countries.

For a third time, I say, let's be very clear. The alternative to this agreement is nothing but the continuation of the status quo. It is unilateral access to our markets and nothing in return for American exports. I don't think the status quo is good enough for our farmers and our workers. I don't think Congress should vote to keep barriers to our exports to these countries high when they can be eliminated. This is what this vote on the Central American Fair Trade Agreement is all about. It all boils down to a vote for unilateral trade and the status quo or a vote to reduce barriers for our farmers and workers. To me it is a very simple answer. Get this agreement passed as fast as we can and bring this level playing field for our farmers, our service industries, our manufacturers.

Too often, we talk in economic terms about trade. There are other compelling reasons to support this agreement.

Over 20 years ago, Congress first opened our markets to products from Central America and the Caribbean. Why did we do that? That part of the world was in turmoil. Central America was a region in great political and economic upheaval. Civil strife, civil war, and political violence were part of daily life. As a result, too many innocent people lost their lives and many more lost their livelihood.

I have a chart of headlines accurately reflecting that gruesome and chaotic violence that was going on at that time. Whether it was Nicaragua, Honduras, or El Salvador, it was constant conflict. The headlines accurately reflect that violence.

So where are we 20 years later? We see a very different Central America. Through sustained political and economic engagement with the region, including the continuation of the unilateral trade preferences for over 20 years, the United States of America has helped this part of the world develop a very different story today. Today, that story is that with progressive leadership of these democratic governments, the people of Central America are enjoying the fruits of freedom, the fruits of democracy that we would describe as elected governments, participatory democracy, choice for the voters, and, as a result, generally stable civil societies.

Now we have this situation in Central America. These leaders, who many of us have had an opportunity to meet with, have given us confidence that this sort of leadership will continue in the future, but these leaders want more for their country. They want to cement the gains of the last 20 years since the civil wars have ended. They want to build a better foundation for that future. Part of that better foundation is the progressive ideas that are articulated in the CAFTA agreement. These ideas came not from the United States but from the leaders of Central America who first approached us with the idea of strengthening our trade relations at the Quebec Summit of the Americas in April 2001.

The fact is that passage of CAFTA is good both for our geopolitical and economic interests. We have very little to lose. We have much to gain with its passage. In contrast, we have much to lose and we have little to gain if this agreement is defeated.

I have a letter displayed from President Carter. He makes the point I just made very well. In that letter he recently wrote, saying through CAFTA:

> Our own national security and hemispheric influence will be improved with enhanced, improved stability, democracy and development in our poor fragile neighbors in Central America and the Caribbean.

Continuing from President Carter:

> There are now democratically elected governments in each of the countries covered by CAFTA. In negotiating this agreement, the Presidents of the six nations had to contend with their own companies that fear competition with United States firms. They have put their credibility on the line, not only with this trade agreement but more broadly by promoting market reforms that have been urged for decades by United States presidents of both parties. If the U.S. Congress were to turn its back on CAFTA, it would undercut these fragile democracies, compel them to retreat to protectionism, and make it harder for them to cooperate with the United States.

The stakes are high. President Carter, being a President with a global view, saying the stakes are high, lends a great deal of credibility in a bipartisan way—he is a Democrat, I am a Republican—to the reasons and rationale behind this. That going beyond the economics of trade to the good that comes from trade.

I often say during debates on trade in this body we as political leaders, as Senators, our President of the United States, the Cabinet, our diplomatic corps, we always think we are negotiating all these things, we are making decisions that are going to bring about world peace.

Obviously, we set a standard or at least create an environment for either a peaceful society or a less peaceful society to exist. Our efforts are a spit in the ocean compared to what business men and women in America and other countries do in millions of transactions and the dialog they have in the process, breaking down, misunderstanding, creating friendship through what they do at their level, their citizen level of participating much more so than we can.

The things that are evidenced by our trade agreements over the last 50 years—and this is a little part of this 50-year effort to promote international commerce—have set a stage where business and commerce is doing more to bring about world peace than we as political leaders can do.

The United States, I suppose, has about 300 million people now; 40 million people down there. It is a small part of the world.

How do you make progress in peace? You make progress in peace by inches, not by miles. This may be a couple inches of helping us down the path to world peace, but we need to take every opportunity we can to encourage commerce. Yes, it creates jobs. It creates prosperity. It is also going to help bring about greater world understanding.

This is a very good agreement. I hope it receives very broad support in the Senate. I hope through my views I have helped colleagues understand the importance of it. I hope those colleagues will join me to ensure that we do not undermine the significant progress that has been made in this region of Central America over the last 20 years and to ensure our American exporters can enjoy the benefits of this agreement.

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. DODD. 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. DODD. Mr. President, I ask unanimous consent that I may be able to use such time as I consume from the time under the control of Senator BAUCUS.

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

Mr. DODD. Mr. President, first of all, I commend our colleague from Iowa, the chairman of the Finance Committee, and Senator BAUCUS, the ranking member from Montana, and the other members of the Finance Committee for their efforts on behalf of the Central America-Dominican Republic Free Trade Agreement, or CAFTA, as it is known by most who follow this debate and discussion.

I voted for the motion to proceed. I would have preferred we had a little more time. I realize we are moving rather quickly on this legislation. I hoped we would have a few more days to work on this legislation, but obviously that is not the case. We are moving ahead with the 20 hours of debate under the procedures as established by the Congress to have a fast-track procedure when dealing with trade agreements. So we are given the time we have to debate and discuss these matters.

I am going to take advantage of this time and lay out for my colleagues and others my interests and my concerns about this matter.

First of all, let me say, as someone who has spent almost a quarter of a century in this body, I have dedicated a great deal of my service to my interest in Latin America, my interest in Central America, and the Caribbean. That interest arose almost 40 years ago when, as a recent graduate from college, I joined John Kennedy's Peace Corps and traveled to the Dominican Republic, where I spent the next 2 years as a young man in the mountains of what is called the Cordillera Central of the Dominican Republic not far from the Haitian border as a Peace Corps volunteer. I have a deep, deep affection for the people of the Dominican Republic, the people of Haiti, and the people of the Caribbean and Central America.

My oldest brother Tom was a professor at Georgetown University for 27 years and taught Latin American diplomatic history and also was our Ambassador to the nation of Uruguay and the nation of Costa Rica. Two others of my brothers studied in Mexico. My sisters speak Spanish. My mother did as well. There has been a strong interest in my family in Latin America for many years.

My strong hope and desire, as I rise this evening to talk about this agreement, is to be able to be supportive when the vote occurs at the end of the 20 hours of debate. I think it is important we try to do everything we can to improve the quality of the lives of the

people who live in these countries. They have been through an awful lot just during my tenure here in this body.

For those who were Members of this body back 25 years ago, 24 years ago, we had some long and extensive debates about the political events in Central America. Civil wars raged. In Guatemala, the civil war raged for decades, as a matter of fact, long before I arrived in the Senate. You had civil wars raging in El Salvador, the civil war that went on in Nicaragua. The economic difficulties in Honduras were tremendous.

There has been political turmoil in the Dominican Republic. In fact, the year before I arrived in the Dominican Republic as a Peace Corps volunteer, there had been a minirevolution there, which caused Lyndon Johnson to send the USS *Boxer* off to the coast of the Dominican Republic. The Marines went down in 1965 and, in fact, were still there in 1966, when I arrived there as a Peace Corps volunteer, as a young man, to work in the mountains of that country.

Also, natural disasters have struck. I cannot recount the number of times they have hit the Dominican Republic and Haiti over the last number of years. Hardly a year goes by that some tragedy does not occur in these countries. Certainly, hurricanes have swept across the Island of Hispaniola, which is home to both Haiti and the Dominican Republic. I know my colleagues will recall the mud slides in Haiti, where literally thousands have lost their lives.

And then there are the repeated hurricanes that have hit Central America. I recall going down, in early 1993, after one of those hurricanes hit Nicaragua, to work with then-Vice President Gore's wife, Tipper Gore, trying to clear mud out of schools and impoverished communities. Bridges were wiped out. Crops were lost. The country was devastated.

To put it in brief, without going into long detail, these five countries of Central America and the Dominican Republic—Haiti is not included in this agreement. I regret that. I wish we were doing something more about Haiti. This body, a year ago, unanimously adopted a concessionary agreement with Haiti. Unfortunately, the other body refused to take up the matter. It could have made a difference, in my view, to provide some real assistance to people who are so desperately in need of help, the island nation of Haiti. It is one of the great tragic cases in the world, let alone in this hemisphere, the conditions under which people live there.

I had hoped we might bring up that concessionary agreement again, either as a part of or in conjunction with this CAFTA agreement. The irony, in a way, if this agreement is adopted, is that we will be providing some meaningful assistance to the Dominican Republic, which inhabits two-thirds of the Island of Hispaniola, and doing virtually nothing for one-third of the island where the most desperate conditions prevail—in Haiti. But hope springs eternal, and I hope, before this Congress adjourns, we will be able to convince the other body that there is a reason to try to do what we can for Haiti.

But back to the matter at hand, and that is this agreement affecting the Central American nations and the Dominican Republic. The people of these nations deserve our help, deserve something that will improve the quality of their lives. If that does not happen, quite candidly, what you are going to see is what people have done historically. They will express their feelings with their feet. They will walk. They will move. They will migrate. In many instances, I presume they will come to this country however they can make it here. We welcome, obviously, immigration. But a flood of immigration, which can occur as a result of economic conditions, in this country is something we ought to be mindful of as we consider the implications of this proposal.

So again, my hope is to be able to be supportive.

Let me outline, if I may, briefly, what my interests are. I had a very good meeting today with Ambassador Portman. I did not know him terribly well before, but I was very impressed with him and the team. We spent about an hour in my office discussing this matter. We had a very good meeting at the White House not too many days ago. President Bush, very graciously, invited a group of us down—I gather he has done that on several occasions now—along with people who are not committed to this agreement, to listen to various ideas. I commend him for that. I think there is a true desire to try to build strong support for this agreement in this body and in the other, if we can.

So if I can, Mr. President, very briefly, I would like to lay out my concerns, what I am doing, what I have done today, what I am doing this evening, and what I will do tomorrow morning in anticipation of a vote occurring either tomorrow or on Friday, with my strong, fervent hope that I will be able to support this agreement. But let me lay out my concerns. As you know, I have long been concerned, as I mentioned, and involved in all aspects of our policies with respect to the countries of Central America and the Dominican Republic. For those of us who were serving in this Chamber in the 1980s, we all remember the dark days and bitter debates about events in the region at that time and the U.S. response to them. Happily, those dark days are now behind us. Today, the situation, if you will, in Central America is a far more positive and fruitful one. The debate is, of course, how to enhance our economic relations with the region in a manner that benefits the United States and our neighbors.

I believe there are real possibilities for the CAFTA-Dominican Republic agreement being a vehicle for enhancing those relations and strengthening democratic institutions throughout the region. But I also believe that, even at this late date, there need to be certain understandings and clarifications if, in fact, we are going to achieve the very goals the CAFTA-Dominican Republic agreement lays out. Those clarifications relate to certain aspects of the agreement, if it is truly going to live up to the expectations the parties have set forth in it.

Those of us who want to advance respect and adherence to core internationally recognized labor standards were somewhat disappointed that the agreement is a weak instrument for doing so. In fact, it is weaker than current provisions under the Caribbean Basin Trade Partnership Act, which currently links unilateral trade benefits from the United States to the Caribbean Basin Trade Partnership Act-eligible countries to international workers' rights.

I welcome the efforts of Senator BINGAMAN, our colleague from New Mexico, to strengthen the capacity of these countries to effectively enforce and uphold internationally recognized labor rights. I believe the provision agreed to by the administration, to provide an additional $3 million to fund the International Labor Organization programs in CAFTA–DR countries, is a step in the right direction.

Ambassador Rob Portman has committed, on behalf of the Bush administration, to provide these moneys to the International Labor Organization so the organization can monitor and verify progress in the Central American and Dominican Republic Governments' efforts to improve labor law enforcement and working conditions.

To strengthen the effectiveness of the ILO in carrying out its work in the region, I believe there needs to be a clear understanding, before we vote on the CAFTA–DR agreement, of exactly what would be entailed in those ILO programs if they are going to be effective. That is why I met today with Ambassador Portman and have contacted the CAFTA–DR Ambassadors from these countries to describe what I believe is needed to make the ILO initiative meaningful.

Let me spell it out, if I can, very briefly. And it is not unreasonable and does not require renegotiation in any way.

I have requested answers in writing from the affected CAFTA–DR Governments as to whether jointly or severally they would each welcome and support ILO efforts to improve labor enforcement and working conditions in their countries in relationship to the implementation of the CAFTA–DR agreement. We would support and welcome an active role for the ILO representatives and their countries, including acceptance of the principle that ILO representatives would be granted unfettered access to workplaces, be permitted to establish mechanisms for receiving and investigating

matters related to core ILO labor standards, make private recommendations to worker and employer organizations and appropriate officials within each Government, as well as issue periodic public reports of its findings on matters of concern related to the enforcement of core ILO international labor standards as specified in the International Labor Organization's Declaration on Fundamental Principles and Rights at Work and its followup adopted by the International Labor Conference in 1998.

I am not breaking new ground here at all. In fact, what I have just described is included in other labor and other trade agreements, most specifically the trade agreement with Cambodia which was renewed by the Bush administration only recently, adhering to the very principles that were negotiated under the Clinton administration. So this is something that has already been accepted.

Let me tell you why these provisions are important and why I think they help what we are trying to achieve with this trade agreement. I am hopeful the administration and the agreement governments will find this clarification useful and acceptable. If so, I believe the CAFTA–DR agreement will have made an important contribution to strengthening democracy in the region and improving the daily lives of their citizens. I await word from them in the coming hours.

As I said, I very much want to be able too support this agreement. But I also want to have some confidence that I will be helping to raise the living standards of American and CAFTA–Dominican Republic workers and not be an accomplice to a rush to the bottom in weakening working conditions in either the United States or elsewhere in the region. Let me be clear that we aren't somehow raising the bar on the issue of respect for core labor rights. Existing trade preference programs for the region provide that the President should at least take into account the extent to which beneficiary countries provide internationally recognized workers rights.

As currently written, the CAFTA–DR agreement would weaken standards these countries have been living under through the Caribbean Basin Initiative and Generalized System of Preferences. Instead of asking them to do more with the CAFTA–DR agreement, we are asking them to do less. Moreover, currently the trade benefits can be withdrawn in these other countries if a country lowers its labor laws below international standards or simply fails to meet those standards. And they can be withdrawn if a government directly violates internationally accepted workers rights that might not be protected under their laws. But this will not be the case under CAFTA and the Dominican Republic.

Let me reemphasize that. Under the Caribbean Basin Initiative agreements, we established very well for all involved that International Labor Organizations labor standards, which are not terribly high standards, ought to be enforced collectively. The irony would be that we are now moving away from the very agreement that has been beneficial to the Caribbean Basin Initiative countries. In fact, some of these countries are obviously under that agreement now, and these standards would be lowered, not enhanced, at a time we have been trying to improve conditions.

This is also important to us from an economic standpoint. It has always been our goal with trade agreements with less developed countries to try to create wealth, to be wealth producing in our trade agreements. Obviously, this is critically important in the long term because our higher value goods and our higher value services need to have markets in these underdeveloped countries. If there is not wealth creation in these nations, then how will they ever afford to buy the products and the services that are higher cost? We have always tried to, as part of our trade agreements, improve those standards with a long-term vision that we would be a beneficiary as a result of wealth creation. And also it helps to improve tremendously living standards in the countries with whom we are trading.

Moreover, the lack of an objective standard is troubling because it could create a race-to-the-bottom mentality where investors and companies play governments against each other seeking lower labor standards in a quest for increased profits. That type of situation would wreak havoc on civil society in these countries. At a time when we are trying to promote more civil societies, to strengthen democratic institutions, it could have the opposite effect. It could cost also American workers their jobs. By having one standard that applies to all, you avoid the race to the bottom which could occur.

Let me make the point. Under this agreement each country would set its own labor standard, whatever they decided. They are required to enforce that labor standard. But there is no requirement of what that labor standard ought to be. For those who have followed events at all in these countries and have great affection for them, you don't need to have a PhD to understand there is a lot of difficulty when it comes to labor standards. That is why we have insisted on the ILO standards across the board generally, to try to maintain a more decent level. When you leave it up to each one of these countries to set their own standards and then only require that they meet them, you are obviously inviting the kind of race to the bottom I have just described.

For the most part, CAFTA and DR nations have laws on their books, but they face a lack of resources and domestic political opposition from influential people which prevents them from enforcing these laws. This statement was expressed by U.S. Trade Representative Rob Portman at a June 9, 2005 speech, only a few days ago, that he gave before the Hispanic Alliance for Free Trade. I commend him for his speech. Let me quote it, if I may. In that speech Ambassador Portman said:

> The ILO study demonstrated that the laws on the books are not the main issue. The major problem is that enforcement of those laws clearly needs improvement.

Ambassador Portman went on to say:

> You can read the State Department's annual human rights report and quickly conclude that enforcement needs to be improved. You can read a recent White Paper published by the Labor Ministers of Central America, who themselves acknowledge that enforcement needs to be improved.

These are good statements. They are strong statements, and I agree with our ambassador when he makes them. That is all I am suggesting with the language that I have submitted to Ambassador Portman and to the Central American countries earlier this evening. In my opinion, enforcement problems are not a result of malice on the part of these leaders. I believe that these leaders and these countries want to do the right thing. But I would remind my colleagues that our neighbors to the South are democratic countries. As in all democracies, they have to deal with powerful opposition interests.

The administration seems to hold the view that the support for expanded trade and economic growth is incompatible with advocating core labor standards in developing countries. I believe the opposite is the case. In fact, when we have insisted upon better labor standards, we end up with a far better trading environment. In case after case after case, when we have insisted on stronger ILO standards, we have had a better trading relationship. When we have not, it has gone in the opposite direction. In fact, experts for the well-respected Institute for International Economics have concluded that ''core labor standards support sustainable and broadly shared political, social, and economic development.''

The operative word here is ''shared,'' shared among citizens, not simply a handful of people who have the resources and the political influence to effect them.

So if this agreement is fixable—and I believe it is—it could be a win-win proposition. I believe it can be, and I hope the administration and the CAFTA–DR governments will welcome this fleshing out of the ILO role.

Again, I commend Senator BINGAMAN and Rob Portman and the administration for being willing to sit down at a late hour and to welcome ideas about how we might make this a stronger agreement. I think the votes are probably here to pass an agreement even without these suggestions, but I think it is a better trade agreement if we have the kind of ILO standards I have talked about.

Again, I emphasize, I very much want to support this agreement. I think it

would make a difference in the long run, not only for our own country but also for these struggling democracies in Central America and the Dominican Republic. These are good friends. They have been through an awful lot. I mentioned earlier the political turmoil and strife, the loss of life through civil wars, the natural disasters that have crippled them. They deserve better. They are not going to get it through foreign aid. I know that. But they could get it through an improved trading relationship, by lowering barriers and working cooperatively. My hope is we will do it. There is only a small amount of trade between ourselves and these countries. It amounts to very little in terms of overall trade dollars. But I think we set a standard that could be used throughout the region in the coming years.

My hope—even at this late hour, without in any way requiring that we reopen the process for negotiation—is that by just requiring that the ILO would be allowed to actually visit sites in these countries, not just the labor ministries, which is what the agreement does right now—under the agreement, the ILO would go to the labor ministry and say: Are you complying or not complying. Obviously, we know what the answer will be. You are asking the very people to discipline themselves. Obviously, they are not likely to conclude that they are not complying. By doing what we did in the Cambodian Free Trade Agreement, in permitting the ILO inspectors to actually have site visits to determine whether the laws are being enforced and then, of course, to be able to work with employers as well as employees to try to fix the problem that exists there, we do a lot to strengthen this agreement.

Again, I don't think it is asking too much. It goes a long way to making this a better and stronger agreement. It will do many good things for the people of these countries. I urge the administration and these CAFTA countries with whom we have been communicating today to consider this language offered. I have had a rather positive response so far from several of them, not all of them. My hope is that Ambassador Portman, on behalf of the administration, would be willing to accept this additional language to be included in correspondence along the lines that was provided to Senator BINGAMAN.

I have drafted a letter to Ambassador Portman that outlines what I have described here this evening. I am not going to include that letter in the RECORD. I would rather Ambassador Portman have a chance to see it before it becomes a public document for him to take a measure of it and to let me know whether something might be done along the lines we described here. I look forward tomorrow to addressing this issue again during further debate. My strong hope would be to be able to stand before this body and to offer my unconditional support for this agreement. I believe what we have offered here is a reasonable proposal, one that could be included in this agreement and one that will allow us to have a strong vote.

My hope is it would convince some of our colleagues in the other Chamber who have expressed strong reservations about this agreement to come onboard. Most of the reservations have been focused on the labor standard issue. Again, I think we can strengthen that and convince many of our colleagues to support this agreement. The people of these little countries, desperately poor people, deserve better. If democracy is going to work here, if economic opportunity is to occur, then we ought to be doing more.

We have trade agreements with big powerful countries. Too often we allow too much to slip by and to allow these countries to take advantage of us. These small countries deserve some help and support. We spent $5 billion in the 1980s financing and underwriting a part of the civil war that occurred there. Thousands lost their lives. A great deal of our treasury was expended in Central America. It is time we expended some effort to see these people have a chance for a better life.

I think this agreement can do it. A few changes that we have suggested could help us achieve that goal. I look forward to that opportunity occurring with a decision by the administration and the CAFTA countries.

Mr. President, I would like to address the Senate on another matter. I want to be careful to make sure no one else wants to be heard on this matter.

Let me inquire of the Chair, would it be appropriate for this Member to ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. That would be appropriate.

Mr. DODD. Mr. President, I ask unanimous consent to speak as in morning business for 10 minutes.

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

A FREE PRESS

Mr. DODD. Mr. President, two days ago the U.S. Supreme Court refused to consider overturning contempt citations against two journalists, Judith Miller and Matthew Cooper. This decision by the Court effectively paves the way for these two reporters to be sent, possibly, to jail. Yesterday the District of Columbia Circuit Court upheld the convictions of four additional journalists for contempt. They may appeal to the Supreme Court, but they are justifiably concerned that the Supreme Court will decline to consider their case, just as the Court declined to consider the Miller and Cooper cases the other day.

What did those journalists do to deserve criminal contempt convictions? Nothing more than their jobs, in my view. That is, they did nothing more than refuse to reveal to law enforcement officials the identity of sources to whom they had pledged confidentiality.

Thomas Jefferson once said that were he to have to choose between a free country and a free press, he would select the latter.

He understood—as did the other Founding Fathers—that nothing was more important to a free people than the free flow of information. An informed citizenry is the first requirement of a free, self-governing people.

Armed with knowledge, our people can govern themselves and hold accountable their elected leaders and other high public and private officials.

Today, that principle of a well-informed electorate holding their leaders accountable is at risk.

Along with the 6 journalists I have just mentioned, there are 20 or more others who have been convicted or face conviction for protecting the confidentiality of their sources. This is an unusually high number by historical standards.

Senator LUGAR and I have introduced legislation, S. 340, the Free Flow of Information Act. We are joined in the other body by Representatives SPENCE and BOUCHER. The purpose of this legislation is to protect the free flow of information that is so essential to maintaining our free society.

This legislation is not about conferring special rights and privileges on members of the Fourth Estate. It is, rather, intended to protect the right of all citizens to inform and be informed—including by speaking with journalists in confidence.

The bill is hardly radical in concept. It is based on Justice Department guidelines and on statutes that currently exist in 31 States and the District of Columbia. While those State and DC statutes would not be preempted, the bill would establish a uniform Federal standard for Federal cases involving journalists and their sources. It would balance the legitimate and often compelling interest in law enforcement with the critical need in a free society to protect the free flow of information.

It would achieve this balance by protecting the confidentiality of sources—while at the same time allowing courts to compel journalists to produce information about wrongdoing if that information is essential to an investigation and cannot be obtained from other sources.

Imagine for a moment what would happen if citizens with knowledge of wrongdoing could not come forward and speak confidentially with members of the press. Serious journalism would virtually cease to exist. Wrongdoing would not be uncovered. We would never have learned about the crimes known as ''Watergate'' but for the willingness of sources to speak in confidence with reporters.

My colleagues, when journalists are hauled into court by prosecutors, when they are threatened with fines and imprisonment if they do not divulge the

sources of their information, then we are entering dangerous territory for a democracy, because that is when citizens will fear persecution simply for stepping out of the shadows to expose wrongdoing. When that happens, the information our citizens need to govern will be degraded—making it more and more difficult to hold accountable those in power.

And when the public's right to know is threatened, then all of the other liberties that we hold dear are threatened.

We are under no illusions as to the difficulty of our task in advancing this legislation.

We know that there are those who have a pavlovian response to words like ''reporter'' and may react negatively to this legislation. We also understand that it is critically important that we balance our Nation's compelling interest in preserving the free flow of information with its no less compelling interest in pursuing wrongdoing by criminals and others that would jeopardize the freedoms that we cherish as Americans.

Mr. President, again, I am joined by Senator LUGAR and my colleagues in the House, Congressmen SPENCE and BOUCHER. We would like to see some legislation at least be debated on the floor of the Senate and possibly passed by both Houses, if we have a chance to debate this.

The fact that reporters are going to jail because of their refusal to identify confidential sources ought to raise the concerns of everyone, regardless of their ideology or politics. We all understand there is a danger in this if we lose what has been critical as part of our self-governance. This evening, with two reporters we know facing very serious jail sentences, with others who may face similar sentences, with some 20 other people who have either been convicted or presently are in the process, we think it is very important that we act in this matter. We know it is not necessarily popular. This is not about reporters, it is not about the press, it is about whether the citizenry is going to have access to information they deserve to get. It is not about protecting journalists or sources if that is the only way we can get information we need to pursue criminal prosecutions. It ought not to be the first arrow drawn out of the prosecutor's quiver trying to deal with these matters. Too often that happens. They need to work harder to get to the bottom of these cases, without dragging the reporters in front of these courts.

I hope our colleagues on both sides of the aisle—conservatives, liberals, independents, moderates, or whatever—would be able to come together around this idea that in a free society of the 21st century the confidentiality of sources is something we ought to be willing to stand up and support. I urge my colleagues to consider this legislation and the leadership to put it on the calendar.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## MORNING BUSINESS

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

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

## CONGRATULATING CHAMPION GOLFER MICHAEL CAMPBELL

Mr. SMITH. Mr. President, I rise today to speak to a resolution I will submit honoring a true champion. I rise today out of two affections in my life: one for the land of New Zealand, and another grows out of my enjoyment of the game of golf.

Ten days ago, on June 19, Michael Campbell became the first New Zealander to win one of the United States Golf Association's major championships in 43 years, besting a field of the world's most talented golfers.

Mr. Campbell showed great perseverance and mettle throughout the Open, mastering an immensely challenging course. He was also the first player to come from behind to win a U.S. Open in 7 years.

Mr. Campbell's win is yet another chapter in a proud tradition of excellence in international sports for New Zealand.

The Kiwis have won two of the last three America's Cup yacht races and netted three gold and two silver medals at last summer's Olympic Games in Athens.

The competitive spirit and success of these athletes is reflective of the bravery and skill of New Zealand's indigenous seagoing explorers, the Maori, of whom Michael Campbell is a descendent.

Mr. Campbell's victory in the U.S. Open also provides us with the opportunity to reflect on our relationship with New Zealand and at the same time to shape the future of our friendship.

Staunch allies in the two World Wars in the 20th century, New Zealand and its people have made tremendous sacrifices and heroic efforts to help protect freedom and democracy in the world.

Those efforts continue today, as New Zealand contributes regularly to international peacekeeping operations, remains steadfast in their alliance in the fight against terrorism, and has helped to reconstruct a new, democratic Iraq.

Even though there have been some bumps in the road—the deterioration of the Australia-New Zealand-United States alliance comes to mind—New Zealand has been a great friend and an enduring ally over the years.

It is my hope that we will continue to foster this friendship.

On that note, I commend Michael Campbell and the nation of New Zealand for this momentous victory and express arohanui to the peoples of Aotearoa, our friends in the Land of the Long White Cloud.

## ENERGY POLICY ACT OF 2005

Mr. DODD. Mr. President, yesterday I was necessarily absent from the Senate during final passage of H.R. 6, the Energy bill. I was attending the funeral of Mrs. Marcia Lieberman, the mother of my good friend and our colleague, Senator LIEBERMAN. Had I been here, I would have voted for the bill, albeit with considerable reservations.

I commend the chairman and ranking member for their hard work in crafting a bipartisan bill. But let me be clear, this bill is not perfect. All things being equal, it seeks to balance the economic needs of our country with the well-being of our environment and sets out a policy to provide Americans with a reliable and affordable supply of energy.

Overall, the Senate Energy bill is a more balanced approach to energy tax policy than the House bill. It provides just under 50 percent of the tax incentives to renewable energy and energy-efficient buildings, homes and appliances. Unfortunately, the bill also provides 50 percent of tax incentives to mature industries such as oil, gas, coal and nuclear.

The bill now includes a renewable portfolio standard, by which electric utilities must generate 10 percent of their power from renewables by 2020. In the past, I voted for a higher percentage because I believe our Nation can and should use even more renewable energy. However, the bill begins a smart, economic, and environmentally friendly path for this country to take and I am pleased that the Senate acted.

For the first time, the Senate is on record in acknowledging the existence of global warming and recognizing the need to take mandatory, market-based steps to slow, stop or reverse the growth of greenhouse gas emissions. It is a start, a baby step, but again, it puts this country on the right path and I look forward to working with my colleagues to determine the right proposals to combat these emissions. Air pollution must be reduced. Long-term exposure to toxic emissions and unhealthy air has been linked to increased risk of cancer, reduced lung function in children, and premature death of people with heart and lung disease. Asthma rates in Connecticut are over two and a half times the national average; 7.9 percent of adults and 8.9 percent of children under age 18 in Connecticut have asthma.

I am pleased the Senate included an amendment that I offered to study the

effect of electrical contaminants on the reliability of energy production systems, including nuclear power facilities. In April, 2005, the Millstone 3 nuclear power plant in Waterford, CT, automatically shut down and the Nuclear Regulatory Commission, NRC, determined the cause to be a failure of a circuit card in a computerized reactor protector system. It was revealed that ''tin whiskers'' were present on the circuit card which led to the subsequent shutdown. Earlier this year, the January 10, 2005, edition of Fortune magazine had a lengthy article entitled, ''Tin Whiskers: the Next Y2K Problem?'' The article explained the seriousness of this problem.

Finally, I am just as pleased with a few items that were not included in the Senate bill. Unlike the House, this bill does not grant retroactive liability to producers of MTBE, a gasoline additive that my home State of Connecticut has already banned. I urge my colleagues to keep this provision out of the conference report. There is no explicit opening of the Arctic National Wildlife Refuge, although there are attempts to open that pristine land through other pieces of legislation. Finally, the Senate bill steers clear of removing environmental protections from the Safe Drinking Water Act and the Clean Water Act. Nor does the bill reduce environmental review for energy projects.

I am disappointed that H.R. 6 includes language to inventory the Outer Continental Shelf, OCS, including what is currently covered by a 23-year moratorium. Since 1982, Congress and the executive branch have prohibited new offshore leases in the OCS. While an inventory sounds benign, it is a costly endeavor that will cause irreparable harm to our coastal waters and could well set us on a slippery slope to drilling and exploration in these environmentally sensitive areas.

I am also troubled by section 381 of the underlying Senate bill that preempts state authority and gives exclusive authority to the Federal Energy Regulatory Commission, FERC, with regard to the siting, construction or expansion of liquified natural gas terminals. I understand the need for increasing our supply of natural gas, but I have grave concerns over the process for siting LNG facilities. This hits close to home because there is a proposal to place a 1,200 foot long, 180 foot wide, 100 foot high LNG facility within Long Island Sound. FERC authority is also augmented by authorizing it to site transmission facilities in certain areas if a State fails to act within one year. Again, every State's authority is undercut by this provision.

I am deeply concerned that the bill terminates FERC's proposed rulemaking for Standard Market Design, SMD, while doing nothing to address FERC's actions with regard to Locational Installed Capacity, LICAP. My attempts to insert a simple sense of the Senate amendment to clarify that governors and utility regulators throughout New England are opposed to LICAP and FERC should take their concerns and alternative proposals into account before a final ruling in September, were refused. The theoretical purpose of LICAP is to set prices that will provide an economic incentive for construction of new generation within New England. However, as proposed by FERC, LICAP will cost ratepayers more than $14 billion over 4 years without any guarantee that new generation will be built, with no penalty for not building new generation, and with no provision for refunding payments if no generation is built. I will continue to work with my colleagues to address this unfair situation.

Finally, on the day after the price of a barrel of crude oil topped $60 for the first time, we must recognize that this Energy bill does virtually nothing to stem the tide of rising oil, gasoline, and heating oil prices. The majority defeated efforts to even urge the administration to divert oil from filling the Strategic Petroleum Reserve, SPR, and to release oil from the SPR through a swap program.

I urge my colleagues participating in the conference to stand firm on the will of the Senate and return an energy conference report that moves our country on the path to energy security.

Mr. KERRY. Mr. President, last Thursday, June 23, the full Senate voted to pass amendment No. 825, the small business and farm energy emergency relief amendment of 2005, to the Energy bill, H.R. 6. I thank my colleagues for supporting my amendment. I want to also thank the cosponsors, Senators REED, SNOWE, KOHL, LEVIN, BAUCUS, JEFFORDS, HARKIN, PRYOR, SCHUMER, LAUTENBERG, KENNEDY, and LIEBERMAN.

Mr. President, the purpose of this amendment is to help small businesses and small farms struggling to make ends meet with the record high cost of energy—natural gas, heating oil, gasoline, propane, kerosene. We can do this very easily by making those small businesses eligible to apply for low-cost disaster loans through the Small Business Administration's Economic Injury Disaster Loan Program. To help small farms and agricultural businesses, Senator KOHL has included a provision making them eligible for loans through a similar loan program at the Department of Agriculture. It also includes a provision by Senator LEVIN, passed unanimously last time this was considered in Committee and the full Senate to promote the use of alternative energy sources.

The need for this type of safety net is clear. The volatile and significant rise in cost for these fuels over the past several years has threatened the economic viability and survival of many small businesses. For example, last week the spot price for oil hit a record high of $58.90, a cost when adjusted for inflation that has not been seen in over 20 years. This is raising the price of gasoline, with the average U.S. price now at $2.16 per gallon, an increase of 22 cents compared to last year. The cost of home heating oil has jumped as much as 45 percent, and the natural gas market is likely to tighten over the next few months as summer cooling demand picks up. Prices are projected to continue to increase as the winter heating season boosts natural gas demand.

As we've heard in testimony after testimony, these prices hurt small manufacturers that rely heavily on natural gas and cite energy costs as one of the top three factors driving them out of business. These prices hurt farmers that rely on natural gas and propane and gasoline to run their farms and produce crops. And these prices hurt small heating fuel dealers in the northeast.

Most small companies typically have small cash flows and narrow operating margins and simply don't have the reserves to compensate for significant and unexpected spikes in operating costs. For those businesses financially harmed by the energy prices, they need access to capital to mitigate or avoid serious losses or going out of business. Commercial lenders typically won't make loans to these small businesses because they often don't have the increased cash flow to demonstrate the ability to repay the loan.

There has been a bipartisan push for this assistance in Congress twice in the past few years. In the 107th Congress, in 2001, I introduced virtually the same bill, S. 295, and was joined by 34 cosponsors to pass it in the full Senate. Of those who voted to pass the bill, 77 are still in the Senate, including 37 Republicans. Most recently, in November, during the consideration of the mega funding bill, the fiscal year 2005 Omnibus Appropriations conference report, Senator REED, as head of the Senate Northeast-Midwest Coalition, worked to have a version of this amendment adopted as part of the the bill. Seventeen Senators signed a letter to chairmen STEVENS and GREGG, and ranking members BYRD and HOLLINGS requesting its inclusion. It makes no sense, but out of 3,000 pages of legislation and almost $400 billion in spending, this assistance was not included because the administration objected. The little guy was not helped.

As frustrating as that is, and while it would have been most helpful to these businesses—from small heating oil dealers to small manufacturers—to enact the legislation in November when the prices were at an all-time high, we can still be helpful now.

In that spirit, along with my colleagues mentioned earlier, I am very pleased to have offered the Small Business and Farm Energy Emergency Relief Act of 2005, S. 269, as an amendment to that energy bill. I ask my colleagues in the Senate and House to preserve the provision in the final bill—conference—as they work out differences between the two sides.

Mr. President, we have built a very clear record over the years on how this legislation would work and why it is needed. I am glad that my colleagues have gotten behind this bill and have put us one step close to making this law in the near future. In the past, this assistance has received bipartisan support and I am glad that this year is not different.

I ask unanimous consent that a copy of a bipartisan letter of support and a copy of the cosponsors from past bills be printed in the RECORD.

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

DEMONSTRATING BIPARTISAN SUPPORT OVER YEARS

List of S. 295 cosponsors: Senators Bond, Lieberman, Snowe, Bingaman, Landrieu, Johnson, Domenici, Levin, Wellstone, Jeffords, Harkin, Schumer, Clinton, Kohl, Edwards, Leahy, Baucus, Collins, Dodd, Chafee, Bayh, Kennedy, Inouye, Daschle, Akaka, Corzine, Reed, Murray, Cantwell, Cleland, Enzi, Torricelli, Smith, and Specter.

List of those who voted to pass S. 295 and are still in the Senate: Senators Allard, Allen, Bennett, Biden, Boxer, Breaux, Brownback, Bunning, Burns, Byrd, Campbell, Carnahan, Carper, Cochran, Conrad, Craig, Crapo, Dayton, DeWine, Dorgan, Durbin, Ensign, Feingold, Feinstein, Fitzgerald, Frist, Graham, Gramm, Grassley, Gregg, Hagel, Hatch, Helms, Hutchinson, Hutchison, Inhofe, Kyl, Lincoln, Lott, Lugar, McCain, McConnell, Mikulski, Miller, Murkowski, Nelson, Nelson, Nickles, Reid, Roberts, Rockefeller, Santorum, Sarbanes, Sessions, Shelby, Smith, Smith, Stabenow, Stevens, Thomas, Thompson, Thurmond, Voinovich, Warner, and Wyden. (40 Democrats, 37 Republicans, 1 Independent)

List of signatories to approps letter: Senators Reed, Collins, Kerry, Bingaman, Specter, Leahy, Dodd, Chafee, Kennedy, Lautenberg, Jeffords, Lieberman, Bayh, Schumer, Sarbanes, Mikulski, and Clinton.

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U.S. SENATE,
*Washington, DC, November 16, 2004.*

Hon. TED STEVENS,
*Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.*

Hon. JUDD GREGG,
*Chairman, Appropriations Subcommittee on Commerce, Justice, State and the Judiciary, U.S. Senate, Washington, DC.*

Hon. ROBERT C. BYRD,
*Ranking Member, Committee on Appropriations, U.S. Senate, Washington, DC.*

Hon. FRITZ F. HOLLINGS,
*Ranking Member, Appropriations Subcommittee on Commerce, Justice, State and the Judiciary, U.S. Senate, Washington, DC.*

DEAR SENATORS STEVENS, BYRD, GREGG AND HOLLINGS: We are writing to request you include a provision in the fiscal year 2005 Omnibus Appropriations Conference Report to make heating oil distributors and other small businesses harmed by substantial increases in energy price eligible for Small Business Administration (SBA) disaster loans. Many small businesses are being adversely affected by the substantial increases in the prices of heating oil, propane, kerosene and natural gas. The recent volatile and substantial increases in the cost of these fuels is placing a tremendous burden on the financial resources of small businesses, which typically have small cash flows and narrow operating margins.

Heating oil and propane distributors, in particular, are being impacted. Heating oil and propane distributors purchase oil through wholesalers. Typically, the distributor has 10 days to pay for the oil. The money is pulled directly from a line of credit either at a bank or with the wholesaler. Given the high cost of heating oil, distributors' purchasing power is much lower this year compared to previous years. In addition, the distributors often do not receive payments from customers until 30 days or more after delivery; therefore, their financial resources for purchasing oil for customers and running their business are limited. Heating oil and propane dealers need to borrow money on a short-term basis to maintain economic viability. Commercial lenders typically will not make loans to these small businesses because they usually do not have the increased cash flows to demonstrate the ability to repay the loan. Without sufficient credit, these small businesses will struggle to purchase the heating fuels they need to supply residential customers, businesses and public facilities, such as schools. These loans would provide affected small businesses with the working capital needed until normal operations resume or until they can restructure to address the market changes.

SBA's disaster loans are an appropriate source of funding to address this problem. The hurricanes that caused significant damage to the Gulf Coast along with the current instability in Iraq, Nigeria and Russia caused a surge in the price for oil and important refined products, especially heating fuels. The conditions restricting these small businesses' access to capital are beyond their control and SBA loans can fill this gap when the private sector does not meet the credit needs of small businesses.

A similar provision passed the Small Business Committee and Senate with broad bipartisan support during the 107th Congress when these small businesses faced substantial increase in energy prices. In addition, there is precedence for this proposal as a similar provision was enacted in the 104th Congress to help commercial fisheries failures.

Thank you for your consideration. Please find enclosed suggested draft language for the proposal. If your staff has questions about the proposal or the impacts of the current energy price increases on small businesses, please ask them to contact Kris Sarri at 224–0606.

Sincerely,

Jack Reed, John F. Kerry, Arlen Specter, Christopher J. Dodd, Edward M. Kennedy, James M. Jeffords, Evan Bayh, Susan M. Collins, Jeff Bingaman, Patrick J. Leahy, Lincoln D. Chafee, Frank Lautenberg, Joseph I. Lieberman, Charles E. Schumer, Paul S. Sarbanes, Hillary Rodham Clinton, Barbara A. Mikulski.

Mr. BAUCUS. President, I wish to explain my climate change votes. This is an important debate, and I appreciate the efforts of my colleagues to contribute substantively to our understanding of the issue and to offer solutions.

First, let me be clear that although I voted for Senator HAGEL's amendment relating to the promotion of climate change technology at home and abroad, I do not think that amendment goes far enough to address the issue of rising greenhouse gas emissions. At the very least, I would like to see more aggressive timetables and proposals for Federal action than are contained in Senator HAGEL's amendment.

At the same time, I am still not comfortable supporting the approach of Senator LIEBERMAN and Senator MCCAIN. I admire their hard work and dedication in advocating for immediate action to control U.S. emissions of greenhouse gases. They have helped to educate their colleagues, and have kept the issue on the front-burner in the Senate and made it impossible for us to ignore. And, as they have so often pointed out, the evidence that man-made greenhouse gas emissions are impacting our climate system is growing every year.

However, I am still not ready to support the mandatory cap and trade called for in their amendment that would freeze U.S. emissions of greenhouse gases at 2000 levels in 2010. I still have questions about the costs this proposal would impose on our economy, and in particular on my state that has the largest coal reserves in the lower 48. Projections vary widely, which makes it difficult to weigh costs and benefits. I also have concerns about whether we currently—or will in the immediate future—have the technological capabilities to meet the challenges of the McCain-Lieberman bill, without imposing significant costs on our economy or creating greater volatility in natural gas markets than already exists. Perhaps not in the short term, but beyond 2010, this concern only grows.

These are not trivial questions, particularly when some of our friends in the developing world will soon eclipse the industrialized nations as the largest emitters of greenhouse gases. We cannot ignore that fact, particularly as we contemplate placing a burden on our own economy that could impact our international competitiveness, while at the same time, will have little impact on overall global greenhouse gas concentrations.

I also was unable to support Senator BINGAMAN's sense of the Senate, calling on Congress to implement a mandatory program to reduce emissions of greenhouse gases soon. While I do agree that Congress should take this issue seriously and act sooner rather than later, I can't agree at this point that we are ready to enact a purely mandatory program in the short term.

Crafting truly bipartisan, comprehensive legislation to address greenhouse gas emissions will take a great deal of work that this Congress to date has avoided, except for the concerted efforts of individual Senators, like Senators MCCAIN, LIEBERMAN, BINGAMAN, BYRD and HAGEL. Unfortunately, individual efforts generally are not enough on legislation this complex and far-reaching without the structure and support of a committee-led process, and encouragement from the leadership and the administration.

This must happen, and I have been encouraged to hear many of my colleagues express similar sentiments about pursuing a broader approach to developing climate change legislation,

rather than on an ad hoc basis on the Senate floor, particularly the Chairman of the Senate Energy Committee, Senator DOMENICI. This is a positive development.

Congress must act, and act in a concerted, thoughtful way. That's how we have addressed complicated environmental legislation in the past, including the Clean Air Act. But, we're talking about a potential regulatory scheme that could dwarf the scope and impact of even the Clean Air Act and is directly related to our future economic growth. We're also talking about controlling a gas—CO2—for which we currently have no widely available, proven control technology. Implementing mandatory controls now looks to a certain extent like stepping off a cliff and hoping something breaks our fall. We need to take the time to do it right. I pledge my assistance to make this happen.

I also continue to believe that this administration must re-engage with the international community in a meaningful way. The best way to move forward in this body is concurrently with an international effort that encompasses all of the major greenhouse gas emitters—and those that will soon become the major emitters. Not only will this accelerate the technology development curve, but it will level the economic playing field. The fact that Kyoto left out much of the developing world, including China and India, was that treaty's fatal flaw. We don't need to go down that path again, and I think the world is ready to step beyond Kyoto.

As the current number one emitter of greenhouse gases, it is incumbent on the U.S. to lead, not follow, in this effort. That's why I supported Senator KERRY's sense of the Senate.

## INDIAN HEALTH CARE IMPROVEMENT ACT

Mr. GRASSLEY. Mr. President, I want to take a few minutes to explain my action today related to S. 1239, a bill to amend the Indian Health Care Improvement Act. Today, with great reluctance, I asked Leader FRIST to inform me before entering any unanimous consent agreements related to consideration of this bill, which the Indian Affairs Committee reported by voice vote this morning.

S. 1239 would pencil the Indian Health Service, IHS, an Indian tribe, a tribal organization, or urban Indian organization to pay the monthly part D premium of eligible Medicare beneficiaries. The bill defines eligible beneficiaries as individuals who are Indian and who are eligible for the part D prescription drug benefit, but who do not receive any additional financial assistance made available under the Medicare Modernization Act of 2003, MMA, to beneficiaries with limited incomes.

I am all for providing assistance in paying premiums for beneficiaries in financial need. We devoted a lot of time to those provisions in the MMA. I am troubled, however, that as currently drafted, S. 1239 would permit the IHS, an Indian tribe, tribal organization, or urban Indian organization to pick and choose who will get premium assistance. Specifically, the bill would allow them to consider an eligible beneficiary's ''expected drug utilization'' and any other factors to determine the cost-effectiveness of paying the beneficiary's premium.

This provision might be an attempt to reflect that the IHS, tribes, and tribal organizations have limited resources. The bill language, however, raises a number of questions. First, how would the IHS and tribes determine expected drug utilization or cost-effectiveness? Would it be based on the number of drugs a person takes or the severity of illness? Second, how would they account for the fact that a beneficiary's drug needs could change dramatically with just one illness? That is the point of having insurance.

When we crafted the MMA, we were keenly aware of the potential for adverse selection—meaning that beneficiaries might wait until they need part D coverage to enroll in part D. This would have the effect of driving up the cost of the part D premium for all beneficiaries. The additional considerations currently included S. 1239 set a dangerous precedent by seemingly promoting adverse selection in the part D program. This is exactly opposite to what we sought to achieve in the MMA.

Mr. President, I welcome the opportunity to work with the sponsors of S. 1239, Senators MCCAIN, DORGAN, and BAUCUS, and with members of the Indian Affairs Committee on this matter. I had hoped to accomplish that before the bill was reported out of committee. Unfortunately, that did not happen. I do not take actions such as these lightly. But I am deeply troubled that as currently drafted, S. 1239 could end up having unintended consequences for the very people it is intended to assist and for all Medicare beneficiaries.

### COMBAT METH ACT OF 2005

Mr. FEINGOLD. Mr. President, I am proud to add my name today as a cosponsor of the Combat Meth Act of 2005, S. 103. I want to thank Senator TALENT and Senator FEINSTEIN for their leadership on this issue. I have had the opportunity to work with my colleagues on a new version of the bill that I understand will be offered in the Judiciary Committee as a substitute when the bill is marked up, and I am very pleased to support this new version of the Combat Meth Act.

Meth is a highly addictive and particularly destructive drug that can be manufactured from widely available household items. In the last 5 years, the use of this terrible drug has skyrocketed, both nationally and in my home State of Wisconsin. When I talk to prosecutors and police officers from Wisconsin, they consistently tell me that meth use is the most daunting problem they are facing. They tell me that meth is the single most harmful drug—to addicts, families, children, communities, and the environment—that they have ever dealt with. This bill gives law enforcement officials a chance to stem the growing tide of meth use by restricting access to the cold medicines that are commonly used to make meth and by providing funds for programs that have been shown to combat the meth problem. The bill targets those who purchase over-the-counter drugs for the purpose of manufacturing meth, while still allowing law-abiding Americans to have adequate access to the cold medicines they need.

Methamphetamine is derived from pseudoephedrine, a chemical that is found in most common cold medicines. Meth ''chefs'' can manufacture the drug by buying large quantities of cold medicine, mixing it with other common chemicals, and heating it. This process can occur nearly anywhere and requires only limited knowledge and experience. Even beginners can easily manufacture this drug.

Given how easy it is it make, it is not surprising that meth use has been increasing rapidly. A recent report from the National Institute on Drug Abuse finds that meth use has swept across the country, starting in Southern California and moving steadily eastward. The situation has become particularly dire in the Midwest, where meth use accounts for more than 90 percent of all drug prosecutions. Literally millions and millions of individuals have reported using meth—and this trend shows no signs of slowing. Meth cases in my home State of Wisconsin have gone up 500 percent in just the last 4 years, from 101 prosecutions in 2000 to 545 in 2004. And Wisconsin is doing much better than many other Midwestern States thanks to proactive efforts by state officials in the late 1990s, before meth had taken hold, to educate communities about the dangers of meth and the need for prevention. These education and prevention efforts paid off, keeping the number of meth labs relatively low in Wisconsin compared to neighboring States, but the problem remains a very serious one.

Both the manufacture and the use of meth have devastating consequences for users and those around them. In the short-term, even occasional meth use leads to a whole host of physical and psychological problems. It causes inflammation of the heart lining, increasing the risk of heart attacks and strokes. It causes damage to the nervous system and creates abscesses on the skin. It also attacks the brain, leading to bouts of paranoia, anxiety, and insomnia.

Meth's long-term effects are even more destructive. It has highly addictive properties, quickly turning occasional users into desperate addicts. Meth addicts often go for days without eating or sleeping. They suffer from a variety of heart ailments and can sustain permanent and often irreversible

brain damage. The drug's effect on the brain also leaves addicts vulnerable to the entire spectrum of mental health problems, from paranoia and depression to aggression and psychosis. And the drug's chemical effects are particularly insidious, meaning that addicts often require extended detoxification periods before they can begin treatment.

Sadly, meth's harmful effects are not confined to its users. The process of manufacturing meth creates unique environmental hazards that can poison surrounding communities. Cooking the chemicals that create meth can lead to explosions, fires, and the release of noxious gases. Remnants from the procedure are often washed down the drain or dumped in the ground, where they can contaminate local water sources.

Another related danger of significant meth use in a community is an increased crime rate. Meth addicts often resort to violence to gain access to the materials they need or to the money they must have to sustain their addiction. Additionally, people who are high on meth are disposed to aggressive and violent behavior. The results are apparent. For example, local news reports indicate that Eau Claire County in Wisconsin, which has been hard hit by the meth problem, has seen a significant increase in meth-related crimes as meth use has become more prevalent. This drug does not just poison users; it can affect entire communities.

And in the unkindest cut of all, children who are exposed to meth manufacturing or use can be scarred for life. Children of meth addicts are exposed to toxic fumes and volatile chemicals, resulting in potentially serious health problems, and they are often abused or neglected by those in the throes of addiction.

This problem calls for immediate Federal action. When Oklahoma was the first State earlier this year to pass a law that successfully restricted access to pseudoephedrine, the sale of products containing pseudoephedrine grew noticeably in neighboring States. The Oklahoma experience shows that States acting alone cannot address what has become a national meth problem. We need a law that creates national standards for the sale of products containing pseudoephedrine and puts the resources of the Federal Government behind the effort to stop meth use.

The new version of the Combat Meth Act provides the national response that we need. It attacks the meth problem at all stages of the process: It gives State and local officials the tools they need to prevent the sale of products used to make meth, to investigate and prosecute meth manufacturers, and to treat meth addicts and protect the children they harm.

This bill helps prevent meth use by restricting the sale of ingredients needed to manufacture meth. Under the new bill, cold medicines that contain pseudoephedrine will be placed behind pharmacy counters and purchasers will only be able to buy 7.5 grams of the product per month—more than enough for people who really need the medicine but not enough for those who are buying the medicine to make meth. It requires people purchasing pseudoephedrine products to sign a written log, but I am pleased that the new version of the bill ensures the privacy of this potentially sensitive medical information by allowing the information to be used only to find individuals who might be purchasing these products to make meth. The bill also provides funding to States to monitor the sale of products containing pseudoephedrine.

The Combat Meth Act gives States the resources they need to bring meth manufacturers to justice. It provides money for training programs for State and local law enforcement and expands the scope of currently effective meth investigation and clean-up programs. Once meth producers and traffickers are found, this bill helps put them behind bars by hiring additional Federal prosecutors, training local prosecutors in Federal and State meth laws, and cross-designating local prosecutors as Special Assistant U.S. Attorneys, allowing them to bring legal action in Federal courts.

While this bill strengthens enforcement and prosecution measures, it also recognizes that most meth addicts require treatment rather than harsh criminal sanction. To that end, the bill authorizes the creation of a meth treatment assistance center, which will help states learn how to effectively treat those who suffer from this awful addiction. And for this drug's most innocent victims—the children who are exposed to meth by the users around them—the bill provides a $5 million grant to allow Federal, State, and local entities to work together to help assist and educate children who have been harmed by a family member's meth addiction.

The widespread use of meth, particularly in the Midwest, has become an unsupportable burden for many families and communities. The new version of the Combat Meth Act is a commonsense response to a growing problem one that requires immediate Federal attention. While the bill does not address the increasing problem of meth imports from overseas, it will help cut back on domestic meth manufacturing and the many harms that accompany it. I am proud to support this new version of the bill and I urge my colleagues to support it.

## LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to 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.

A gay Latina woman was walking on the beach with her transgender male partner last year when they were approached by two unknown men. The men began making disparaging and intimidating comments at them. The two men then chased and threw rocks at the victims.

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. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

# ADDITIONAL STATEMENTS

## 100TH ANNIVERSARY OF JUD, NORTH DAKOTA

• Mr. CONRAD. Mr. President, I rise today to honor a community in North Dakota that just celebrated its 100th anniversary. On June 24–26, the residents of Jud, ND, celebrated their community's founding and history.

Jud is a small town of 368 citizens in south-central North Dakota. Despite its small size, Jud holds an important place in North Dakota's history. Like many of North Dakota's towns and cities, Jud began with the railroad. The Northern Pacific Railroad reached the present day site of Jud in 1903 and drew up a plot for the town of Gunthorpe. Shortly following this, the town's name was changed to Jud. Between 1905 and 1911 a plethora of businesses sprang up. Among other businesses, the town once had a weekly newspaper, a pool hall and even its own baseball team.

Today, Jud boasts a number of businesses including The Jud Café, Klassie Kurl Beauty Salon, and The Wander In. Especially unique to Jud is the town's impressive compilation of murals, which adorn twenty-six of the town's buildings.

I ask the United States Senate to join me in congratulating Jud, ND, and its residents on their first 100 years and in wishing them well through the next century. By honoring Jud and all the other historic small towns of North Dakota, we keep the pioneering frontier spirit alive for future generations. It is places such as Jud that have helped to shape this country into what it is today, which is why the fine community of Jud is deserving of our recognition.

Jud has a proud past and a bright future.•

## 100TH ANNIVERSARY OF UPHAM, NORTH DAKOTA

• Mr. CONRAD. Mr. President, I rise today to honor a community in North

Dakota that is celebrating its 100th anniversary. During the weekend of July 1st, the residents of Upham, ND, will celebrate their history and the town's founding.

Upham is a small town in north-central North Dakota with a population of 155. Despite its size, Upham holds an important place in North Dakota's history. Upham was founded during the summer of 1905 at a time when the entire State of North Dakota was growing at an incredible rate. During this time, the Towner-Maxbass branch line of the Great Northern Railroad was extended up towards the Souris River Valley. This led to the founding of Upham, which served as a focal point for the Icelandic, Norwegian, German, and German-Russian communities nearby. The first school in Upham was built soon after the town's founding, and it will be having an all student reunion to coincide with the centennial celebration. Upham has flourished as a farming community ever since.

Today, its citizens have settled into a comfortable life style, where families can enjoy the summer butterflies and wild flowers of the J. Clark Sayler National Wildlife Refuge, and the town elders can socialize at the American Legion or the 55+ Club.

I ask the United States Senate to join me in congratulating Upham, ND, and its residents on their first 100 years and in wishing them well through the next century. I believe that by honoring Upham and all the other historic small towns of North Dakota, we keep the pioneering, frontier spirit alive for future generations. It is places such as Upham that have helped to shape this country into what it is today. I believe that the community of Upham is deserving of our recognition.

Upham has a proud past and a bright future.●

## 125TH ANNIVERSARY OF BUXTON, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I rise today to honor a community in North Dakota that is celebrating its 125th anniversary. Starting on June 29, 2005, the residents of Buxton, ND, will celebrate their history and founding.

Buxton is a small town in the eastern part of North Dakota with a population of 350. Buxton holds an important place in North Dakota's history. It began in 1880 when Budd Reeve plotted the town known today as Buxton. Budd Reeve obtained the townsite from the Great Northern Railroad in exchange for the land used for the old Union Depot in Minneapolis, MN. On October 5, 1880, three cars of lumber were delivered for the new town. At this time the only construction on the town site was an old sod house homestead. By November 2, 1880, a store had been built from this shipment of lumber and was being operated. During these same months a two-story station and a section house were built by the railroad. It was Budd's wife, Harriett Reeve, who suggested the new town be called ''Buxton,'' for T.J. Buxton, a wealthy Minneapolis businessman and family friend. The post office was established November 8, 1880. Chester Fritz, the famous businessman, financier, and UND benefactor was born in Buxton in 1892.

Even after 125 years, Buxton is still a strong agricultural community. It is home to both the Central Valley Bean Cooperative and the Farmers Union Elevator. Rural Buxton is also home to the Central Valley Public School, which is a cooperative school district with Reynolds, ND.

I ask the United States Senate to join me in congratulating Buxton, ND, and its residents on their first 125 years and in wishing them well through the next century. I believe that by honoring Buxton and all the other historic small towns of North Dakota, we keep pioneering frontier spirit alive for future generations. It is places such as Buxton that have helped to shape this country into what it is today, which is why Buxton is deserving of our recognition.

Buxton has a proud past and a bright future.●

## 100TH ANNIVERSARY OF STREETER, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I rise today to recognize a community in North Dakota that will be celebrating its 100th anniversary. On July 1–3, the residents of Streeter will gather to celebrate their community's history and founding.

Streeter is a vibrant community in south central North Dakota. Streeter holds an important place in North Dakota's history. Streeter was founded in the spring of 1905 when Mr. and Mrs. Alex Anderson's homestead was plotted and sold. Mr. and Mrs. Anderson had two daughters, Frances and Florence, whose names marked the first streets in the town. The town was named after the editor and newspaper writer of Emmons County, D.R. Streeter. The school opened in the fall of 1906, and the first council meeting was held on June 22, 1916. By special election in 1950, Streeter became a city, and Oscar Seher was elected mayor.

The residents of Streeter are enthusiastic about their community and the quality of life it offers. Today, Streeter has a bank, three churches, a farmer's co-op elevator, fire department, and post office. A more recent addition is the Streeter Community Cafe, which not only serves home cooking, but offers space for community events.

Planning for the centennial has been underway for the last several years. It is clear from the list of weekend events, which include a dance, parade, games, craft show, auction, and much more, that everyone takes great pride in their community and heritage.

I ask the United States Senate to join me in congratulating Streeter, ND, and its residents on their first 100 years and in wishing them well through the next century. By honoring Streeter and all the other historic small towns of North Dakota, we keep the great pioneering frontier spirit alive for future generations. It is places such as Streeter that have helped to shape this country into what it is today, which is why this fine community is deserving of our recognition.

Streeter has a proud past and a bright future.●

## 100TH ANNIVERSARY OF SARLES, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I rise today to honor a community in North Dakota that is celebrating its 100th anniversary. On July 2nd and 3rd, the residents of Sarles, ND, will celebrate their history during the past 100 years.

Sarles is a small town in the northeastern part of North Dakota, with a population of 25. Despite its small size, Sarles holds an important place in North Dakota's history. The town is located close to the U.S./Canadian border, and was founded when the Great Northern Railroad extended access to this area in 1905. Ever since then, Sarles has served as a port of entry, with customs agent D.W. Elves serving for a large portion of that time. Sarles was founded in 1905, and was named after the newly elected Governor Elmore Y. Sarles, who served from 1905–1906. Sarles went on to produce a governor of its own, Allen I. Olson, who served as North Dakota attorney general from 1972–1980, and North Dakota Governor from 1981–1984. Today, Sarles remains an important port of entry into the United States, and a focal point for the greater farming community in the area.

I ask the United States Senate to join me in congratulating Sarles, ND, and its residents on their first 100 years and in wishing them well through the next century. I believe that by honoring Sarles and all the other historic small towns of North Dakota, we keep the pioneering, frontier spirit alive for future generations. It is places such as Sarles that have helped to shape this country into what it is today. I believe that the community of Sarles is deserving of our recognition.

Sarles has a proud past and a bright future.●

## 100TH ANNIVERSARY OF EGELAND, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I rise today to honor a community in North Dakota that is celebrating its 100th anniversary. On July 1–3, the residents of Egeland, ND, will celebrate their community's history and founding.

Egeland is a small town in the northeastern part of North Dakota with a population of just under 50. Despite its size, Egeland holds an important place in North Dakota's history. It began in 1905 when the Soo Line Railroad established a station and a settlement grew around it. Mr. Axel Egeland, a banker

from Bisbee, North Dakota, was employed by the Soo Line Railroad to select the town-site and was, as a Soo agent, given the privilege of naming the new town. Lots were sold August 9, 1905, and on August 23, 1905, the country store and post office called ''Lakeview'' relocated in the town.

Today, most families in the Egeland area are involved in farming the land. Crops such as wheat, flax, and barley are typical, and farming provides an excellent livelihood for the area's residents. Due to its small size, the youth of Egeland attend school and participate in athletics in the nearby town of Cando. However, the rural nature of the community and the interconnectedness of its members make Egeland a wonderful location to raise a family.

I ask the United States Senate to join me in congratulating Egeland, ND, and its residents on their first 100 years and in wishing them well through the next century. By honoring Egeland and all the other historic small towns of North Dakota, we keep the pioneering frontier spirit alive for future generations. It is places such as Egeland that have helped to shape this country into what it is today, which is why Egeland is deserving of our recognition.

Egeland has a proud past and a bright future.●

## TRIBUTE TO SHERIFF JUAN HERNANDEZ

● Mr. DOMENICI. Mr. President, I rise to pay tribute to one of New Mexico's finest public servants, Sheriff Juan Hernandez of Las Cruces whom I am honored to consider a good friend as well.

There are few people in my State's history who have been honored with a special day to recognize their legacy and accomplishments. On December 31, 2004, the Doña Ana County Commission honored retiring Doña Ana County Sheriff Juan Hernandez for his 6 years of service by proclaiming Friday the 31st as Juan Hernandez Day.

Today, I seek to honor this man who has given greatly to his community and to the people of Doña Ana County through his allegiance to public service. Juan has worked in law enforcement for 34 years with both the Sheriff's Department and the Las Cruces Police Department. He served as the Doña Ana County Sheriff from January of 1999 to January of 2005, and I believe it is for this post Juan will always be remembered.

In this elected position, Juan sought not to just serve his county but to find ways to improve it. Though his official title was ''Sheriff,'' he earned himself an added title as the ''Grant Writing Machine.'' Over the past 6 years, Juan Hernandez secured $4.8 million in Federal grants for a variety of programs whose missions ranged from combating drug use and drunk driving to fighting crime and terrorism within the county.

Juan Hernandez's accolades are numerous and his hard work undeniable. While I could certainly continue at great length in listing his accomplishments, I believe his own words most eloquently describe the man behind the badge: ''When you really make an effort to make a difference, the rewards are greater than you can ever imagine.''

I feel especially honored to have seen this man's work first-hand and to have joined his efforts over the past years to develop Doña Ana County. Juan, you have made a difference in many lives, and for that you have my and the State of New Mexico's continued respect and admiration.●

## A CENTURY FOR A ''COMPANY TOWN''

● Mr. CRAPO. Mr. President, a small town in Idaho celebrates its 100th birthday this month. Potlatch, named after the lumber company that made its home there in the early part of the 20th Century, was started by Frederick Weyerhaeuser after scouts reported that it would be a fine place to establish a lumber company. When the mill opened, it was the largest white pine sawmill in the world and, in a very interesting way, a social experiment. Weyerhaeuser built a ''company town'' including homes, churches, a post office, schools, commercial buildings and even an opera house and ensured the new towns connectivity to commerce by building a railroad. When you think about it, this is quite a phenomenal achievement even for a large company and showed tremendous business foresight as well as a consideration of the needs of its workers. Older residents even tell stories about the rather unique way that students were kept in line at school: if the students got into trouble, the parents were told that they would lose their job at the mill if the bad behavior continued. How times have changed!

Although the population is only about half of what it was in its heyday, and no longer a ''company town,'' the notion of community that was bred over decades lives on in Potlatch residents today. I congratulate Potlatch on 100 years of community success.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

### EXECUTIVE ORDER THAT TAKES ADDITIONAL STEPS WITH RESPECT TO THE NATIONAL EMERGENCY DECLARED IN EXECUTIVE ORDER 12938 OF NOVEMBER 14, 1994, AMENDING EXECUTIVE ORDER 12938 AND EXECUTIVE ORDER 13094 OF JULY 28, 1998, BY BLOCKING PROPERTY OF WEAPONS OF MASS DESTRUCTION PROLIFERATORS AND THEIR SUPPORTERS—PM 16

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

Pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701 et seq. (IEEPA), I hereby report that I have issued an Executive Order that takes additional steps with respect to the national emergency declared in Executive Order 12938 of November 14, 1994, regarding the proliferation of weapons of mass destruction (WMD) and the means of delivering them, and the measures imposed by that order, as expanded by Executive Order 13094 of July 28, 1998.

This order is designed to combat WMD trafficking by blocking the property of persons that engage in proliferation activities and their support networks. It is intended to advance international cooperative efforts against WMD financing, including with our G–8 partners and through the Proliferation Security Initiative. This order also provides a model for other nations to follow in adopting laws to stem the flow of financial and other support for proliferation activities, as decided in United Nations Security Council Resolution 1540. It further implements a key recommendation of the Silberman-Robb WMD Commission.

Executive Order 12938, as amended, authorizes the Secretary of State to impose certain measures against foreign persons (individuals or entities) determined to have materially contributed to the proliferation efforts of any foreign country, project, or entity of proliferation concern. The measures that the Secretary of State may choose to impose under Executive Order 12938, as amended, are a ban on U.S. Government procurement from the designated foreign person; a ban on U.S. Government assistance to the designated foreign person; and a ban on imports from the designated foreign person.

Recognizing the need for additional tools to defeat the proliferation of WMD, I have signed the new order, which authorizes the imposition of a new measure—blocking—against WMD proliferators and their support networks. This action, sometimes referred to as freezing, will apply to property and interests in property of persons designated under the order and will

deny such persons access to the U.S. financial and commercial systems. Modeled after Executive Order 13224 of September 23, 2001, the new order provides broad new authorities to target not only persons engaged in proliferation activities, but also those providing support or services to such proliferators.

In particular, the order blocks the property and interests in property in the United States, or in the possession or control of United States persons, of (1) the persons listed in the Annex to the order; (2) any foreign person determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Attorney General, and other relevant agencies, to have engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of WMD or their means of delivery (including missiles capable of delivering such weapons) by any person or foreign country of proliferation concern; (3) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to have provided, or attempted to provide, financial, material, technological, or other support for, or goods or services in support of, proliferation-related activities or any person blocked pursuant to the order; and (4) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any blocked person.

In addition, the order amends section 4(a) of Executive Order 12938, as amended, by conforming the criteria for determining that a foreign person has engaged in activity described in that order to the criteria for designations by the Secretary of State set forth in section 1(a)(ii) of the new order. Executive Order 12938, as amended, will continue to be an important tool to combat WMD proliferation.

Actions taken under the order become effective on June 29, 2005. The new order recognizes the need for more robust tools to defeat the proliferation of WMD around the world. The steps that we are undertaking in this new order form yet another part of our evolving response to this challenge.

GEORGE W. BUSH.

THE WHITE HOUSE, *June 28, 2005*.

## MESSAGES FROM THE HOUSE

At 11:53 a.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.432. An act to require the Secretary of the Interior to permit continued occupancy and use of certain lands and improvements within Rocky Mountain National Park.

H.R. 3021. An act to reauthorize the Temporary Assistance for Needy Families block grant program through September 30, 2005, and for other purposes.

The message also announced that the House has passed the following bill, without amendment:

S. 1282. An act to amend the Communications Satellite Act of 1962 to strike the privatization criteria for INTELSAT separated entities, remove certain restriction on separated and successor entities to INTELSAT, and for other purposes.

The message further announced that pursuant to the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 955(b) note), and the order of the House of January 4, 2005, the Minority Leader appoints the following Member of the House of Representatives to the National Council on the Arts: Ms. MCCOLLUM of Minnesota.

The message also announced that pursuant to section 2(a) of the National Cultural Center Act (20 U.S.C. 76h(a)), amended by Public Law 107–117, and the order of the House of January 4, 2005, the Speaker appoints the following Member of the House of Representatives to the Board of Trustees of the John F. Kennedy Center for the Performing Arts: Mr. KENNEDY of Rhode Island.

The message further announced that pursuant to the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 955(b) note), and the order of the House of January 4, 2005, the Speaker appoints the following Members of the House of Representatives to the National Council on the Arts: Mr. MCKEON of California, and Mr. TIBERI of Ohio.

At 2:57 p.m., a message from the House of Representatives, delivered by Mr. Hays, 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. 2490. An act to designate the facility of the United States Postal Service located at 442 West Hamilton Street, Allentown, Pennsylvania, as the ''Mayor Joseph S. Daddona Memorial Post Office''.

H.R. 3057. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2006, and for other purposes.

## ENROLLED BILL SIGNED

At 9:09 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. 714. An act to amend section 227 of the Communications Act of 1934 (47 U.S.C. 227) relating to the prohibition on junk fax transmissions.

## MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 432. An act to require the Secretary of the Interior to permit continued occupancy and use of certain lands and improvements within Rocky Mountain National Park; to the Committee on Energy and Natural Resources.

H.R. 2490. An act to designate the facility of the United States Postal Service located at 442 West Hamilton Street, Allentown, Pennsylvania, as the ''Mayor Joseph S. Daddona Memorial Post Office''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 3057. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2006, and for other purposes; to the Committee on Appropriations.

## MEASURES PLACED ON THE CALENDAR

The following bills were discharged from the Committee on Homeland Security and Governmental Affairs by unanimous consent, and ordered placed on the calendar:

S. 590. A bill to designate the facility of the United States Postal Service located at 750 4th Street in Sparks, Nevada, as the ''Mayor Tony Armstrong Memorial Post Office''.

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''.

S. 892. A bill to designate the facility of the United States Postal Service located at 321 Montgomery Road in Altamonte Springs, Florida, as the ''Arthur Stacey Mastrapa Post Office Building''.

S. 1206. A bill 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''.

S. 1207. A bill to designate the facility of the United States Postal Service located at 30777 Rancho California Road in Temecula, California, as the ''Dalip Singh Saund Post Office Building''.

## MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 1332. A bill to prevent and mitigate identity theft; to ensure privacy; and to enhance criminal penalties, law enforcement assistance, and other protections against security breaches, fraudulent access, and misuse of personally identifiable information.

## 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–2810. 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 ''Delegation of Authority to the States of Iowa and Kansas for New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP); and Maximum Achievable Control Technology (MACT) Standards'' (FRL No. 7927–4) received on June 27, 2005; to the Committee on Environment and Public Works.

EC–2811. 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 ''Approval and Promulgation of State Implementation Plans: Washington; Spokane Carbon Monoxide Nonattainment Area; Designation of Areas for Air Quality Planning Purposes'' (FRL No. 7929–7) received on June 27, 2005; to the Committee on Environment and Public Works.

EC–2812. 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 ''Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Control of VOC Emissions from Aerospace, Mobile Equipment, and Wood Furniture Surface Coating Applications for Allegheny County'' (FRL No. 7927–5) received on June 27, 2005; to the Committee on Environment and Public Works.

EC–2813. 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 ''Approval and Promulgation of State Implementation Plans; Ohio; Revised Oxides of Nitrogen ($NO_X$) Regulation and Revised $NO_X$ Trading Rule'' (FRL No. 7923–2) received on June 27, 2005; to the Committee on Environment and Public Works.

EC–2814. 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 ''Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Bernalillo County, New Mexico; Negative Declaration; Correction'' (FRL No. 7928–4) received on June 27, 2005; to the Committee on Environment and Public Works.

EC–2815. 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 ''Vermont: Final Authorization of State Hazardous Waste Management Program Revision'' (FRL No. 7927–1) received on June 27, 2005; to the Committee on Environment and Public Works.

EC–2816. 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 ''National Emission Standards for Hazardous Air Pollutants: Cellulose Products Manufacturing'' (FRL No. 7925–8) received on June 27, 2005; to the Committee on Environment and Public Works.

EC–2817. A communication from the Acting Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''List of Approved Spent Fuel Storage Casks: NUHOMS–24P, –52B, –61BT, –32PT, –24PHB, and –24PTH Revision'' (RIN3150–AH72) received on June 27, 2005; to the Committee on Environment and Public Works.

EC–2818. A communication from the Chairman, Broadcasting Board of Governors, transmitting, pursuant to law, the Board's annual report summarizing the activities of nonmilitary U.S. international broadcasting: the Voice of America, Middle East Broadcasting Networks, Radio Free Europe/Radio Liberty, Radio Free Asia, the Office of Cuba Broadcasting, and the International Broadcasting Bureau; to the Committee on Foreign Relations.

EC–2819. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–2820. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–2821. 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 ''Trifloxystrobin, Pesticide Tolerances for Emergency Exemptions'' (FRL No. 7720–2) received on June 27, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2822. 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 ''Highly Pathogenic Avian Influenza; Additional Restrictions'' (APHIS Docket No. 04–011–2) received on June 23, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2823. 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 ''Citrus Canker; Quarantined Areas'' (APHIS Docket No. 05–005–2) received on June 23, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2824. 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 ''Phytophthora Ramorum; Vacuum Heat Treatment for Bay Leaves'' (APHIS Docket No. 04–092–2) received on June 23, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2825. A communication from the Chairman, Farm Credit Administration, transmitting, pursuant to law, the report of a rule entitled ''Assessment and Apportionment of Administrative Expenses; Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Disclosure to Shareholders; Capital Adequacy Risk-Weighting Revisions'' (RIN3052–AC09) received on June 22, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2826. A communication from the Chief, Regulatory Review Group, Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Extra Long Staple Cotton Prices'' (RIN0560–AH36) received on June 23, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2827. A communication from the Regulatory Officer, Directives and Regulations Branch, Forest Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Clarification as to When a Notice of Intent To Operate and/or Plan of Operation Is Needed for Locatable Mineral Operations on National Forest System Lands'' (RIN0596–AC17) received on June 23, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2828. A communication from the Administrator, Food and Nutrition Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Child and Adult Care Food Program: Permanent Agreements for Day Care Home Providers'' (RIN0584–AD69) received on June 27, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2829. A communication from the Acting Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Avocados Grown in South Florida; Changes in Container and Reporting Requirements'' (FV05–915–2 IFR) received on June 27, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2830. A communication from the Acting Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Irish Potatoes Grown in Washington; Increased Assessment Rate'' (FV05–946–1 FR) received on June 27, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2831. 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 ''Oriental Fruit Fly'' (APHIS Docket No. 02–096–5) received on June 27, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. COCHRAN, from the Committee on Appropriations:

Special Report entitled ''Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 2006.'' (Rept. No. 109–95).

By Mr. GRASSLEY, from the Committee on Finance, without amendment:

S. 1307. A bill to implement the Dominican Republic-Central America-United States Free Trade Agreement.

## EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. ENZI for the Committee on Health, Education, Labor, and Pensions.

*Tom Luce, of Texas, to be Assistant Secretary for Planning, Evaluation, and Policy Development, Department of Education.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. LOTT (for himself and Mr. BAUCUS):

S. 1327. A bill to amend the Internal Revenue Code of 1986 to modify the active business definition under section 355; to the Committee on Finance.

By Mr. JEFFORDS (for himself and Mr. SARBANES):

S. 1328. A bill to amend the Safe Drinking Water Act to ensure that the District of Columbia and States are provided a safe, lead-free supply of drinking water; to the Committee on Environment and Public Works.

By Mr. BAYH:

S. 1329. A bill to amend the Internal Revenue Code of 1986 to provide for a tax credit

for offering employer-based health insurance coverage and to provide for the establishment of health insurance purchasing pools; to the Committee on Finance.

By Mrs. CLINTON (for herself, Mr. SMITH, Mr. MARTINEZ, Mr. REED, and Mr. DURBIN):

S. 1330. A bill to amend the Internal Revenue Code of 1986 to provide incentives for employer-provided employee housing assistance, and for other purposes; to the Committee on Finance.

By Mr. JOHNSON (for himself, Mr. THOMAS, Mr. ENZI, Mr. DORGAN, Mr. BURNS, Mr. THUNE, Mr. BINGAMAN, and Mr. BAUCUS):

S. 1331. A bill to amend the Agricultural Marketing Act of 1946 to charge the date of implementation of country of origin labeling to January 30, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SPECTER (for himself and Mr. LEAHY):

S. 1332. A bill to prevent and mitigate identity theft; to ensure privacy; and to enhance criminal penalties, law enforcement assistance, and other protections against security breaches, fraudulent access, and misuse of personally identifiable information; read the first time.

By Mr. CORNYN (for himself, Mrs. LINCOLN, Mrs. HUTCHISON, Mr. TALENT, Mr. SANTORUM, Mr. COLEMAN, Mr. ISAKSON, Mr. ROBERTS, Mr. BROWNBACK, Mr. BOND, Mr. HATCH, Mr. ALLARD, Mr. ALEXANDER, Mr. MARTINEZ, and Mr. PRYOR):

S. 1333. A bill to amend the Agricultural Marketing Act of 1946 to establish a voluntary program for country of origin labeling of meat, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BUNNING (for himself, Mr. STEVENS, and Mr. ROCKEFELLER):

S. 1334. A bill to provide for integrity and accountability in professional sports; to the Committee on Commerce, Science, and Transportation and the Committee on Finance.

By Mr. DODD (for himself, Mr. KENNEDY, Mr. KERRY, and Mr. BINGAMAN):

S. 1335. A bill to amend title XVIII of the Social Security Act to preserve access to appeals before administrative law judges under the medicare program; to the Committee on Finance.

By Mr. PRYOR:

S. 1336. A bill to establish procedures for the protection of consumers from misuse of, and unauthorized access to, sensitive personal information contained in private information files maintained by commercial entities engaged in, or affecting, interstate commerce, provide for enforcement of those procedures by the Federal Trade Commission, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ENZI (for himself and Mr. BAUCUS):

S. 1337. A bill to restore fairness and reliability to the medical justice system and promote patient safety by fostering alternatives to current medical tort litigation, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. MURKOWSKI (for herself and Mr. STEVENS):

S. 1338. A bill to require the Secretary of the Interior, acting through the Bureau of Reclamation and the United States Geological Survey, to conduct a study on groundwater resources in the State of Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEAHY (for himself, Ms. COLLINS, Mr. JEFFORDS, Mrs. BOXER, Mr. KERRY, Mr. BIDEN, Ms. CANTWELL, Mr. CARPER, Mr. ROCKEFELLER, Mr. CORZINE, Mr. DAYTON, Mr. REID, Mr. DODD, Mrs. CLINTON, Mr. DURBIN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. HARKIN, Mr. KENNEDY, Mr. KOHL, Mr. OBAMA, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Ms. MIKULSKI, Mrs. MURRAY, Mr. REED, Mr. SARBANES, Mr. SCHUMER, Mr. WYDEN, Mr. AKAKA, and Ms. SNOWE):

S.J. Res. 20. A joint resolution disapproving a rule promulgated by the Administrator of the Environmental Protection Agency to delist coal and oil-direct utility units from the source category list under the Clean Air Act; to the Committee on Environment and Public Works.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SANTORUM (for himself, Mr. FEINGOLD, Mr. SMITH, Ms. COLLINS, Mr. COLEMAN, and Mr. VOINOVICH):

S. Res. 184. A resolution expressing the sense of the Senate regarding manifestations of anti-Semitism by United Nations member states and urging action against anti-Semitism by United Nations officials, United Nations member states, and the Government of the United States, and for other purposes; to the Committee on Foreign Relations.

## ADDITIONAL COSPONSORS

S. 37

At the request of Mrs. FEINSTEIN, the names of the Senator from Nebraska (Mr. NELSON), the Senator from Vermont (Mr. LEAHY), and the Senator from Florida (Mr. MARTINEZ) were added as cosponsors of S. 37, a bill to extend the special postage stamp for breast cancer research for 2 years.

S. 313

At the request of Mr. LUGAR, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 313, a bill to improve authorities to address urgent nonproliferation crises and United States nonproliferation operations.

S. 331

At the request of Mr. JOHNSON, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from California (Mrs. BOXER), and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 331, a bill to amend title 38, United States Code, to provide for an assured adequate level of funding for veterans health care.

S. 335

At the request of Ms. COLLINS, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 335, a bill to reauthorize the Congressional Award Act.

S. 484

At the request of Mr. WARNER, the name of the Senator from Florida (Mr. MARTINEZ) 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. 513

At the request of Mr. GREGG, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 513, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 521

At the request of Mrs. HUTCHISON, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 521, a bill to amend the Public Health Service Act to direct the Secretary of Health and Human Services to establish, promote, and support a comprehensive prevention, research, and medical management referral program for hepatitis C virus infection.

S. 627

At the request of Mr. HATCH, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from Idaho (Mr. CRAIG) were added as cosponsors of S. 627, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, to increase the rates of the alternative incremental credit, and to provide an alternative simplified credit for qualified research expenses.

S. 709

At the request of Mr. DEWINE, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 709, a bill to amend the Public Health Service Act to establish a grant program to provide supportive services in permanent supportive housing for chronically homeless individuals, and for other purposes.

S. 713

At the request of Mr. ROBERTS, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 713, a bill to amend the Internal Revenue Code of 1986 to provide for collegiate housing and infrastructure grants.

S. 759

At the request of Mr. SCHUMER, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 759, a bill to amend the Internal Revenue Code of 1986 to make higher education more affordable, and for other purposes.

S. 792

At the request of Mr. DORGAN, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. 792, a bill to establish a National sex offender registration database, and for other purposes.

S. 828

At the request of Mr. HARKIN, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 828, a bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities, and for other purposes.

S. 861

At the request of Mr. ISAKSON, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 861, a bill to amend the Internal Revenue Code of 1986 to provide transition funding rules for certain plans electing to cease future benefit accruals, and for other purposes.

S. 875

At the request of Mr. BINGAMAN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of 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.

S. 1047

At the request of Mr. SUNUNU, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from Utah (Mr. BENNETT), the Senator from Virginia (Mr. WARNER), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Hampshire (Mr. GREGG) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. 1047, a bill to require the Secretary of the Treasury to mint coins in commemoration of each of the Nation's past Presidents and their spouses, respectively to improve circulation of the $1 coin, to create a new bullion coin, and for other purposes.

S. 1112

At the request of Mr. GRASSLEY, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1112, a bill to make permanent the enhanced educational savings provisions for qualified tuition programs enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001.

S. 1129

At the request of Mr. LUGAR, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 1129, a bill to provide authorizations of appropriations for certain development banks, and for other purposes.

S. 1246

At the request of Mr. DODD, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1246, a bill to require the Secretary of Education to revise regulations regarding student loan payment deferment with respect to borrowers who are in postgraduate medical or dental internship, residency, or fellowship programs.

S. 1269

At the request of Mr. INHOFE, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 1269, a bill to amend the Federal Water Pollution Control Act to clarify certain activities the conduct of which does not require a permit.

S. 1280

At the request of Ms. SNOWE, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 1280, a bill to authorize appropriations for fiscal years 2006 and 2007 for the United States Coast Guard, and for other purposes.

S. 1305

At the request of Mr. BROWNBACK, the names of the Senator from Florida (Mr. MARTINEZ) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 1305, a bill to amend the Internal Revenue Code of 1986 to increase tax benefits for parents with children, and for other purposes.

S. 1317

At the request of Mr. HATCH, the names of the Senator from Ohio (Mr. DEWINE), the Senator from Kansas (Mr. ROBERTS), the Senator from North Carolina (Mrs. DOLE) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 1317, a bill to provide for the collection and maintenance of cord blood units for the treatment of patients and research, and to amend the Public Health Service Act to authorize the Bone Marrow and Cord Blood Cell Transplantation Program to increase the number of transplants for recipients suitable matched to donors of bone marrow and cord blood.

S. 1320

At the request of Mr. DEWINE, the names of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 1320, a bill to provide multilateral debt cancellation for Heavily Indebted Poor Countries, and for other purposes.

S. RES. 31

At the request of Mr. COLEMAN, the names of the Senator from Kentucky (Mr. BUNNING) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. Res. 31, a resolution expressing the sense of the Senate that the week of August 7, 2005, be designated as ''National Health Center Week'' in order to raise awareness of health services provided by community, migrant, public housing, and homeless health centers, and for other purposes.

S. RES. 42

At the request of Mr. LUGAR, the names of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from New Hampshire (Mr. SUNUNU) were added as cosponsors of S. Res. 42, a resolution expressing the sense of the Senate on promoting initiatives to develop an HIV vaccine.

S. RES. 172

At the request of Mr. BROWNBACK, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from Oklahoma (Mr. COBURN) were added as cosponsors of S. Res. 172, a resolution affirming the importance of a national weekend of prayer for the victims of genocide and crimes against humanity in Darfur, Sudan, and expressing the sense of the Senate that July 15 through 17, 2005, should be designated as a national weekend of prayer and reflection for Darfur.

At the request of Mr. CORZINE, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Colorado (Mr. SALAZAR) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. Res. 172, supra.

S. RES. 182

At the request of Mr. COLEMAN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. Res. 182, a resolution supporting efforts to increase childhood cancer awareness, treatment, and research.

AMENDMENT NO. 1023

At the request of Mrs. BOXER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 1023 proposed to H.R. 2361, a bill making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1025

At the request of Mr. DORGAN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of amendment No. 1025 proposed to H.R. 2361, a bill making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1030

At the request of Mr. BINGAMAN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of amendment No. 1030 proposed to H.R. 2361, a bill making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1046

At the request of Mr. SARBANES, the names of the Senator from Tennessee (Mr. ALEXANDER), the Senator from Delaware (Mr. CARPER) and the Senator from Pennsylvania (Mr. SANTORUM) were added as cosponsors of amendment No. 1046 proposed to H.R. 2361, a bill making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1052

At the request of Mr. CONRAD, his name was added as a cosponsor of amendment No. 1052 proposed to H.R. 2361, a bill making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

At the request of Mrs. MURRAY, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mrs. LINCOLN) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of amendment No. 1052 proposed to H.R. 2361, supra.

At the request of Ms. LANDRIEU, her name was added as a cosponsor of

amendment No. 1052 proposed to H.R. 2361, supra.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LOTT (for himself and Mr. BAUCUS):

S. 1327. A bill to amend the Internal Revenue Code of 1986 to modify the active business definition under section 355; to the Committee on Finance.

Mr. LOTT. Mr. President, I rise today to introduce legislation proposing a change to the Internal Revenue Code that has been endorsed by both the Joint Committee on Taxation and the United States Treasury Department. It is a simplification measure that has been passed by this body on three separate occasions, and I am pleased to be joined by the gentleman from Montana, Senator BAUCUS, the Ranking Democratic Member on the Finance Committee, in introducing this common sense legislation today. It is now time for Congress to act again and include this meritorious provision in the next appropriate tax bill reported from the Finance Committee.

Corporations and affiliated groups of corporations, for any number of good reasons, find it appropriate and many times necessary to shed some of their businesses. If the business is not being sold, the Internal Revenue Code makes it possible to reorganize without having to recognize gain on the transaction. A typical transaction is a spin-off transaction performed per the terms of section 355 of the Internal Revenue Code, where a parent corporation distributes the shares of its subsidiary(s) to its shareholders who once had shares of just the parent corporation now have shares of both the parent and the shares of just the parent corporation now have shares of its subsidiary(s) to its shareholders who once had shares of just the parent corporation now have shares of both the parent and the subsidiary. As a matter of long-standing tax policy, there is typically no tax exacted with these kinds of divisions, nor should there be. Typically the business hasn't changed what it is doing; it is simply being done under a separated ownership structure and the shareholders have ownership in two corporations instead of one, with no overall change in their holdings.

In order to be accorded tax-free treatment, section 355 requires the corporation involved in the transaction to be engaged in an ''active trade or business.'' Under the current regulations interpreting section 355 of the Internal Revenue Code, a much more rigorous test of ''active trade or business'' is imposed if a holding company seeks to spin-off a subsidiary than would be the case if the subsidiary were simply owned directly by the parent corporation. It is a distinction without substance and requires corporations, holding companies, to go through major restructurings to satisfy the requirements of section 355. There is absolutely no substantive policy rationale for such a result. The distinction is inappropriate and has been identified as such by both the staff of the Joint Committee on Taxation and the Treasury Department in 1999 and 2000. This legislation addresses that anomaly and treats both situations equally.

The cost of this provision is minimal, at about $8 million a year by the last revenue estimate from the staff of the Joint Committee on Taxation. This provision is a small but significant step toward simplification of the tax code, and I urge my colleagues on the Finance Committee and in this body to act on this change one more time, and hopefully for the last time.

Mr. BAUCUS. Mr. President, virtually everyone supports tax simplification. But for some reason, it is awfully hard to accomplish. Today, I am pleased to join my friend and colleague from Mississippi, Senator LOTT, in introducing tax legislation that is non-controversial and a clear tax simplification measure. Further, the bill we are filing today has been supported in the past by the Joint Tax Committee and the U.S. Treasury.

Normally, corporations are taxed on distributions of property to shareholders as if sold at fair market value. However, section 355 of the tax code provides corporations with the flexibility to distribute one or more of their businesses to their shareholders, such as in a spin-off, without triggering tax consequences if the transaction meets important requirements. Through this exception in section 355, corporations may make strategic business decisions without imposing tax burdens on their shareholders, but only if both the distributing and distributed businesses continue as an active trade or business. The regulatory structure that has evolved over the years under section 355 has created very different ''active trade or business'' tests depending on whether the distributing corporation operates as a holding company or whether it holds the business assets directly. There is no rationale to support that distinction.

Both the staff of the Joint Tax Committee and the Clinton Treasury Department recommended that the rules be conformed as a tax simplification measure. The Senate has passed legislation similar to what we are proposing today on three occasions. And, on one of those occasions, it passed the House as well in legislation that was later vetoed for other reasons. I have heard of no opposition to this change, which would simply apply a ''look through'' rule for the ''active trade or business'' test on an affiliated group level, so that parent holding companies could count the active businesses of its subsidiaries. And it would eliminate hours of wasted time and resources in tax planning activities that serve no function other than to try and conform corporate ownership structures to satisfy the literal language of current tax requirements.

Again, I should emphasize that this proposal does not bring wholesale change to section 355. Spin-off requirements dealing with the continuity of historical shareholder interest, continuity of business enterprises, business purpose, and absence of any device to distribute earnings and profits all remain. With a cost of less than $10 million a year, this is an affordable step we can take now to simplify the Internal Revenue Code.

I am pleased to join with Senator LOTT in working for passage of this important simplification bill, and I urge my colleagues on the Finance Committee and in the Senate give our bill every consideration.

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By Mr. JEFFORDS (for himself and Mr. SARBANES):

S. 1328. A bill to amend the Safe Drinking Water Act to ensure that the District of Columbia and States are provided a safe, lead-free supply of drinking water; to the Committee on Environment and Public Works.

Mr. JEFFORDS. Mr. President, I rise today to introduce the Lead-Free Drinking Water Act of 2005 with my colleague Senator SARBANES. We are joined by our colleagues, Congresswoman NORTON, Congressman WAXMAN, and others, who will be introducing the House companion bill today. Today, we introduce this bill for the second time.

Last year, we shared the shock felt by DC residents when it was first reported that lead levels in the DC public water system were significantly higher than Federal guidelines, and had been so for at least 2 years.

We sought answers to the same questions everyone was asking themselves—How much water did I drink? How much water did my children drink? What are the effects of lead in our bloodstream?

We shared the outrage felt by many DC residents, asking ourselves—why were we not told about this sooner? How did this happen? What are we going to do about it?

In the 108th Congress, we attempted to answer those questions. We held a hearing in the Senate Environment and Public Works Committee and listened to the concerns of DC parents worried about their children's health.

We listened to experts who identified weaknesses in the Safe Drinking Water Act and the lead and copper rule, governing how the public is informed when lead is present in a drinking water system and what corrective actions public water systems must take.

One of the most disturbing points is that many of the things that happened in Washington, DC, were within the boundaries of the existing rules that purport to protect the public from lead in drinking water.

We responded by introducing the Lead-Free Drinking Water Act of 2004, which sought to correct the weaknesses in those rules.

Today, we are reintroducing the Lead-Free Drinking Water Act of 2005.

Our bill will overhaul the Safe Drinking Water Act to strengthen the Federal rules governing lead testing and regulations in our public water systems to ensure that our most vulnerable citizens—infants, children, pregnant women, and new moms—are not harmed by lead in drinking water.

Specifically, the bill requires the EPA to reevaluate the current regulatory structure to figure out if it really provides the level of public health protection required.

The bill calls on the EPA to establish a maximum contaminant level for lead at the tap, and if that is not practical given the presence of lead inside home plumbing systems, the bill requires EPA to reevaluate the current action level for lead to ensure that vulnerable populations such as infants, children, pregnant women, and nursing mothers receive adequate protection.

I look forward to working with EPA on this evaluation to determine which approach is most feasible and which provides the greatest level of public health protection.

EPA has three choices: keep current standard, an ''action level'' at 15 parts per billion; lower the current action level below 15 parts per billion; establish a ''maximum contaminant load.''

For example, it is clear that a maximum contaminant level, which is measured at the water treatment plant, would do little to protect people from lead-contaminated drinking water at their faucets. Our bill requires that standards be measured at the tap.

A low lead action level measured at the tap could provide more protection than a high MCL measured anywhere in the system if there were extremely strong and effective public notification procedures in place.

Public notice is the key to success of any lead regulation—parents say to me, ''If only I had known, I could have protected my family.'' It is our job to be sure the public notice system we have in place gets people the information they need when they need it.

The bill will require information such as the number of homes tested, the lead levels found, the areas of the community in which they were located, and the disproportionate adverse health effects of lead on infants, be made public immediately upon detection of lead.

In addition, the bill requires that, as part of routine testing conducted, any residents whose homes test high for lead receive notification and appropriate medical referrals within 14 days.

Finally, we don't want the day of an exceedance to be the first time people have heard about lead in drinking water. The bill establishes a basic public education program to ensure that people have a basic understanding that lead may be present in drinking water and what the corrective actions might be even before their water system detects a problem.

The bill requires increased water testing and lead remediation in schools and day-care centers nationwide. This provision exists in law today, but it was affected by previous litigation. This bill corrects the problem by requiring the Administrator to execute this program if states choose not to. It is wholly unacceptable to do anything less than provide a learning environment for our next generation that does not degrade their intellectual capacity. Our bill provides $150 million over 5 years for this program.

And we strengthen existing requirements to ensure that all lead service lines will be replaced by a public water system at a rate of 10 percent per year until they are gone.

This is common sense—let us get rid of the lead in our systems and get rid of the lead in our water.

Our bill makes water systems responsible for replacing lead service lines, including the privately owned sections, once a system exceeds lead standards. Homeowners have the final say in whether their line is replaced.

We provide $1 billion over 5 years for lead service line replacement.

The EPA estimates that our Nation needs $265 billion to maintain and improve its drinking water infrastructure over the next 20 years.

If we do not address this, we will be facing more and more health and environmental issues as our Nation's water infrastructure degrades.

Lead service lines are only one part of the picture. Leaded solder was banned in 1987. However, ''lead-free'' plumbing fixtures are currently allowed to have 8 percent lead.

Our bill makes ''lead-free'' mean lead-free. It defines the term as trace amounts of lead −0.2 percent. It prohibits the use of pipes, or pipe or plumbing fitting or fixtures that are ''high lead'' which our bill defines as 2.0 percent lead within 1 year. And within 5 years, it prohibits the use of any plumbing components with anymore than 0.2 percent lead. This is a huge step toward making our water systems truly lead-free.

Our bill strengthens existing requirements for leaching by requiring independent third-party performance certification.

Finally, our bill requires that the existing requirements for leaching be revised to be as protective as the existing leaching standards in California which have set the bar for plumbing fittings and fixtures.

We urge our colleagues to support this legislation.

Last year, Good Housekeeping independently ran a piece about the Lead-Free Drinking Water Act and gave its readers information to contact us with their support. We received over a thousand responses from individual readers in 48 States and the District of Columbia.

In the 18th century, almost 300 years ago, Ben Franklin concluded that lead was poisonous. In a biography written by Edmund S. Morgan, this story is recounted:

At the request of his friend and English publisher Benjamin Vaughan, he wrote out a proof of what he had once casually mentioned in conversation: his conclusion that lead was poisonous. After detailing his own and other printers' ailments from the continuous handling of lead type, he went on to describe his observations of the grass and plants that died from the fumes near furnaces where lead was smelted, of the effects of drinking rainwater that sluiced off lead roofs, and of his queries to sickened plumbers, painters, and glaziers in a Paris hospital. His observations of the toxic effects of lead, he noted, were nothing new; and he remarked wryly, ''how long a useful Truth may be known, and exist, before it is generally receiv'd and practis'd on.''

We have known lead is a poison for centuries. What are we waiting for? As we learned from the incidents in Washington, DC, and Boston, there are large deficiencies in Federal safe drinking water regulations. It is time to plug the holes in these regulations and fully protect the public from this poison. It is time to get the lead out.

Safe drinking water is not a privilege; it is a right—whether you live in Washington, DC, or Washington State or Washington County, VT.

I urge my colleagues to join us in working to pass the Lead-Free Drinking Water Act of 2005 to get the lead out of our pipes, out of our water, out of our families, and out of our lives.

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By Mrs. CLINTON (for herself, Mr. SMITH, Mr. MARTINEZ, Mr. REED, and Mr. DURBIN):

S. 1330. A bill to amend the Internal Revenue Code of 1986 to provide incentives for employer-provided employee housing assistance, and for other purposes; to the Committee on Finance.

Mrs. CLINTON. Mr. President, I rise today during National Home Ownership Month to introduce the Housing America's Workforce Act.

Affordable and safe housing plays a vital role in creating and sustaining healthy communities and a vibrant workforce. The Housing America's Workforce Act creates incentives to expand employer-assisted housing initiatives across the Nation. I thank Senators SMITH, MARTINEZ, REED, and DURBIN for their co-sponsorship of this important legislation. I would also like to thank Congresswoman NYDIA VELÁZQUEZ for her leadership in introducing the companion bill in the House of Representatives.

The sad truth is that across our Nation, working full-time no longer guarantees that a family will be able to afford a secure and comfortable home. The shortage of workforce housing has become a national crisis as housing costs have far outgrown the rate of inflation in many markets and as the gap between wages and housing costs widens. The result is that affordable housing is out of reach for a growing number of working families. As a result,

people who provide the backbone services for our communities—teachers, firefighters, police officers, and nurses—often cannot afford to live in the communities in which they serve. A recent workforce housing study released by the National Association of Home Builders found that for the most part, workers who provide these vital community services can only find housing they can afford in less than half of the nation's top 25 metropolitan areas.

Across the Nation, the number of working families with critical housing problems (defined as those paying more than half of their income for housing and/or living in dilapidated conditions) has increased by 67 percent between 1997 and 2003 to approximately 5 million families. Families that spend more than half of their income on housing have little income left over for other essentials such as food, healthcare, and transportation.

And despite overall improvements in home-ownership trends since 1978, working families—employed households with children earning less than 120 percent of Area Median Income—have actually experienced a decrease in homeownership rates. A 2004 Center for Housing Policy study shows that the homeownership rate for working families with children was at 62.5 percent in 1978, and only 56.6 percent through 2001.

Employer-assisted housing, EAH, is a local, innovative solution that a growing number of employers are using to meet the housing needs of their employees while increasing the competitiveness of their businesses. There are several types of EAH products, including homebuyer education, down payment assistance, rental assistance and loan guarantee programs. Employers often combine these products to meet their employees' specific needs in the most effective ways.

The benefits for employees and employers are impressive. The employee, in addition to receiving financial support from an employer to buy or rent a home closer to work, also regains extra time—formerly spent in traffic—for family or community life. The employer likewise benefits from a more stable workforce when employees live near work. They enjoy the advantages from the improved employee morale, lower turnover rate and reduced recruitment costs result in bottom line savings that the increased proximity brings. Furthermore, EAH programs benefit not only the workers and employers, but also the entire community. As former commuters buy homes near the jobsite, the surrounding community which previously suffered from traffic congestion, now enjoys new investment and property tax revenues.

The Housing America's Workforce Act is inspired in great part by lessons learned in States and local communities across the Nation, where EAH has proven to be an effective tool to promote housing affordability for working families and community revitalization. Through EAH programs, the private sector becomes part of the solution, investing in housing assistance for employees while experiencing bottom line benefits. This is clearly a public-private partnership that is proven and makes sense.

The Housing America's Workforce Act provides incentives to increase private sector investment in housing in three important ways. First, it offers a tax credit of 50 cents for every dollar that an employer provides to eligible employees up to $10,000 or six percent of the employee's home purchase price, whichever is less, or up to $2,000 for rental assistance. Second, to ensure that employees receive the full value of employers' contributions, the Act defines housing assistance as a ''nontaxable benefit,'' similar to health, dental and life insurance. Third, the act establishes a competitive grant program available to nonprofit housing organizations that provide technical assistance, program administration, and outreach support to employers undertaking EAH initiatives.

In New York and in other parts of the country, EAH has caught on with the local business community, elected and appointed officials, and the broader housing arena. Its expansion indicates a growing understanding among the private sector that it pays to invest in workforce housing. I have worked with employers across my State to launch county employer-assisted housing programs in places such as Long Island, Rochester and Westchester.

I have met many of the families that have already benefited from Long Island's EAH program, which I helped launch in 2002. People like the Isaacs family, who were able to buy their first home in North Amityville in 2002 thanks to their employer's participation in the program. Pamela Isaac, like so many employees on Long Island, works as a Dietician at Our Lady of Consolation, part of the Catholic Health Services Network. Catholic Health Services' participation in the employer assisted housing program enabled Pamela and her husband Bartholomew to stay on Long Island and raise their three children in their own home.

I also worked in collaboration with Mayor William A. Johnson of Rochester to jumpstart the City of Rochester's EAH initiative. The City provides $3,000 for its own employees and also encourages other employers to provide a home purchase benefit by offering to match that benefit dollar for dollar up to a maximum of $3,000. Therefore, if an employer offered the maximum benefit of $3,000, he or she would produce a $6,000 benefit for his or her employees with the city's matching funds.

The Westchester County EAH, which was spEAHheaded by the Business Council and Fannie Mae, brings together the following Westchester County nonprofit organizations: Housing Action Council, Westchester Residential Opportunities, Westchester Housing Fund and Community Housing Innovations. Each of these nonprofits provides standardized, comprehensive education and counseling support to participating employers. The initiative also provides matching funds of up to $3,000 from Westchester County or from the cities of Yonkers, New Rochelle, White Plains or Mount Vernon. In addition, the nonprofit collaborative offers down payment and closing cost assistance programs that can match employer contributions.

The creation of Federal incentives to expand employer-assisted housing has been a consistent recommendation of experts in the broader housing arena, including the Millennial Housing Commission. In addition, former HUD Secretaries Henry Cisneros and Jack Kemp, along with Nic Retsinas and Kent Colton of the Harvard Joint Center for Housing Studies recently released a bipartisan platform for national housing policy, which includes EAH as one of its recommendations.

According to the Society for Human Resources Management's 2004 Benefits Survey, 12 percent of employers offered home ownership assistance in 2004, up from 7 percent in 2002. Since 1991, Fannie Mae has offered a nationwide EAH program through participating lending institutions and employers. Fannie Mae has helped about 750 employers of various sizes implement EAH programs and nearly 570 have been launched since 2000. Freddie Mac launched a similar national program in 1999, which it expanded in 2004. Several states have enacted EAH tax incentive programs, including Illinois, Connecticut, Missouri, and New Jersey.

Employer-assisted housing programs offer a fresh approach to addressing our Nation's housing challenge by allowing the private sector to play a direct role in promoting housing affordability. I hope every Senator will recognize that the Housing America's Workforce Act will create opportunities for us as a Nation to expand these public-private partnerships and will make a profound impact in the lives of our workforce, and I hope that you will support this important piece of legislation.

Mr. SMITH. Mr. President, I rise today to join Senators CLINTON, MARTINEZ, REED, and DURBIN to introduce the Housing America's Workforce Act.

Across the country, low- and moderate-income families face difficulty finding affordable housing. Homebuilding has not kept pace with job growth, and the cost of housing has skyrocketed. In the last 5 years, the number of working U.S. families paying more than half their income to put a roof over their heads has jumped to 4.2 million in 2003 from 2.4 million in 1997, a 76-percent increase in 5 years.

Our bill tries to address the issue of affordable housing from a new perspective, one that allows the private sector to play a direct role in promoting housing affordability. Specifically, our bill would create a Federal tax credit for

businesses that offer housing assistance programs to their low- to moderate-income employees.

Employer assisted housing, EAH, programs have been used successfully for more than 100 years and have proven effective in helping to revitalize neighborhoods and to recruit and retain employees. In my home State of Oregon, EAH programs have been used by employers such as Legacy Emanuel Hospital & Health Center, Housing Authority of Portland, Multnomah County, and Wacker Siltronic.

In 1990, Legacy Emanuel developed an EAH program to encourage employees to purchase homes in the neighborhood near the hospital. The program shortened employee commute time, reduced traffic congestion, and helped spur a dramatic revitalization of the surrounding area. Similar programs have succeeded around the country and have helped to ease the spatial mismatch between where job growth is taking place and where people can afford to live.

Under our bill, housing assistance can be used for either homeownership or rental assistance. Homeownership assistance could be used for down payments, closing costs, financing costs, or contributions to an employee homeownership savings plan, such as an Individual Development Accounts. Rental assistance could be used for security deposits and rental payments.

Employer assisted housing programs are innovative ways to leverage public and private funds to make housing affordable for working families. As such, our proposal has been endorsed by National Housing Conference, National Association of Home Builders, National Association of Realtors, National Association of Housing and Redevelopment Officials, National League of Cities, National Association of Counties, Mortgage Bankers Association, National NeighborWorks Association, AmeriDream, and the National Association of Local Housing Finance Agencies.

I look forward to continuing to work with my colleagues to address the affordable housing shortfall.

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By Mr. JOHNSON (for himself, Mr. THOMAS, Mr. ENZI, Mr. DORGAN, Mr. BURNS, Mr. THUNE, Mr. BINGAMAN, and Mr. BAUCUS):

S. 1331. A bill to amend the Agricultural Marketing Act of 1946 to change the date of implementation of country of origin labeling to January 30, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. JOHNSON. Mr. President, I rise to discuss an issue of great importance to producers and consumers in my home State of South Dakota and across the Nation. Mandatory country of origin labeling, COOL, remains an overwhelmingly popular provision not only as a consumer right-to-know issue, but also as a marketing tool for our Nation's farmers and ranchers.

Mandatory country of origin labeling was signed into law under this most recent Farm Bill and by this current President. As the primary author of the COOL language included in the 2002 Farm Bill, I am increasingly frustrated at the amount of heel dragging this Administration has shown for the program. I rise to introduce a bill to move forward with the implementation of mandatory COOL in a timely and reasonable manner, instating a January 30, 2006 mandatory date of implementation. COOL has experienced great bipartisan support in the Senate. I am pleased that Senator CRAIG THOMAS joins me in this bipartisan effort, as does Senator MIKE ENZI, Senator BYRON DORGAN, and Senator CONRAD BURNS.

I worked with my Senate colleagues to ensure that no delay language was included in the Senate version of the fiscal year 2006 Agriculture Appropriations Bill that was reported out of committee. As a member of the Senate Appropriations Committee, and specifically, the Agriculture Appropriations Subcommittee, I worked with my Senate colleagues to ensure we assembled a satisfactory bill that did not contain the same delay language as found in the House agriculture spending measure. The House fiscal year 2006 Agriculture Appropriations Bill contained a 1-year delay for meat and meat products, which is identical to the situation that unfolded with the program in fiscal year 2004.

While the House version of the fiscal year 2004 spending bill contained a 1-year delay for meat and meat products exclusively, the final omnibus contained a 2-year delay for all covered commodities except fish and shellfish. During closed door consideration of the measure, Senate leadership chose to bow to special interest groups despite the significant support COOL experiences from the majority of consumers and producers. While I was pleased to see the Senate version of the fiscal year 2006 bill that we reported out of committee contained $3.111 million for an audit-based compliance program for COOL implementation, the United States Department of Agriculture, USDA, Agricultural Marketing Service, AMS, will need substantive funding for the implementation of the full program. While the money funds an audit-based compliance program exclusively for fish and shellfish, additional dollars are needed for the inclusion of all covered commodities.

Mandatory COOL for fish and shellfish was implemented on April 4, 2005. USDA instituted a six month phase-in period to ensure adequate time for compliance, and the Department promulgated an interim final rule on September 30, 2004. Given this process, I see no reason why the Department should not proceed with the promulgation of the interim final rule for all covered commodities at the earliest possible time. If the implementation date is moved to January 30, 2006, then producers and consumers will at least see benefits under the program by late summer of 2006. Producers and consumers have waited long enough for program implementation, and it is high time USDA move forward with the implementation of this crucial program.

Mr. FEINGOLD. Mr. President, I am proud to join the chairman and the ranking member of the Senate Judiciary Committee in cosponsoring the Personal Data Privacy and Security Act of 2005. This bill is a much-needed solution to the daunting problem of ensuring the privacy and the security of our personal data, which has become such a precious commodity.

As we enter the 21st century, several forces are converging to make our personal information more valuable—and vulnerable—than ever. The world is going digital, and so is our personal data. In this day and age, almost everything we do results in a third party creating a digital record about us—digital records that we may not even realize exist. We seek the convenience of opening bank accounts and making major purchases over the Internet, often without ever speaking to another person face to face or even over the telephone, making identity theft easier and more lucrative. Businesses, nonprofits and even political parties are personalizing their messages, products and services to a degree we've never seen before, and they are willing to invest significant amounts of money in collecting personal information about potential customers or donors. And we are living in an age where identity-based screening and security programs can be vitally important, resulting in more information being collected about individuals in an attempt to identify them accurately.

As a result, personal information has become a hot commodity that is bought, sold, and—as so often happens when something becomes valuable—stolen.

We are at a crossroads. We all know about the security breaches that have been on the front pages of newspapers all over the country for the past 6 months. They have placed the identities of hundreds of thousands of Americans at risk.

But this is about much more than just information security. Until California law required ChoicePoint to notify individuals that their information was compromised and they might be vulnerable to identity theft, many Americans had never heard of this company. As news stories focused on the data broker business, many Americans were surprised to discover that companies are creating digital dossiers about them that contain massive amounts of information, and that these companies sell that information to commercial and government entities. The revelations about these security breaches highlighted the fact that Americans need a better understanding of what happens to their information in a digital world—and what kind of consequences they can face as a result.

When I am back home in Wisconsin, I hear from people who do not understand why companies have the right to sell their sensitive personal information. I hear from people who are shocked to discover that personal information about them is available for free on the Internet.

There is no question that data aggregators facilitate societal benefits, allowing consumers to obtain instant credit and personalized services, and police officers to locate suspects. But these companies also gather a great deal of potentially sensitive information about individuals, and in many instances they go largely unregulated.

Too many of my constituents feel they have lost control over their own information. Congress must return some power to individual Americans so that we can all better understand and manage what happens to our own personal data.

The Personal Data Privacy and Security Act takes a comprehensive approach to the privacy and security problems we face. It gives consumers back some control over their own information. The bill requires data brokers to allow consumers to access their own information, and to investigate when consumers tell them that corrections are necessary. And it requires companies to give notice to affected consumers and to law enforcement if there is a serious security breach, so that individuals know their identity may be at risk and can take steps to protect themselves.

In addition, the bill increases penalties for those who steal our identities. It provides grants to State and local law enforcement to help them combat data fraud and related crimes. It requires companies that buy and sell information to have appropriate data security systems in place. It provides protection to Social Security numbers by prohibiting the sale, purchase or display of Social Security numbers, with certain exceptions, and preventing companies from requiring customers to provide their Social Security numbers in order to purchase goods or services. These protections will help safeguard against future privacy violations and security breaches in the commercial data industry. But that is not all this bill accomplishes.

The bill also contains some critically important privacy and security provisions to govern the Government's use of commercial data. This is an aspect of the data broker business that has not yet gotten as much attention in the wake of the recent security breaches. The information gathered by these companies is not just sold to individuals and businesses; Government agencies of all stripes also buy or subscribe to information from commercial sources. The most recent example was the discovery that the Pentagon has a contract with a marketing firm to analyze commercial and other data about high school and college students.

While I believe the Government should be able to access commercial databases in appropriate circumstances, there are few existing rules or guidelines to ensure this information is used responsibly. Nor are there restrictions on the use of commercial data for powerful, intrusive data mining programs, an issue I have been particularly concerned about. The Privacy Act, which governs when Government agencies themselves are collecting data, does not apply because the information is held outside the Government and is not gathered solely at Government direction.

As a result, there is a great deal we do not know about Government use of commercial data, even in clearly appropriate circumstances such as when the agency's goal is simply to locate an individual already suspected of a crime.

We don't know under what circumstances Government employees can obtain access to these databases or for what purposes. We don't know how Government agencies evaluate the accuracy of the databases to which they subscribe, or how the accuracy level affects government use of the data. We don't know how employees are monitored to ensure they do not abuse their access to these databases, or how those who misuse the information are punished. And we don't know how Government agencies, particularly those engaged in sensitive national security investigations, ensure that the data brokers cannot keep records of who the Government is investigating, records which themselves could create a huge security risk in light of the vulnerabilities that have come to the forefront in recent months.

That is why I am so pleased that this bill includes provisions to address the Government's use of commercial data. A comprehensive approach to data privacy and security would be incomplete without taking on this piece of the puzzle. The bill recognizes there are many legitimate reasons for Government agencies to obtain commercially available data, but that they need to be subject to privacy and security protections. It takes a commonsense approach, pushing Government agencies to take basic steps to ensure that individuals' personal information is secure and only used for legitimate purposes, and that the commercial information the Government is paying for and relying on is accurate and complete.

Specifically, the bill would require that Federal agencies that subscribe to commercial data adopt standards governing its use. These standards would reflect long-standing basic privacy principles. The bill would ensure that Government agencies consider and determine which personnel will be permitted to access the information and under what circumstances; develop retention policies for this personal data and get rid of data they no longer need, minimizing the opportunity for abuse or theft; rely only on accurate and complete data, and penalize vendors who knowingly provide inaccurate information to the Federal Government; provide individuals who suffer adverse consequences as a result of the agency's reliance on commercial data with a redress mechanism; and establish enforcement mechanisms for those privacy policies.

The bill also extends to other screening programs the existing protections that already are in place to govern the Transportation Security Administration's possible use of commercial data for its identity-based airline passenger screening program, Secure Flight. If the Federal Government is going to rely on commercial data to screen Americans and decide whether to permit them to travel by air or engage in other common activities, it should do so only subject to explicit congressional authorization, as this bill provides. In addition, agencies should have to provide a redress process for those wrongly affected, and should have to operate under rules that govern the access, use, disclosure, accuracy and retention of that data.

The bill also directs the General Services Administration to review Government contracts for commercial data to make sure that vendors have appropriate security programs in place, and that they do not provide information to the Government that they know to be inaccurate. And it requires agencies to audit the information security practices of their vendors.

These are basic good Government measures. They guarantee that the Federal Government is not wasting money on inaccurate data, and that vendors are undertaking the security programs that they have promised and for which the Government is paying.

We live in a new digital world. The law may never fully keep up with technology, but we must make every effort we can. I am proud to be involved in this comprehensive, reasoned approach to privacy and security. I congratulate Chairman SPECTER and Ranking Member LEAHY for their excellent work on this bill. This bill is important and it deserves very serious consideration by the Senate.

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By Mr. SPECTER (for himself and Mr. LEAHY):

S. 1332. A bill to prevent and mitigate identity theft; to ensure privacy; and to enhance criminal penalties, law enforcement assistance, and other protections against security breaches, fraudulent access, and misuse of personally identifiable information; read the first time.

Mr. SPECTER. Mr. President, I rise today to introduce S. 1332, the Personal Data Privacy and Security Act of 2005.

Not too long ago, our personal information—our Social Security numbers, our date of birth, our mothers' maiden name, where we live-all remained relatively private. Where we live, and what we paid for our house, and whether we had a mortgage might have been publicly available, but finding that information out would require a trip to

the local recorders office. Our privacy was preserved by the sheer difficulty of obtaining the information. This privacy—the ability to be left alone—has been a cherished value throughout American history.

As our day-to-day transactions have become electronic, more and more of our personal data has been stored, transmitted and accessed electronically. Almost all of us have benefited from this change. Because our personal information is available electronically, we can purchase goods and services over the phone or on the internet. We can obtain a mortgage or rent an apartment in a matter of hours. We can apply for a credit card while we wait at the store and purchase things on-line. The availability of such information also helps law enforcement agencies conduct investigations and catch criminals. The information has also been used to do good. In one instance, Associated Press journalists matched Social Security numbers obtained from data brokers to Mississippi prison data exposing eight school teachers who failed to report that they had been convicted of sex offenses or drug crimes.

However, as Justice Warren prophetically wrote in the 1963 case, Lopez v. United States—a case balancing the privacy interests of an individual with the law enforcement needs of the government—''The fantastic advances in the field of electronic communication constitute a great danger to the privacy of the individual.'' In electronic form, our personal information is both more valuable and more vulnerable. As we have all witnessed in recent months, electronic data is more vulnerable because it can be accessed from afar and can be stolen in a split second. The problem first became apparent when data brokers, companies that buy and sell our personal data, announced that they had experienced large-scale breaches involving the personal data of hundreds of thousands of Americans. In February, ChoicePoint, one of the Nation's largest collectors of consumer information, notified over 145,000 Americans of a system security breach. In March, LexisNexis announced that unauthorized persons posing as legitimate customers obtained personal the personal data of over 300,000 Americans.

It soon became apparent that the problem extended beyond data brokers. In April, Carnegie Mellon University notified 19,000 students, alumni, faculty and staff that their personal data may have been compromised. In May, a data storage company lost information on 600,000 current and former employees of Time Warner. In recent days, MasterCard announced 40 million credit card numbers belonging to U.S. consumers were accessed by a computer hacker—the largest breach yet.

Even government agencies have not been immune. Personal data including Social Security numbers on nearly 6,000 current and former Federal Deposit Insurance Corporation employees was stolen early last year, some of which has been used for fraudulent purposes.

Electronic personal data is more valuable because identity thieves can steal large volumes and use it before anyone knows. For the last 5 years, Identity Theft has topped the FTC's list of consumer complaints. From 2002 to 2004, the number of complaints rose 52 percent, to 246,570. Put another way, that's once every 2 minutes. But this is only the tip of the iceberg. Not all consumers report identity theft to the FTC. Not all victims report identity theft to their local police. Sixty percent of those who did file a report with the FTC did not call their local police department. It stands to reason that many did not call the FTC.

A recent study by the Better Business Bureau concluded that 9.3 million Americans were victims of identity fraud in 2004, and that each victim lost approximately $5,800. Ultimately, nearly 20 percent Americans will become victims of identity theft. Worse, according to the study, it took victims an average of 28 hours on the phone with creditors and credit bureaus to clear their names. I use the term ''clear'' loosely, because in many cases the damage caused by identity theft is irreversible. Victims will have fraud alerts on their credit reports for years to come, making it more difficult to open new accounts or make major purchases. Some will be erroneously contacted by collection agencies.

Individuals whose personal information is not stolen also suffer. Businesses lose nearly $50 billion a year from identity thieves posing as customers. These losses translate into increased prices for every consumer.

In some cases, the availability of electronic personal data can lead to tragedy. In 1999, a former high school classmate of Amy Lynn Boyer obtained her former work address and social security number from an on-line data broker. By calling her home and posing as the former employer, he convinced Amy's mom to give him Amy's work address. He then drove to Boyer's workplace and fatally shot her.

In an effort to protect the privacy and security of our electronic personal information, and prevent future tragedies, small and large, my colleague Senator LEAHY and I are introducing the Personal Data Privacy and Security Act of 2005. First, this legislation goes after identity thieves by increasing penalties for crimes involving electronic personal data. For example, it increases penalties for computer fraud when such fraud involves personal data. It also goes after those who intentionally expose Americans to identity theft by punishing those who intentionally conceal a security breach that involves personal data.

The bill also empowers Americans to look after the privacy of their own data. The bill will allow individuals to obtain access to any personal information held by data brokers. For individuals who believe their information is wrong, data brokers must provide them with guidance on how to correct their information.

The legislation also puts the burden those that store, transmit and access electronic personal data. It will require the companies, government agencies, universities that keep significant amounts of personal data to assess the vulnerability of their systems and to adopt policies that will address those vulnerabilities. Some entities will choose to encrypt the personal data that they store and transmit. Others will pick a means more appropriate their size and the sensitivity of their data.

Of course, these provisions do not apply to data held by health care providers and financial institutions that is already regulated by other federal laws. This legislation fills in gaps left by other federal laws. It has become clear that many entities other than health care providers and financial institutions have large amounts of personal information. This legislation would require such entities to adequately protect their electronic data.

Such measures will not always be enough. As I've already noted, the nature of electronic data makes it vulnerable even when those who hold it take reasonable steps to protect it. Currently, no federal law requires those who maintain our sensitive personal data to notify affected individuals when such data is lost or exposed. This legislation would require those who maintained such data to notify affected individuals as well as law enforcement. As everyone knows, knowledge is power. Once individuals learn that their personal information is exposed, they can take steps to protect themselves. And, the company, school or agency that experienced the breach must help. They must provide individuals whose data was lost with a monthly credit report and they must provide information on the identity theft victim assistance available to them. For large breaches, the media must be notified. Media reports over the past few months have made Americans far more aware of the problem of security breaches. Hopefully, we can continue to raise awareness by requiring data holders to continue the practice of making public announcements regarding large breaches. Notice will also give law enforcement a head start in the effort to prevent harm to individuals as a result of a breach.

One of the most critical pieces of information that can be lost is one's Social Security number. We can all think of instances when we've been asked for our Social Security number to verify our identities—utilities, doctors, schools—I could go on. In itself, this is not harmful. Problems arise however, when the Social Security number gets passed along to others without the person's knowledge or permission. The legislation would prohibit companies from buying, selling or displaying a Social Security number without consent

from the individual whose number it is. The bill also would prevent companies from requiring individuals to give their Social Security number in order to obtain goods or services. Finally, it would bar government agencies from posting public records that contain Social Security numbers on the internet. This legislation would not prevent the use of Social Security numbers altogether. We recognize that would not be practical. It would, however, protect the value of Social Security numbers by preventing their proliferation.

Finally, this legislation will protect the privacy of all Americans by providing a check on the government's use of databases maintained by data brokers. As I've already noted, federal law enforcement uses electronic personal data maintained by data brokers to track criminals and criminal activity. Correctly used, these databases can be very useful tools in the fight against crime. However, there should be some check on their use. In addition, the legislation aims at making sure the government's use of such data is secure. It will require audits to ensure that data brokers are keeping law enforcement inquiries private.

This bill represents a comprehensive effort to protect the privacy and security of electronic personal data. Our lives have all been made easier because our personal information is readily available to those who have a legitimate need for it. This legislation aims to keep such information out of the hands of those who have no legitimate need for it. I urge my colleagues to join me in supporting this important 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. 1332

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Personal Data Privacy and Security Act of 2005''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.

TITLE I—ENHANCING PUNISHMENT FOR IDENTITY THEFT AND OTHER VIOLATIONS OF DATA PRIVACY AND SECURITY

Sec. 101. Fraud and related criminal activity in connection with unauthorized access to personally identifiable information.
Sec. 102. Organized criminal activity in connection with unauthorized access to personally identifiable information.
Sec. 103. Concealment of security breaches involving personally identifiable information.
Sec. 104. Aggravated fraud in connection with computers.
Sec. 105. Review and amendment of Federal sentencing guidelines related to fraudulent access to or misuse of digitized or electronic personally identifiable information.

TITLE II—ASSISTANCE FOR STATE AND LOCAL LAW ENFORCEMENT COMBATING CRIMES RELATED TO FRAUDULENT, UNAUTHORIZED, OR OTHER CRIMINAL USE OF PERSONALLY IDENTIFIABLE INFORMATION

Sec. 201. Grants for State and local enforcement.
Sec. 202. Authorization of appropriations.

TITLE III—DATA BROKERS

Sec. 301. Transparency and accuracy of data collection.
Sec. 302. Enforcement.
Sec. 303. Relation to State laws.
Sec. 304. Effective date.

TITLE IV—PRIVACY AND SECURITY OF PERSONALLY IDENTIFIABLE INFORMATION

Subtitle A—Data Privacy and Security Program

Sec. 401. Purpose and applicability of data privacy and security program.
Sec. 402. Requirements for a personal data privacy and security program.
Sec. 403. Enforcement.
Sec. 404. Relation to State laws.

Subtitle B—Security Breach Notification

Sec. 421. Right to notice of security breach.
Sec. 422. Notice procedures.
Sec. 423. Content of notice.
Sec. 424. Risk assessment and fraud prevention notice exemptions.
Sec. 425. Victim protection assistance.
Sec. 426. Enforcement.
Sec. 427. Relation to State laws.
Sec. 428. Study on securing personally identifiable information in the digital era.
Sec. 429. Authorization of appropriations.
Sec. 430. Effective date.

TITLE V—PROTECTION OF SOCIAL SECURITY NUMBERS

Sec. 501. Social Security number protection.
Sec. 502. Limits on personal disclosure of social security numbers for commercial transactions and accounts.
Sec. 503. Public records.
Sec. 504. Treatment of social security numbers on government checks and prohibition of inmate access.
Sec. 505. Study and report.
Sec. 506. Enforcement.
Sec. 507. Relation to State laws.

TITLE VI—GOVERNMENT ACCESS TO AND USE OF COMMERCIAL DATA

Sec. 601. General Services Administration review of contracts.
Sec. 602. Requirement to audit information security practices of contractors and third party business entities.
Sec. 603. Privacy impact assessment of government use of commercial information services containing personally identifiable information.
Sec. 604. Implementation of Chief Privacy Officer requirements.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) databases of personal identifiable information are increasingly prime targets of hackers, identity thieves, rogue employees, and other criminals, including organized and sophisticated criminal operations;

(2) identity theft is a serious threat to the nation's economic stability, homeland security, the development of e-commerce, and the privacy rights of Americans;

(3) over 9,300,000 individuals were victims of identity theft in America last year;

(4) security breaches are a serious threat to consumer confidence, homeland security, e-commerce, and economic stability;

(5) it is important for business entities that own, use, or license personally identifiable information to adopt reasonable procedures to ensure the security, privacy, and confidentially of that personally identifiable information;

(6) individuals whose personal information has been compromised or who have been victims of identity theft should receive the necessary information and assistance to mitigate their damages and to restore the integrity of their personal information and identities;

(7) data brokers have assumed a significant role in providing identification, authentication, and screening services, and related data collection and analyses for commercial, nonprofit, and government operations;

(8) data misuse and use of inaccurate data have the potential to cause serious or irreparable harm to an individual's livelihood, privacy, and liberty and undermine efficient and effective business and government operations;

(9) there is a need to insure that data brokers conduct their operations in a manner that prioritizes fairness, transparency, accuracy, and respect for the privacy of consumers;

(10) government access to commercial data can potentially improve safety, law enforcement, and national security; and

(11) because government misuse of commercial data endangers privacy, security, and liberty, there is a need for Congress to exercise oversight over government use of commercial data.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) AGENCY.—The term ''agency'' has the same meaning given such term in section 551 of title 5, United States Code.

(2) AFFILIATE.—The term ''affiliate'' means persons related by common ownership or affiliated by corporate control.

(3) BUSINESS ENTITY.—The term ''business entity'' means any organization, corporation, trust, partnership, sole proprietorship, unincorporated association, venture established to make a profit, or nonprofit, and any contractor, subcontractor, affiliate, or licensee thereof engaged in interstate commerce.

(4) IDENTITY THEFT.—The term ''identity theft'' means a violation of section 1028 of title 18, United States Code, or any other similar provision of applicable State law.

(5) DATA BROKER.—The term ''data broker'' means a business entity which for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages, in whole or in part, in the practice of collecting, transmitting, or otherwise providing personally identifiable information on a nationwide basis on more than 5,000 individuals who are not the customers or employees of the business entity or affiliate.

(6) DATA FURNISHER.—The term ''data furnisher'' means any agency, governmental entity, organization, corporation, trust, partnership, sole proprietorship, unincorporated association, venture established to make a profit, or nonprofit, and any contractor, subcontractor, affiliate, or licensee thereof, that serves as a source of information for a data broker.

(7) PERSONAL ELECTRONIC RECORD.—The term ''personal electronic record'' means the

compilation of personally identifiable information of an individual (including information associated with that personally identifiable information) in a database, networked or integrated databases, or other data system.

(8) PERSONALLY IDENTIFIABLE INFORMATION.—The term ''personally identifiable information'' means any information, or compilation of information, in electronic or digital form serving as a means of identification, as defined by section 1028(d)(7) of title 18, United State Code.

(9) PUBLIC RECORD.—The term ''public record'' means any item, collection, or grouping of information about an individual that is maintained by an agency, including—

(A) education, financial transactions, medical history, and criminal or employment history containing the name of an individual; and

(B) the identifying number, symbol, or other identifying particular assigned to an individual, such as—

(i) a fingerprint;

(ii) a voice print; or

(iii) a photograph.

(10) SECURITY BREACH.—

(A) IN GENERAL.—The term ''security breach'' means compromise of the security, confidentiality, or integrity of computerized data through misrepresentation or actions that result in, or there is a reasonable basis to conclude has resulted in, the unauthorized acquisition of and access to sensitive personally identifiable information.

(B) EXCLUSION.—The term ''security breach'' does not include a good faith acquisition of sensitive personally identifiable information if the sensitive personally identifiable information is not subject to further unauthorized disclosure.

(11) SENSITIVE PERSONALLY IDENTIFIABLE INFORMATION.—The term ''sensitive personally identifiable information'' means any name or number used in conjunction with any other information to identify a specific individual, including any—

(A) name, social security number, date of birth, official State or government issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number;

(B) unique biometric data, such as—

(i) a fingerprint;

(ii) a voice print;

(iii) a retina or iris image; or

(iv) any other unique physical representation;

(C) unique electronic identification number, address, or routing code; or

(D) telecommunication identifying information or access device (as defined in section 1029(e) of title 18, United States Code).

## TITLE I—ENHANCING PUNISHMENT FOR IDENTITY THEFT AND OTHER VIOLATIONS OF DATA PRIVACY AND SECURITY

### SEC. 101. FRAUD AND RELATED CRIMINAL ACTIVITY IN CONNECTION WITH UNAUTHORIZED ACCESS TO PERSONALLY IDENTIFIABLE INFORMATION.

Section 1030(a)(2) of title 18, United States Code, is amended—

(1) in subparagraph (B), by striking ''or'' after the semicolon;

(2) in subparagraph (C), by inserting ''or'' after the semicolon; and

(3) by adding at the end the following:

''(D) information contained in the databases or systems of a data broker, or in other personal electronic records, as such terms are defined in section 3 of the Personal Data Privacy and Security Act of 2005;''.

### SEC. 102. ORGANIZED CRIMINAL ACTIVITY IN CONNECTION WITH UNAUTHORIZED ACCESS TO PERSONALLY IDENTIFIABLE INFORMATION.

Section 1961(1) of title 18, United States Code, is amended by inserting ''section 1030(a)(2)(D)(relating to fraud and related activity in connection with unauthorized access to personally identifiable information,'' before ''section 1084''.

### SEC. 103. CONCEALMENT OF SECURITY BREACHES INVOLVING PERSONALLY IDENTIFIABLE INFORMATION.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

**''§ 1039. Concealment of security breaches involving personally identifiable information**

''Whoever, having knowledge of a security breach requiring notice to individuals under title IV of the Personal Data Privacy and Security Act of 2005, intentionally and willfully conceals the fact of, or information related to, such security breach, shall be fined under this title or imprisoned not more than 5 years, or both.''.

(b) CONFORMING AND TECHNICAL AMENDMENTS.—The table of sections for chapter 47 of title 18, United States Code, is amended by adding at the end the following:

''1039. Concealment of security breaches involving personally identifiable information.''.

### SEC. 104. AGGRAVATED FRAUD IN CONNECTION WITH COMPUTERS.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding after section 1030 the following:

**''§ 1030A. Aggravated fraud in connection with computers**

''(a) IN GENERAL.—Whoever, during and in relation to any felony violation enumerated in subsection (c), knowingly obtains, accesses, or transmits, without lawful authority, a means of identification of another person may, in addition to the punishment provided for such felony, be sentenced to a term of imprisonment of up to 2 years.

''(b) CONSECUTIVE SENTENCES.—Notwithstanding any other provision of law, should a court in its discretion impose an additional sentence under subsection (a)—

''(1) no term of imprisonment imposed on a person under this section shall run concurrently, except as provided in paragraph (3), with any other term of imprisonment imposed on such person under any other provision of law, including any term of imprisonment imposed for the felony during which the means of identifications was obtained, accessed, or transmitted;

''(2) in determining any term of imprisonment to be imposed for the felony during which the means of identification was obtained, accessed, or transmitted, a court shall not in any way reduce the term to be imposed for such crime so as to compensate for, or otherwise take into account, any separate term of imprisonment imposed or to be imposed for a violation of this section; and

''(3) a term of imprisonment imposed on a person for a violation of this section may, in the discretion of the court, run concurrently, in whole or in part, only with another term of imprisonment that is imposed by the court at the same time on that person for an additional violation of this section.

''(c) DEFINITION.—For purposes of this section, the term 'felony violation enumerated in subsection (c)' means any offense that is a felony violation of paragraphs (2) through (7) of section 1030(a).''.

(b) CONFORMING AND TECHNICAL AMENDMENTS.—The table of sections for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1030 the following new item:

''1030A. Aggravated fraud in connection with computers.''.

### SEC. 105. REVIEW AND AMENDMENT OF FEDERAL SENTENCING GUIDELINES RELATED TO FRAUDULENT ACCESS TO OR MISUSE OF DIGITIZED OR ELECTRONIC PERSONALLY IDENTIFIABLE INFORMATION.

(a) REVIEW AND AMENDMENT.—Not later than 180 days after the date of enactment of this Act, the United States Sentencing Commission, pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, shall review and, if appropriate, amend the Federal sentencing guidelines (including its policy statements) applicable to persons convicted of using fraud to access, or misuse of, digitized or electronic personally identifiable information, including identity theft or any offense under—

(1) sections 1028, 1028A, 1030, 1030A, 2511, and 2701 of title 18, United States Code; or

(2) any other relevant provision.

(b) REQUIREMENTS.—In carrying out the requirements of this section, the United States Sentencing Commission shall—

(1) ensure that the Federal sentencing guidelines (including its policy statements) reflect—

(A) the serious nature of the offenses and penalties referred to in this Act;

(B) the growing incidences of theft and misuse of digitized or electronic personally identifiable information, including identity theft; and

(C) the need to deter, prevent, and punish such offenses;

(2) consider the extent to which the Federal sentencing guidelines (including its policy statements) adequately address violations of the sections amended by this Act to—

(A) sufficiently deter and punish such offenses; and

(B) adequately reflect the enhanced penalties established under this Act;

(3) maintain reasonable consistency with other relevant directives and sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) consider whether to provide a sentencing enhancement for those convicted of the offenses described in subsection (a), if the conduct involves—

(A) the online sale of fraudulently obtained or stolen personally identifiable information;

(B) the sale of fraudulently obtained or stolen personally identifiable information to an individual who is engaged in terrorist activity or aiding other individuals engaged in terrorist activity; or

(C) the sale of fraudulently obtained or stolen personally identifiable information to finance terrorist activity or other criminal activities;

(6) make any necessary conforming changes to the Federal sentencing guidelines to ensure that such guidelines (including its policy statements) as described in subsection (a) are sufficiently stringent to deter, and adequately reflect crimes related to fraudulent access to, or misuse of, personally identifiable information; and

(7) ensure that the Federal sentencing guidelines adequately meet the purposes of sentencing under section 3553(a)(2) of title 18, United States Code.

(c) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The United States Sentencing Commission may, as soon as practicable, promulgate amendments under this section in accordance with procedures established in section 21(a) of the Sentencing Act of 1987 (28

U.S.C. 994 note) as though the authority under that Act had not expired.

## TITLE II—ASSISTANCE FOR STATE AND LOCAL LAW ENFORCEMENT COMBATING CRIMES RELATED TO FRAUDULENT, UNAUTHORIZED, OR OTHER CRIMINAL USE OF PERSONALLY IDENTIFIABLE INFORMATION

### SEC. 201. GRANTS FOR STATE AND LOCAL ENFORCEMENT.

(a) IN GENERAL.—Subject to the availability of amounts provided in advance in appropriations Acts, the Assistant Attorney General for the Office of Justice Programs of the Department of Justice may award a grant to a State to establish and develop programs to increase and enhance enforcement against crimes related to fraudulent, unauthorized, or other criminal use of personally identifiable information.

(b) APPLICATION.—A State seeking a grant under subsection (a) shall submit an application to the Assistant Attorney General for the Office of Justice Programs of the Department of Justice at such time, in such manner, and containing such information as the Assistant Attorney General may require.

(c) USE OF GRANT AMOUNTS.—A grant awarded to a State under subsection (a) shall be used by a State, in conjunction with units of local government within that State, State and local courts, other States, or combinations thereof, to establish and develop programs to—

(1) assist State and local law enforcement agencies in enforcing State and local criminal laws relating to crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information;

(2) assist State and local law enforcement agencies in educating the public to prevent and identify crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information;

(3) educate and train State and local law enforcement officers and prosecutors to conduct investigations and forensic analyses of evidence and prosecutions of crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information;

(4) assist State and local law enforcement officers and prosecutors in acquiring computer and other equipment to conduct investigations and forensic analysis of evidence of crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information; and

(5) facilitate and promote the sharing of Federal law enforcement expertise and information about the investigation, analysis, and prosecution of crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information with State and local law enforcement officers and prosecutors, including the use of multi-jurisdictional task forces.

(d) ASSURANCES AND ELIGIBILITY.—To be eligible to receive a grant under subsection (a), a State shall provide assurances to the Attorney General that the State—

(1) has in effect laws that penalize crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information, such as penal laws prohibiting—

(A) fraudulent schemes executed to obtain personally identifiable information;

(B) schemes executed to sell or use fraudulently obtained personally identifiable information; and

(C) online sales of personally identifiable information obtained fraudulently or by other illegal means;

(2) will provide an assessment of the resource needs of the State and units of local government within that State, including criminal justice resources being devoted to the investigation and enforcement of laws related to crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information; and

(3) will develop a plan for coordinating the programs funded under this section with other federally funded technical assistant and training programs, including directly funded local programs such as the Local Law Enforcement Block Grant program (described under the heading ''Violent Crime Reduction Programs, State and Local Law Enforcement Assistance'' of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105–119)).

(e) MATCHING FUNDS.—The Federal share of a grant received under this section may not exceed 90 percent of the total cost of a program or proposal funded under this section unless the Attorney General waives, wholly or in part, the requirements of this subsection.

### SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this title $25,000,000 for each of fiscal years 2006 through 2009.

(b) LIMITATIONS.—Of the amount made available to carry out this title in any fiscal year not more than 3 percent may be used by the Attorney General for salaries and administrative expenses.

(c) MINIMUM AMOUNT.—Unless all eligible applications submitted by a State or units of local government within a State for a grant under this title have been funded, the State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this title not less than 0.75 percent of the total amount appropriated in the fiscal year for grants pursuant to this title, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands each shall be allocated 0.25 percent.

(d) GRANTS TO INDIAN TRIBES.—Notwithstanding any other provision of this title, the Attorney General may use amounts made available under this title to make grants to Indian tribes for use in accordance with this title.

## TITLE III—DATA BROKERS

### SEC. 301. TRANSPARENCY AND ACCURACY OF DATA COLLECTION.

(a) IN GENERAL.—Data brokers engaging in interstate commerce are subject to the requirements of this title for any offered product or service offered to third parties that allows access, use, compilation, distribution, processing, analyzing, or evaluating personally identifiable information, unless that product or service is currently subject to similar protections under subsections (b) and (g) of this section, the Fair Credit Reporting Act (Public Law 91–508), or the Gramm-Leach Bliley Act (Public Law 106–102), and implementing regulations.

(b) DISCLOSURES TO INDIVIDUALS.—

(1) IN GENERAL.—A data broker shall, upon the request of an individual, clearly and accurately disclose to such individual for a reasonable fee all personal electronic records pertaining to that individual maintained for disclosure to third parties in the databases or systems of the data broker at the time of the request.

(2) INFORMATION ON HOW TO CORRECT INACCURACIES.—The disclosures required under paragraph (1) shall also include guidance to individuals on the processes and procedures for demonstrating and correcting any inaccuracies.

(c) CREATION OF AN ACCURACY RESOLUTION PROCESS.—A data broker shall develop and publish on its website timely and fair processes and procedures for responding to claims of inaccuracies, including procedures for correcting inaccurate information in the personal electronic records it maintains on individuals.

(d) ACCURACY RESOLUTION PROCESS.—

(1) PUBLIC RECORD INFORMATION.—

(A) IN GENERAL.—If an individual notifies a data broker of a dispute as to the completeness or accuracy of information, and the data broker determines that such information is derived from a public record source, the data broker shall determine within 30 days whether the information in its system accurately and completely records the information offered by the public record source.

(B) DATA BROKER ACTIONS.—If a data broker determines under subparagraph (A) that the information in its systems—

(i) does not accurately and completely record the information offered by a public record source, the data broker shall correct any inaccuracies or incompleteness, and provide to such individual written notice of such changes; and

(ii) does accurately and completely record the information offered by a public record source, the data broker shall—

(I) provide such individual with the name, address, and telephone contact information of the public record source; and

(II) notify such individual of the right to add to the personal electronic record of the individual maintained by the data broker a statement disputing the accuracy or completeness of the information for a period of 90 days under subsection (e).

(2) INVESTIGATION OF DISPUTED NON-PUBLIC RECORD INFORMATION.—If the completeness or accuracy of any non-public record information disclosed to an individual under subsection (b) is disputed by the individual and such individual notifies the data broker directly of such dispute, the data broker shall, before the end of the 30-day period beginning on the date on which the data broker receives the notice of the dispute—

(A) investigate free of charge and record the current status of the disputed information; or

(B) delete the item from the individuals data file in accordance with paragraph (8).

(3) EXTENSION OF PERIOD TO INVESTIGATE.—Except as provided in paragraph (4), the 30-day period described in paragraph (1) may be extended for not more than 15 additional days if a data broker receives information from the individual during that 30-day period that is relevant to the investigation.

(4) LIMITATIONS ON EXTENSION OF PERIOD TO INVESTIGATE.—Paragraph (3) shall not apply to any investigation in which, during the 30-day period described in paragraph (1), the information that is the subject of the investigation is found to be inaccurate or incomplete or a data broker determines that the information cannot be verified.

(5) NOTICE IDENTIFYING THE DATA FURNISHER.—If the completeness or accuracy of any information disclosed to an individual under subsection (b) is disputed by the individual, a data broker shall provide upon the request of the individual, the name, business address, and telephone contact information of any data furnisher who provided an item of information in dispute.

(6) DETERMINATION THAT DISPUTE IS FRIVOLOUS OR IRRELEVANT.—

(A) IN GENERAL.—Notwithstanding paragraphs (1) through (4), a data broker may decline to investigate or terminate an investigation of information disputed by an individual under those paragraphs if the data broker reasonably determines that the dispute by the individual is frivolous or irrelevant, including by reason of a failure by the individual to provide sufficient information to investigate the disputed information.

(B) NOTICE.—Not later than 5 business days after making any determination in accordance with subparagraph (A) that a dispute is frivolous or irrelevant, a data broker shall notify the individual of such determination by mail, or if authorized by the individual, by any other means available to the data broker.

(C) CONTENTS OF NOTICE.—A notice under subparagraph (B) shall include—

(i) the reasons for the determination under subparagraph (A); and

(ii) identification of any information required to investigate the disputed information, which may consist of a standardized form describing the general nature of such information.

(7) CONSIDERATION OF INDIVIDUAL INFORMATION.—In conducting any investigation with respect to disputed information in the personal electronic record of any individual, a data broker shall review and consider all relevant information submitted by the individual in the period described in paragraph (2) with respect to such disputed information.

(8) TREATMENT OF INACCURATE OR UNVERIFIABLE INFORMATION.—

(A) IN GENERAL.—If, after any review of public record information under paragraph (1) or any investigation of any information disputed by an individual under paragraphs (2) through (4), an item of information is found to be inaccurate or incomplete or cannot be verified, a data broker shall promptly delete that item of information from the individual's personal electronic record or modify that item of information, as appropriate, based on the results of the investigation.

(B) NOTICE TO INDIVIDUALS OF REINSERTION OF PREVIOUSLY DELETED INFORMATION.—If any information that has been deleted from an individual's personal electronic record pursuant to subparagraph (A) is reinserted in the personal electronic record of the individual, a data broker shall, not later than 5 days after reinsertion, notify the individual of the reinsertion and identify any data furnisher not previously disclosed in writing, or if authorized by the individual for that purpose, by any other means available to the data broker, unless such notification has been previously given under this subsection.

(C) NOTICE OF RESULTS OF INVESTIGATION OF DISPUTED NON-PUBLIC RECORD.—

(i) IN GENERAL.—Not later than 5 business days after the completion of an investigation under paragraph (2), a data broker shall provide written notice to an individual of the results of the investigation, by mail or, if authorized by the individual for that purpose, by other means available to the data broker.

(ii) ADDITIONAL REQUIREMENT.—Before the expiration of the 5-day period, as part of, or in addition to such notice, a data broker shall, in writing, provide to an individual—

(I) a statement that the investigation is completed;

(II) a report that is based upon the personal electronic record of such individual as that personal electronic record is revised as a result of the investigation;

(III) a notice that, if requested by the individual, a description of the procedures used to determine the accuracy and completeness of the information shall be provided to the individual by the data broker, including the business name, address, and telephone number of any data furnisher of information contacted in connection with such information; and

(IV) a notice that the individual has the right to request notifications under subsection (g).

(D) DESCRIPTION OF INVESTIGATION PROCEDURES.—Not later than 15 days after receiving a request from an individual for a description referred to in subparagraph (C)(ii)(III), a data broker shall provide to the individual such a description.

(E) EXPEDITED DISPUTE RESOLUTION.—If by no later than 3 business days after the date on which a data broker receives notice of a dispute from an individual of information in the personal electronic record of such individual in accordance with paragraph (2), a data broker resolves such dispute in accordance with subparagraph (A) by the deletion of the disputed information, then the data broker shall not be required to comply with subsections (e) and (f) with respect to that dispute if the data broker provides—

(i) to the individual, by telephone, prompt notice of the deletion; and

(ii) to the individual a right to request that the data broker furnish notifications under subsection (g).

(e) STATEMENT OF DISPUTE.—

(1) IN GENERAL.—If the completeness or accuracy of any information disclosed to an individual under subsection (b) is disputed, an individual may file a brief statement setting forth the nature of the dispute.

(2) CONTENTS OF STATEMENT.—A data broker may limit the statements made pursuant to paragraph (1) to not more than 100 words if it provides an individual with assistance in writing a clear summary of the dispute or until the dispute is resolved, whichever is earlier.

(f) NOTIFICATION OF DISPUTE IN SUBSEQUENT REPORTS.—Whenever a statement of a dispute is filed under subsection (e), unless there is a reasonable grounds to believe that it is frivolous or irrelevant, a data broker shall, in any subsequent report, product, or service containing the information in question, clearly note that it is disputed by an individual and provide either the statement of such individual or a clear and accurate codification or summary thereof for a period of 90 days after the data broker first posts the statement of dispute.

(g) NOTIFICATION OF DELETION OF DISPUTED INFORMATION.—Following any deletion of information which is found to be inaccurate or whose accuracy can no longer be verified, a data broker shall, at the request of an individual, furnish notification that the item has been deleted or the statement, codification, or summary pursuant to subsection (e) or (f) to any user or customer of the products or services of the data broker who has within 90 days received a report with the deleted or disputed information or has electronically accessed the deleted or disputed information.

**SEC. 302. ENFORCEMENT.**

(a) CIVIL PENALTIES.—

(1) PENALTIES.—Any data broker that violates the provisions of section 301 shall be subject to civil penalties of not more than $1,000 per violation per day, with a maximum of $15,000 per day, while such violations persist.

(2) INTENTIONAL OR WILLFUL VIOLATION.—A data broker that intentionally or willfully violates the provisions of section 301 shall be subject to additional penalties in the amount of $1,000 per violation per day, with a maximum of an additional $15,000 per day, while such violations persist.

(3) EQUITABLE RELIEF.—A data broker engaged in interstate commerce that violates this section may be enjoined from further violations by a court of competent jurisdiction.

(4) OTHER RIGHTS AND REMEDIES.—The rights and remedies available under this subsection are cumulative and shall not affect any other rights and remedies available under law.

(b) INJUNCTIVE ACTIONS BY THE ATTORNEY GENERAL.—

(1) IN GENERAL.—Whenever it appears that a data broker to which this title applies has engaged, is engaged, or is about to engage, in any act or practice constituting a violation of this title, the Attorney General may bring a civil action in an appropriate district court of the United States to—

(A) enjoin such act or practice;

(B) enforce compliance with this title;

(C) obtain damages—

(i) in the sum of actual damages, restitution, and other compensation on behalf of the affected residents of a State; and

(ii) punitive damages, if the violation is willful or intentional; and

(D) obtain such other relief as the court determines to be appropriate.

(2) OTHER INJUNCTIVE RELIEF.—Upon a proper showing in the action under paragraph (1), the court shall grant a permanent injunction or a temporary restraining order without bond.

(c) STATE ENFORCEMENT.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by an act or practice that violates this title, the State may bring a civil action on behalf of the residents of that State in a district court of the United States of appropriate jurisdiction, or any other court of competent jurisdiction, to—

(A) enjoin that act or practice;

(B) enforce compliance with this title;

(C) obtain—

(i) damages in the sum of actual damages, restitution, or other compensation on behalf of affected residents of the State; and

(ii) punitive damages, if the violation is willful or intentional; or

(D) obtain such other legal and equitable relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under this subsection, the attorney general of the State involved shall provide to the Attorney General—

(i) a written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general of a State determines that it is not feasible to provide the notice described in this subparagraph before the filing of the action.

(C) NOTIFICATION WHEN PRACTICABLE.—In an action described under subparagraph (B), the attorney general of a State shall provide the written notice and the copy of the complaint to the Attorney General as soon after the filing of the complaint as practicable.

(3) ATTORNEY GENERAL AUTHORITY.—Upon receiving notice under paragraph (2), the Attorney General shall have the right to—

(A) move to stay the action, pending the final disposition of a pending Federal proceeding or action as described in paragraph (4);

(B) intervene in an action brought under paragraph (1); and

(C) file petitions for appeal.

(4) PENDING PROCEEDINGS.—If the Attorney General has instituted a proceeding or action for a violation of this Act or any regulations thereunder, no attorney general of a State may, during the pendency of such proceeding or action, bring an action under this subsection against any defendant named in such criminal proceeding or civil action for any violation that is alleged in that proceeding or action.

(5) RULE OF CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this Act shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(A) conduct investigations;

(B) administer oaths and affirmations; or

(C) compel the attendance of witnesses or the production of documentary and other evidence.

(6) VENUE; SERVICE OF PROCESS.—

(A) VENUE.—Any action brought under this subsection may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1931 of title 28, United States Code.

(B) SERVICE OF PROCESS.—In an action brought under this subsection process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) may be found.

**SEC. 303. RELATION TO STATE LAWS.**

(a) IN GENERAL.—Except as provided in subsection (b), this title does not annul, alter, affect, or exempt any person subject to the provisions of this title from complying with the laws of any State with respect to the access, use, compilation, distribution, processing, analysis, and evaluation of any personally identifiable information by data brokers, except to the extent that those laws are inconsistent with any provisions of this title, and then only to the extent of such inconsistency.

(b) EXCEPTIONS.—No requirement or prohibition may be imposed under the laws of any State with respect to any subject matter regulated under section 301, relating to individual access to, and correction of, personal electronic records.

**SEC. 304. EFFECTIVE DATE.**

This title shall take effect 180 days after the date of enactment of this Act.

## TITLE IV—PRIVACY AND SECURITY OF PERSONALLY IDENTIFIABLE INFORMATION

### Subtitle A—Data Privacy and Security Program

**SEC. 401. PURPOSE AND APPLICABILITY OF DATA PRIVACY AND SECURITY PROGRAM.**

(a) PURPOSE.—The purpose of this subtitle is to ensure standards for developing and implementing administrative, technical, and physical safeguards to protect the privacy, security, confidentiality, integrity, storage, and disposal of personally identifiable information.

(b) IN GENERAL.—A business entity engaging in interstate commerce that involves collecting, accessing, transmitting, using, storing, or disposing of personally identifiable information in electronic or digital form on 10,000 or more United States persons is subject to the requirements for a data privacy and security program under section 402 for protecting personally identifiable information.

(c) LIMITATIONS.—Notwithstanding any other obligation under this subtitle, this subtitle does not apply to—

(1) financial institutions subject to—

(A) the data security requirements and implementing regulations under the Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.); and

(B) examinations for compliance with the requirements of this Act by 1 or more Federal functional regulators (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)); or

(2) ''covered entities'' subject to the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1301 et seq.), including the data security requirements and implementing regulations of that Act.

**SEC. 402. REQUIREMENTS FOR A PERSONAL DATA PRIVACY AND SECURITY PROGRAM.**

(a) PERSONAL DATA PRIVACY AND SECURITY PROGRAM.—Unless otherwise limited under section 401(c), a business entity subject to this subtitle shall comply with the following safeguards to protect the privacy and security of personally identifiable information:

(1) SCOPE.—A business entity shall implement a comprehensive personal data privacy and security program, written in 1 or more readily accessible parts, that includes administrative, technical, and physical safeguards appropriate to the size and complexity of the business entity and the nature and scope of its activities.

(2) DESIGN.—The personal data privacy and security program shall be designed to—

(A) ensure the privacy, security, and confidentiality of personal electronic records;

(B) protect against any anticipated vulnerabilities to the privacy, security, or integrity of personal electronic records; and

(C) protect against unauthorized access to use of personal electronic records that could result in substantial harm or inconvenience to any individual.

(3) RISK ASSESSMENT.—A business entity shall—

(A) identify reasonably foreseeable internal and external vulnerabilities that could result in unauthorized access, disclosure, use, or alteration of personally identifiable information or systems containing personally identifiable information;

(B) assess the likelihood of and potential damage from unauthorized access, disclosure, use, or alteration of personally identifiable information; and

(C) assess the sufficiency of its policies, technologies, and safeguards in place to control and minimize risks from unauthorized access, disclosure, use, or alteration of personally identifiable information.

(4) RISK MANAGEMENT AND CONTROL.—Each business entity shall—

(A) design its personal data privacy and security program to control the risks identified under paragraph (3); and

(B) adopt measures commensurate with the sensitivity of the data as well as the size, complexity, and scope of the activities of the business entity that—

(i) control access to systems and facilities containing personally identifiable information, including controls to authenticate and permit access only to authorized individuals;

(ii) detect actual and attempted fraudulent, unlawful, or unauthorized access, disclosure, use, or alteration of personally identifiable information, including by employees and other individuals otherwise authorized to have access; and

(iii) protect personally identifiable information during use, transmission, storage, and disposal by encryption or other reasonable means (including as directed for disposal of records under section 628 of the Fair Credit Reporting Act (15 U.S.C. 1681w) and the implementing regulations of such Act as set forth in section 682 of title 16, Code of Federal Regulations).

(5) ACCOUNTABILITY.—Each business entity required to establish a data security program under section 401 shall publish on its website or make otherwise available the terms of such program to the extent that such terms do not reveal information that compromise data security or privacy.

(b) TRAINING.—Each business entity subject to this subtitle shall take steps to ensure employee training and supervision for implementation of the data security program of the business entity.

(c) VULNERABILITY TESTING.—

(1) IN GENERAL.—Each business entity subject to this subtitle shall take steps to ensure regular testing of key controls, systems, and procedures of the personal data privacy and security program to detect, prevent, and respond to attacks or intrusions, or other system failures.

(2) FREQUENCY.—The frequency and nature of the tests required under paragraph (1) shall be determined by the risk assessment of the business entity under subsection (a)(3).

(d) RELATIONSHIP TO SERVICE PROVIDERS.—In the event a business entity subject to this subtitle engages service providers not subject to this subtitle, such business entity shall—

(1) exercise appropriate due diligence in selecting those service providers for responsibilities related to personally identifiable information, and take reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the security, privacy, and integrity of the personally identifiable information at issue; and

(2) require those service providers by contract to implement and maintain appropriate measures designed to meet the objectives and requirements governing entities subject to this section, section 401, and subtitle B.

(e) PERIODIC ASSESSMENT AND PERSONAL DATA PRIVACY AND SECURITY MODERNIZATION.—Each business entity subject to this subtitle shall on a regular basis monitor, evaluate, and adjust, as appropriate its data privacy and security program in light of any relevant changes in—

(1) technology;

(2) the sensitivity of personally identifiable information;

(3) internal or external threats to personally identifiable information; and

(4) the changing business arrangements of the business entity, such as—

(A) mergers and acquisitions;

(B) alliances and joint ventures;

(C) outsourcing arrangements;

(D) bankruptcy; and

(E) changes to personally identifiable information systems.

(f) IMPLEMENTATION TIME LINE.—Not later than 1 year after the date of enactment of this Act, a business entity subject to the provisions of this subtitle shall implement a data privacy and security program pursuant to this subtitle.

**SEC. 403. ENFORCEMENT.**

(a) CIVIL PENALTIES.—

(1) IN GENERAL.—Any business entity that violates the provisions of sections 401 or 402 shall be subject to civil penalties of not more than $5,000 per violation per day, with a maximum of $35,000 per day, while such violations persist.

(2) INTENTIONAL OR WILLFUL VIOLATION.—A business entity that intentionally or willfully violates the provisions of sections 401 or 402 shall be subject to additional penalties in the amount of $5,000 per violation per day, with a maximum of an additional $35,000 per day, while such violations persist.

(3) EQUITABLE RELIEF.—A business entity engaged in interstate commerce that violates this section may be enjoined from further violations by a court of competent jurisdiction.

(4) OTHER RIGHTS AND REMEDIES.—The rights and remedies available under this section are cumulative and shall not affect any other rights and remedies available under law

(b) INJUNCTIVE ACTIONS BY THE ATTORNEY GENERAL.—

(1) IN GENERAL.—Whenever it appears that a business entity or agency to which this subtitle applies has engaged, is engaged, or is about to engage, in any act or practice constituting a violation of this subtitle, the Attorney General may bring a civil action in an appropriate district court of the United States to—

(A) enjoin such act or practice;

(B) enforce compliance with this subtitle; and

(C) obtain damages—

(i) in the sum of actual damages, restitution, and other compensation on behalf of the affected residents of a State; and

(ii) punitive damages, if the violation is willful or intentional; and

(D) obtain such other relief as the court determines to be appropriate.

(2) OTHER INJUNCTIVE RELIEF.—Upon a proper showing in the action under paragraph (1), the court shall grant a permanent injunction or a temporary restraining order without bond.

(c) STATE ENFORCEMENT.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by an act or practice that violates this subtitle, the State may bring a civil action on behalf of the residents of that State in a district court of the United States of appropriate jurisdiction, or any other court of competent jurisdiction, to—

(A) enjoin that act or practice;

(B) enforce compliance with this subtitle;

(C) obtain—

(i) damages in the sum of actual damages, restitution, or other compensation on behalf of affected residents of the State; and

(ii) punitive damages, if the violation is willful or intentional; or

(D) obtain such other legal and equitable relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under this subsection, the attorney general of the State involved shall provide to the Attorney General—

(i) a written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general of a State determines that it is not feasible to provide the notice described in this subparagraph before the filing of the action.

(C) NOTIFICATION WHEN PRACTICABLE.—In an action described under subparagraph (B), the attorney general of a State shall provide the written notice and the copy of the complaint to the Attorney General as soon after the filing of the complaint as practicable.

(3) ATTORNEY GENERAL AUTHORITY.—Upon receiving notice under paragraph (2), the Attorney General shall have the right to—

(A) move to stay the action, pending the final disposition of a pending Federal proceeding or action as described in paragraph (4);

(B) intervene in an action brought under paragraph (1); and

(C) file petitions for appeal.

(4) PENDING PROCEEDINGS.—If the Attorney General has instituted a proceeding or action for a violation of this Act or any regulations thereunder, no attorney general of a State may, during the pendency of such proceeding or action, bring an action under this subsection against any defendant named in such criminal proceeding or civil action for any violation that is alleged in that proceeding or action.

(5) RULE OF CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1) nothing in this Act shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(A) conduct investigations;

(B) administer oaths and affirmations; or

(C) compel the attendance of witnesses or the production of documentary and other evidence.

(6) VENUE; SERVICE OF PROCESS.—

(A) VENUE.—Any action brought under this subsection may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1931 of title 28, United States Code.

(B) SERVICE OF PROCESS.—In an action brought under this subsection process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) may be found.

**SEC. 404. RELATION TO STATE LAWS.**

(a) IN GENERAL.—Except as provided in subsection (b), this title does not annul, alter, affect, or exempt any person subject to the provisions of this title from complying with the laws of any State with respect to security programs for personally identifiable information, except to the extent that those laws are inconsistent with any provisions of this title, and then only to the extent of such inconsistency.

(b) EXCEPTIONS.—No requirement or prohibition may be imposed under the laws of any State with respect to any subject matter regulated under section 401(c), relating to entities exempted from compliance with subtitle A.

**Subtitle B—Security Breach Notification**

**SEC. 421. RIGHT TO NOTICE OF SECURITY BREACH.**

(a) IN GENERAL.—Unless delayed under section 422(d) or exempted under section 424, any business entity or agency engaged in interstate commerce that involves collecting, accessing, using, transmitting, storing, or disposing of personally identifiable information shall notify, following the discovery of a security breach of its systems or databases in its possession or direct control when such security breach impacts sensitive personally identifiable information—

(1) if the security breach impacts more than 10,000 individuals nationwide, impacts a database, networked or integrated databases, or other data system associated with more than 1,000,000 individuals nationwide, impacts databases owned or used by the Federal Government, or involves sensitive personally identifiable information of employees and contractors of the Federal Government—

(A) the United States Secret Service, which shall be responsible for notifying——

(i) the Federal Bureau of Investigation, if the security breach involves espionage, foreign counterintelligence, information protected against unauthorized disclosure for reasons of national defense or foreign relations, or Restricted Data (as that term is defined in section 11y of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)), except for offenses affecting the duties of the United States Secret Service under section 3056(a) of title 18, United States Code; and

(ii) the United States Postal Inspection Service, if the security breach involves mail fraud; and

(B) the attorney general of each State affected by the security breach;

(2) each consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a), pursuant to subsection (b); and

(3) any resident of the United States whose sensitive personally identifiable information was subject to the security breach, pursuant to sections 422 and 423, but in the event a business entity or agency is unable to identify the specific residents of the United States whose sensitive personally identifiable information was impacted by a security breach, the business entity or agency shall consult with the United States Secret Service to determine the scope of individuals who there is a reasonable basis to conclude have been impacted by such breach and should receive notice.

(b) CONSUMER REPORTING AGENCIES.—Any business entity or agency obligated to provide notice of a security breach to more than 1,000 residents of the United States under subsection (a)(3) shall inform consumer reporting agencies of the fact and scope of such notices for the purpose of facilitating and managing potential increases in consumer inquiries and mitigating identity theft or other negative consequences of the breach.

**SEC. 422. NOTICE PROCEDURES.**

(a) TIMELINESS OF NOTICE.—

(1) IN GENERAL.—Except as provided in subsection (c), all notices required under section 421 shall be issued expeditiously and without unreasonable delay after discovery of the events requiring notice.

(2) 14-DAY RULE.—The notices to Federal law enforcement and the attorney general of each State affected by a security breach required under section 421(a) shall be delivered not later than 14 days after discovery of the events requiring notice.

(3) REQUIRED DISCLOSURE.—In complying with the notices required under section 421, a business entity or agency shall expeditiously and without unreasonable delay take reasonable measures which are necessary to—

(A) determine the scope and assess the impact of a breach under section 421; and

(B) restore the reasonable integrity of the data system.

(b) METHOD.—Any business entity or agency obligated to provide notice under section 421 shall be in compliance with that section if they provide notice as follows:

(1) WRITTEN NOTIFICATION.—By written notification to the last known home address of the individual whose sensitive personally identifiable information was breached, or if unknown, notification via telephone call to the last known home telephone number.

(2) INTERNET POSTING.—If more than 1,000 residents of the United States require notice under section 421 and if the business entity or agency maintains an Internet site, conspicuous posting of the notice on the Internet site of the business entity or agency.

(3) MEDIA NOTICE.—If more than 5,000 residents of a State or jurisdiction are impacted, notice to major media outlets serving that State or jurisdiction.

(c) DELAY OF NOTIFICATION FOR LAW ENFORCEMENT PURPOSES.—

(1) IN GENERAL.—If Federal law enforcement or the attorney general of a State determines that the notices required under section 421(a) would impede a criminal investigation, such notices may be delayed until such law enforcement agency determines that the notices will no longer compromise such investigation.

(2) EXTENDED DELAY OF NOTIFICATION FOR LAW ENFORCEMENT PURPOSES.—If a business entity or agency has delayed the notices required under paragraphs (2) and (3) of section 421(a) as described in paragraph (1), the business entity or agency shall give notice 30 days after the day such law enforcement delay was invoked unless Federal law enforcement provides written notification that further delay is necessary.

**SEC. 423. CONTENT OF NOTICE.**

(a) IN GENERAL.—A business entity or agency obligated to provide notice to residents of the United States under section 421(a)(3) shall clearly and concisely detail the nature of the sensitive personally identifiable information impacted by the security breach.

(b) CONTENT OF NOTICE.—A notice under subsection (a) shall include—

(1) the availability of victim protection assistance pursuant to section 425;

(2) guidance on how to request that a fraud alert be placed in the file of the individual

maintained by consumer reporting agencies, pursuant to section 605A of the Fair Credit Reporting Act (15 U.S.C. 1681c–1) and the implications of such actions;

(3) the availability of a summary of rights for identity theft victims from consumer reporting agencies, pursuant to section 609 of the Fair Credit Reporting Act (15 U.S.C. 1681g);

(4) if applicable, notice that the State where an individual resides has a statute that provides the individual the right to place a security freeze on their credit report; and

(5) if applicable, notice that consumer reporting agencies have been notified of the security breach.

(c) MARKETING NOT ALLOWED IN NOTICE.—A notice under subsection (a) may not include—

(1) marketing information;

(2) sales offers; or

(3) any solicitation regarding the collection of additional personally identifiable information from an individual.

**SEC. 424. RISK ASSESSMENT AND FRAUD PREVENTION NOTICE EXEMPTIONS.**

(a) RISK ASSESSMENT EXEMPTION.—A business entity will be exempt from the notice requirements under paragraphs (2) and (3) of section 421(a), if a risk assessment conducted in consultation with Federal law enforcement and the attorney general of each State affected by a security breach concludes that there is a de minimis risk of harm to the individuals whose sensitive personally identifiable information was at issue in the security breach.

(b) FRAUD PREVENTION EXEMPTION.—A business entity will be exempt from the notice requirement under section 421(a) if—

(1) the nature of the sensitive personally identifiable information subject to the security breach cannot be used to facilitate transactions or facilitate identity theft to further transactions with another business entity that is not the business entity subject to the security breach notification requirements of section 421;

(2) the business entity utilizes a security program reasonably designed to block the use of the sensitive personally identifiable information to initiate unauthorized transactions before they are charged to the account of the individual; and

(3) the business entity has a policy in place to provide notice and provides such notice after a breach of the security of the system has resulted in fraud or unauthorized transactions, but does not necessarily require notice in other circumstances.

**SEC. 425. VICTIM PROTECTION ASSISTANCE.**

Any business entity or agency obligated to provide notice to residents of the United States under section 421(a)(3) shall offer to those same residents to cover the cost of—

(1) monthly access to a credit report for a period of 1 year from the date of notice provided under section 421(a)(3); and

(2) credit-monitoring services for up to 1 year from the date of notice provided under section 421(a)(3).

**SEC. 426. ENFORCEMENT.**

(a) CIVIL PENALTIES.—

(1) IN GENERAL.—Any business entity that violates the provisions of sections 421 through 425 shall be subject to civil penalties of not more than $5,000 per violation per day, with a maximum of $55,000 per day, while such violations persist.

(2) INTENTIONAL OR WILLFUL VIOLATION.—A business entity that intentionally or willfully violates the provisions of sections 421 through 425 shall be subject to additional penalties in the amount of $5,000 per violation per day, with a maximum of an additional $55,000 per day, while such violations persist.

(3) EQUITABLE RELIEF.—A business entity engaged in interstate commerce that violates this section may be enjoined from further violations by a court of competent jurisdiction.

(4) OTHER RIGHTS AND REMEDIES.—The rights and remedies available under this section are cumulative and shall not affect any other rights and remedies available under law.

(b) INJUNCTIVE ACTIONS BY THE ATTORNEY GENERAL.—

(1) IN GENERAL.—Whenever it appears that a business entity or agency to which this subtitle applies has engaged, is engaged, or is about to engage, in any act or practice constituting a violation of this subtitle, the Attorney General may bring a civil action in an appropriate district court of the United States to—

(A) enjoin such act or practice;

(B) enforce compliance with this subtitle; and

(C) obtain damages—

(i) in the sum of actual damages, restitution, and other compensation on behalf of the affected residents of a State; and

(ii) punitive damages, if the violation is willful or intentional; and

(D) obtain such other relief as the court determines to be appropriate.

(2) OTHER INJUNCTIVE RELIEF.—Upon a proper showing in the action under paragraph (1), the court shall grant a permanent injunction or a temporary restraining order without bond.

(c) STATE ENFORCEMENT.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been, or is threatened to be, adversely affected by a violation of this subtitle, the State, as parens patriae, may bring a civil action on behalf of the residents of that State in a district court of the United States of appropriate jurisdiction, or any other court of competent jurisdiction, to—

(A) enjoin that practice;

(B) enforce compliance with this subtitle;

(C) obtain damages—

(i) in the sum of actual damages, restitution, and other compensation on behalf of the affected residents of that State; and

(ii) punitive damages, if the violation is willful or intentional; and

(D) obtain such other equitable relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Attorney General—

(i) written notice of the action; and

(ii) a copy of the complaint for the action.

(B) EXCEPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general of a State determines that it is not feasible to provide the notice described in such subparagraph before the filing of the action.

(ii) NOTIFICATION WHEN PRACTICABLE.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Attorney General at the time the attorney general of a State files the action.

(3) ATTORNEY GENERAL AUTHORITY.—Upon receiving notice under paragraph (2), the Attorney General shall have the right to—

(A) move to stay the action, pending the final disposition of a pending Federal proceeding or action as described in paragraph (4);

(B) intervene in an action brought under paragraph (1); and

(C) file petitions for appeal.

(4) PENDING PROCEEDINGS.—If the Attorney General has instituted a proceeding or action for a violation of this Act or any regulations thereunder, no attorney general of a State may, during the pendency of such proceeding or action, bring an action under this subsection against any defendant named in such criminal proceeding or civil action for any violation that is alleged in that proceeding or action.

(5) RULE OF CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this subsection shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State to—

(A) conduct investigations;

(B) administer oaths or affirmations; or

(C) compel the attendance of witnesses or the production of documentary and other evidence.

(6) VENUE; SERVICE OF PROCESS.—

(A) VENUE.—Any action brought under this subsection may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(B) SERVICE OF PROCESS.—In an action brought under this subsection process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) may be found.

**SEC. 427. RELATION TO STATE LAWS.**

(a) IN GENERAL.—Except as provided in subsection (b), this title does not annul, alter, affect, or exempt any person subject to the provisions of this title from complying with the laws of any State with respect to protecting consumers from the risk of theft or misuse of personally identifiable information, except to the extent that those laws are inconsistent with any provisions of this title, and then only to the extent of such inconsistency.

(b) EXCEPTIONS.—No requirement or prohibition may be imposed under the laws of any State with respect to any subject matter regulated under—

(1) section 3(9), relating to the definition of ''security breach'';

(2) paragraphs (1)(A), (2), and (3) of subsection (a), and subsection (b) of section 421, relating to the right to notice of security breach;

(3) section 422, relating to notice procedures;

(4) section 423, relating to notice content, except that nothing in this section shall prevent a State from requiring notice of additional victim protection assistance by that State; and

(5) section 424, relating to risk assessment and fraud prevention notice exemptions.

**SEC. 428. STUDY ON SECURING PERSONALLY IDENTIFIABLE INFORMATION IN THE DIGITAL ERA.**

(a) REQUIREMENT FOR STUDY.—Not later than 120 days after the date of enactment of this Act, the Department of Justice shall enter into a contract with the National Research Council of the National Academies to conduct a study on securing personally identifiable information in the digital era.

(b) MATTERS TO BE ASSESSED IN REVIEW.—The study required under subsection (a) shall include—

(1) threats to the public posed by the unauthorized or improper disclosure of personally identifiable information, including threats to—

(A) law enforcement;

(B) homeland security;

(C) individual citizens; and

(D) commerce;

(2) an assessment of the benefits and costs of currently available strategies for securing

personally identifiable information based on—

(A) technology;

(B) legislation;

(C) regulation; or

(D) public education;

(3) research needed to develop additional strategies;

(4) recommendations for congressional or other policy actions to further minimize vulnerabilities to the threats described in paragraph (1); and

(5) other relevant issues that in the discretion of the National Research Council warrant examination.

(c) TIME LINE FOR STUDY AND REQUIREMENT FOR REPORT.—Not later than 18-month period beginning upon completion of the performance of the contract described in subsection (a), the National Research Council shall conduct the study and report its findings, conclusions, and recommendations to Congress.

(d) FEDERAL DEPARTMENT AND AGENCY COMPLIANCE.—Federal departments and agencies shall comply with requests made by the National Science Foundation, National Research Council, and National Academies for information that is necessary to assist in preparing the report required by subsection (c).

(e) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated to the Department of Justice for Department-wide activities, $850,000 shall be made available to carry out the provisions of this section for fiscal year 2006.

**SEC. 429. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated such sums as may be necessary to cover the costs incurred by the United States Secret Service to carry out investigations and risk assessments of security breaches as required under this subtitle.

**SEC. 430. EFFECTIVE DATE.**

This subtitle shall take effect 90 days after the date of enactment of this Act.

## TITLE V—PROTECTION OF SOCIAL SECURITY NUMBERS

**SEC. 501. SOCIAL SECURITY NUMBER PROTECTION.**

(a) IN GENERAL.—No person may—

(1) display any individual's social security number to a third party without the voluntary and affirmatively expressed consent of such individual; or

(2) sell or purchase any social security number of an individual without the voluntary and affirmatively expressed consent of such individual.

(b) PREREQUISITES FOR CONSENT.—To obtain the consent of an individual under paragraphs (1) or (2) of subsection (a), the person displaying, selling, or attempting to sell, purchasing, or attempting to purchase the social security number of such individual shall—

(1) inform such individual of the general purpose for which the social security number will be used, the types of persons to whom the social security number may be available, and the scope of transactions permitted by the consent; and

(2) obtain the affirmatively expressed consent (electronically or in writing) of such individual.

(c) HARVESTED SOCIAL SECURITY NUMBERS.—Subsection (a) shall apply to any public record of a Federal agency that contains social security numbers extracted from other public records for the purpose of displaying or selling such numbers to the general public.

(d) EXCEPTIONS.—Nothing in this section shall be construed to prohibit or limit the display, sale, or purchase of a social security number—

(1) as required, authorized, or excepted under Federal law;

(2) to the extent necessary for a public health purpose, including the protection of the health or safety of an individual in an emergency situation;

(3) to the extent necessary for a national security purpose;

(4) to the extent necessary for a law enforcement purpose, including the investigation of fraud and the enforcement of a child support obligation;

(5) to the extent necessary for research conducted for the purpose of advancing public knowledge, on the condition that the researcher provides adequate assurances that—

(A) the social security numbers will not be used to harass, target, or publicly reveal information concerning any individual;

(B) information about individuals obtained from the research will not be used to make decisions that directly affect the rights, benefits, or privileges of specific individuals; and

(C) the researcher has in place appropriate safeguards to protect the privacy and confidentiality of any information about individuals;

(6) if such a number is required to be submitted as part of the process for applying for any type of Federal, State, or local government benefit or program;

(7) when the transmission of the number is incidental to, and in the course of, the sale, lease, franchising, or merger of all or a portion of a business; or

(8) to the extent only the last 4 digits of a social security number are displayed.

**SEC. 502. LIMITS ON PERSONAL DISCLOSURE OF SOCIAL SECURITY NUMBERS FOR COMMERCIAL TRANSACTIONS AND ACCOUNTS.**

(a) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding the following:

**"SEC. 1150A. LIMITS ON PERSONAL DISCLOSURE OF SOCIAL SECURITY NUMBERS FOR COMMERCIAL TRANSACTIONS AND ACCOUNTS.**

"(a) ACCOUNT NUMBERS.—

"(1) IN GENERAL.—A business entity may not—

"(A) require an individual to use the social security number of such individual as an account number or account identifier when purchasing a commercial good or service; or

"(B) deny an individual goods or services for refusing to accept the use of the social security number of such individual as an account number or account identifier.

"(2) EXISTING ACCOUNT EXCEPTION.—Paragraph (1) shall not apply to any account number or account identifier established prior to the date of enactment of this Act.

"(b) SOCIAL SECURITY NUMBER PREREQUISITES FOR GOODS AND SERVICES.—A business entity may not require an individual to provide the social security number of such individual when purchasing a commercial good or service or deny an individual goods or services for refusing to provide that number except for any purpose relating to—

"(1) obtaining a consumer report for any purpose permitted under the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.);

"(2) a background check of the individual conducted by a landlord, lessor, employer, or voluntary service agency;

"(3) law enforcement; or

"(4) a Federal, State, or local law requirement.

"(c) APPLICATION OF CIVIL MONEY PENALTIES.—A violation of this section shall be deemed to be a violation of section 1129(a).

"(d) APPLICATION OF CRIMINAL PENALTIES.—A violation of this section shall be deemed to be a violation of section 208(a)(8).".

**SEC. 503. PUBLIC RECORDS.**

(a) IN GENERAL.—Except as provided in paragraph (2), paragraphs (a) and (b) of section 501 shall apply to all public records posted on the Internet or provided in an electronic medium by, or on behalf of, a Federal agency.

(b) EXCEPTIONS.—

(1) TRUNCATION AND PRIOR DISPLAYS.—Section 501(a) shall not apply to—

(A) a public record which displays only the last 4 digits of the social security number of an individual; and

(B) any record or a category of public records first posted on the Internet or provided in an electronic medium by, or on behalf of, a Federal agency prior to the date of enactment of this Act.

(2) LAW ENFORCEMENT.—Nothing in this subsection shall be construed to prevent an entity acting pursuant to a police investigation or regulatory power of a domestic governmental unit from accessing the full social security number of an individual.

**SEC. 504. TREATMENT OF SOCIAL SECURITY NUMBERS ON GOVERNMENT CHECKS AND PROHIBITION OF INMATE ACCESS.**

(a) PROHIBITION OF USE OF SOCIAL SECURITY NUMBERS ON CHECKS ISSUED FOR PAYMENT BY GOVERNMENTAL ENTITIES.—

(1) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) is amended by adding at the end the following:

"(x) No Federal, State, or local agency may display the social security account number of any individual, or any derivative of such number, on any check issued for any payment by the Federal, State, or local agency.".

(2) EFFECTIVE DATE.—The amendment made under paragraph (1) shall apply with respect to checks issued after the date that is 3 years after the date of enactment of this Act.

(b) PROHIBITION ON INMATE ACCESS TO SOCIAL SECURITY NUMBERS.—

(1) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)), as amended by subsection (b), is further amended by adding at the end the following:

"(xi)(I) No Federal, State, or local agency may employ, or enter into a contract for the use or employment of, prisoners in any capacity that would allow such prisoners access to the social security account numbers of other individuals.

"(II) For purposes of this clause, the term 'prisoner' means an individual confined in a jail, prison, or other penal institution or correctional facility pursuant to conviction of such individual of a criminal offense.".

(2) EFFECTIVE DATE.—The amendment made under paragraph (1) shall apply with respect to employment of prisoners, or entry into contract with prisoners, after the date that is 1 year after the date of enactment of this Act.

**SEC. 505. STUDY AND REPORT.**

(a) BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States (in this section referred to as the "Comptroller General") shall conduct a study and prepare a report on—

(1) all of the uses of social security numbers permitted, required, authorized, or excepted under any Federal law; and

(2) the uses of social security numbers in Federal, State, and local public records.

(b) CONTENT OF REPORT.—The report required under subsection (a) shall—

(1) identify users of social security numbers under Federal law;

(2) include a detailed description of the uses allowed as of the date of enactment of this Act;

(3) describe the impact of such uses on privacy and data security;

(4) evaluate whether such uses should be continued or discontinued by appropriate legislative action;

(5) examine whether States are complying with prohibitions on the display and use of social security numbers—

(A) under the Privacy Act of 1974 (5 U.S.C. 552a et seq.); and

(B) the Driver's Privacy Protection Act of 1994 (18 U.S.C. 2721 et seq.);

(6) include a review of the uses of social security numbers in Federal, State, or local public records;

(7) include a review of the manner in which public records are stored (with separate reviews for both paper records and electronic records);

(8) include a review of the advantages, utility, and disadvantages of public records that contain social security numbers, including—

(A) impact on law enforcement;

(B) threats to homeland security; and

(C) impact on personal privacy and security;

(9) include an assessment of the costs and benefits to State and local governments of truncating, redacting, or removing social security numbers from public records, including a review of current technologies and procedures for truncating, redacting, or removing social security numbers from public records (with separate assessments for both paper and electronic records);

(10) include an assessment of the benefits and costs to businesses, non-profit organizations, and the general public of requiring truncation, redaction, or removal of social security numbers on public records (with separate assessments for both paper and electronic records);

(11) include an assessment of Federal and State requirements to truncate social security numbers, and issue recommendations on—

(A) how to harmonize those requirements; and

(B) whether to further extend truncation requirements, taking into consideration the impact on accuracy and use;

(12) include recommendations regarding whether subsection (a) should apply to any record or category of public records first posted on the Internet or provided in an electronic medium by, or on behalf of, a Federal agency prior to the date of enactment of this Act; and

(13) include such recommendations for legislation based on criteria the Comptroller General determines to be appropriate.

(c) REQUIRED CONSULTATION.—In developing the report required under this subsection, the Comptroller General shall consult with—

(1) the Administrative Office of the United States Courts;

(2) the Conference of State Court Administrators;

(3) the Department of Justice;

(4) the Department of Homeland Security;

(5) the Social Security Administration;

(6) Sate and local governments that store, maintain, or disseminate public records; and

(7) other stakeholders, including members of the private sector who routinely use public records that contain social security numbers.

(d) TIMING OF REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall report to Congress its findings under this section.

**SEC. 506. ENFORCEMENT.**

(a) CIVIL PENALTIES.—

(1) IN GENERAL.—Any person that violates the provisions of sections 501 or 502 shall be subject to civil penalties of not more than $5,000 per violation per day, with a maximum of $35,000 per day, while such violations persist.

(2) INTENTIONAL OR WILLFUL VIOLATION.—Any person who intentionally or willfully violates the provisions of sections 501 or 502 shall be subject to additional penalties in the amount of $5,000 per violation per day, with a maximum of an additional $35,000 per day, while such violations persist.

(3) EQUITABLE RELIEF.—Any person who engages in interstate commerce that violates this section may be enjoined from further violations by a court of competent jurisdiction.

(4) OTHER RIGHTS AND REMEDIES.—The rights and remedies available under this section are cumulative and shall not affect any other rights and remedies available under law

(b) INJUNCTIVE ACTIONS BY THE ATTORNEY GENERAL.—

(1) IN GENERAL.—Whenever it appears that a person to which this title applies has engaged, is engaged, or is about to engage, in any act or practice constituting a violation of this title, the Attorney General may bring a civil action in an appropriate district court of the United States to—

(A) enjoin such act or practice;

(B) enforce compliance with this title; and

(C) obtain damages—

(i) in the sum of actual damages, restitution, and other compensation on behalf of the affected residents of a State; and

(ii) punitive damages, if the violation is willful or intentional; and

(D) obtain such other relief as the court determines to be appropriate.

(2) OTHER INJUNCTIVE RELIEF.—Upon a proper showing in the action under paragraph (1), the court shall grant a permanent injunction or a temporary restraining order without bond.

(c) STATE ENFORCEMENT.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by an act or practice that violates this section, the State may bring a civil action on behalf of the residents of that State in a district court of the United States of appropriate jurisdiction, or any other court of competent jurisdiction, to—

(A) enjoin that act or practice;

(B) enforce compliance with this Act;

(C) obtain damages, restitution, or other compensation on behalf of residents of that State; or

(D) obtain such other legal and equitable relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under this subsection, the attorney general of the State involved shall provide to the Attorney General—

(i) a written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general of a State determines that it is not feasible to provide the notice described in this subparagraph before the filing of the action.

(C) NOTIFICATION WHEN PRACTICABLE.—In an action described under subparagraph (B), the attorney general of a State shall provide the written notice and the copy of the complaint to the Attorney General as soon after the filing of the complaint as practicable.

(3) ATTORNEY GENERAL AUTHORITY.—Upon receiving notice under paragraph (2), the Attorney General shall have the right to—

(A) move to stay the action, pending the final disposition of a pending Federal proceeding or action as described in paragraph (4);

(B) intervene in an action brought under paragraph (1); and

(C) file petitions for appeal.

(4) PENDING PROCEEDINGS.—If the Attorney General has instituted a proceeding or action for a violation of this Act or any regulations thereunder, no attorney general of a State may, during the pendency of such proceeding or action, bring an action under this subsection against any defendant named in such criminal proceeding or civil action for any violation that is alleged in that proceeding or action.

(5) RULE OF CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this Act shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(A) conduct investigations;

(B) administer oaths and affirmations;

(C) or compel the attendance of witnesses or the production of documentary and other evidence.

(6) VENUE; SERVICE OF PROCESS.—

(A) VENUE.—Any action brought under this subsection may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(B) SERVICE OF PROCESS.—In an action brought under this subsection process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) may be found.

**SEC. 507. RELATION TO STATE LAWS.**

(a) IN GENERAL.—Except as provided in subsection (b), this title does not annul, alter, affect, or exempt any person subject to the provisions of this title from complying with the laws of any State with respect to protecting and securing social security numbers, except to the extent that those laws are inconsistent with any provisions of this title, and then only to the extent of such inconsistency.

(b) EXCEPTIONS.—No requirement or prohibition may be imposed under the laws of any State with respect to any subject matter regulated under—

(1) section 501(b), relating to prerequisites for consent for the display, sale, or purchase of social security numbers;

(2) section 501(c), relating to harvesting of social security numbers; and

(3) section 504, relating to treatment of social security numbers on government checks and prohibition of inmate access.

## TITLE VI—GOVERNMENT ACCESS TO AND USE OF COMMERCIAL DATA

**SEC. 601. GENERAL SERVICES ADMINISTRATION REVIEW OF CONTRACTS.**

(a) IN GENERAL.—In considering contract awards entered into after the date of enactment of this Act, the Administrator of the General Services Administration shall evaluate—

(1) the program of a contractor to ensure the privacy and security of data containing personally identifiable information;

(2) the compliance of a contractor with such program;

(3) the extent to which the databases and systems containing personally identifiable information of a contractor have been compromised by security breaches; and

(4) the response by a contractor to such breaches, including the efforts of a contractor to mitigate the impact of such breaches.

(b) PENALTIES.—In awarding contracts for products or services related to access, use, compilation, distribution, processing, analyzing, or evaluating personally identifiable information, the Administrator of the General Services Administration shall include the following:

(1) Monetary or other penalties—

(A) for failure to comply with subtitles A and B of title IV of this Act;

(B) if a contractor knows or has reason to know that the personally identifiable information being provided is inaccurate, and provides such inaccurate information; or

(C) if a contractor is notified by an individual that the personally identifiable information being provided is inaccurate and it is in fact inaccurate.

(2) Accuracy update requirements that obligate a contractor to provide notice to the Federal department or agency of any changes or corrections to the personally identifiable information provided under the contract.

**SEC. 602. REQUIREMENT TO AUDIT INFORMATION SECURITY PRACTICES OF CONTRACTORS AND THIRD PARTY BUSINESS ENTITIES.**

Section 3544(b) of title 44, United States Code, is amended—

(1) in paragraph (7)(C)(iii), by striking ''and'' after the semicolon;

(2) in paragraph (8), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(9) procedures for evaluating and auditing the information security practices of contractors or third party business entities supporting the information systems or operations of the agency involving personally identifiable information, and ensuring remedial action to address any significant deficiencies.''.

**SEC. 603. PRIVACY IMPACT ASSESSMENT OF GOVERNMENT USE OF COMMERCIAL INFORMATION SERVICES CONTAINING PERSONALLY IDENTIFIABLE INFORMATION.**

(a) IN GENERAL.—Section 208(b)(1) of the E-Government Act of 2002 (44 U.S.C. 3501 note) is amended—

(1) in subparagraph (A)(i), by striking ''or''; and

(2) in subparagraph (A)(ii), by striking the period and inserting ''; or''; and

(3) by inserting after clause (ii) the following:

''(iii) purchasing or subscribing for a fee to personally identifiable information from a commercial entity (other than news reporting or telephone directories).''.

(b) LIMITATION.—Notwithstanding any other provision of law, commencing 60 days after the date of enactment of this Act, no Federal department or agency may procure or access any commercially available database consisting primarily of personally identifiable information concerning United States persons (other than news reporting or telephone directories) unless the head of such department or agency—

(1) completes a privacy impact assessment under section 208 of the E-Government Act of 2002 (44 U.S.C. 3501 note), which shall include a description of—

(A) such database;

(B) the name of the commercial entity from whom it is obtained; and

(C) the amount of the contract for use;

(2) adopts regulations that specify—

(A) the personnel permitted to access, analyze, or otherwise use such databases;

(B) standards governing the access analysis, or use of such databases;

(C) any standards used to ensure that the personally identifiable information accessed, analyzed, or used is the minimum necessary to accomplish the intended legitimate purpose of the Federal department or agency;

(D) standards limiting the retention and redisclosure of personally identifiable information obtained from such databases;

(E) procedures ensuring that such data meet standards of accuracy, relevance, completeness, and timeliness;

(F) the auditing and security measures to protect against unauthorized access, analysis, use, or modification of data in such databases;

(G) applicable mechanisms by which individuals may secure timely redress for any adverse consequences wrongly incurred due to the access, analysis, or use of such databases;

(H) mechanisms, if any, for the enforcement and independent oversight of existing or planned procedures, policies, or guidelines; and

(I) an outline of enforcement mechanisms for accountability to protect individuals and the public against unlawful or illegitimate access or use of databases; and

(3) incorporates into the contract or other agreement with the commercial entity, provisions—

(A) providing for penalties—

(i) if the entity knows or has reason to know that the personally identifiable information being provided to the Federal department or agency is inaccurate, and provides such inaccurate information; or

(ii) if the entity is notified by an individual that the personally identifiable information being provided to the Federal department or agency is inaccurate and it is in fact inaccurate; and

(B) requiring commercial entities to inform Federal departments or agencies to which they sell, disclose, or provide access to personally identifiable information of any changes or corrections to the personally identifiable information.

(c) INDIVIDUAL SCREENING PROGRAMS.—Notwithstanding any other provision of law, commencing 60 days after the date of enactment of this Act, no Federal department or agency may use commercial databases to implement an individual screening program unless such program is—

(1) congressionally authorized; and

(2) subject to regulations developed by notice and comment that—

(A) establish a procedure to enable individuals, who suffer an adverse consequence because the screening system determined that they might pose a security threat, to appeal such determination and correct information contained in the system;

(B) ensure that Federal and commercial databases that will be used to establish the identity of individuals or otherwise make assessments of individuals under the system will not produce a large number of false positives or unjustified adverse consequences;

(C) ensure the efficacy and accuracy of all of the search tools that will be used and ensure that the department or agency can make an accurate predictive assessment of those who may constitute a threat;

(D) establish an internal oversight board to oversee and monitor the manner in which the system is being implemented;

(E) establish sufficient operational safeguards to reduce the opportunities for abuse;

(F) implement substantial security measures to protect the system from unauthorized access;

(G) adopt policies establishing the effective oversight of the use and operation of the system; and

(H) ensure that there are no specific privacy concerns with the technological architecture of the system.

(d) STUDY OF GOVERNMENT USE.—

(1) SCOPE OF STUDY.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and audit and prepare a report on Federal agency use of commercial databases, including the impact on privacy and security, and the extent to which Federal contracts include sufficient provisions to ensure privacy and security protections, and penalties for failures in privacy and security practices.

(2) REPORT.—A copy of the report required under paragraph (1) shall be submitted to Congress.

**SEC. 604. IMPLEMENTATION OF CHIEF PRIVACY OFFICER REQUIREMENTS.**

(a) DESIGNATION OF THE CHIEF PRIVACY OFFICER.—Pursuant to the requirements under section 522 of the Transportation, Treasury, Independent Agencies, and General Government Appropriations Act, 2005 (Division H of Public Law 108–447; 118 Stat. 3199) that each agency designate a Chief Privacy Officer, the Department of Justice shall implement such requirements by designating a department-wide Chief Privacy Officer, whose primary role shall be to fulfill the duties and responsibilities of Chief Privacy Officer and who shall report directly to the Deputy Attorney General.

(b) DUTIES AND RESPONSIBILITIES OF CHIEF PRIVACY OFFICER.—In addition to the duties and responsibilities outlined under section 522 of the Transportation, Treasury, Independent Agencies, and General Government Appropriations Act, 2005 (Division H of Public Law 108–447; 118 Stat. 3199), the Department of Justice Chief Privacy Officer shall—

(1) oversee the Department of Justice's implementation of the requirements under section 603 to conduct privacy impact assessments of the use of commercial data containing personally identifiable information by the Department;

(2) promote the use of law enforcement technologies that sustain, rather than erode, privacy protections, and assure that the implementation of such technologies relating to the use, collection, and disclosure of personally identifiable information preserve the privacy and security of such information; and

(3) coordinate with the Privacy and Civil Liberties Oversight Board, established in the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), in implementing paragraphs (1) and (2) of this subsection.

Mr. LEAHY. Mr. President, today we introduce the Specter-Leahy Personal Data Privacy and Security Act of 2005. Reforms are urgently needed to protect Americans' privacy and to secure their personal data. There have been steady waves of security breaches over the past 6 months, with the latest involving a database containing 40 million credit card numbers at a company that most Americans never knew existed.

These security breaches are a window on a broader, more challenging trend. Advanced technologies have improved our lives and can help make us safer. Private data about Americans has become a hot commodity. This personal and financial information about each of us suddenly is a treasure trove, valuable and vulnerable, but our privacy and security laws have not kept pace. The reality is that in the digital era, a robust market has developed for collecting and selling personal information. Today, all types of corporate and governmental entities routinely traffic in billions of digitized personal records about Americans.

The data broker market has exploded in size to meet this demand. Insecure databases are now low-hanging fruit for hackers looking to steal identities and commit fraud. We are seeing a rise

in organized rings that target personal data to sell in online, virtual bazaars.

In this information-saturated age, the use of personal data has significant consequences for every American. People have lost jobs, mortgages and control over their credit and identities because personal information has been mishandled or listed incorrectly. This trend raises new threats to our personal security as well as to our privacy. In one disturbing case, a stalker purchased the Social Security number of a woman with whom he was obsessed, used that information to track her down. He killed her, and then shot himself.

Americans everywhere are wondering, ''Why do all these companies have my personal information? What are they doing with it? Why aren't they protecting it better?'' And they are right to wonder. It is time for Congress to catch up with the data market and to show the American people that we are aware of these threats and will protect the privacy and security of their personal information.

Chairman SPECTER and I have worked closely together over many months to craft comprehensive legislation to fix key vulnerabilities in our information economy. We thought through these issues carefully and took the time needed to develop well-balanced, focused legislation that provides strong protections where necessary. We also provide tough penalties and consequences for failing to protect Americans' most personal information. Reforms like these are long overdue. This issue and our legislation deserve to become a key part of this year's domestic agenda so that we can achieve some positive changes in areas that affect the everyday lives of Americans.

First, our bill requires data brokers to let people know what information they have about them, and to allow people to correct inaccurate information. These principles have precedent from the credit report context, and we have adapted them in a way that makes sense for the data brokering industry. It's a simple matter of fairness.

Second, we would require companies that have databases with personal information on Americans to establish and implement data privacy and security programs. Any company that wants to be trusted by the public in this day and age must vigilantly protect databases housing Americans' private data. They also have a responsibility in the next link in the security chain, to make sure that contractors hired to process data are on the up-and-up and secure. This is critical as Americans' personal information is increasingly processed overseas.

Third, our bill requires notice when sensitive personal information has been compromised. The American people have a right to know when they are at risk because of corporate failures to protect their data, or when a criminal has infiltrated data systems. The notice rules in our bill were crafted carefully to ensure that the trigger for notice is tied to risk and to recognize important fraud prevention techniques that already exist. But our priority was making sure that victims have that critical information as a roadmap providing the assistance necessary to protect themselves, their families and their financial well-being.

Fourth, our bill provides tough new protections for Social Security numbers, which are the keys to unlocking so much of our financial and personal lives. The use of Social Security numbers has expanded well beyond the intended purposes. Some uses provide important benefits, but others have made Americans vulnerable. Social Security numbers are for sale online for small fees. Earlier this year, it was reported that a payroll and benefits company put the Social Security numbers of 1,000 workers on postcards—on postcards—brazenly visible for anyone to see. Worse still, those postcards described in detail how those Social Security numbers could be used to access employee benefits online. This is unacceptable, and this bill would make that kind of disregard and sloppiness illegal.

Finally, our bill addresses the government's use of personal data. We are living in a world where the government is increasingly looking to the private sector to get personal data that it could not legally collect on its own without oversight and appropriate protections. So ingrained has the data broker-government partnership become that a ChoicePoint executive stated, ''We do act as an intelligence agency, gathering data, applying analytics.'' While these relationships can help protect us, there must be oversight and appropriate protections.

The recent decision to award ChoicePoint an IRS contract highlights this tension. It is especially galling right now to be rewarding firms that have been so careless with the public's confidential information. The dust has not yet settled and the investigations are incomplete on ChoicePoint's lax security practices. We should at least take a pause before rewarding such missteps with even more government contracts. This bill would place privacy and security front and center in evaluating whether data brokers can be trusted with government contracts that involve sensitive information about the American people. It would require contract reviews that include these considerations, audits to ensure good practice, and contract penalties for failure to protect data privacy and security.

The Specter-Leahy legislation meets other key goals. It provides tough monetary and criminal penalties for compromising personal data or failing to provide necessary protections. This creates an incentive for companies to protect personal information, especially when there is no commercial relationship between individuals and companies using their data.

Our legislation also carefully balances the need for Federal uniformity and State leadership. States are often on the forefront of protecting privacy and spurring change. The California security breach law has been an important lesson. My State of Vermont was among the first—if not the first—to require individual consent before sharing financial information with third parties, and to require a person or business to obtain consent from individuals before reviewing their credit reports. The role of States is important, and our bill identifies areas that require uniformity while leaving the States free to act elsewhere as they see fit. We also would authorize an additional $100 million over 4 years to help state law enforcement fight misuse of personal information.

This is a solid bill—a comprehensive bill—that not only deals with providing Americans notice when they have already been hurt, but also deals with the underlying problem of lax security and lack of accountability in dealing with their most personal and private information.

I commend Senator SPECTER for his leadership on this emerging problem. A number of us have been working on these issues—Senator FEINSTEIN, Senator NELSON, Senator CANTWELL and Senator SCHUMER, among others. I appreciate and recognize their hard work and look forward to making progress together. I am pleased to work closely with Senator SPECTER on this and believe that we have a bill that significantly advances the ball in protecting Americans.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

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By Mr. CORNYN (for himself, Mrs. LINCOLN, Mrs. HUTCHISON, Mr. TALENT, Mr. SANTORUM, Mr. COLEMAN, Mr. ISAKSON, Mr. ROBERTS, Mr. BROWNBACK, Mr. BOND, Mr. HATCH, Mr. ALLARD, Mr. ALEXANDER, Mr. MARTINEZ, and Mr. PRYOR):

S. 1333. A bill to amend the Agricultural Marketing Act of 1946 to establish a voluntary program for country of origin labeling of meat, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. CORNYN. Mr. President, I rise today to introduce the Meat Promotion Act of 2005.

This legislation is long overdue. When implemented, it will help assist our producers of cattle, pork, and other livestock to market and promote their products as born and raised in the United States. This proposal provides an efficient and effective solution to the country-of-origin labeling dilemma.

The Meat Promotion Act of 2005 will benefit U.S. food producers by promoting American-grown foods. This bipartisan effort is widely supported by producers, processors, and retailers as a means to finally move country-of-origin labeling forward.

This legislation provides for USDA implementation of a labeling program

that will be similar to the many voluntary labeling programs that currently exist. Hundreds of programs that label products by region, state, and U.S. brand have already proven their value for producers and consumers alike. The Meat Promotion Act will put the marketplace in charge by allowing producers to meet consumer demand. Where that demand is demonstrated, more products labeled with country-of-origin will become available.

Country-of-origin labeling has been an issue in the Senate for quite awhile, and yet, after all this time, we're no closer to promoting U.S. products than we were a decade ago. In reviewing the storied history of this issue, it's clear that there is not a shortage of viewpoints. One view overwhelmingly vocalized is that U.S. producers of beef and pork want to market and promote their products as born and raised in the United States of America. They are proud of what they produce, and they should be: the U.S. produces the safest, most abundant food supply at the most affordable price, and our livestock producers want to capture the value they add to the market.

But just like every other debate in Washington, the debate over country-of-origin labeling has been about the means to accomplish the goal. It is not that we are fighting about whether or not promoting U.S. product is a good idea. We are fighting about how to do it. Some in the U.S. Senate and some around the country have said: ''If it isn't mandatory, it's not labeling,'' or that the current mandatory labeling law that passed in the 2002 Farm Bill is the only way labeling will work. I strongly disagree.

The current mandatory law is an example of a good idea gone awry. The warning signs of the negative impact of this law have long been on the horizon. On a number of occasions the Government Accountability Office published reports and studies, and testified before Congress about the burdens of mandatory country-of-origin labeling.

In 1999—3 years before the current mandatory labeling law was passed—GAO testified before Congress that ''There is going to be significant costs associated with compliance and enforcement'' of mandatory labeling. At that same hearing, a representative of the Clinton administration testified that ''There are a variety of regulatory regimes for country-of-origin labeling that could be adopted.''

In 2000, the GAO released another study indicating that ''U.S. Packers, processors, and grocers would, to the extent possible, pass their compliance costs back to their suppliers—U.S. cattle and sheep ranchers—in the form of lower prices or forward to consumers in the form of higher retail prices.''

As if that was not enough, again in 2000, the USDA under President Clinton released another report which stated: ''[C]ountry-of-origin labeling is certain to impose at least some costs on an industry which will either be passed back to producers in the form of lower prices or forward to consumers via higher prices. There would also be compliance and enforcement cost to the government. The extent of these costs would vary depending on the nature of the regulatory scheme and the amount of enforcement and compliance action.''

Yet despite the warning signs, the current law passed as part of the 2002 Farm Bill.

When USDA issued the proposed rule, it contained a cost-benefit analysis that said implementation could cost up to $4 billion—with no quantifiable benefit. The rule was followed by a letter from the Director of Office of Information and Regulatory Affairs, Dr. John Graham, which said ''this is one of the most burdensome rules to be reviewed by this administration.''

And so, I am not surprised by how upset many of my constituents are, and that they have come asked me to do something about the burdens this law imposes on them. They ask: ''How can something so popular, like marketing and promoting U.S. products be so expensive?'' I am introducing this bill to help relieve that burden.

There has to be a better way to market and promote U.S. products, and I believe the Meat Promotion Act of 2005 will provide a better solution.

Some have said that voluntary labeling is like a voluntary speed limit—that it won't work. On what basis do they make that claim? Products like Certified Angus Beef, Angus Pride, Rancher's Reserve; these are all labeled on a volunteer basis under existing USDA programs. If producers want to have their products labeled, then they should participate in a voluntary labeling program rather than impose a costly burden on entire segments of our Nation's economy.

Others have argued that this is about food safety. Let's not kid ourselves: country-of-origin labeling is a product-marketing program, period. The security of our Nation's food supply is assured by a science-based, food-safety inspection system, not by labeling programs. In fact, the mandatory labeling law exempts food service and poultry. If this debate is about food safety, why are all poultry and the majority of beef imports for foodservice allowed an exemption? These exemptions clearly demonstrate food safety is not at issue.

Some have also pointed to the mandatory labeling law now in effect on seafood and fish, saying that the sky has not fallen on those industries. That is subject to interpretation. GAO analysis of the seafood provisions of the mandatory labeling law shows that the seafood industry could face up to $89 million in start-up costs and up to $6.2 million in additional costs in year 10 of the program. Likewise, USDA estimated total recordkeeping at $44.6 million for the first year and $24.4 million in subsequent years. The Office of Management and Budget found the rule to be an ''economically significant'' regulatory action and USDA believes the rule would adversely affect—in a substantial way—a key sector of the economy. GAO B–294914.

What do these numbers mean in a practical way? It means that these expenses are paid for out of the pockets of hardworking Americans, to fund a program that could be more efficient, more effective, and less costly.

I stand with the livestock producers that want to market and promote the products they are proud to raise. I believe they should be able to market and promote their products as born, raised, and processed in the United States, and I believe the Meat Promotion Act of 2005 provides the most effective and efficient opportunity for them to do so, while adding value to their bottom line and helping the economy of rural America.

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By Mr. BUNNING (for himself and Mr. STEVENS):

S. 1334. A bill entitled ''The Professional Sports Integrity and Accountability Act''; to the Committee on Commerce, Science, and Transportation and the Committee on Finance.

Mr. STEVENS. Mr. President, I am pleased to support the efforts of my colleague Senator BUNNING in holding professional sports leagues in the United States to a higher standard with respect to testing their athletes for performance-enhancing drugs. Senator BUNNING's bill, ''The Professional Sports Integrity and Accountability Act,'' is another step toward holding professional sports leagues accountable as custodians of our Nation's pastimes. I have cosponsored a similar bill with Senator MCCAIN, and I look forward to working with both of them in the effort to rid professional sports of performance-enhancing drugs and setting a positive example for our youth who are using these substances at an alarming rate.

Over the past few years, the Commerce Committee has taken a series of actions to review the issue of performance-enhancing drug use at all levels of athletic competition, professional and amateur. The results of that review have been alarming. The evidence is clear that an increasing number of young amateur and U.S. Olympic athletes are using these substances for a multitude of reasons, but primarily to enhance athletic performance. Some experts suggest that many of these young athletes seek to emulate their professional sports heroes and are drawn to whatever it takes to achieve similar athletic greatness. For those skeptics who question this link and doubt the powerful effect that athletes have on the lives of kids, I remind them of the five-fold increase in the sales of the steroid-like substance androstenedione—better known as ''andro''—that occurred after Mark McGwire admitted to using the substance in 1998 while chasing Major League Baseball's home run record.

Since then, the problem of harmful supplement use among children and teenagers has reached epidemic proportions.

In 2004, more than 300,000 high school students used anabolic steroids, which are scheduled as a controlled substances in the United States. Evidence shows that teenagers are using these substances not only for athletic performance enhancement, but also for vanity. Recent news reports have indicated that when surveyed, an estimated 5 percent of high school girls and 7 percent of middle school girls admitted using anabolic steroids at some point in their lives. Steroid use has doubled among high school students since the early 1990s.

The adverse health consequences associated with such use are indisputable. Medical experts warn that the effects on children and teenagers include stunted growth, scarring acne, hormonal imbalances, liver and kidney damage, as well as an increased risk of heart disease and stroke later in life. Psychologically, steroids have been associated with increased aggression, suicide, and a greater propensity to commit serious crimes.

Notwithstanding the dire health effects of anabolic steroids or steroid-like substances, the use of any performance-enhancing substance for the sole purpose of gaining a competitive edge over an opponent is unfair. Professional sports leagues must be held to the highest standard and be held accountable to their players, American consumers who pay to see a fair competition on the playing field, and the young athletes who are led by the example of professional athletes.

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By Mr. DODD (for himself, Mr. KENNEDY, Mr. KERRY, and Mr. BINGAMAN):

S. 1335. A bill to amend title XVIII of the Social Security Act to preserve access to appeals before administrative law judges under the medicare program; to the Committee on Finance.

Mr. DODD. Mr. President, I rise today to introduce the Justice for Medicare Beneficiaries Act of 2005, legislation that will ensure that Medicare beneficiaries who are denied health-related benefits can appeal these denials in a meaningful way. Very simply, this initiative will ensure that Medicare beneficiaries have access to timely, impartial, and in-person hearings before Administrative Law Judges.

Sec. 931 of the Medicare Prescription Drug, Improvement, and Modernization Act requires the transfer of the Medicare appeals process from the Social Security Administration (SSA) to the Department of Health and Human Services (HHS). A proposed rule recently put forth indicates that current HHS plans to bring about this transfer will significantly and negatively affect Medicare beneficiaries' ability to seek redress from the denial of benefits such as access to prescription medicines, home health services, and services provided at skilled nursing facilities.

Specifically, the Administration's proposed transfer plan, slated to go into effect in only a handful of days on July 1, will reduce the number of sites where these appeal hearings can take place to four from the more than 140 sites currently operating nationwide. Today, Medicare beneficiaries that have filed coverage appeals are granted a hearing before an Administrative Law Judge (ALJ). Under the proposed transfer plan, Medicare beneficiaries will now have their hearings heard via video- or teleconference (VTC) and will only be allowed to appear in person by request and if HHS determines that ''special or extraordinary circumstances exist.'' Moreover, beneficiaries granted an in-person hearing would not be assured that their cases would be heard within the 90-day window currently mandated by law. Lastly, the proposed transfer plan will endanger the independence and impartiality of Administrative Law Judges by requiring them to defer to program guidance provided by the Centers for Medicare and Medicaid Services (CMS) rather than on the Medicare statute and regulations, as they currently do.

Central to our system of justice is the right of aggrieved parties to appear before an impartial judge in person to have their cases heard. Appearing face-to-face before an impartial trier of fact is the best way to ensure that a full and fair hearing occurs. In person hearings allow parties to fully make their case. At the same time, they allow judges to best evaluate the demeanor and condition of the parties, and other aspects of a case. The Administration's proposed rule transferring the Medicare appeals process from SSA to HHS greatly endangers this right by gutting the current practice of guaranteeing the right of Medicare beneficiaries to appear in person before an ALJ when having their appeals heard and instead will now presume that these hearings will be heard via video- or teleconference.

Often when we talk about the denial of Medicare benefits, we are talking about the denial of services that literally have the ability to save lives. Medicare provides a critical safety net for millions of elderly and disabled beneficiaries and the proposed transfer plan's almost wholesale reliance on novel VTC technology may endanger the ability of many Medicare beneficiaries to accurately and personally portray the severity of their own health conditions.

The Justice for Medicare Beneficiaries Act of 2005 will ensure those Medicare beneficiaries that have filed coverage appeals have access to timely, impartial, and in-person hearings before Administrative Law Judges. Specifically, this initiative will ensure that Medicare appeals will be heard in person before an ALJ, as they presently are. While all Medicare beneficiaries will be entitled to appear in person for their hearing, any beneficiary may choose to have their hearing heard via video- or teleconference.

The legislation that I introduce today is in no way designed to prevent the adoption of the promising technology represented by VTC. Rather, this initiative simply seeks to preserve the critically important ability of Medicare beneficiaries to appear before the very judges charged with hearing their coverage appeals. By preventing the great majority of Medicare beneficiaries from appearing in person before the judge hearing their Medicare appeals, the Administration's proposed plan will greatly harm their ability to accurately and completely present all of the facts relevant to their case. And while I understand that many Medicare beneficiaries will choose to have their appeals heard via either video- or teleconference, I believe that we must preserve for Medicare beneficiaries the ability to appear in person before a judge when their cases are heard.

The legislation will also require that all Medicare coverage appeal hearings, regardless of whether a Medicare beneficiary appears in person or chooses to appear via video- or teleconference, will be heard within 90 days as mandated by the Benefits Improvement and Protection Act of 2000. All Medicare beneficiaries deserve to have their appeals heard in a timely manner regardless of whether their cases are heard in person or via utilizing VTC technology.

The Justice for Medicare Beneficiaries Act will also address the Administration's plans to reduce the number of sites where Medicare appeal hearings may be heard in person from the more than 140 sites currently available to four. This legislation will require at least one site for the hearing of in-person Medicare appeals in each state, the District of Columbia, and territory, with the nation's five largest states featuring two hearing sites geographically distributed throughout the state.

Lastly, this legislation will ensure the independence and impartiality of Administrative Law Judges by relieving them of the proposed transfer plan's mandate to grant ''substantial deference'' to CMS program guidance. Medicare beneficiaries appealing coverage decisions should be fully confident that the judges deciding their appeals are bound only by the merits of their case and not undue pressure from agency of administration interference.

I want to thank Senators KENNEDY, KERRY, and BINGAMAN for joining me in sponsoring this important initiative. The Justice for Medicare Beneficiaries Act is also supported by a number of national and local organizations dedicated to preserving the continued ability of Medicare beneficiaries to access needed health care services. Endorsing the legislation that I introduce today are the Center for Medicare Advocacy located in my own state of Connecticut, the National Health Law Program, the National Senior Citizens Law Center, the Medicare Advocacy Project of Vermont Legal Aid, the Medicare Advocacy Project of Greater

Boston Legal Services, and the Senior Citizens' Law Office of Albuquerque, NM.

In Congress we far too rarely have the opportunity to stave off problems before they occur. Rather, too often we are forced to involve ourselves in matters only after they have already wreaked havoc on the lives of our constituents. With passage of the Justice for Medicare Beneficiaries Act of 2005, we have the opportunity to avoid the adverse impact that the Administration's proposed transfer plan will likely have on Medicare beneficiaries. This legislation will preserve for our nation's 41 million Medicare beneficiaries the ability to timely appear in person before judges who will impartially determine which health care services they're entitled to receive under Medicare. Medicare beneficiaries deserve no less than the vital protections offered by this act and I ask for the support of my colleagues for this critically important initiative.

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By Mr. ENZI (for himself and Mr. BAUCUS):

S. 1337. A bill to restore fairness and reliability to the medical justice system and promote patient safety by fostering alternatives to current medical tort litigation, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, I rise today along with my colleague Senator BAUCUS from Montana to introduce a bill that will help bring about a more reliable system of medical justice for all Americans.

In the last Congress, we had three robust debates on a critical issue—medical liability reform. Though a majority of the Members of this body wanted to begin working to pass legislation, we didn't have the 60 Senators necessary to invoke cloture and begin the real work on the bills. That was disappointing, because skyrocketing medical liability insurance premiums are forcing doctors to move their practices to States with better legal environments and lower premiums. This is endangering the availability of critical healthcare services in many areas of Wyoming and other states.

Throughout our debate, I heard many of my colleagues say that they wanted to work on this issue, but that they simply could not support the bill as it stood. While I disagreed with their positions then, I respected their opposition. I also trust that they sincerely wanted to help solve our Nation's medical liability and litigation crisis.

During those debates, I noticed something interesting. While we argued the ''pros and cons'' of the bills, no one stood up to defend our current system of medical litigation. In fact, even some of the lawyers in this body agreed that our medical litigation system needs reform.

Why didn't we hear anyone defend the merits of our current medical litigation system? It's because our system doesn't work. It simply doesn't work for patients or for healthcare providers.

Compensation to patients injured by healthcare errors is neither prompt nor fair. The randomness and delay associated with medical litigation does not contribute to timely, reasonable compensation for most injured patients. Some injured patients get huge jury awards, while many others get nothing at all.

Let's look at the facts. In 1991, a group of researchers published a study in the New England Journal of Medicine. The study, known as the Harvard Medical Practice Study, was the basis for the Institute of Medicine's estimate that nearly 100,000 people die every year from healthcare errors.

As part of their study, the researchers reviewed the medical records of a random sample of more than 31,000 patients in New York State. They matched those records with statewide data on medical malpractice claims. The researchers found that nearly 30 percent of injuries caused by medical negligence resulted in temporary disability, permanent disability or death. However, less than 2 percent of those who were injured by medical negligence filed a claim. These figures suggest that most people who suffer negligent injuries don't receive any compensation.

When a patient does decide to litigate, only a few recover anything. Only one of every ten medical malpractice cases actually goes to trial, and of those cases, plaintiffs win less than one of every five. In addition, patients who file suit and are ultimately successful must wait a long time for their compensation—the average length of a medical malpractice action filed in state court is about 30 months.

While the vast majority of malpractice cases that go to trial are settled before the court hands down a verdict, the settlements even then don't guarantee that patients are compensated fairly, particularly after legal fees are subtracted. Research shows that for every dollar paid in malpractice insurance premiums, about 40 cents in compensation is actually paid to the plaintiff—the rest goes for legal fees, court costs, and other administrative expenditures.

To sum up: most patients injured by negligence don't file claims or receive compensation. Few of those that do file claims and go to court recover anything, and those who are successful wait a long time for their compensation. And those who settle out of court end up receiving only 40 cents for every dollar that healthcare providers pay in liability insurance premiums.

It's hard to say that our medical litigation system does right by patients in light of those facts. Unfortunately, our system doesn't work for healthcare providers either.

Earlier, I spoke about those Harvard researchers who found that fewer than 2 percent of those who were injured by medical negligence even filed a claim. As they reviewed the medical records for their study, the researchers also found another interesting fact—most of the providers against whom claims were eventually filed were not negligent at all.

That's right—most providers who were sued had not committed a negligent act.

In matching the records they reviewed to data on malpractice claims, the Harvard researchers found 47 actual malpractice claims. In only 8 of the 47 claims did they find evidence that medical malpractice had caused an injury. Even more amazingly, the physician reviewers found no evidence of any medical injury, negligent or not, in 26 of the 47 claims. However, 40 percent of these cases where they found no evidence of negligence nonetheless resulted in a payment by the provider. Basically, the researchers found no positive relationship between medical negligence and compensation.

That study was based on 1984 data. The same group of researchers conducted another study in Colorado and Utah in 1992, and they found the same thing. As in the 1984 study, they found that only 3 percent of patients who suffered an injury as a result of negligence actually sued. And again, physician reviewers could not find negligence in most of the cases in which lawsuits were filed.

Now, I assume that the patients who sued had either an adverse medical outcome, or at least an outcome that was less satisfactory than the patient expected. But our medical litigation system is not supposed to compensate patients for adverse outcomes or dissatisfaction—it's supposed to compensate patients who are victims of negligent behavior. It's supposed to be a deterrent to substandard medical care.

It's not fair to doctors and hospitals that they must pay to defend against meritless lawsuits. Nor is it fair that they must face a choice between settling for a small sum, even if they aren't at fault, so that they avoid getting sucked into the whirlpool of our medical litigation system.

It's not hard to understand why physicians and hospitals and their insurers want to stay out of court. When they lose, the decisions are increasingly resulting in mega-awards based on subjective ''non-economic'' damages. The number of awards exceeding $1 million grew by 50 percent between the periods of 1994–1996 and 1999–2000. Today, more than half of all jury awards exceed $1 million.

As a result, when a patient suffers a bad outcome and sues, providers have an incentive to settle the case out of court, even if the provider isn't at fault. But is this how our medical litigation system is supposed to work—as a tool for shaking down our healthcare providers?

Let's face it—our medical litigation system is broken. It doesn't work for

patients or providers. Even worse, it replaces the trust in the provider-patient relationship with distrust.

Then, when courts and juries render verdicts with huge awards that bear no relation to the conduct of the defendants, this destabilizes the insurance markets and sends premiums skyrocketing. This forces many physicians to curtail, move or drop their practices, leaving patients without access to necessary medical care. This is a particular problem in states like Wyoming, where we traditionally struggle with recruiting doctors and other healthcare providers.

Perhaps we could live with this flawed system if litigation served to improve quality or safety, but it doesn't. Litigation discourages the exchange of critical information that could be used to improve the quality and safety of patient care. The constant threat of litigation also drives the inefficient, costly and even dangerous practice of ''defensive medicine.''

Yes, indeed, defensive medicine is dangerous. A recent study found that one of every 1200 children who receive a CAT scan may die later in life from radiation-induced cancer. Knowing this puts a physician faced with anxious parents in a difficult situation. Does the doctor use his or her professional judgment and tell the parents of a sick child not to worry, or does the doctor order the CAT scan and subject the child to radiation that is probably unnecessary, just to provide some protection against a possible lawsuit?

We have a medical litigation system in which many patients who are hurt by negligent actions receive no compensation for their loss. Those who do receive compensation end up with about 40 cents of every premium dollar after legal fees and other costs are subtracted. And the likelihood and the outcomes of lawsuits and settlements bear little relation to whether or not a healthcare provider was at fault.

We like to say that justice is blind. With respect to our medical litigation system, I would say that justice is absent and nowhere to be found.

During our debates in the last Congress, I said that the current medical liability crisis and the shortcomings of our medical litigation system make it clear that it is time for a major change. I also said that regardless of how we voted, we all should work toward replacing the current medical tort liability scheme with a more reliable and predictable system of medical justice.

Today, Senator BAUCUS and I are introducing a bill that would help achieve that goal.

Most of us are familiar with the report on medical errors from the Institute of Medicine, also known as the IOM. Many of us may be less familiar with another report that the IOM published in 2003. That report is called ''Fostering Rapid Advances in Healthcare: Learning from System Demonstrations.''

Our Secretary of Health and Human Services at that time, Tommy Thompson, challenged the IOM to identify bold ideas that would challenge conventional thinking about some of the most vexing problems facing our healthcare system. In response, an IOM committee developed this report, which identified a set of demonstration projects that committee members felt would break new ground and yield a very high return-on-investment in terms of dollars and health.

Medical liability was one of the areas upon which the IOM committee focused. The IOM suggested that the federal government should support demonstration projects in the states. These demonstrations should be based on ''replacing tort liability with a system of patient-centered and safety-focused non-judicial compensation.''

The bill we are introducing today is in the spirit of this IOM report. This bill, the Fair and Reliable Medical Justice Act, would authorize funding for States to create demonstration programs to test alternatives to current medical tort litigation.

The funding to States under this bill would cover planning grants for developing proposals based on the models or other innovative ideas. Funding to States would also include the initial costs of getting the alternatives up and running.

The Fair and Reliable Medical Justice Act would require participating states and the Federal Government to collaborate in continuous evaluations of the results of the alternatives as compared to traditional tort litigation. This way, all States and the federal government can learn from new approaches.

By funding demonstration projects, I believe Congress could enable States to experiment with and learn from ideas that could provide long-term solutions to the current medical liability and litigation crisis.

In introducing this bill, I wanted to provide some alternative ideas that would contribute to the debate. As a result, the bill describes three models to which states could look in designing their alternatives.

For instance, a State could provide healthcare providers and organizations with immunity from lawsuits if they disclose an error that results in an injury and make a timely offer to compensate an injured patient for his or her actual net economic loss, plus a payment for pain and suffering if experts deem such a payment to be appropriate. This could give a healthcare provider who makes an honest mistake the chance to make amends financially with a patient, without the provider fearing that their honesty would land them in a lawsuit.

Another idea would be for a state to set up classes of avoidable injuries and a schedule of compensation for them, and then establish an administrative board to resolve claims related to those injuries. A scientifically rigorous process of identifying preventable injuries and setting appropriate compensation would be preferable to the randomness of the current system.

Still another option would be for a state to establish a special healthcare court for adjudicating medical malpractice cases. For this idea to work, the State would need to ensure that the presiding judges have expertise in and an understanding of healthcare, and allow them to make binding rulings on issues like causation compensation, and standards of care.

We already have specialized courts for complicated issues like taxes and highly charged issues like substance abuse and domestic violence. With all the flaws in our current medical litigation system, perhaps we should consider special courts for the complex and emotional issue of medical malpractice.

I believe one thing in our medical liability debate is absolutely clear—people are demanding change. The States are debating liability reform, and a number of states have enacted new laws. States are heeding this call for change, and Congress should support those efforts.

My own State, Wyoming, had had a number of lively legislative debates on medical liability reform over the past few years, but we have a constitutional amendment that prohibits limits on the amounts that can be recovered through lawsuits. The Wyoming Senate has considered bills recently to amend our State's constitution to create a commission on healthcare errors. That commission would have the power to review claims, decide if healthcare negligence had occurred, and determine the compensation for the death or injury according to a schedule or formula provided by law.

According to the key sponsor of these bills, Senator Charlie Scott, one of the biggest obstacles to passage is the uncertainty surrounding this new idea. No one has any basis for knowing what a proper schedule or formula for compensation would be. No one knows how much the system might cost, or how much injured patients would recover compared to what they recover now.

Senator Scott wrote me to say that federal support for finding answers to these questions might help the bill's sponsors sufficiently respond to the legitimate concerns of their fellow Wyoming legislators. We should be helping state legislators like Senator Scott develop thoughtful and innovative ideas such as the one he has proposed. That's one of the reasons I am offering this bill.

Clearly, the American people and their elected representatives have identified the need to reform our current medical litigation system. There is a real medical liability crisis, and Congress needs to act sooner rather than later.

My cosponsor Senator BAUCUS and I voted differently on medical liability reform in the last Congress, but we

both agree that we ought to lend a hand to States that are working to change their current medical litigation systems and to develop creative alternatives that could work much better for patients and providers. The States have been policy pioneers in many areas—workers' compensation, welfare reform, and electricity deregulation, to name three. Medical litigation should be the next item on the agenda of the laboratories of democracy that are our 50 States.

No one questions the need to restore reliability to our medical justice system. But how do we begin the process? One way is to foster innovation by encouraging States to develop more rational and predictable methods for resolving healthcare injury claims. And that is what the Fair and Reliable Medical Justice Act aims to do.

In the long run, we would all be better off with a more reliable system of medical justice than we have today. I know that my fellow Senators recognize this, so I hope my colleagues on both sides of the aisle will work with me and Senator BAUCUS on 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. 1337

*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 ''Fair and Reliable Medical Justice Act''.

**SEC. 2. PURPOSES.**

The purposes of this Act are—

(1) to restore fairness and reliability to the medical justice system by fostering alternatives to current medical tort litigation that promote early disclosure of health care errors and provide prompt, fair, and reasonable compensation to patients who are injured by health care errors;

(2) to promote patient safety through early disclosure of health care errors; and

(3) to support and assist States in developing such alternatives.

**SEC. 3. STATE DEMONSTRATION PROGRAMS TO EVALUATE ALTERNATIVES TO CURRENT MEDICAL TORT LITIGATION.**

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following:

**''SEC. 3990. STATE DEMONSTRATION PROGRAMS TO EVALUATE ALTERNATIVES TO CURRENT MEDICAL TORT LITIGATION.**

''(a) IN GENERAL.—The Secretary is authorized to award demonstration grants to States for the development, implementation, and evaluation of alternatives to current tort litigation for resolving disputes over injuries allegedly caused by health care providers or health care organizations.

''(b) DURATION.—The Secretary may award up to 10 grants under subsection (a) and each grant awarded under such subsection may not exceed a period of 5 years.

''(c) CONDITIONS FOR DEMONSTRATION GRANTS.—

''(1) REQUIREMENTS.—Each State desiring a grant under subsection (a) shall—

''(A) develop an alternative to current tort litigation for resolving disputes over injuries allegedly caused by health care providers or health care organizations that may be 1 of the models described in subsection (d); and

''(B) promote a reduction of health care errors by allowing for patient safety data related to disputes resolved under subparagraph (A) to be collected and analyzed by organizations that engage in voluntary efforts to improve patient safety and the quality of health care delivery.

''(2) ALTERNATIVE TO CURRENT TORT LITIGATION.—Each State desiring a grant under subsection (a) shall demonstrate how the proposed alternative described in paragraph (1)(A)—

''(A) makes the medical liability system more reliable through prompt and fair resolution of disputes;

''(B) encourages the early disclosure of health care errors;

''(C) enhances patient safety; and

''(D) maintains access to liability insurance.

''(3) SOURCES OF COMPENSATION.—Each State desiring a grant under subsection (a) shall identify the sources from and methods by which compensation would be paid for claims resolved under the proposed alternative to current tort litigation, which may include public or private funding sources, or a combination of such sources. Funding methods shall to the extent practicable provide financial incentives for activities that improve patient safety.

''(4) SCOPE.—

''(A) IN GENERAL.—Each State desiring a grant under subsection (a) may establish a scope of jurisdiction (such as a designated geographic region, a designated area of health care practice, or a designated group of health care providers or health care organizations) for the proposed alternative to current tort litigation that is sufficient to evaluate the effects of the alternative.

''(B) NOTIFICATION OF PATIENTS.—A State proposing a scope of jurisdiction under subparagraph (A) shall demonstrate how patients would be notified that they are receiving health care services that fall within such scope.

''(5) PREFERENCE IN AWARDING DEMONSTRATION GRANTS.—In awarding grants under subsection (a), the Secretary shall give preference to States—

''(A) that have developed the proposed alternative through substantive consultation with relevant stakeholders; and

''(B) in which State law at the time of the application would not prohibit the adoption of an alternative to current tort litigation.

''(d) MODELS.—

''(1) IN GENERAL.—Any State desiring a grant under subsection (a) that proposes an alternative described in paragraph (2), (3), or (4) shall be deemed to meet the criteria under subsection (c)(2).

''(2) EARLY DISCLOSURE AND COMPENSATION MODEL.—In the early disclosure and compensation model, the State shall—

''(A) require that health care providers or health care organizations notify a patient (or an immediate family member or designee of the patient) of an adverse event that results in serious injury to the patient, and that such notification shall not constitute an acknowledgment or an admission of liability;

''(B) provide immunity from tort liability to any health care provider or health care organization that offers in good faith to pay compensation in accordance with this section to a patient for an injury incurred in the provision of health care services (limited to claims arising out of the same nucleus of operative facts as the injury, and except in cases of fraud related to the provision of health care services, or in cases of criminal or intentional harm);

''(C) set a limited time period during which a health care provider or health care organization may make an offer of compensation benefits under subparagraph (B), with consideration for instances where prompt recognition of an injury is unlikely or impossible;

''(D) require that the compensation provided under subparagraph (B) include—

''(i) payment for the net economic loss of the patient, on a periodic basis, reduced by any payments received by the patient under—

''(I) any health or accident insurance;

''(II) any wage or salary continuation plan; or

''(III) any disability income insurance;

''(ii) payment for the non-economic damages of the patient, if appropriate for the injury, based on a defined payment schedule developed by the State in consultation with relevant experts and with the Secretary in accordance with subsection (g); and

''(iii) reasonable attorney's fees;

''(E) not abridge the right of an injured patient to seek redress through the State tort system if a health care provider does not enter into a compensation agreement with the patient in accordance with subparagraph (B) or if the compensation offered does not meet the requirements of subparagraph (D) or is not offered in good faith;

''(F) permit a health care provider or health care organization that offers in good faith to pay compensation benefits to an individual under subparagraph (B) to join in the payment of the compensation benefits any health care provider or health care organization that is potentially liable, in whole or in part, for the injury; and

''(G) permit any health care provider or health care organization to contribute voluntarily in the payment of compensation benefits to an individual under subparagraph (B).

''(3) ADMINISTRATIVE DETERMINATION OF COMPENSATION MODEL.—

''(A) IN GENERAL.—In the administrative determination of compensation model—

''(i) the State shall—

''(I) designate an administrative entity (in this paragraph referred to as the 'Board') that shall include representatives of—

''(aa) relevant State licensing boards;

''(bb) patient advocacy groups;

''(cc) health care providers and health care organizations; and

''(dd) attorneys in relevant practice areas;

''(II) set up classes of avoidable injuries, in consultation with relevant experts and with the Secretary in accordance with subsection (g), that will be used by the Board to determine compensation under clause (ii)(II);

''(III) modify tort liability, through statute or contract, to bar negligence claims in court against health care providers and health care organizations for the classes of injuries established under subclause (II), except in cases of fraud related to an injury, or in cases of criminal or intentional harm;

''(IV) outline a procedure for informing patients about the modified liability system described in this paragraph and, in systems where participation by the health care provider, health care organization, or patient is voluntary, allow for the decision by the provider, organization, or patient of whether to participate to be made prior to the provision of, use of, or payment for the health care service;

''(V) provide for an appeals process to allow for review of decisions; and

''(VI) establish procedures to coordinate settlement payments with other sources of payment;

''(ii) the Board shall—

''(I) resolve health care liability claims for certain classes of avoidable injuries as determined by the State and determine compensation for such claims;

''(II) develop a schedule of compensation to be used in making such determinations that includes—

''(aa) payment for the net economic loss of the patient, on a periodic basis, reduced by any payments received by the patient under any health or accident insurance, any wage or salary continuation plan, or any disability income insurance;

''(bb) payment for the non-economic damages of the patient, if appropriate for the injury, based on a defined payment schedule developed by the State in consultation with relevant experts and with the Secretary in accordance with subsection (g); and

''(cc) reasonable attorney's fees; and

''(III) update the schedule under subclause (II) on a regular basis.

''(B) APPEALS.—The State, in establishing the appeals process described in subparagraph (A)(i)(V), may choose whether to allow for de novo review, review with deference, or some opportunity for parties to reject determinations by the Board and elect to file a civil action after such rejection. Any State desiring to adopt the model described in this paragraph shall indicate how such review method meets the criteria under subsection (c)(2).

''(C) TIMELINESS.—The State shall establish timeframes to ensure that claims handled under the system described in this paragraph provide for adjudication that is more timely and expedited than adjudication in a traditional tort system.

''(4) SPECIAL HEALTH CARE COURT MODEL.—In the special health care court model, the State shall—

''(A) establish a special court for the timely adjudication of disputes over injuries allegedly caused by health care providers or health care organizations in the provision of health care services;

''(B) ensure that such court is presided over by judges with health care expertise who meet applicable State standards for judges and who agree to preside over such court voluntarily;

''(C) provide authority to such judges to make binding rulings on causation, compensation, standards of care, and related issues with reliance on independent expert witnesses commissioned by the court;

''(D) provide for an appeals process to allow for review of decisions; and

''(E) at its option, establish an administrative entity similar to the entity described in paragraph (3)(A)(i)(I) to provide advice and guidance to the special court.

''(e) APPLICATION.—

''(1) IN GENERAL.—Each State desiring a grant under subsection (a) shall submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require.

''(2) REVIEW PANEL.—

''(A) IN GENERAL.—In reviewing applications under paragraph (1), the Secretary shall consult with a review panel composed of relevant experts appointed by the Comptroller General.

''(B) COMPOSITION.—

''(i) NOMINATIONS.—The Comptroller General shall solicit nominations from the public for individuals to serve on the review panel.

''(ii) APPOINTMENT.—The Comptroller General shall appoint, at least 11 but not more than 15, highly qualified and knowledgeable individuals to serve on the review panel and shall ensure that the following entities receive fair representation on such panel:

''(I) Patient advocates.

''(II) Health care providers and health care organizations.

''(III) Attorneys with expertise in representing patients and health care providers.

''(IV) Insurers.

''(V) State officials.

''(C) CHAIRPERSON.—The Comptroller General, or an individual within the Government Accountability Office designated by the Comptroller General, shall be the chairperson of the review panel.

''(D) AVAILABILITY OF INFORMATION.—The Comptroller General shall make available to the review panel such information, personnel, and administrative services and assistance as the review panel may reasonably require to carry out its duties.

''(E) INFORMATION FROM AGENCIES.—The review panel may request directly from any department or agency of the United States any information that such panel considers necessary to carry out its duties. To the extent consistent with applicable laws and regulations, the head of such department or agency shall furnish the requested information to the review panel.

''(f) REPORT.—Each State receiving a grant under subsection (a) shall submit to the Secretary a report evaluating the effectiveness of activities funded with grants awarded under such subsection at such time and in such manner as the Secretary may require.

''(g) TECHNICAL ASSISTANCE.—

''(1) IN GENERAL.—The Secretary shall provide technical assistance to the States awarded grants under subsection (a).

''(2) REQUIREMENTS.—Technical assistance under paragraph (1) shall include—

''(A) the development of a defined payment schedule for non-economic damages (including guidance on the consideration of individual facts and circumstances in determining appropriate payment), the development of classes of avoidable injuries, and guidance on early disclosure to patients of adverse events; and

''(B) the development, in consultation with States, of common definitions, formats, and data collection infrastructure for States receiving grants under this section to use in reporting to facilitate aggregation and analysis of data both within and between States.

''(3) USE OF COMMON DEFINITIONS, FORMATS, AND DATA COLLECTION INFRASTRUCTURE.—States not receiving grants under this section may also use the common definitions, formats, and data collection infrastructure developed under paragraph (2)(B).

''(h) EVALUATION.—

''(1) IN GENERAL.—The Secretary, in consultation with the review panel established under subsection (e)(2), shall enter into a contract with an appropriate research organization to conduct an overall evaluation of the effectiveness of grants awarded under subsection (a) and to annually prepare and submit a report to the appropriate committees of Congress. Such an evaluation shall begin not later than 18 months following the date of implementation of the first program funded by a grant under subsection (a).

''(2) CONTENTS.—The evaluation under paragraph (1) shall include—

''(A) an analysis of the effect of the grants awarded under subsection (a) on the number, nature, and costs of health care liability claims;

''(B) a comparison of the claim and cost information of each State receiving a grant under subsection (a); and

''(C) a comparison between States receiving a grant under this section and States that did not receive such a grant, matched to ensure similar legal and health care environments, and to determine the effects of the grants and subsequent reforms on—

''(i) the liability environment;

''(ii) health care quality;

''(iii) patient safety; and

''(iv) patient and health care provider and organization satisfaction with the reforms.

''(i) OPTION TO PROVIDE FOR INITIAL PLANNING GRANTS.—Of the funds appropriated pursuant to subsection (k), the Secretary may use a portion not to exceed $500,000 per State to provide planning grants to such States for the development of demonstration project applications meeting the criteria described in subsection (c). In selecting States to receive such planning grants, the Secretary shall give preference to those States in which State law at the time of the application would not prohibit the adoption of an alternative to current tort litigation.

''(j) DEFINITIONS.—In this section:

''(1) HEALTH CARE SERVICES.—The term 'health care services' means any services provided by a health care provider, or by any individual working under the supervision of a health care provider, that relate to—

''(A) the diagnosis, prevention, or treatment of any human disease or impairment; or

''(B) the assessment of the health of human beings.

''(2) HEALTH CARE ORGANIZATION.—The term 'health care organization' means any individual or entity which is obligated to provide, pay for, or administer health benefits under any health plan.

''(3) HEALTH CARE PROVIDER.—The term 'health care provider' means any individual or entity—

''(A) licensed, registered, or certified under Federal or State laws or regulations to provide health care services; or

''(B) required to be so licensed, registered, or certified but that is exempted by other statute or regulation.

''(4) NET ECONOMIC LOSS.—The term 'net economic loss' means—

''(A) reasonable expenses incurred for products, services, and accommodations needed for health care, training, and other remedial treatment and care of an injured individual;

''(B) reasonable and appropriate expenses for rehabilitation treatment and occupational training;

''(C) 100 percent of the loss of income from work that an injured individual would have performed if not injured, reduced by any income from substitute work actually performed; and

''(D) reasonable expenses incurred in obtaining ordinary and necessary services to replace services an injured individual would have performed for the benefit of the individual or the family of such individual if the individual had not been injured.

''(5) NON-ECONOMIC DAMAGES.—The term 'non-economic damages' means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), injury to reputation, and all other non-pecuniary losses of any kind or nature, to the extent permitted under State law.

''(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary. Amounts appropriated pursuant to this subsection shall remain available until expended.''.

Mr. BAUCUS. Mr. President, I rise today to join Senator ENZI in introducing the Fair and Reliable Medical Justice Act of 2005. We have debated the medical liability issue in this chamber for years now. But the Senate has failed to take action to make the situation better. We need to deal with the issue of rising liability costs, and I think this bill is a good place to start.

One of my top priorities in the Senate is ensuring appropriate access to affordable, quality health care. In a rural State such as Montana, where health care providers are often few and far between, that is a tall order. It is a job that is made all the harder by rising medical liability insurance premiums.

To ensure proper access to care, we need to make certain that our health care providers can afford their medical liability insurance. We also need to make sure that patients who are harmed by medical mistakes have access to timely, reasonable compensation for their injuries.

The Fair and Reliable Medical Justice Act promotes the testing of alternatives to current medical tort liability litigation. It aims to increase the number of injured patients who receive compensation for their injuries, and make such compensation more accurate and more timely, all at lower administrative costs than current systems. The bill also encourages patient safety by promoting disclosure of medical errors, unlike the current system which does not encourage disclosure.

The Fair and Reliable Medical Justice Act would establish State-based demonstration programs to help States test alternative systems of health care-related dispute resolution under three different models: early disclosure and compensation; administrative determination of compensation; and special health care courts. Under the bill, states may develop other alternative plans for resolving health care related disputes as well.

The first model involves a system of early disclosure, which encourages providers to disclose medical errors that harm patients and offer just compensation for injuries. This model would maintain patients' access to the traditional legal system if claims cannot be resolved by early disclosure, or in cases resulting from criminal or intentional harm or fraud.

The second model would establish a board made up of providers and health care organizations, advocates, and attorneys. The board would establish classes of avoidable injuries and determine compensation rates for each, including economic and non-economic losses, and attorneys' fees.

The third model involves special health care courts, presided over by judges with special health care expertise, and assisted by independent experts. The judges would be subject to the same criteria as other State judges and sit on the court voluntarily.

These models are based on innovative efforts currently underway in the private sector and in some States, where success is already being achieved. I think it is time for us to try to encourage more innovation and expand the range of options being considered. State-based demonstrations provide a great setting for experimentation and learning. The Institute of Medicine suggested as much in its 2002 report entitled ''Fostering Rapid Advances in Health Care: Learning from System Demonstrations.''

I thank Senator ENZI for his leadership on this issue. I am proud to have worked with him to develop legislation that I believe will enhance patient safety. It is unacceptable that around 100,000 Americans die annually as a result of medical errors. And it is unacceptable that many patients hurt by medical errors receive no compensation for their injuries

This bill is a good opportunity for us to make progress on both fronts—to look at the medical liability issue from a new perspective, through a set of commonsense pilot projects centered on improving patient safety. I urge my colleagues to support this important effort.

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By Ms. MURKOWSKI (for herself and Mr. STEVENS):

S. 1338. A bill to require the Secretary of the Interior, acting through the Bureau of Reclamation and the United States Geological Survey, to conduct a study on groundwater resources in the State of Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

Ms. MURKOWSKI. Mr. President, I rise today to introduce a measure of benefit to my home State of Alaska, the Alaska Water Resources Act of 2005. The importance of water resource data collection to a State that has a resource-based economy cannot be overstated. Economic development is predicated on access to an adequate water supply, and in my State there is inadequate hydrologic data upon which to secure both economic development and the health and welfare of Alaskan citizens.

Alaska is an amazing State from a hydrological viewpoint. It is home to more than 3 million lakes—only about 100 being larger than 10 square miles—more than 12,000 rivers and uncounted thousands of streams, creeks and ponds. Together these water bodies hold about one-third of all the fresh water found in the United States.

Alaska is home to a number of large rivers. The Yukon, which originates in western Canada, runs 1,400 miles—discharging from 25,000 cubic feet of water per second in early spring to more than 600,000 cubic feet per second in May during the spring thaw. The Yukon drains roughly 330,000 square miles of Alaska and Canada, about one-third of the State. Besides the Yukon, Alaska is home to nine other major rivers and creeks all running more than 300 miles in length: the Porcupine, Koyukuk, Kuskokwim, Tanana, Innoko, Colville, Noatak, Kobuk and Birch Creek.

Alaska residents from early spring to fall face substantial flood threats, from spring flooding caused by breakup and ice damming to fall's heavy rains, but the State has fewer than 100 stream gaging stations operated by the U.S. Geological Survey—Alaska having less than 10 percent of the stream flow information that is taken for granted by all other States in the Nation. Alaska averages one working gage for each 10,000 square miles, while, as an example, Pacific Northwest States average one gage for each 365 square miles. To emphasize the lack of data now available for Alaska, I would point out that to equal the stream gage density of the Pacific Northwest States, my State would need to have over 1,600 total gage sites.

Alaska also supports the Nation's least modern and undeveloped potable water distribution system. Water for Alaska towns outside of the more densely populated ''Railbelt'' comes predominately from surface water sources Surface water sources often result in supply/storage problems since these surface sources freeze and are unavailable for up to half the year. The chances for water-borne contaminants to affect potable water supplies, including fecal matter from Alaska's plentiful wildlife populations, human waste from inadequate or nonexistent sewage treatment facilities, and natural mineral deposits (natural arsenic levels in mineralized zone creeks frequently exceeding EPA standards) are present and increasing. In areas that predominately depend on groundwater sources, such as the ''Railbelt,'' there is only very limited knowledge of the nature and extent of the aquifers that support those critical groundwater supplies. Extensive permafrost further complicates the potential for adverse impacts to Alaska. In portions of Southcentral Alaska where there is a dependence on groundwater as the source for an adequate healthy water supply, the availability of that supply is starting to be in jeopardy. Allocations of water need to be based on scientific data, and the data needed upon which the allocations are made is unavailable. Users of water are only beginning to realize the potential conflicts that may arise, and the limits on future economic development that may result from inadequate knowledge of the water resource, particularly in the Matanuska-Susitna Borough, on the Kenai Peninsula and to a lesser extent in portions of the Municipality of Anchorage where groundwater provided by wells is a crucial part of the State's water distribution system and where there is little known about the size, capacity, extent and recharge capability of the aquifers that these wells tap.

Alaska, according to the Alaska Department of Environmental Conservation, still has some 16,000 homes in 71 generally Native villages not being served by piped water or enclosed water haul systems. There are still 55 villages in Alaska where up to 29 percent of the residents are not served by sanitary water systems, with more than 60 percent of residents not being served in 16 villages. Even though since Statehood the State and Federal governments have spent $1.3 billion on rural water-sanitation system improvements in Alaska, the state has an estimated need for nearly $650 million in

additional funding to complete installation of a modern water-sanitation system.

Planning and engineering for those locations cannot be completed without better information as to the availability and extent of supply of water and better analysis of new technologies that could be used for water system installations, including possible desalination for some island and coastal communities.

For all these reasons, today I am introducing legislation authorizing the Department of the Interior's Commissioner of Reclamation and the Director of the U.S. Geological Survey to conduct a series of water resource studies in Alaska. The studies will include a survey of water treatment needs and technologies including desalination treatment, which may be applicable to the water resources development in Alaska. The study will review the need for enhancement of the National Streamflow Information Program administered by the U.S. Geological Survey. The Streamflow review will determine whether more stream gaging stations are necessary for flood forecasting, aiding resource extraction, determining the risk to the state's transportation system and for wildfire management. Groundwater resources will also be further evaluated and documented to determine the availability of water, the quality of that groundwater, and the extent of the aquifers in urban areas.

This type of study, already conducted for most all other Sates in the Nation, should help Alaska better plan and design water systems and transportation infrastructure and also better prepare for floods and summer wildfires.

There is literally ''water, water everywhere'' in Alaska, but too often, especially in communities such as Ketchikan that take water from surface sources, or the rapidly growing Mat-Su Valley, there may be less water to drink during unusually dry summers, There is a real and growing problem of maintaining an adequate supply of sufficient, pure water. This problem is only going to grow with a growing population and economy. This bill is designed to provide more information to help communities plan for future water needs and to help State officials plan for flood and fire safety concerns and economic development.

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By Mr. LEAHY (for himself, Ms. COLLINS, Mr. JEFFORDS, Mrs. BOXER, Mr. KERRY, Mr. BIDEN, Ms. CANTWELL, Mr. CARPER, Mr. ROCKEFELLER, Mr. CORZINE, Mr. DAYTON, Mr. REID, Mr. DODD, Mrs. CLINTON, Mr. DURBIN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. HARKIN, Mr. KENNEDY, Mr. KOHL, Mr. OBAMA, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Ms. MIKULSKI, Mrs. MURRAY, Mr. REED, Mr. SARBANES, Mr. SCHUMER, Mr. WYDEN, Mr. AKAKA, and Ms. SNOWE):

S.J. Res. 20. A joint resolution disapproving a rule promulgated by the Administrator of the Environmental Protection Agency to delist coal and oil-direct utility units from the source category list under the Clean Air Act; to the Committee on Environment and Public Works.

Mr. LEAHY. Mr. President, along with Senator COLLINS and 28 of our colleagues, today I am introducing this resolution to halt the Bush administration's flawed and dangerous new rule on toxic mercury emissions. I am pleased that another leading cosponsor of this resolution is the ranking member of the Committee on Environment and Public Works, Senator JEFFORDS.

The Bush administration's new rule will continue to allow mercury, a substance so toxic that it causes birth defects and IQ loss, to continue to poison children and pregnant women. This disastrous rule should not be allowed to stand as the law of the land.

The bipartisan work that produced the Clean Air Act and the 1990 amendments established a process for us to begin cleaning up the toxic mercury spewing out of dirty power plants across the country. The 1990 amendments require the Environmental Protection Agency, EPA, to control each power plant's emissions of mercury and other toxics by 2008 at the latest. The act requires each plant to use the ''maximum achievable control technology'' on every generating unit. That is the law of the land. Anything less means more pollution.

But instead of working to enforce and implement the Clean Air Act, as two previous administrations had, the Bush administration has turned the Clean Air Act on its head. With this rule the administration revokes a 2000 EPA finding that it is ''necessary and appropriate'' to require that each power plant apply technology to reduce mercury emissions.

Let me repeat those plain, startling facts: By revoking the earlier EPA finding and deciding instead to coddle the biggest mercury polluters, the administration is saying it is no longer necessary or appropriate to adequately control mercury emissions. Although I am somewhat impressed that they can make this statement with straight faces, I am appalled at their audacious disregard for the health of the American people, and, like the scientific community, I am baffled by their gymnastic arguments.

The plain and simple truth is that this rule will allow more mercury into our environment than does the current law. Hundreds of the oldest, dirtiest power plants will not even control mercury emissions for more than a decade. That is what this rule gives us: More pollution, for longer than the Clean Air Act allows.

This rule is all the more shameful because the evidence of public health and environmental damage from mercury and other toxics is clear enough for action right now. We do not need to wait 10 or 20 years to know the facts about mercury's threats to human health. In fact EPA itself admits these threats. Look at EPA's own estimate of the number of newborns at risk of elevated mercury exposure, which has doubled to 630,000. EPA also found that 1 in 6 pregnant women has mercury levels in her blood above EPA's safe threshold. The National Academy of Sciences has confirmed scientific research showing that maternal consumption of unsafe levels of mercury in fish can cause neuro-developmental harm in children, resulting in learning disabilities, poor motor function, mental retardation, seizures and cerebral palsy.

Yet it seems the majority in Congress and this administration want to avoid any public daylight on this flawed rule. The Environment and Public Works Committee has refused to even hold a single hearing on this rule. Their aim is to keep the public in the dark, and I would guess that most Americans in fact do not yet know what EPA and the big polluters have been up to with this rule.

One reason for the administration's lack of candor clearly is the discovery that this rule has polluting industries' fingerprints all over it. EPA's first proposal for these rules lifted exact texts from memorandum provided by utility industry lobbyists. Another reason may be because the American people would find a process where the lobbyists are shut in and the public is shut out, where the scientific and economic analysis was manipulated, and where the public's health was ignored.

But the administration's arrogance does not stop there. EPA's own inspector general and the Government Accountability Office criticized almost every aspect of how EPA drafted this rule. Unfortunately, their recommendations to improve it were also ignored. So were more than 680,000 public comments—a record for any EPA rule. So were the comments of many state environment departments, attorneys general, doctors, educators, sportsmen groups and EPA's own advisory committees. And, although it should not come as a surprise after 4 years working with this administration, the comments of 45 Senate and 184 House members were also ignored.

Many of us in the Senate have spent the past 2 years—working with 3 different administrators—trying to make the administration follow the Clean Air Act and produce a rule that puts the public's health over the profits of special interests. A rule that heeds the science and encourages available technologies to solve this problem. They failed on all fronts, big time.

Instead they produced a rule that will do nothing for at least a decade, despite years of analysis by EPA showing the need for quick action. According to EPA's own regulatory impact analysis, we will be lucky if 1 percent of power plant capacity will have mercury controls by 2015, and only 3 percent by 2020.

As a Vermonter I know it is ''appropriate and necessary'' to limit the pollution plumes from grandfathered power plants. You cannot even see my state on EPA's maps showing mercury pollution because so much of it is being dumped on us from upwind power plants. Vermonters and New Englanders have been waiting for decades for EPA to take action so that our lakes can be cleaned up.

For all their talk of family values, the administration has yet again put the value of corporate contributions—not families—first. It is not a family value to tell a whole generation of women that their health is not important. It is not a family value to put another generation of young kids at risk of learning disabilities. These mercury rules do just that.

It is time to put people first, and to stop letting the big polluters and the special interests write the rules and run the show over at EPA.

This resolution will ensure that the health and safety of U.S. citizens are fully considered, before EPA rescinds its commitment to protect public health from the dangers of mercury pollution. To leave mercury pollution from power plants as the only source of toxic air pollution that is allowed to avoid rigorous emissions standards under the Clean Air Act is a risk to the public's health that we need not, and should not, accept.

I urge my colleagues to support this resolution.

## SUBMITTED RESOLUTIONS

### SENATE RESULTION 184—EXPRESSING THE SENSE OF THE SENATE REGARDING MANIFESTATIONS OF ANTI-SEMITISM BY UNITED NATIONS MEMBER STATES AND URGING ACTION AGAINST ANTI-SEMITISM BY UNITED NATIONS OFFICIALS, UNITED NATIONS MEMBER STATES, AND THE GOVERNMENT OF THE UNITED STATES, AND FOR OTHER PURPOSES

Mr. SANTORUM (for himself, Mr. FEINGOLD, Mr. SMITH, Ms. COLLINS, Mr. COLEMAN, and Mr. VOINOVICH) submitted the following resolution; which was referred to the Committee on Foreign Relations

S. RES. 184

Whereas the United Nations Universal Declaration of Human Rights recognizes that ''the inherent dignity and equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world'';

Whereas United Nations General Assembly Resolution 3379 (1975) concluded that ''Zionism is a form of racism and racial discrimination'' and the General Assembly, by a vote of 111 to 25, only revoked Resolution 3379 in 1991 in response to strong leadership by the United States and after Israel made its participation in the Madrid Peace Conference conditional upon repeal of the resolution;

Whereas during the 1991 session of the United Nations Commission on Human Rights, the Syrian Ambassador to the United Nations repeated the outrageous ''blood libel'' that Jews allegedly have killed non-Jewish children to make unleavened bread for Passover and, despite repeated interventions by the Governments of Israel and the United States, this outrageous lie was not corrected in the record of the Commission for many months;

Whereas in March 1997, the Palestinian observer at the United Nations Commission on Human Rights made the contemptible charge that the Government of Israel had injected 300 Palestinian children with HIV (the human immunodeficiency virus, the pathogen that causes AIDS) despite the fact that an Egyptian newspaper had printed a full retraction to its earlier report of the same charges, and the President of the Commission failed to challenge this baseless and false accusation despite the request of the Government of Israel that he do so;

Whereas Israel was denied membership in any regional grouping of the United Nations until the year 2000, which prevented it from being a candidate for any elected positions within the United Nations system until that time, and Israel continues to be denied the opportunity to hold a rotating seat on the Security Council and it is the only member of the United Nations never to have served on the Security Council although it has been a member of the organization for 56 years;

Whereas Israel continues to be denied the opportunity to serve as a member of the United Nations Commission on Human Rights because it has never been included in a slate of candidates submitted by a regional grouping, and Israel is currently the only member of the Western and Others Group in a conditional status limiting its ability to caucus with its fellow members of this regional grouping;

Whereas the United Nations has permitted itself to be used as a battleground for political warfare against Israel led by Arab states and others, and 6 of the 10 emergency sessions of the United Nations General Assembly have been devoted to criticisms of and attacks against Israel;

Whereas the goals of the 2001 United Nations World Conference Against Racism were undermined by hateful anti-Jewish rhetoric and anti-Israel political agendas, prompting both Israel and the United States to withdraw their delegations from the Conference;

Whereas in 2004, the United Nations Secretary General acknowledged at the first United Nations-sponsored conference on anti-Semitism, that: ''It is clear that we are witnessing an alarming resurgence of this phenomenon in new forms and manifestations. This time, the world must not—cannot—be silent.'';

Whereas in 2004, the United Nations General Assembly's Third Committee for the first time adopted a resolution on religious tolerance that includes condemnation of anti-Semitism and ''recognized with deep concern the overall rise in instances of intolerance and violence directed against members of many religious communities . . . including . . . anti-Semitism . . . '';

Whereas in 2005, the United Nations held an unprecedented session to commemorate the 60th anniversary of the liberation of the Auschwitz concentration camp;

Whereas democratic Israel is annually the object of nearly two dozen redundantly critical resolutions in the United Nations General Assembly, which rarely adopts resolutions relating to specific countries; and

Whereas the viciousness with which Israel is attacked and discriminated against at the United Nations should not be allowed to continue unchallenged: Now, therefore, be it

*Resolved*, That—

(1) the Senate—

(A) welcomes recent attempts by the United Nations Secretary General to address the issue of anti-Semitism;

(B) calls on the United Nations to officially and publicly condemn anti-Semitic statements made at all United Nations meetings and hold accountable United Nations member states that make such statements; and

(C) strongly urges the United Nations Educational, Scientific and Cultural Organization (UNESCO) to develop and implement education awareness programs about the Holocaust throughout the world as part of an effort to combat the rise in anti-Semitism and racial, religious, and ethnic intolerance; and

(2) it is the sense of the Senate that—

(A) the President should direct the United States Permanent Representative to the United Nations to continue working toward further reduction of anti-Semitic language and anti-Israel resolutions;

(B) the President should direct the Secretary of State to include in the Department of State's annual Country Reports on Human Rights Practices and annual Report on International Religious Freedom information on activities at the United Nations and its constituent bodies relating to anti-Semitism by each of the countries included in these reports; and

(C) the President should direct the Secretary of State to use projects funded through the Middle East Partnership Initiative and United States overseas broadcasts to educate Arab and Muslim countries about anti-Semitism, religious intolerance, and incitement to violence.

Mr. SANTORUM. Mr. President, I rise today to submit a resolution to express the sense of the Senate regarding manifestations of anti-Semitism by United Nations member states and to urge action against anti-Semitism by United Nations officials, United Nations member states, and the U.S. government. I am very pleased to be joined in this effort by Senators FEINGOLD, SMITH, COLLINS, COLEMAN, and VOINOVICH, who are original cosponsors of this legislation.

The past several years have revealed an upsurge in anti-Semitic violence around the world. We have seen incidences of it in Europe, the Middle East, and, unfortunately, even at the United Nations. While the United Nations Universal Declaration of Human Rights recognizes that ''the inherent dignity and equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,'' there are numerous examples of anti-Semitism and anti-Israel actions at the U.N. and by member states.

Allow me to list some examples of anti-Semitic and anti-Israel bias that have been included in the resolution. Clearly false accusations have been made against the Jewish people and the government of Israel at the U.N. Commission on Human Rights. These lies were not corrected for months or, in some cases, ever. Israel also continues to be denied the opportunity to hold a rotating seat on the Security Council, despite the fact that it has been a member of the organization for 56 years. It is the only member of the U.N. to be denied this seat. It continues to be denied the opportunity to

serve as a member of the U.N. Commission on Human Rights. The goals of the 2001 U.N. World Conference Against Racism were undermined by anti-Jewish rhetoric and anti-Israel agendas, which led to both the U.S. and Israel withdrawing their delegations from the conference.

The resolution being submitted today delineates these examples of anti-Semitism, but it also welcomes the steps the U.N. has recently taken to address this problem and urges additional steps to be taken. In 2004, the U.N. Secretary General Kofi Annan acknowledged at the first U.N.-sponsored conference on anti-Semitism that, ''It is clear that we are witnessing an alarming resurgence of this phenomenon in new forms and manifestations. This time the world must not—cannot—be silent.'' In 2004, a committee of the U.N. also adopted a resolution that condemned anti-Semitism and recognized the rise in incidences of intolerance and violence. Upon the 60th anniversary of the liberation of the Auschwitz concentration camps in 2005, the U.N. held an unprecedented session to commemorate the occasion.

However, the United Nations and its member states must go further in combating this menace. The resolution makes it clear that the United States Senate is committed to opposing anti-Semitism and calls on the U.N. to officially and publicly condemn anti-Semitic statements made at its meetings and to hold accountable member states that make such statements. The resolution urges educational awareness programs about the Holocaust to be implemented around the world to combat anti-Semitism, racism, and religious and ethnic intolerance. The U.S. Ambassador to the U.N. should also continue working to reduce anti-Semitic and anti-Israel language and resolutions.

Likewise, the resolution asks for action from the State Department. The U.S. State Department should include information on anti-Semitic activities at the U.N. and by member states in its annual human rights and religious freedom reports. These reports have been very useful in providing important information on the status of human rights and religious freedom around the world, and data on anti-Semitic activities falls clearly within the purpose of these reports. Lastly, the State Department should use projects funded through the Middle East Partnership Initiative and U.S. overseas broadcasts to educate Arab and Muslim countries about anti-Semitism, religious intolerance, and incitement to violence.

A similar resolution to this, introduced by Representatives ILEANA ROS-LEHTINEN and TOM LANTOS, passed the House of Representatives earlier this month by a vote of 409 to 2. I am hopeful that the Senate will similarly pass this resolution. It is time for the Senate to speak once more against the scourge of anti-Israel and anti-Semitic language and activity. This resolution will send a message to the United Nations and its member countries that we will require it to fight anti-Semitism. For this reason, I ask my colleagues to join me in supporting these efforts by cosponsoring this resolution.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 1068. Mr. BURNS (for himself, Mr. CHAMBLISS, Mr. INHOFE, and Mr. BROWNBACK) proposed an amendment to the bill H.R. 2361, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

SA 1069. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table.

SA 1070. Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1071. Mr. SANTORUM (for himself, Mrs. HUTCHISON, Mr. CRAIG, Mr. KYL, Mr. FRIST, Mr. MCCONNELL, Mr. TALENT, Mr. THUNE, Ms. COLLINS, Mrs. MURRAY, Mr. BYRD, Mrs. FEINSTEIN, Mrs. LINCOLN, Ms. CANTWELL, Ms. SNOWE, Mr. DEWINE, Mr. CORZINE, and Ms. LANDRIEU) proposed an amendment to amendment SA 1052 proposed by Mr. BYRD (for Mrs. MURRAY (for herself, Mr. BYRD, Mrs FEINSTEIN, Mr. KERRY, Mr. AKAKA, and Mr. DURBIN)) to the bill H.R 2361, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

SA 1072. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table.

SA 1073. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1074. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1075. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1076. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 1068.** Mr. BURNS (for himself, Mr. CHAMBLISS, Mr. INHOFE, and Mr. BROWNBACK) proposed an amendment to the bill H.R. 2361, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page 200, after line 2, add the following:

SEC. . (a) The Administrator of the Environmental Protection Agency shall conduct a thorough review of all third-party intentional human dosing studies to identify or quantify toxic effects currently submitted to the Agency under FIFRA to ensure that they:

(1) address a clearly defined regulatory objective;

(2) address a critical regulatory endpoint by enhancing the Agency's scientific data bases;

(3) were designed and being conducted in a manner that ensured the study was adequate scientifically to answer the question and ensured the safety of volunteers;

(4) was designed to produce societal benefits that outweigh any anticipated risks to participants;

(5) adhered to all recognized ethical standards and procedures in place at the time the study was conducted; and

(6) are consistent with section 12(a)(2)(P) of the Federal Insecticide, Fungicide, and Rodenticide Act and all other applicable laws.

(b) The Administrator shall, within 60 days of the enactment of this Act, report to the House and Senate Committees on Appropriations; the Senate Committee on Agriculture, Nutrition and Forestry; and the House Committee on Agriculture on the results of the review required under subsection (a) and any actions taken pursuant to the review.

(c) Within 180 days of the enactment of this Act, the Administrator shall issue a final rule that addresses applying ethical standards to third party studies involving intentional human dosing to identify or quantify toxic effects.

**SA 1069.** Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

SEC. 5_____. Notwithstanding any other provision of law, the Secretary of Homeland Security, acting through the Director of the Federal Emergency Management Agency, may provide to the town of Olla, Louisiana, a 1-time exemption from the requirements of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) under which the town shall be eligible to receive disaster relief funds made available under that Act for use in addressing damage caused by the tornado that struck the town on November 23, 2004.

**SA 1070.** Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. SENSE OF THE SENATE REGARDING BORDER SECURITY.**

(a) FINDINGS.—Congress finds the following:

(1) The illegal alien population has risen from 3,200,000 in 1986 to 10,300,000 in 2004.

(2) In fiscal year 2001, United States Border Patrol agents apprehended almost 1,200,000 persons for illegally entering the United States.

(3) Senate Report 109–083 states, ''there are an estimated 11,000,000 illegal aliens in the United States, including more than 400,000 individuals who have absconded, walking away with impunity from Orders of Deportation and Removal''.

(4) Between 1,000 and 3,000 special interest aliens from countries with an active terrorist presence enter the United States each year.

(5) Of the 1,200,000 illegal aliens apprehended on the border between the United States and Mexico, 643 were from countries with known terrorism ties, including Syria, Iran, and Libya.

(6) Senate Report 109–083 states, ''officials of the Department of Homeland Security have conceded the United States does not have operational control of its borders'', including areas along the 1,989 mile southwest border between the United States and Mexico.

(7) The daily attempts to cross the border by thousands of illegal aliens from countries around the globe continue to present a threat to United States national security.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) this Nation cannot thoroughly address the security of the United States without recognizing the reality of terrorists taking advantage of inadequacies in border security along the border between the United States and Mexico;

(2) every effort should be made to increase the technology and efficiency in preventing these individuals from entering the United States across the Mexican border;

(3) the Mexican Government has an obligation to secure its side of the border between the United States and Mexico; and

(4) the Mexican Government must commit to addressing inadequacies in its own domestic and border security policies, which are contributing to the present dilemma in border security.

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**SA 1071.** Mr. SANTORUM (for himself, Mrs. HUTCHISON, Mr. CRAIG, Mr. KYL, Mr. FRIST, Mr. MCCONNELL, Mr. TALENT, Mr. THUNE, Ms. COLLINS, Mrs. MURRAY, Mr. BYRD, Mrs. FEINSTEIN, Mrs. LINCOLN, Ms. CANTWELL, Ms. SNOWE, Mr. DEWINE, Mr. CORZINE, and Ms. LANDRIEU) proposed an amendment to amendment SA 1052 proposed by Mr. BYRD (for Mrs. MURRAY (for herself, Mr. BYRD, Mrs. FEINSTEIN, Mr. KERRY, Mr. AKAKA, and Mr. DURBIN)) to the bill H.R. 2361, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

Or page 1, line 2,

Strike the word ''Sec'' through page 1, line 9 and insert the following;

Sec. 429.(a) From the money in the Treasury not otherwise obligated or appropriated, there are appropriated to the Department of Veterans Affairs $1,500,000,000 for the fiscal year ending September 30, 2005, for Medical Services provided by, by the Veterans Health Administration, which shall be available until expended.

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**SA 1072.** Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 82, line 12, strike ''$180,000,000'' and insert ''$250,000,000''.

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**SA 1073.** Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 82, line 12, strike ''$180,000,000'' and insert ''$190,000,000''.

On page 85, line 17, strike ''$2,000,000,000'' and insert ''$1,990,000,000''.

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**SA 1074.** Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 82, line 12, strike ''$180,000,000'' and insert ''$250,000,000''.

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**SA 1075.** Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 82, line 12, strike ''$180,000,000'' and insert ''$190,000,000''.

On page 85, line 17, strike ''$2,000,000,000'' and insert ''$1,990,000,000''.

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**SA 1076.** Mr. INHOFE submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

**SEC. 519. FEASIBILITY STUDY REGARDING ESTABLISHMENT OF IMMIGRATION AND CUSTOMS ENFORCEMENT FIELD OFFICE IN TULSA, OKLAHOMA.**

(a) FINDINGS.—Congress finds the following:

(1) On July 17, 2002, 18 illegal immigrants, including 3 minors, were taken into custody by the Tulsa County Sheriff's Department and later released by the former Immigration and Naturalization Service.

(2) On August 13, 2002, an immigration task force meeting convened in Tulsa, Oklahoma, with the goal of bringing together local law enforcement and the Immigration and Naturalization Service to open a dialogue to find effective ways to better enforce Federal immigration laws in the first District of Oklahoma.

(3) On January 22, 2003, the Immigration and Naturalization Service office in Oklahoma City hired 4 new agents.

(4) On January 30, 2003, the Immigration and Naturalization Service office in Oklahoma city added 6 new special agents to its staff.

(5) On September 22, 2004, Immigration and Customs Enforcement authorized the release of 18 possible illegal aliens who were in the custody of the City of Catoosa, Oklahoma Police Department. Catoosa Police stopped a truck carrying 18 persons, including children, in the early morning hours. Only 2 of the detainees produced identification. One adult was arrested on drug possession charges, while the remaining individuals were released.

(6) Oklahoma has 1 Immigration and Customs Enforcement Office of Investigations, located in Oklahoma City, Oklahoma. Currently, 12 Immigration and Customs Enforcement agents serve 3,500,000 people.

(7) Interstate Highways I–44 and I–75 run through Tulsa, Oklahoma, and transport illegal immigrants to all areas of the United States.

(8) 7 Drug Enforcement Administration agents and an estimated 22 Federal Bureau of Investigation agents are headquartered in Tulsa, Oklahoma, but no Immigration and Customs Enforcement agents are located in Tulsa, Oklahoma.

(9) The establishment of an Immigration and Customs Enforcement Office of Investigations field office in Tulsa, Oklahoma, would help enforce Federal immigration laws in eastern Oklahoma.

(b) FEASIBILITY STUDY.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall commence a study on the benefits and feasibility of establishing an Immigration and Customs Enforcement Office of Investigations field office in Tulsa, Oklahoma.

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## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON ARMED SERVICES

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on June 29, 2005, at 9:30 a.m., in open session to consider the following nominations: General Peter Pace, USMC for reappointment to the grade of General and to be Chairman, Joint Chiefs of Staff; Admiral Edmund P. Giambastiani, Jr., USN for reappointment to the grade of Admiral and to be Vice Chairman, Joint Chiefs of Staff; General T. Michael Moseley, USAF for reappointment to the grade of General and to be Chief of Staff of the Air Force; Ambassador Eric S. Edelman to be under Secretary of Defense for Policy; Mr. Daniel R. Stanley to be Assistant Secretary of Defense for Legislative Affairs; and Mr. James A. Rispoli to be Assistant Secretary of Energy for Environmental Management.

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

### COMMITTEE ON ARMED SERVICES

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on June 29, 2005, at 3:30 p.m., to receive a classified briefing regarding detention operations and interrogation procedures at Guantanamo Bay.

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

### COMMITTEE ON FINANCE

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday June 29, 2005, at 10 a.m., to hear testimony on ''Medicaid Waste, Fraud and Abuse: Threatening the Health Care Safety Net.''

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

### COMMITTEE ON FOREIGN RELATIONS

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the

Senate on Wednesday, June 29, 2005 at 2:30 p.m. to hold a hearing on Nominations.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor and Pensions meet in executive session during the session of the Senate on Wednesday, June 29, 2005 at 9:50 a.m. in SD–430.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, June 29, 2005, at 9:30 a.m. in Room 485 of the Russell Senate Office Building to conduct a business meeting on the following:

S.J. Res. 15 A bill 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. 374 A bill to provide compensation to the Lower Brule and Crow Creek Sioux Tribes of South Dakota for damage to tribal land caused by Pick-Sloan projects along the Missouri River.

S. 113 A bill to modify the date as of which certain tribal land of the Lytton Rancheria is deemed to be held in trust.

S. 881 A bill to compensate the Spokane Tribe of Indians for the use of tribal land for the production of hydropower by the Grand Coulee Dam, and for other purposes.

S. 449 A bill to facilitate shareholder consideration of proposals to make Settlement Common Stock under the Alaska Native Claims Settlement Act available to missed enrollees, eligible elders, and persons born after Dec. 18, 1971, and for other purposes.

H.R. 797/S. 475 A bill to amend the Native American Housing Assistance and Self-Determination Act of 1996 and other Acts to improve housing programs for Indians.

S. 623 A bill to direct the Secretary of Interior to convey certain land held in trust for the Paiute Indian Tribe of Utah to the City of Richfield, Utah and for other purposes.

S. 598 A bill to reauthorize provisions in the Native American Housing Assistance and Self-Determination Act of 1996 relating to Native Hawaiian low-income housing and Federal loan guarantees for Native Hawaiian housing.

S. . A bill to condemn certain subsurface rights to land held in trust by the State of Arizona, convey subsurface rights held by BLM, for the Pacsua Yaqui Tribe.

S. A bill to authorize funding for the National Indian Gaming Commission.

S. 1239, A bill to authorize the use of Indian Health Service funds to pay Medicare Part D premiums on behalf of Indians.

S.1231, A bill to provide initial funding for the National Fund for Excellence in American Indian Education previously established by Congress.

S. A bill to require former federal employees who are employed by tribes to adhere to conflict of interest rules.

S. A bill to amend the Tribally Controlled Community College and Universities Assistance Act.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, June 29, 2005, at 9:30 a.m. for a hearing titled, ''Vulnerabilities in the U.S. Passport System Can Be Exploited by Criminals and Terrorists.''

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BURNS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on June 29, 2005 at 2:30 p.m. to hold a closed briefing.

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

SUBCOMMITTEE ON DISASTER PREVENTION AND PREDICTION

Mr. BURNS. Mr. President: I ask unanimous consent that Subcommittee on Disaster Prevention and Prediction be authorized to meet on Wednesday, June 29, 2005, at 2:30 p.m., on National Weather Service-Severe Weather.

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

## PRIVILEGE OF THE FLOOR

Mrs. CLINTON. Mr. President, I ask unanimous consent that Melissa Ho, a fellow in my office, be granted the privilege of the floor for the remainder of the debate on the appropriations bill.

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

Mr. BYRD. Mr. President, I ask unanimous consent that Steve Borchard, a congressional fellow in Senator REID's office, be granted floor privileges for the remainder of the Interior appropriations bill.

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

Mr. BAUCUS. Mr. President, I ask unanimous consent that Adam Elkington, Julie Golder, and Jorlie Cruz be granted the privilege of the floor during consideration of the CAFTA implementation bill.

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

Mr. FRIST. Mr. President, I ask unanimous consent that Russell Ugone be granted floor privileges for the remainder of the debate on this bill.

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

## APPOINTMENT OF CONFEREES—H.R. 2361

Mr. FRIST. Mr. President, I ask unanimous consent that with respect to the previously passed Interior appropriations bill, the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate.

There being no objection, the Chair appointed Mr. BURNS, Mr. STEVENS, Mr. COCHRAN, Mr. DOMENICI, Mr. BENNETT, Mr. GREGG, Mr. CRAIG, Mr. ALLARD, Mr. DORGAN, Mr. BYRD, Mr. LEAHY, Mr. REID, Mrs. FEINSTEIN, Ms. MIKULSKI, and Mr. KOHL conferees on the part of the Senate.

## MEASURE READ THE FIRST TIME—S. 1332

Mr. FRIST. Mr. President, I understand there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 1332) to prevent and mitigate identity theft to ensure privacy; and to enhance criminal penalties, law enforcement assistance, and other protections against security breaches, fraudulent access, and misuse of personally identifiable information.

Mr. FRIST. Mr. President, I ask for its second reading, and in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will receive a second reading on the next legislative day.

## ORDERS FOR THURSDAY, JUNE 30, 2005

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9 a.m. on Thursday, June 30. 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 resume consideration of S. 1307, the CAFTA legislation; provided further, that there then be 16 hours remaining under the statute with the time equally divided; provided further, that of the 8 hours of remaining Democratic time, 5 hours be under the control of Senator DORGAN and 3 hours under the control of Senator BAUCUS.

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

## PROGRAM

Mr. FRIST. Mr. President, tomorrow we will resume the CAFTA bill. Although there are 16 hours remaining, we do not anticipate either side using all of that time. Half of that time is

controlled by this side of the aisle, and we expect to yield back as much of that time as reasonable in order to complete this bill at some time early enough in the afternoon—hopefully, not evening—so that we can continue with the two additional appropriations bills we had discussed completing prior to our recess. We want to complete the CAFTA and two appropriations bills before we leave for the recess.

I do forewarn Senators that we are going to have a very busy day tomorrow with votes tomorrow, into tomorrow evening, possibly into Friday. There is a possibility we can finish tomorrow night. I think it will be late tomorrow night, but we will finish CAFTA and two more appropriations bills.

## ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:41 p.m., adjourned until Thursday, June 30, 2005, at 9 a.m.

## NOMINATIONS

Executive nominations received by the Senate June 29, 2005:

### DEFENSE NUCLEAR FACILITIES SAFETY BOARD

A. J. EGGENBERGER, OF MONTANA, TO BE A MEMBER OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD FOR A TERM EXPIRING OCTOBER 18, 2009. (REAPPOINTMENT)

### DEPARTMENT OF DEFENSE

KEITH E. EASTIN, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF THE ARMY, VICE MARIO P. FIORI, RESIGNED.

### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

KIM KENDRICK, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE CAROLYN Y. PEOPLES.

### DEPARTMENT OF THE TREASURY

PATRICK M. O'BRIEN, OF MINNESOTA, TO BE ASSISTANT SECRETARY FOR TERRORIST FINANCING, DEPARTMENT OF THE TREASURY. (NEW POSITION)

ROBERT M. KIMMITT, OF VIRGINIA, TO BE DEPUTY SECRETARY OF THE TREASURY, VICE SAMUEL W. BODMAN, RESIGNED.

### DEPARTMENT OF STATE

KAREN P. HUGHES, OF TEXAS, TO BE UNDER SECRETARY OF STATE FOR PUBLIC DIPLOMACY, WITH THE RANK OF AMBASSADOR, VICE CHARLOTTE L. BEERS, RESIGNED.

KRISTEN SILVERBERG, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF STATE (INTERNATIONAL ORGANIZATION AFFAIRS), VICE KIM R. HOLMES, RESIGNED.

### OVERSEAS PRIVATE INVESTMENT CORPORATION

ROBERT A. MOSBACHER, OF TEXAS, TO BE PRESIDENT OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION, VICE PETER S. WATSON.

### DEPARTMENT OF STATE

JAMES CAIN, OF NORTH CAROLINA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO DENMARK.

### DEPARTMENT OF HOMELAND SECURITY

JULIE L. MYERS, OF KANSAS, TO BE AN ASSISTANT SECRETARY OF HOMELAND SECURITY, VICE MICHAEL J. GARCIA.

### NATIONAL LABOR RELATIONS BOARD

RONALD E. MEISBURG, OF VIRGINIA, TO BE GENERAL COUNSEL OF THE NATIONAL LABOR RELATIONS BOARD FOR A TERM OF FOUR YEARS, VICE ARTHUR F. ROSENFELD, TERM EXPIRED.

### DEPARTMENT OF EDUCATION

TERRELL HALASKA, OF THE DISTRICT OF COLUMBIA, TO BE ASSISTANT SECRETARY FOR LEGISLATION AND CONGRESSIONAL AFFAIRS, DEPARTMENT OF EDUCATION, VICE KAREN JOHNSON, RESIGNED.

### NATIONAL LABOR RELATIONS BOARD

PETER SCHAUMBER, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING AUGUST 27, 2010. (REAPPOINTMENT)

### DEPARTMENT OF HEALTH AND HUMAN SERVICES

JOHN O. AGWUNOBI, OF FLORIDA, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES, VICE EVE SLATER, RESIGNED.

### 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 lieutenant general*

MAJ. GEN. GARY L. NORTH, 0000

### IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be major general*

BRIG. GEN. ERIC B. SCHOOMAKER, 0000

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. KEITH B. ALEXANDER, 0000

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*

MAJ. GEN. JOHN F. KIMMONS, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIG. GEN. PAULETTE M. RISHER, 0000

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIG. GEN. MICHAEL H. SUMRALL, 0000

### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

VICE ADM. ALBERT M. CALLAND III, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

REAR ADM. PAUL E. SULLIVAN, 0000