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Senate

The Senate met at 9 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.

O God, our Father, fountain of every blessing, during this season of gratitude we pause to thank You for the gifts You have given us and all humanity. Thank You for all the beauty You have placed in our world, for the loveliness of the Earth, sea, and sky. Thank You for great art to see, great music to hear, great books of prose and poetry to read. Thank You for the nimbleness of minds and hands that enable people to find ways of defeating diseases and easing pain. Thank You for generous hearts that give to help the less fortunate. Thank You for our power to love and for the opportunities to lose ourselves in a great cause. Thank You for the ability to harness nature's forces and to make fertile the desert. Thank You for our Senators and for all who labor many hours with them for a world at peace. Thank You for our military and the courageous sacrifices of our men and women in harm's way.

Above all else, we thank You for saving us by giving us Yourself. Accept this, our sacrifice of thanksgiving and of praise.

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.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we will get off to a quick start in the Senate. We actually left not that many hours ago, and we are making real progress in terms of moving the Nation's business forward. This will be a very busy day.

In a moment I will call up the continuing resolution which will keep Government operations funded beyond midnight tonight. We are starting that early. We are voting early this morning, in large part to get it completed here and sent to the President so it can be signed by midnight tonight.

Senator HARKIN will have an amendment which we expect to vote on at or around 9:30. After that, I will have more to say on the schedule itself. But we do have the continuing resolution, we will have the Harkin amendment, we are waiting for several pieces of legislation from the House of Representatives and several conference reports: MilCon or Military Quality of Life, Transportation TTHUD bills, the PATRIOT Act. We also have an adjournment resolution we must pass later today and several other conference-related matters.

It is going to be a very busy day. I do ask for the cooperation and patience of all Senators as we cover a lot and have a number of rollcall votes over the course of the day.

In terms of the schedule for tomorrow, or Sunday, or Monday—as the day proceeds, as soon as I have information brought to me and we determine the best way to handle that on the floor, I will be making those announcements over the course of the day.

MAKING FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 2006

Mr. FRIST. I now ask unanimous consent the Senate begin consideration of H.J. Res. 72, which is at the desk.

The PRESIDING OFFICER (Mr. ISAKSON). Is there objection?

The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I am reserving the right to object, to speak with the leader for a moment about a situation that is developing at home and one of which he is certainly aware.

I understand that the motion that has been put forward would allow the Congress to go home for approximately 30 days and to come back in the middle of December to finish our business. I wanted to ask the leader if it is his intention when we come back to press forward for the supplemental bill that the senior Senator from Mississippi, Senator COCHRAN, and others have been working on for relief for the gulf coast. It is a very important piece of legislation, and many people, individuals and businesses, large and small, have been waiting for some direct, significant funding. I wanted to ask the leader from Tennessee what his intentions are when we get back, at least as he can press the Senate and press our colleagues in the House to move that piece of legislation.

Mr. FRIST. Mr. President, the issues the distinguished Senator from Louisiana comments on and mentions are something we take very seriously here. As she well knows, my personal commitment, the commitment of leadership on both sides of the aisle, is to address the issues. We have worked very hard, both in a personal sense and in an institutional sense. With regard to the latter, we passed 21 separate pieces of legislation that have responded to many of the immediate needs. I well recognize these needs are ongoing. We are going to need to stay on top of them, which I pledge and leadership pledges to continue to do.

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

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We will be coming back in December, depending on the outcome of today, in all likelihood, and we will continue to address these very important issues. Several issues we will be addressing over the course of the day as well.

Ms. LANDRIEU. I ask the leader, if I could, please, I understand, I want the leader to know, we have passed 21 pieces of legislation. I take him at his word. It has been very hard to follow as these things have moved so quickly, in some cases, and not so quickly in others. But I want to make a point and ask the leader that. Because we pass legislation does not necessarily mean it has been effective. Sometimes Congress has a way of passing legislation, but that is not any guarantee it is actually working.

As the Senator from Tennessee knows, the members of the Louisiana delegation, joined at times by members of the Mississippi delegation, have consistently said that money given to FEMA is not making its way to the hands of people in businesses. As the leader knows, the housing money has been very difficult for people to get. Shelter has been very difficult to get, housing has been very difficult to get. Many of our businesses that have applied for loans that are authorized have not yet received a response from FEMA or the Small Business Administration.

For the record, I say it is not the quantity of legislation but the quality of legislation, and that is why this supplemental Senator COCHRAN has been crafting is so important. We think this may be the first major piece of legislation that actually gets money into the hands of people who can do something with it other than having it sit in bank accounts while people are suffering and trying to get their lives back together.

I understand the Senator from Tennessee is aware of these great needs. He himself has been down to our State, and we are appreciative of that. But that is the point. If I could get a comment about the importance of the supplemental, that would be of some comfort to the people of the gulf coast.

Mr. FRIST. Mr. President, I obviously am committed not only to what is in the supplemental, but I think we need to make it very clear to our colleagues and to the people in Louisiana, Mississippi, and Alabama, where I have personally visited very early on and have visited after that again and again, that in terms of responsiveness, we have been responsive in many ways. When I say 21 pieces of legislation, people say, What does that mean? Let me give examples. In terms of things that have been enacted or cleared for the President, we have passed the emergency supplemental, No. 1, which was $10.5 billion in Public Law 10961. We passed another emergency supplemental for $51.8 billion. We passed a Katrina short-term tax relief bill for $6.1 billion; flood insurance borrowing authority, H.R. 3669, for $2 billion; the TANF disaster relief bill for $.3 billion; the unemployed insurance provisions for $.16 billion. We passed a bill for redistribution of campus student aid, another bill for Pell grant relief, another bill for the Community Disaster Loan Act, for a total of $70.9 billion.

Those are the things that have passed the Senate and the House. If you look at the things passed by the Senate, there are another nine bills for $9 billion: the Deficit Reduction Act, Sarbanes housing amendment, the Snowe small business amendment, the Katrina education reimbursement bill, the Baucus economic development amendment, the Byrd unemployment HHS IG amendment, the Harkin legal services amendment—all of which have been passed by the Senate, this body.

I want my colleagues and the American people to understand we are acting and we are moving. We have a lot more to do, which I think is the importance of the supplemental. The distinguished chairman, who is here on the floor, knows we are focused on it and there is going to need to be more assistance there in order to renew and rebuild and respond. This body understands the importance. We are absolutely committed to that continued support for our appropriate renewal.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. The Senator has been very patient. I realize we have to move forward. But if he would grant me a few more questions—one or two.

I understand those pieces and those packages, because of course we are following them very carefully. But I want the record to reflect that this morning, as we break, there was $70.9 billion appropriated and $30 billion is still sitting in a bank somewhere in a FEMA account. So we have allocated $40 billion. I would judge from the controversies and reports that much of that money was squandered in many ways that we know, and used in an inefficient manner. But I would call to the attention of the leader that we have not passed an emergency education bill which would cover tuition for children, 370,000 children who are today displaced from the school they were in the week before Katrina and Rita. Those 370,000 children have not yet received word from this Congress if their tuition will be covered. That is not done yet.

We have not passed a comprehensive health care piece that allows people with no job, no home, no school, and no church to think that they could show up at a hospital over the holidays and get their health care covered. That has not passed yet.

We have not passed any loans to our governments in Louisiana that would allow them to operate and pay for police and fire over the holidays because the loan package we passed was inoperable because they cannot pay the money back in 3 years.

So for the record, we have no real health care relief, no significant elementary and secondary care relief, our universities are teetering on bankruptcy and closure, and our medical schools are having difficulty. The dean of LSU Medical School took a job out of our State. It was announced this week. I don't blame him for leaving because he doesn't see any help on the way. It is one of the great medical schools in the country.

Finally, FEMA—to pour salt on the wound, to make sure we were all having just the very best Thanksgiving we could possibly have—announced that they are going to make us homeless for the holiday and has announced that on December 1, everyone who is in a shelter or a hotel in the country—they do not have an accurate number, so they do not know how many, and if they do not know how many, how are they planning to help them? But believe me, there are thousands who are now going to be put on the streets and will be homeless for the holidays.

I just tell my colleagues as respectfully as I can that when we are sitting around our tables—and I will be at a different table, and many people from Louisiana will not be at the table which they usually are to have Thanksgiving dinner. I will be at a different table, Senator LOTT will be at a different table, and perhaps Senator COCHRAN will be at a different table. But as we sit around our tables, there will be thousands and hundreds of thousands of families who have no table to pull up to. They are in shelters, they are on the street, and they are crowded into apartments that they can barely afford with no hope and no plan.

I will say it for the last time. We are not dealing with a regular hurricane. We are dealing with an unprecedented natural disaster caused by the collapse of a Federal levee system that was not invested in, not maintained, and not funded. It is a disaster for the region and for the Nation. I cannot say this more emphatically or more passionately. I have tried to be a team player. We have tried to be cooperative. We have tried every strategy. We are running out of strategies.

I want my colleagues to know that while I will allow this resolution to go forward today, if we do not come back in December and pass a robust supplemental that reflects the values of this body—not what MARY LANDRIEU wants in it, not what Louisiana thinks it deserves, although we think we are entitled to say what we deserve—that reflects the values of the men and women who serve in this body whom I know so well from having worked with them, if we don't have a supplemental and if we don't get some action on our levee system so people can have confidence to come back, and a few other emergency items that we need, we will not be going home for Christmas.

We are going home for Thanksgiving, but we will not be going home for Christmas until the people of the gulf coast understand they have a home they can go to, if not this Christmas, some Christmas soon.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the resolution by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 72) making further continuing appropriations for the fiscal year 2006, and for other purposes.

There being no objection, the Senate proceeded to consider the joint resolution.

AMENDMENT NO. 2672

Mr. HARKIN. Mr. President, I call up my amendment, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. JEFFORDS, Mr. KENNEDY, Mr. BINGAMAN, Ms. MIKULSKI, Ms. STABENOW, Mr. LAUTENBERG, Mr. ROCKEFELLER, Mr. AKAKA, Mr. KERRY, Mr. PRYOR, Mr. CARPER, Mr. KOHL, and Mr. LEAHY, proposes an amendment numbered 2672.

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

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

The amendment is as follows:

(Purpose: To increase the amount appropriated to carry out under the Community Services Block Grant Act)

At the end of the resolution, insert the following:

SEC. 2. COMMUNITY SERVICES BLOCK GRANT ACT.

Notwithstanding section 101 of Public Law 109–77, for the period beginning on October 1, 2005 and ending on December 17, 2005, the amount appropriated under that Public Law to carry out the Community Services Block Grant Act shall be based on a rate for operations that is not less than the rate for operations for activities carried out under such Act for fiscal year 2005.

Mr. HARKIN. Mr. President, I understand that under the order, I will be recognized for 20 minutes.

The PRESIDING OFFICER. That is correct.

Mr. HARKIN. I might reserve a little bit of time. I may have other colleagues who will come over to speak.

Just to refresh memories, when this continuing resolution was passed at the end of September, I came on the floor and offered an amendment that would have kept whole the Community Services Block Grant program. That is a program that administers the LIHEAP program, administers a lot of Head Start programs, Even Start programs, Older Americans Act programs, elderly transportation programs, emergency shelter programs, weatherization assistance—you get the idea. Most of the programs really help a lot of poor people in this country. Last year's level was $636.8 million.

The amendment I offered in September would have kept the funding of the Community Services Block Grant program at that level. You might say that was a continuing resolution. A continuing resolution keeps things at last year's level. Therein lies the problem.

The House sent us a continuing resolution that said: We will continue programs at last year's level or at the level of the House budget, whichever is less. The House budget cut the Community Services Block Grants Program down to less than $320 million. They cut it in half. That is the level it was in 1986.

I said in September that it was unfair for poor people to have to have theirs cut right away down to that level because winter was coming and you need the heating energy assistance and things like that.

At that time, at the end of September, there was a lot of talk. We couldn't accept this amendment because the House had gone out. As long as the House was out and if we changed the continuing resolution, that meant the entire House of Representatives would have to come back to Washington, DC, and do something about this. I said at the time on the floor, big deal. They came back for a lot of other things; they could come back for this, too.

Obviously, my arguments did not prevail. The amendment was defeated; whereupon, however, the chairman of the Appropriations Defense Subcommittee, the Senator from Alaska, Mr. STEVENS, said that he was going to take my amendment that continues the community services block grants at last year's level and put it on the Defense appropriations bill, which he did and for which I commended him. We all thought that the Defense appropriations bill would zing through here right away. Fine.

Here we are. It is November 18, and the Defense appropriations bill has not been passed—and we don't know when; probably next month, I suppose, before the end of the year.

We have another continuing resolution. The continuing resolution expires today at midnight. We know that. The continuing resolution is the same. It is at either last year's level or the House budget level, whichever is less. That means the Community Services Block Grant program is still cut down to the level it was in 1986.

The amendment I am offering today basically says—it is the same amendment, basically—for the purposes of this continuing resolution, the community services block grant shall be based on the rate that it was last year, which is $636.6 million.

On November 8, barely a week and a half ago, 58 Senators from both sides of the aisle cosigned a letter saying we want to keep the Community Services Block Grant Program at the Senate level, at last year's level. That is what we did in our bill, and 58 Senators a week and a half ago signed this letter to keep it at the same level. Yet today we are going to pass a continuing resolution that cuts it in half. This continuing resolution is until December 18.

There is another unique feature about the Community Services Block Grant Program that I wish to bring to the Senate's attention. Unlike a lot of programs, such as education, for example, wherein the money goes out basically next summer, if we use that language—the lower of the House level—it doesn't mean a lot because the money is not going to go out until next summer, and we probably will fix this prior to going home for Christmas. I think. I don't know. We have had CRs going into January and into February. That is not unusual around here.

So we have a continuing resolution before us today that says until December 18, and we think it will be done by then. It may not be. I don't know how many people around here would like to bet a dollar to a dime on that one. Maybe yes; maybe no; get it done by December 18. It could go into next year.

Here we have a situation, unlike education, where the money goes out next summer, and we will fix it before then, certainly. The Community Services Block Grant program goes out quarterly. Every quarter, the money goes out and is used. That means right now we are about 7 weeks into this quarter, and the entire nationwide Community Services Block Grant program has been operating at the level of $320 million. That is bad enough. If we extend that another month, it could be disastrous, or another 2 months, because it is not like they can draw down some money somewhere and say: We are going to get it next year, we will make up for it. They can't just go to the bank and borrow the money. They do not have it. If they don't have the money for weatherization or for Head Start programs or for low-income energy assistance programs, they just do not do it.

We have had vote after vote here when Members supported the Low-Income Energy Heating Assistance Program. It is vitally needed. But if you do not have the people to administer the program and get the goods and hire the people to administer it, what good does it do? That is what the Community Services Block Grant program does.

You may hear talk that the Community Services Block Grant program is just one part of the picture because there are State and local governments that help. That is true. There are private charities that help. That is true. That is the good thing about this program—it brings a lot of different stakeholders into play. But there is the anchor, there is the anchor of the money. If that is not there, they do not even have the people to go out and do anything.

I ask Senators to think about this. Here is a program that is widely supported; 58 Senators signed a letter a week and a half ago. We passed it in our Labor, Health and Human Services Appropriations Subcommittee when it was on the floor at last year's level, $636.8 million. No one talked against that. It just passed. We all supported it. As a matter of fact, if I am not mistaken, I think it was later supported by the House, even though their numbers were less. The conference report

that was rejected by the House at least had this high figure in it.

So we find ourselves in an odd situation with another continuing resolution in the dead of winter when the homeless need a lot of help, when poor people are put to the extreme in terms of buying enough food, energy to heat their homes, get clothes for their kids, finding enough money for rent, going to food banks when the food stamps run out.

Any Senator here who has been to the food banks in their State knows that the food bank demand is up over what it has been in the past because food stamps are running out about the third week of the month, and poor families are going to the food banks to get food. I say to any Senator, go to your food bank—any State, I don't care which State it is—go to your food banks, food pantries, and ask them whether the demand for food is up over what it was last year or just a few months ago. That is the program administered by the Community Services Block Grant program.

The argument that was made in September is we could not do this because the House would have to come back, and they cannot do it, la-de-da, and all that stuff. Well, the House is in session today—they may be in session tomorrow, I don't know. But they are in session today. We could pass this amendment; say, no, the one program we are going to exempt from the 50-percent cut of the House of Representatives is Community Services Block Grant program. Send it back to the House, let them bring it up and pass it and send it to the President. The argument that we could not do it because of the time pressures does not hold any longer.

This is just a matter of simple justice. If this were a program that could make up the money later on next year, it would be different. This is now. People need help now for housing, for rental assistance, food banks, heating energy assistance, Head Start, foster grandparents, rental assistance.

One of the things the Community Services Block Grant program does for people includes if they are evicted and they need someplace to stay. Think of the single mother with two or three children. The husband has left her and gone off someplace. They have been in an apartment, maybe there has been an illness in the family for which they are not covered—who knows what kind of calamities could have hit—and they find themselves evicted. They can go to the local community action agency in their area. One of the things they will do is they will find them a place to live. They will give them rental assistance to get them established and a place to live. That is what this program does. What I just described happens 10 times a day in 1,000 cities across America—100,000 times a day.

I hope we can pass this amendment. It is very simple and straightforward. Leave the Community Services Block Grant program at last year's level. We have all said that is where we want it. We need to get that money out there. The House is in session. They can pass it and send it to the President.

How much time remains?

The PRESIDING OFFICER. The Senator has 6 minutes 14 seconds.

Mr. HARKIN. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Iowa be advised that the time continues to run.

Mr. HARKIN. How much time total?

The PRESIDING OFFICER. Five minutes sixteen seconds. The Senator was originally yielded 20 minutes, and the Senator has used 14 minutes.

Mr. HARKIN. How much time on the other side?

The PRESIDING OFFICER. There is no time on the other side.

Mr. HARKIN. Parliamentary inquiry: I understand I had 20 minutes to speak and there is no time on the other side to speak on this amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. There are a couple of other points.

The amendment is a straight failure. Senators understand it. But I will point out, because of a quirk in the law, there are some States that are cut more than others.

Here is what that means. This gets a little complicated, but I think the States that are going to be voting need to know this. If the total funding for a fiscal year is less than $345 million, then no State shall receive less than one-fourth of 1 percent. Now, last year, since we cut it back to $320.6 million, that means there are 13 States—Alaska, Delaware, Hawaii, Idaho, Maine, Montana, Nevada, New Hampshire, North Dakota, South Dakota, Utah, Vermont, and Wyoming—that are not cut by 50 percent; they are cut by 75 percent. Because of a quirk in the law, 13 of our smallest States have a 75-percent cut. That is what they are operating at right now in those States.

I say to the Senators from those States, this may not be knowledge to a lot of Members. I happen to know about this program because I am on both the committees that administer it, but this is a program that helps the poorest in our country.

I anticipate there may be some other reasons people do not want to vote for this, but as long as 58 Senators signed the letter a week and a half ago, as long as the House is in session, it seems to me we could vote on this and let the House do it.

As I said, this is the dead of winter. We were told at the end of September that the Defense appropriations bill would be acted upon. This amendment was included. But it has not been acted on. We are now told we have a continuing resolution until December 18, but will we really act on it by December 18? As I said, who can bet on that around here?

These are the poorest of our poor people. Can't we at least say we are going to hold them a little bit harmless in this? It is not that we are holding them harmless, we are holding them at last year's level, which means it is cut a little bit simply because of the cost-of-living increase. But to be cut 50 percent, and in 13 States to be cut by 75 percent, is grossly unfair.

Let's do the moral thing. Let's do the right thing. This is a very small matter, a small thing to do, to pass this amendment and send it to the House and have them pass it on.

I ask unanimous consent to have printed in the RECORD the letter I discussed.

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

U.S. SENATE,
Washington, DC, November 9, 2005.

Hon. ARLEN SPECTER,
Chairman, Senate Subcommittee on Labor, HHS, Education, Appropriations, Washington, DC.

Hon. TOM HARKIN,
Ranking Member, Senate Subcommittee on Labor, HHS, Education, Appropriations, Washington, DC.

DEAR SENATORS SPECTER AND HARKIN: We applaud the Senate Labor, Health and Human Services, and Education Appropriations Subcommittees (Labor HHS) for restoring funding to the Community Services Block Grant (CSBG). In the face of budget constraints and competing priorities, we urge you to uphold the Senate funding level of $637 million in negotiations with the House on H.R. 3010, the Labor-HHS Appropriations bill.

As you know, CSBG helps to strengthen communities by helping low-income individuals and families to become self-sufficient. Nearly one-fourth of Americans living in poverty receive services from CSBG grantees located in 90 percent of the nation's counties. Please enable these entities to continue their vital assistance to families and communities.

We urge you to insist on the Senate positions in CSBG, $637 million, during final negotiations on H.R. 3010. Thank you for your continued efforts on this issue.

Sincerely,

Charles E. Grassley, Orrin G. Hatch, Olympia J. Snowe, Rick Santorum, Christopher J. Dodd, Edward M. Kennedy, Max Baucus, Jeff Bingaman, Jim Bunning, Lamar Alexander, Richard Burr, Mike DeWine, George Allen, Conrad Burns, Lincoln D. Chafee, Norm Coleman, Susan M. Collins, Hillary Rodham Clinton, Kent Conrad, James M. Jeffords, John F. Kerry, Blanche L. Lincoln, Barbara A. Mikulski, Jack Reed, John D. Rockefeller, Charles Schumer, James M. Talent, John Thune, George V. Voinovich, John W. Warner, Mark Dayton.

Richard J. Durbin, Joseph R. Biden, Jr, Barbara Boxer, Maria Cantwell, Thomas R. Carper, Jon S. Corzine, Byron L. Dorgan, Dianne Feinstein, Frank R. Lautenberg, Joseph I. Lieberman, E. Benjamin Nelson, Barack Obama, Ken Salazar, Debbie Stabenow, Russell D. Feingold, Tim Johnson, Patrick J. Leahy, Carl Levin, Bill Nelson, Mark Pryor, Paul S. Sarbanes.

Mr. HARKIN. I yield back the remainder of my time and ask for the yeas and nays.

The PRESIDING OFFICER. The Senator yields back the remainder of his time.

Is there a sufficient second?

There is a sufficient second.

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

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Oregon (Mr. SMITH).

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE), the Senator from Hawaii (Mr. INOUYE), and the Senator from Michigan (Ms. STABENOW) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Ms. STABENOW) would vote ''yea.''

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

The result was announced—yeas 46, nays 50, as follows:

[Rollcall Vote No. 348 Leg.]

YEAS—46

Akaka	Durbin	Murray
Baucus	Feingold	Nelson (FL)
Bayh	Feinstein	Nelson (NE)
Biden	Harkin	Obama
Bingaman	Jeffords	Pryor
Boxer	Johnson	Reed
Byrd	Kennedy	Reid
Cantwell	Kerry	Rockefeller
Carper	Kohl	Salazar
Chafee	Landrieu	Sarbanes
Clinton	Lautenberg	Schumer
Collins	Leahy	Snowe
Conrad	Levin	Specter
Dayton	Lieberman	Wyden
Dodd	Lincoln	
Dorgan	Mikulski	

NAYS—50

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

NOT VOTING—4

Corzine	Smith
Inouye	Stabenow

The amendment (No. 2672) was rejected.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was not agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the third reading and passage of the joint resolution.

The joint resolution was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, is this the continuing resolution?

The PRESIDING OFFICER. The Senator is correct.

Ms. LANDRIEU. Mr. President, earlier this morning we had a colloquy that expressed concerns.

The PRESIDING OFFICER. The Senator will be advised that all time for debate has expired.

Ms. LANDRIEU. Mr. President, I ask unanimous consent for 30 seconds.

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

Ms. LANDRIEU. Mr. President, we had a colloquy this morning with the leader about the need to do more for the victims of Hurricanes Katrina and Rita. I am not going to ask for a record vote, and I am not going to delay the debate, but I do want to be recorded as voting ''no'' if we have a voice vote. It is very important to let people in this country know that our work is not yet finished. While we are breaking for the holidays, there will be many people who have no holiday table to go home to. Members of this body have worked very hard. I respect the work that each has done. We have worked in a bipartisan way to address some issues of health care, education, and housing. But just because we have done our job doesn't mean the same thing is actually happening on the other side of the Capitol.

There are still more issues that we need to find solutions for. We need to find a solution for the health care crisis along the gulf coast due to the hurricanes and subsequent levee breeches. We need to find a solution for the massive housing shortage throughout the States that Katrina and Rita whipped through. We need to find a solution for the small businesses that have been devastated and the thousands of people who have been left jobless. And we need to find a solution to building Category 5 levees and providing plenty of storm and flood protection which also means restoring our vital coastal wetlands, as they are our first line of defense. Without this protection, all our other efforts will be for naught.

We need solutions, Mr. President. We need real answers, because it is unsettling to know that while we go home to have Thanksgiving with our families, my constituents still have real problems and real needs. And so I thank you, Mr. President, for this time and for allowing me to note for the record, that I am voting no to this continuing resolution because our job is not finished, and these vital concerns are not settled.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass?

The joint resolution (H. J. Res. 72) was passed.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF BUSINESS

Mr. FRIST. Mr. President, in a few moments, I will propound a unanimous consent request. In essence, what we will be doing in about an hour is having another vote on going to conference on the HHS appropriations bill. We will ask unanimous consent for that shortly and divide up the time accordingly. It will be approximately an hour from now that we will have another rollcall vote. As soon as we have the word on the unanimous consent request, I will be propounding that.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT FOR FISCAL YEAR 2006

Mr. FRIST. Mr. President, I ask that the Chair lay before the Senate a message from the House to accompany H. R. 3010, the Labor-HHS appropriations bill; provided further, that the Senate request a conference with the House, and that the Chair be authorized to appoint conferees. I further ask that prior to the Chair appointing the conferees, Senator SPECTER be recognized in order to make a motion to instruct the conferees on the issue of LIHEAP; provided further, that there be debate divided with Senators as follows: 10 minutes for Senator REED, 7 minutes for Senator HARKIN, 5 minutes for Senator SPECTER, 5 minutes for Senator COCHRAN. I further ask that following that time, the motion be temporarily set aside and Senator DURBIN be recognized to make a motion to instruct relating to NIH, and there be 15 minutes for debate for Senator DURBIN on that motion, and that following the use or

yielding back of debate time, the Senate vote on the motions to instruct in the order offered, and following those votes, the Chair then immediately appoint conferees on the part of the Senate.

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

Mr. FRIST. Mr. President, I ask for one modification, that Chairman SPECTER be given 5 minutes to speak on the motion to instruct relating to NIH following Senator DURBIN.

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

The PRESIDING OFFICER (Mr. ISAKSON) laid before the Senate a message from the House of Representatives, having had under consideration the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 3010) entitled ''An Act making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.''

Resolved, That the House insist upon its disagreement to the amendment of the Senate.

The PRESIDING OFFICER. The Senator from Pennsylvania.

MOTION TO INSTRUCT

Mr. SPECTER. Mr. President, I move that the managers, on the part of the Senate to the conference on the disagreeing votes of the two Houses on the Senate amendments to the bill, H. R. 3010, be instructed to insist that $2,183,000,000 be available for the Low-Income Home Energy Heating Assistance Program and that such funds shall be designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95, of the 109th Congress, the Concurrent Resolution on the Budget for fiscal year 2006.

The PRESIDING OFFICER. The motion is pending. Who yields time?

The Senator from Rhode Island.

Mr. REED. Mr. President, the instructions that the Senator from Pennsylvania sent to the Chair, in my understanding, would designate the full amount of LIHEAP funding that is currently in the appropriations bill as emergency spending.

I understand the motivation. This bill is underfunded. There are valuable programs that need additional resources. Both the Senator from Pennsylvania and the Senator from Iowa strove mightily to try to provide those resources. They are attempting today to try to free up about $2 billion to classify some money as emergency spending, LIHEAP money. I understand the motivation, but I think it is extremely poor policy.

This LIHEAP program is composed of two components. There is a regular formula program which each and every year every State in this country depends upon to provide heating and cooling assistance to its citizens.

The application process begins before the heating and cooling season. It is usually conducted from community action centers. This whole infrastructure suddenly now is going to be declared an emergency process. That would send a terrible signal throughout this country about our commitment to low-income heating assistance. It would open a situation of uncertainty and a situation that would be counterproductive to helping poor people struggling with heating bills in the winter and cooling bills in the summer.

This would, again, in my view, create a terrible precedent. We have over the last several weeks in this Chamber supported funding of LIHEAP, not on an emergency basis, but on a full authorization basis of $5.1 billion. We did it last evening. Unfortunately, because of procedural obstacles, we needed 60 votes. Last evening, a majority of this Senate voted to increase LIHEAP funding to $5.1 billion, offsetting it by a temporary windfall profits tax. Previously, even a larger majority of the Senate voted simply to appropriate $5.1 billion. Today we are on this floor saying not only are we not talking about $5.1 billion, we are talking about the regular formula money in the regular program suddenly is an emergency. That is not the emergency funding that LIHEAP sometimes gets. This funding supports year in and year out the needs of people who we know have low income. They are seniors, they are disabled, and they are low-income working families, and they will anticipate heating and cooling bills. There is no emergency here.

One of the real problems is, because we call it an emergency, no funds can be disbursed until the President declares an emergency. When will that declaration take place? Will it take place in August so these community action agencies can start requesting applications, processing applications, or will it take place in October or November or January? If it does, then this is going to cause chaos.

We were looking weeks ago at the chaos caused in the wake of Katrina because Federal programs were not realistically grounded in what was happening. This policy is going to throw a monkey wrench into the normal operations of the LIHEAP program.

It also sends a terrible signal, if it is adopted, because we are saying that no longer do we have a regular program committed to helping poor people—seniors, the disabled—with their heating and cooling bills. What we have is something that may or may not exist every year.

I know people will stand up and say, Oh, come on, the reality is they are going to have to declare it this year as an emergency. I do not entirely agree. But more importantly, when next year we are looking, under excruciating budget pressure, for additional resources, there will be the susceptibility to taking this approach, saying we will use this gimmick again. I suspect the administration—I am not the expert in budgets, but I expect the administration will say: This is a great deal they have handed us. We can send up the programs we like in the regular budget and say all of this LIHEAP is just emergency.

I am terribly concerned about this. Again, we have spent the last several weeks in this body, on a bipartisan basis, a majority of our colleagues saying not only is this not an emergency program, this is a program that should be funded even more than $2.1 billion.

So I must express my deep opposition to this proposal. I immensely respect Senator HARKIN and Senator SPECTER. I know they are laboring under excruciating budget constraints that are squeezing out money for programs that are necessary for America's families, America's children, America's health care, America's future. But in this desperate moment, it is not a time to undercut a program that serves every State in this country well and serves people who need help, particularly as this winter approaches. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, first, I thank my colleague from Rhode Island for pointing this out. I cannot find anything about which I disagree with him. I think he is right. This is not the way to do business, normally.

These are not normal times, however. We have a small space in which we might be able to get something done, and we have to take advantage of it. I say to my friend from Rhode Island, I think it is instructive for all of us that there is only one appropriations bill cut from last year's level—one. Not Commerce, State, Justice, not Transportation, not the Housing and Urban Development, not all of the rest—only one appropriations was cut. Guess what it deals with: health; human services; education; labor. That has been cut. What kind of message are we sending to Americans?

We had a vote on whether to continue the Community Services Block Grant program at last year's level. I pointed out a week and a half ago, 58 Senators signed a letter—please keep it at last year's levels. A week and a half ago they vote to cut it, in some cases 75 percent. That is why I put the letter in the RECORD right after the vote. I want people to see the vote and read the letter and see how people signed the letter and then how they voted. It is one thing to sign the letter around here and I guess another thing to vote.

I guess what I am expressing is this is a terrible appropriations bill that we have for the needs of the American people, for education, basic structure of health care and public health, for NIH, for basic medical research. This is the first time since 1970 that we have flatlined funding for the National Institutes of Health—35 years. That is the bill that Senator SPECTER and I are faced with.

What we are trying to do is find some way of getting some money for health,

trauma care, rural emergencies—rural emergency medical services was completely eliminated—health community access program, community health centers—we will not be able to open one new community health center next year under the bill that we go to conference with. No Child Left Behind is underfunded; Pell grants are kept at the same level for the fourth year in a row. For kids with disabilities, IDEA, we are going backward. How many times have we heard, on both sides of the aisle, Republicans and Democrats get out here and say we have to fully fund IDEA. This bill actually goes backward, from 18.6 percent to 18 percent.

That is why Senator SPECTER and I decided to take this step of having a motion to instruct the conferees to take the slightly less than $2.1 billion in LIHEAP and designate it as an emergency for this one time only in order for us to get to conference, to put pressure on the House to come up with some more money.

I am not saying this will stay as an emergency in the final bill. My hope is we will be able to find the money and come up with something so it does not. But if it does, it is only for 1 year. I tell my friend from Rhode Island, I will do everything I can, everything humanly possible in the Senate to ensure that when it comes up next year, we do not have it as an emergency, that we get a better budget allocation.

But again I have to say I do not want anybody around here hiding behind the skirts of the Budget Committee. They say the reason we got a bad bill, the reason our bill, the one that funds Health and Human Services and Education and Labor—the reason it is cut is because the Budget Committee gave us a bad budget.

Fine. But did you vote for it? Did you vote for the budget? If you voted for the budget, you own this bill. Don't hide behind the skirts of the Budget Committee. If you voted for the budget, you own it. You bought it. So anyone who voted for the budget, this is what you got.

I share a little frustration on this, also, as you can probably tell. But I think in this one case we desperately, drastically need to meet the human needs of the people of our country. We are up against almost an intransigent House and an administration I think, quite frankly, that does not care. If they cared, they wouldn't be treating us like this. To them, this is nothing. Community action agencies, LIHEAP? That is just poor people. They don't count because they probably don't vote anyway, and they certainly don't contribute any money, so therefore why even pay attention to them.

I share the frustration of my friend from Rhode Island. Normally, this would not be the way to do it, but as I said, this is an abnormal situation in which we find ourselves. If we have to, as a one-shot deal, push this into the emergency column so we can help kids with disabilities, if we can help getting more health care up for rural emergency medical services, if we can help with Head Start, if we can help with community health centers—then, for one time, I think we ought to do it. That is why I support the Specter motion to instruct the conferees to put LIHEAP on an emergency basis for this one time only.

With that, I yield the floor. I think I had 7 minutes, if I am not mistaken?

The PRESIDING OFFICER. The Senator has consumed his time.

Mr. HARKIN. I yield the floor then.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. There remains 5 minutes 42 seconds for the Senator from Rhode Island. Who yields time? Time will be charged proportionately against all Senators controlling time.

The Senator from Arizona.

Mr. MCCAIN. I understand, under the unanimous consent agreement, there are Senators who have been given time prior to the vote. I ask those Senators to come over. Otherwise, under the rules of the Senate, the time is running as we speak.

The PRESIDING OFFICER. The Senator is correct.

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

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Parliamentary inquiry: Can the Chair state how much time is remaining on all sides?

The PRESIDING OFFICER. The Chair will attempt to determine that number.

At the outset of the subtraction of the proportional time, the Senator from Rhode Island controlled 5 minutes 42 seconds; the Senators from Mississippi and Pennsylvania each controlled 5 minutes; approximately 4 minutes have been consumed, of which 2 will be charged against the Senator from Rhode Island and 1 each to the Senators from Pennsylvania and Mississippi. And the clock continues to run.

The Senator from Rhode Island.

Mr. REED. Mr. President, I ask unanimous consent that I be given 2 minutes prior to the completion of the time so I could respond to the comments of the Senator from Pennsylvania and Senator HARKIN. I think it appropriate that I be able to respond to his comments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SPECTER. Mr. President, the appropriations bill on Labor, Health, Human Services and Education, in my judgment, as I have said repeatedly, is vastly underfunded. The Senate passed a bill within the context of our allocation. Working with my colleague, Senator HARKIN, and our very energetic and devoted staff, we did the very best we could with the limited funding. But there simply wasn't enough money to do the job.

Health is our major capital asset. Without health, we can't function. Education is our major capital asset for the future, to give opportunity for labor and worker training.

We made the allocations as best we could, but the bill was underfunded. I made an effort, joined by Senator HARKIN and by the subcommittee, to put LIHEAP in an emergency classification for $2.83 billion.

I said in the conference that it would enable us to improve the bill—not where it ought to be but improve it substantially.

I conferred with Chairman REGULA and considered the projects—or so-called earmarks—which are $1 billion, where, as a matter of longstanding tradition, the Members in both the House and Senate, Democrats and Republicans, are enabled with an allocation to make designations within their districts or States because we know more about our States and our districts than, in many instances, do the officials who run the bureaucracy of the U.S. Government.

I said if we could not get the $2.83 billion emergency declaration for LIHEAP that it was going to be my position that we ought not to include the earmarks for the projects. When we could not get that emergency declaration, we struck the earmarked projects.

That was a very tough decision. We are paid to make tough decisions around here. I can't think of one in the time I have been here more disappointing to a lot of people in America who are relying on these projects. Although, the $1 billion spread around the country, here and there, is not unsubstantial—a lot of people were disappointed. Many Members were disappointed that the traditional allocations were not made.

It is my hope that we can put the $2.83 billion into LIHEAP. We are facing a drastic situation with fuel costs, as we all know, and as significantly occasioned by Hurricane Katrina, which is an emergency. If there ever was a clear-cut emergency, it is what the consequences of Hurricane Katrina are. The fuel costs are a direct result of that. This is a classical, quintessential emergency.

I think we have the 51 votes to pass it here in the Senate. The difficulty is going to be in getting our House colleagues to agree to it.

But I hope we work our way out of this morass and impasse with approval of this resolution and ultimate approval by both bodies.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, I respect immensely the Senator from Pennsylvania and the Senator from Iowa who tried to take a budget that is inadequate and fulfill many programs. But

I strenuously object to the classification of LIHEAP in this way as an emergency program.

There are two components of LIHEAP. This is a program that has been appropriated for years and years and has built up a locked-in structure in every State to go ahead and solicit applications and to process the applications. They have to have some sense that this program is going to be in place, not depending upon our Presidential emergency declaration at some time in the year.

There is another component which is emergency. That is additional funds. But we are creating bad policy and bad precedent.

There are a number of programs in this Labor-HHS bill that could also been declared emergencies.

We have a children's vaccination program that provides vaccines. The States have offices that have to deal with it. They have to predictably know they are going to have these funds.

This is bad policy and bad precedent. It is being forced because the budget is inaccurate. I think it is a desperate moment to do this. It would send a terrible signal to people throughout this country and State and local community agencies that are dedicated to this program that they can no longer depend upon the formula for LIHEAP funds which they have been now for almost 20 years.

I hope my colleagues will reject this proposal.

I yield the floor.

MOTION TO INSTRUCT CONFEREES

Mr. DURBIN. Mr. President, I ask unanimous consent that the pending motion be set aside and that I may be permitted to file a motion at the desk.

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

The clerk will report.

The assistant legislative clerk read as follows:

Mr. DURBIN moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on the bill H.R. 3010 (making appropriations for the Departments of Labor, Health, and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes) be instructed to insist on retaining the Senate-passed provisions relating to funding for the National Institutes of Health.

Mr. DURBIN. Mr. President, what I am doing with this motion is making a statement of policy that I think most American families would support. It is this:

In this troubled time, when we are having difficulties with our budget, the one area we absolutely must protect is medical research at the National Institutes of Health.

Over the last 10 years or more, we have made a concerted effort in America to invest more money in medical research, to ultimately double the amount of money going into medical research. It is a heroic effort, and it is the right thing to do under Presidents of both political parties because we understand how vulnerable each and every one of us and every member of our family could be with one diagnosis from a doctor.

I salute the chairman of the committee, Senator SPECTER, and Ranking Member HARKIN of Iowa. I can't find any stronger advocates for medical research than these two Senators.

The bill that we are considering that came to us from conference is a bill which turns its back on all the progress we have made by putting money into medical research. Unfortunately, this bill would result in our funding the National Institutes of Health at a level inconsistent with the pattern of growth that we have seen over the last several years.

Let me be as specific as I can. I have heard from people across Illinois about how important medical research is to them and their families. My family knows that, and the families of everyone watching know it, too.

Eight-year-old Claire Livingston, who is living with type II diabetes, came by my office. More and more children are affected by diabetes. Claire checks her blood glucose level several times a day and adjusts her medication, her diet, her activity levels. She is bright and happy. Her mother wakes her up in the middle of the night to make sure she is going to be alive in the morning.

That is the reality. They only ask one thing of me. Please make sure that we continue the research into diabetes at the National Institutes of Health.

Autism: Are you aware of the fact that 1 out of every 165 children in America now suffers from autism? I don't know why. We are not certain why.

Do we want to stop asking the important questions? You know the struggle these children go through and their families go through to cope with their terrible disease. Why in the world would we step away from medical research funding in this area?

The autism research NIH supports is looking at biological factors that cause autism but also looking at interventions—what works and what doesn't work. We owe it to the NIH to allow them to continue their work. The list goes on and on.

Members of the Senate and the House are visited on a regular basis by individuals and families who are suffering from diseases and maladies. They ask us to do something, please—whether it is cancer or heart research or diabetes or asthma. Please make sure the funding levels continue.

NIH-supported research into muscular dystrophy is promising. Children are living longer. We cannot back off. We cannot lose sight of the enormous role that NIH research plays in the discovery of treatments and cures for the life-threatening illnesses that afflict millions of Americans each year—such as heart disease, cancer, and stroke.

NIH research grants have moved us to the forefront of the world's scientific community. We take a backseat to no one when it comes to medical research. If we pass budgets such as the ones sent to us by the NIH, we will be weakening our commitment.

The bill the House rejected just yesterday includes only a $150 million increase in National Institutes of Health funding, the lowest increase in 36 years. You say to yourself, well, $150 million more in these times cannot hurt. Considering the rate of biomedical inflation, what it costs to do research, this increase represents a cut in funding. Assuming no change in committed resources, it means there will be 505 fewer research projects next year at the National Institutes of Health than there were this year.

Could one of those important projects, projects that have been carefully evaluated, be that critical project for you, your family, your children, or someone you love? If it is, is this not a false economy, to cut this budget at this moment in our history? Can we really afford to shortchange our Nation's premier research institution when illnesses such as heart disease and stroke continue to be leading causes of death? When so many people are afflicted with so many forms of cancer? These diseases will cost our country $394 billion in medical expenses and lost productivity in this your alone.

In simple dollar terms, the amount of money we are alleging we will save by cutting medical research just means more people afflicted with disease, more medical expenses for them and for our Nation.

Increased investment in NIH research can yield extraordinary breakthroughs. We can maintain our leadership role in the world in medical research. We can further the missions we have started at the National Institutes of Health. We need to significantly increase medical research funding, not back off. We need to support our Nation's researchers. They need to know we stand behind them. These men and women working in the laboratories, as I stand and speak in the Senate, need to know this budget process is not going to move from left to right and up and down. They need to know there is continuity and commitment from our Government so they can dedicate their lives to this important work.

I urge my colleagues to join me in charging the conferees to retain the Senate language, which increases the budget of the National Institutes of Health by $1 billion. A billion could not be better spent in this economy. Any who have had the misfortune of learning of a serious illness in the family say a little prayer to God, then try to find the best doctor and hospital we can find. We walk into that doctor's office, frightened with what we are about to hear, hoping that doctor will say there is something we can do. If the doctor says they are not quite there yet, this illness that we are concerned about is one that they do not have a

grip on yet, we pray to God that someone somewhere in a laboratory connected with medical research is trying to find that cure to save that person we love so much.

Unlike most people who can just pray for that outcome, we can do something about it in the Senate. We can say that a national priority will be medical research come hell or high water. We can say that we are not going to back out of a 36-year commitment to increase the funding for the National Institutes of Health.

Some will argue there are higher priorities. There are some who believe tax cuts for wealthy Americans are much more important than dealing with medical research. Those ranks do not include this Senator. I believe medical research should be the highest priority. It has no partisan side to it. Republican and Democrats, people who do not vote, we all get sick. We all pray there will be a commitment by this Senate and by this Nation for premier medical research to find cures for those illnesses.

I yield the floor and suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. DURBIN. I yield back all remaining time.

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

Mr. DURBIN. I ask for the yeas and nays on the pending motions.

The PRESIDING OFFICER. Is there objection to requesting the yeas and nays on two motions concurrently?

Without objection, it is so ordered.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SPECTER. Parliamentary inquiry: Do I have 5 minutes on the Durbin motion?

The PRESIDING OFFICER. The time was just yielded back.

Mr. SPECTER. The time was yielded back?

Senator DURBIN did not have the authority to yield back my time.

I understand he did not have that authority. I am obliged it was not Senator DURBIN. It was unnamed conspirators that I will deal with later.

I support the amendment of the Senator from Illinois to reinstate the Senate mark on the National Institutes of Health because the money is needed. When you take in the inflation factor, NIH will be funded at a lower rate this year than last year.

The Senate has taken the lead, initiated by Senator HARKIN and myself and our subcommittee, the full Committee of Appropriations, to more than double NIH funding from $12 billion to $28 billion. The results have been remarkable. We are on the vanguard of enormous advances on some classifications of cancer, on the research on many maladies which confront America.

It is something of sharper focus this year to me than in the past, although I have steadfastly supported NIH during my entire tenure in the Senate. This is a modest addition. I believe this Senate will instruct the conferees, and we will have more than 50 votes. The difficult part is getting it done in conjunction with the House. It is a good amendment. I urge my colleagues to support it.

I yield the floor and yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the motion made by the Senator from Pennsylvania.

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 Nevada (Mr. ENSIGN).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. CORZINE), the Senator from Hawaii (Mr. INOUYE), the Senator from Nebraska (Mr. NELSON), and the Senator from Michigan (Ms. STABENOW) are necessarily absent.

I further announce that, if present and voting, the Senator from Nebraska (Mr. NELSON) and the Senator from Michigan (Ms. STABENOW) would vote ''aye.''

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

The result was announced—yeas 66, nays 28, as follows:

[Rollcall Vote No. 349 Leg.]

YEAS—66

Akaka	Dorgan	Mikulski
Baucus	Durbin	Murkowski
Bayh	Feingold	Murray
Bennett	Feinstein	Nelson (FL)
Bingaman	Frist	Obama
Bond	Grassley	Reid
Boxer	Hagel	Rockefeller
Burns	Harkin	Salazar
Burr	Hatch	Santorum
Byrd	Hutchison	Sarbanes
Cantwell	Jeffords	Schumer
Clinton	Johnson	Shelby
Coburn	Kennedy	Smith
Cochran	Kerry	Snowe
Coleman	Kohl	Specter
Collins	Landrieu	Stevens
Conrad	Lautenberg	Sununu
Dayton	Leahy	Talent
DeWine	Levin	Thune
Dodd	Lieberman	Voinovich
Dole	Lugar	Warner
Domenici	Martinez	Wyden

NAYS—28

Alexander	Crapo	McCain
Allard	DeMint	McConnell
Allen	Enzi	Pryor
Brownback	Graham	Reed
Bunning	Gregg	Roberts
Carper	Inhofe	Sessions
Chafee	Isakson	Thomas
Chambliss	Kyl	Vitter
Cornyn	Lincoln	
Craig	Lott	

NOT VOTING—6

Biden	Ensign	Nelson (NE)
Corzine	Inouye	Stabenow

The motion was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the motion was agreed to and to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the motion to instruct offered by the Senator from Illinois.

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 Nevada (Mr. ENSIGN).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. CORZINE), the Senator from Hawaii (Mr. INOUYE), the Senator from Nebraska (Mr. NELSON), the Senator from Michigan (Ms. STABENOW), are necessarily absent. I further announce that, if present and voting, the Senator from Nebraska (Mr. NELSON) and the Senator from Michigan (Ms. STABENOW) would each vote ''yea.''

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

The result was announced—yeas 58, nays 36, as follows:

[Rollcall Vote No. 350 Leg.]

YEAS—58

Akaka	Dodd	Mikulski
Alexander	Dorgan	Murray
Allen	Durbin	Nelson (FL)
Baucus	Feingold	Obama
Bayh	Feinstein	Pryor
Bingaman	Harkin	Reed
Boxer	Hutchison	Reid
Burr	Isakson	Roberts
Byrd	Jeffords	Rockefeller
Cantwell	Johnson	Salazar
Carper	Kennedy	Sarbanes
Chafee	Kerry	Schumer
Chambliss	Kohl	Smith
Clinton	Landrieu	Snowe
Coleman	Lautenberg	Specter
Collins	Leahy	Talent
Conrad	Levin	Warner
Cornyn	Lieberman	Wyden
Dayton	Lincoln	
DeWine	Lugar	

NAYS—36

Allard	Domenici	McCain
Bennett	Enzi	McConnell
Bond	Frist	Murkowski
Brownback	Graham	Santorum
Bunning	Grassley	Sessions
Burns	Gregg	Shelby
Coburn	Hagel	Stevens
Cochran	Hatch	Sununu
Craig	Inhofe	Thomas
Crapo	Kyl	Thune
DeMint	Lott	Vitter
Dole	Martinez	Voinovich

NOT VOTING—6

Biden	Ensign	Nelson (NE)
Corzine	Inouye	Stabenow

The motion was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Chair appoints Mr. SPECTER, Mr. COCHRAN, Mr. GREGG, Mr. CRAIG, Mrs. HUTCHISON, Mr. STEVENS, Mr. DEWINE, Mr. SHELBY, Mr.

DOMENICI, Mr. HARKIN, Mr. INOUYE, Mr. REID, Mr. KOHL, Mrs. MURRAY, Ms. LANDRIEU, Mr. DURBIN, and Mr. BYRD conferees on the part of the Senate.

The Senator from Idaho.

MORNING BUSINESS

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

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

Mr. CRAIG. Mr. President, I ask unanimous consent that I be able to proceed for 10 minutes, to be followed by the Senator from Massachusetts, Mr. KERRY, for 10 minutes.

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

ENERGY CONSERVATION

Mr. CRAIG. Mr. President, for the last several weeks, those of us who serve on the Subcommittee on Health and Human Services have been trying to find adequate resources amongst other resources to fund LIHEAP, the money necessary to help low-income families provide for their comfort this winter. I thought it would be an appropriate time to talk about that for a little bit because I think Americans need to understand they are not without power to do a few simple things over the course of the next several months of this winter to help themselves as it relates to the heating of their own homes.

Americans spend more than $160 billion—that is right, $160 billion—a year on heat, cooling, lights, and living in their homes. That is an awful lot of money. If most Americans are like I am, I would like to know how I can bring that number down a little bit, how I might be able to tighten my belt a little or my family's budget a little bit during this time of extremely high-priced energy.

We hear about record natural gas prices and 30- and 40- and 50-percent increases in heating bills this winter for those who heat with natural gas. We know those who heat with home heating oil in the Northeast are going to pay substantially more. In the West and in the pipelines of the West on which my home is connected, where there is more gas, we are still going to be paying 25 or 30 percent more.

What might we do about it? Let me suggest a couple of things.

Do you know that if you lower your home heating thermostat by 2 degrees—by 2 degrees—for every degree you lower it, you save 1 percent on your heating bill. We were told by experts recently who were testifying before the Energy and Natural Resources Committee, if every American did that this winter, by spring, we could potentially have a surplus in natural gas in the lower 48, and that in itself would drive prices down. Americans have power to help themselves if they simply would turn their thermostats down by 2 degrees.

I am not going to do a ''Jimmy Carter'' on you by saying put on a sweater, but if you did turn your home heating thermostat down by 2 degrees and if you did put on a sweater and if you are a couple living by yourself in a large home and you turn off the radiators in some of your bedrooms that you are not using and close the doors, there could literally be a dramatic savings across this country.

If you want to change your gas price experience at the pump, instead of driving 70 and 75 or 80 miles per hour on the freeway, why don't you go back to 60 or 65? And if you turned it down and slowed it down, oil consumption could drop in a day—a day—in this country by 1 million barrels of consumption. That is the power of the American consumer if the American consumer wants to do something about it instead of pointing fingers and blaming—and there is plenty of that going around, and we deserve to take some of it. The consumer is not without power.

Let me suggest this in my time remaining. Senator BINGAMAN and I would like to help in that effort. So we are going to provide conservation packages, packets of information to our colleagues' offices that they can send out in their letters to their constituents advising and assisting in this kind of conservation effort. We hope you do it. If every Senator and all Senate staffs turn off their computers when they go home at night—shut them down, hit the off switch, turn out the lights in your office. If that were done across America today, heating bills and energy bills would drop precipitously.

But we are in this mode of everything on, all the lights on, the thermostat turned up because we are still living in the memory of surplus and inexpensive energy. That memory is gone. The reality is that the world has changed significantly, and while we scramble to catch up and provide increased availability of supply in the market—and that is what we are doing and that is what the national energy policy passed in August is attempting to do—while that is happening, you know what we can do: We can help ourselves.

So once again I say to America, turn your thermostat down a few degrees, put on a sweater, shut portions of your house down and take literally tens, if not hundreds, of dollars off your heating bill in the course of a winter. If we do it collectively across America, by spring, natural gas prices could be down dramatically, and we would not see the kind of job loss that is occurring today in the chemical industry as large manufacturing plants are shut down simply because they cannot afford the price of natural gas, and they are moving elsewhere in the world to produce their product.

We are building pipelines, we are drilling for more natural gas out West and in the overthrust belts than we ever have before, and there are trillions of cubic feet available out there if we can get to it. We are making every effort to, and this administration is doing just that. In the interim, in the reality of a cold winter, America, you can help yourself. America, you can drive a little slower, you can turn your thermostats down, and if we were all to do that collectively, it would have a dramatic impact on the marketplace and on consumption.

Does it have to be mandated by law? Need there be a law to tell you that you can save a little money by those actions? I would hope not. I would hope that the wisdom of the pocketbook would suggest that we be prudent as to a procedure to follow.

Senator BINGAMAN and I are going to supply packets to the offices of our colleagues. We hope our colleagues will pass those on. We hope our colleagues might take the time to do a public service announcement over the course of the next month, talking to their folks at home about the opportunity and what is available. I think it is appropriate, and I think it is the right thing to do.

Senator BINGAMAN and I have coalesced with industry to see if they cannot collectively begin to produce a greater message of clarity about the opportunity in the marketplace to conserve and to save and, in so doing, to lower the overall cost of energy and its impact upon the American economy.

Want to give yourself a Christmas gift? Put on a sweater and turn the thermostat down 2 degrees.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I ask unanimous consent I be permitted to proceed for such time as I may consume in order to finish my statement. It will not be much more than 10 minutes.

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

Mr. KERRY. Subsequently, I ask unanimous consent that the Senator from Arizona, Mr. KYL, be recognized to speak after me.

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

JACK MURTHA, AN AMERICAN PATRIOT

Mr. KERRY. Mr. President, yesterday, as all of us know, JACK MURTHA, one of the most respected Congressmen on military affairs, one of the most respected Congressmen on national security issues, a former marine drill sergeant and a decorated Vietnam veteran, spoke out on our policy in Iraq. Whether one agrees or disagrees with Congressman MURTHA is not the point. He did not come to this moment lightly. Any one of us who knows Congressman MURTHA or anybody who has

worked with him over these years, Republican or Democrat, respects this man, respects his personal commitment to our country, respects his understanding of these issues, and understands he did not come to that moment lightly.

He spoke his mind and he spoke his heart out of love for his country and out of absolute and total unconditional support for the troops, of which he was once one.

I do not intend to stand for, nor should any of us in the Congress stand for, another Swiftboat attack on the character of JACK MURTHA. It frankly disgusts me that a bunch of guys who never chose to put on the uniform of their country now choose in the most personal way, in the most venomous, to question the character of a man who did wear the uniform of his country and who bled doing it. It is wrong. He served heroically in uniform. He served heroically for our country.

Have we lost all civility and all common sense in this institution and in this city? No matter what J.D. HAYWORTH says, there is no sterner stuff than the backbone and courage that defines JACK MURTHA's character and his conscience.

DENNIS HASTERT, the Speaker of the House, who never chose to put on the uniform of his country and serve, called JACK MURTHA a coward and accused him of wanting to cut and run. On its face, looking at the record, looking at his life, JACK MURTHA has never cut and run from anything. JACK MURTHA was not a coward when he put himself in harm's way for his country in Vietnam and he earned two Purple Hearts. He was a patriot then and he is a patriot today. He deserves his views to be respected, not vilified.

JACK MURTHA did not cut and run when his courage earned him a Bronze Star, and his voice ought to be heard today, not silenced by those who would actually choose to cut and run from the truth.

Just a day after Vice President DICK CHENEY, who himself had five deferments from service to his country because, as he said, he had other priorities than serving his country, just 1 day after he accused Democrats of being unpatriotic, the White House accused JACK MURTHA of surrendering.

JACK MURTHA served 37 years in the U.S. Marine Corps. JACK MURTHA does not know how to surrender, not to enemy combatants and not to politicians in Washington who say speaking one's conscience is unpatriotic.

The other day we celebrated what would have been the 80th birthday of Robert Kennedy. When Robert Kennedy opposed the war in Vietnam, despite the fact that his brother and the administration he was in had been involved in articulating that policy, he talked about how there was blame enough to go around. He also said the sharpest criticism often goes hand in hand with the deepest idealism and love of country.

CHUCK HAGEL showed that he has not forgotten that when he said: The Bush administration must understand that each American has a right to question our policies in Iraq and should not be demonized for disagreeing with them.

Too many people seem to have forgotten that long ago and too many of our friends on the other side of the aisle somehow think that asking tough questions is pessimism. It is not pessimism. It is patriotism. It is how one lives in a democracy. We are busy trying to take to Iraq and take to Afghanistan and take to the world the democracy we love and we are somehow unwilling to fully practice it at home.

We have seen the politics of fear and smear too many times. Whenever challenged, there are some Republican leaders who engage in the politics of personal destruction rather than debate the issues. It does not matter who one is. When they did it to JOHN MCCAIN, we saw that it does not matter what political party one is in. When they did it to Max Cleland, we saw that it does not matter if one's service put them in a wheelchair. And when they did it to JACK MURTHA yesterday, perhaps the most respected voice on military matters in all of the Congress, we saw that some in this administration and their supporters will go to any lengths to crush any dissent.

Once again, some are engaged in the lowest form of smear-and-fear politics because I guess they are afraid of actually debating a senior Congressman who has advised Presidents of both parties on how to best defend our country. They are afraid to debate the substance with a veteran who lives and breathes the concerns of our troops, not the empty slogans that sent our troops to war without adequate body armor, without adequate planning, without adequate strategy.

Maybe they are terrified of actually leveling with the American people about the way that they did, in fact, mislead the country into war or of admitting that they have no clear plan to finish the job and get our troops home.

Whether one agrees with Jack Murtha's policy statement yesterday is irrelevant. The truth is there is a better course for our troops and a better course for America in Iraq. The Senate itself went on record this week as saying exactly that. Every Senator in this body voted one way or the other to express their feelings about Iraq.

I intend to keep fighting, along with a lot of other people, to make certain we take that better course for the good of our country.

American families who have lost or who fear the loss of their loved ones plain deserve to know the truth about what we have asked them to do, what we are doing to complete the mission, and what we are doing to prevent our forces from being trapped in an endless quagmire. Our military families understand—I mean, all one has to do is visit with them when they come here and they talk about their sons, their husbands, and their fathers who are over there. They are concerned and want an open debate about what will best support the troops and how to get them home the fastest with the job done the most effectively.

The only way to get it done right in Iraq, the only way to get our sons and daughters home, is for all of us to weigh in on this issue. We also need to be mindful that as the White House yet again engages in a character assassination to stop Americans from listening to the words of a military expert and understanding the consequences, we need to understand the consequences of the road we have already traveled because when one looks at the road we have already traveled, it makes it even more imperative that we have this debate and engage in this dialogue.

It is a stunning and tragic journey that on many different occasions even defies fundamental common sense and leaves a trail of broken promises. From the very start, when we were talking about what it might cost or not cost, when an administration official suggested it would cost $200 billion, he was fired, not listened to. When people wondered how we would pay for the war and we were told the oil will pay for it, while others were saying the oil infrastructure was not sufficient to pay for it, they were not listened to. When the administration could have listened to General Shinseki and actually put in enough troops to maintain order, they chose not to. When they could have learned from George Herbert Walker Bush and built a genuine global coalition so we had the world with us, not most of the world questioning us or against us, they chose not to. When they could have implemented a detailed State Department plan for reconstructing post-Saddam Iraq, they chose not to. When they could have protected American forces and prevented our kids from getting blown up by ammunition that was in the dumps of Saddam Hussein and in the various locations our military were aware of, they chose not to. Instead of guarding those ammunition dumps and armories, they chose not to. When they could have imposed immediate order and structure in Baghdad after the fall of Saddam, Secretary Rumsfeld shrugged his shoulders and said, Baghdad was safer than Washington, DC, and they chose not to take action.

When the administration could have kept an Iraqi army selectively intact, they chose not to. When they could have kept an entire civil structure functioning in order to deliver basic services to Iraqi citizens, they chose not to. When they could have accepted the offers of the nations and individual countries to provide on-the-ground peacekeepers, reconstruction assistance, they chose not to. When they should have leveled with the American people that the insurgency had in fact grown, they chose not to. Vice President CHENEY even absurdly claimed

that the insurgency was in its last throes.

All of these mistakes tell us something. They scream out for a debate. They scream out for a dialogue. They scream out for a policy that gets it right.

We are in trouble today precisely because of a policy of cut and run where the administration made the wrong choice to cut and run from established procedures of gathering intelligence and of how it is evaluated and shared with the Congress; to cut and run from the best military advice; to cut and run from sensible wartime planning; to cut and run from their responsibility to properly arm and protect our troops; to cut and run from history's clear lessons about the Middle East and about Iraq itself; to cut and run from common sense. That is the debate some people appear to want to avoid in this country.

Instead of letting his cronies verbally blast away, the President ought to finally find the will to debate the real issue instead of destroying anyone who speaks truth to power as they see it.

It is time for Americans to stand up and fight back against this kind of politics and make it clear that it is unacceptable to do this to any leader of any party anywhere in our country at any time. We can disagree, but we do not have to engage in this kind of personal attack and personal destruction.

I hope my colleagues will come to the floor and engage in this debate. Our country will be stronger for it. That is what we ought to do instead of attacking the character of a man such as JACK MURTHA. Believe me, that is a fight nobody is going to win in our America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I ask unanimous consent to consume such time as I may take.

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

Mr. KYL. Mr. President, I am going to speak in a moment about the PATRIOT Act, but before I do, I want to respond to a couple of comments that were made by the Senator from Massachusetts.

I served with Congressman MURTHA when I was in the House of Representatives, and there is no greater patriot in the United States than Congressman MURTHA. In that, the Senator from Massachusetts and I agree. I disagree with Congressman MURTHA's opinions, but that is a matter of debate and that is one of the reasons we have the kind of open society that we do.

I do not think anyone is trying to crush debate or dissent or prevent questions from being asked. But it is a fact that when the President of the United States is accused of deliberate manipulation of intelligence to bring us into war—some have even said lied in order to bring us into war—that deserves response. That is part of a healthy debate.

When the President spoke in response, I think he was entitled to be listened to and not ridiculed and not condemned for criticizing those who disagreed with him. Neither side need back away from making their arguments and arguing that the other side is wrong. But of course no one should be questioning anyone else's patriotism. It is assumed anyone who serves this Government, and certainly anyone who has put on the uniform of this Government, is a patriot. In the case of Congressman MURTHA, I would be the first to assert that fact.

I think there are two critical facts with respect to this dispute. The first set of facts is that our intelligence, and that of virtually every other nation in the world, believed that Saddam Hussein was a threat to the world and had weapons of mass destruction and in some cases was developing capability for additional weapons of mass destruction, such as nuclear weapons. Some of that intelligence turned out not to be correct. But it does not mean that the people who debated the issues were liars or deliberately misrepresenting the facts. I daresay, if you took comments I made on the floor of the Senate and comments the Senator from Massachusetts made on the floor of the Senate, they would align pretty closely. They were pretty similar because they were based on the same intelligence. The same thing was said by other Democrats and Republicans, by people in the administration, by people in the former administration. I do not think it is appropriate to assign deliberate motives to mislead to any of those people.

I myself believe that the information was not correct with respect to the weapons of mass destruction but that the people who were giving it to us honestly believed it was correct. So I don't even think the people in the CIA were deliberately misleading anyone, though they turned out to be wrong. Can't we agree that people make mistakes, especially with respect to that murky area of intelligence where nothing is ever black and white, where everyone is always gathering bits and pieces of information and trying to construct a jigsaw puzzle out of it when a lot of pieces are missing and where the enemy is deliberately trying to deceive you? It is very difficult business. While I am somewhat critical, as a member of the Intelligence Committee, of the people who were engaged in the activity at the time, I don't question their motives either.

The other fact that I think is true is that it would be wrong for us to leave Iraq now. This is where I would disagree with Congressman MURTHA. I believe the consequences of leaving or setting up a timetable to leave soon, before the job is done, would not only be absolutely devastating for the people in Iraq who have been trying to set up their own government but would also set us back in the war against these terrorists, these evildoers, these radical Islamists who are watching very carefully what we do in Iraq. When you remember what Saddam Hussein said about the weak horse and the strong horse, you know how important it is for the United States to maintain a firm, strong position with respect to completing the job in Iraq.

To the extent that there is a suggestion that we will back out if they keep enough pressure on us, it does play into their hands because they simply play the waiting game in order to wait us out until they can move in and do more evil deeds. That is where I think the debate comes down. It is a legitimate debate to have, but I think the President is on the right side of that debate. We have to finish the job before we withdraw.

Mr. KERRY. Will the Senator yield?

Mr. KYL. I am happy to.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I respect the comments of the Senator and I appreciate the way he has approached it and I am grateful to him and thank him, as I am sure others do, for his comments about Congressman MURTHA. I know he would agree with me that those who suggested what he is saying is cowardly or suggested that is surrender, that those are words probably inappropriate in this debate. I think the Senator would agree with me that those characterizations have no place here. And he is right about the question of how everybody approached the intelligence. We all did have a unified belief about the existence of weapons—most of us.

But I disagree with the Senator. I would ask him if he does not agree that there are legitimate areas of inquiry, which the Intelligence Committee is now pursuing, with respect to what happened to certain intelligence that came to the Congress? For instance—about five areas. One was the speech that was made by the President, where he referenced nuclear materials coming from Africa which, in fact, the CIA on three different occasions, both verbally and in writing, informed the White House: Don't use this. But nevertheless it was used.

Whether that was intentional or inadvertent, all we know is that winds up being misleading because the CIA disagreed with the evidence.

Likewise, telling America they could deliver biological, chemical weapons within the period of 45 minutes, which was disagreed with in the intelligence community, was not signed off within the intelligence community.

Likewise, suggesting Iraq had trained al-Qaida in the creation of bombs, bomb making, and poison creation—not agreed by the intelligence community; in fact, erroneous.

Likewise, as the Vice President said on several occasions, that there was a meeting between Iraq and al-Qaida operatives, a meeting that the intelligence community did not substantiate, which we now know did not take place.

Those are, on their face, misleading representations made to us, which Members of the Congress operated on. I would assume the Senator would agree the mere fact that there were no weapons of mass destruction means we were all misled. Whether it was intentional is the operative question.

I can't tell you whether it was intentional. But I certainly know that when you ignore the CIA's warnings, don't use this intelligence, and nevertheless it winds up in the State of the Union message, there is a disconnect that raises the most serious questions, that leaves a lot of us wondering.

I ask the Senator, does he not agree that those instances where the intelligence community is in disagreement and they don't tell us they are in disagreement and we don't get the same intelligence, provides some serious questions?

Mr. KYL. Mr. President, I was very happy to have the Senator from Massachusetts take a long time to make a lot of points, asking an important question. Therefore, I am happy to engage in what amounts to a debate on the issue. I would be delighted to comment on the specifics that he points out.

I served on the Intelligence Committee for 8 years during this period of time and have a fair degree of information about it. I need to reflect a little bit carefully about what one can now say because, after a while, you realize, when you are on the committee, it is better not to say a lot because it might be one of the things you should not be talking about. But I think I should speak to each of these items.

The last one first. No, I don't agree that being in error is the same as misleading. I don't think that the people in the intelligence agencies were misleading us. They were, in some instances, in error. Frequently, they expressed their views with caveats and degrees of certainty that, frankly, are not reflected in the public debate.

Mr. KERRY. Mr. President, will the Senator yield?

Mr. KYL. Let me make my point here. They have a very careful way of expressing their views. In the public debate, I have noted the political people are not nearly as nuanced and careful in expressing these views as the member of the intelligence community is.

Second, with respect to that, ordinarily the way that views were expressed to us, and specifically in this case, they represented the majority opinion or the consensus within the intelligence community. Where there were significant questions or differences of opinion within the intelligence community, those were noted and sometimes with respect to some issues, there were divisions. Without getting into a lot of detail, there has been a lot of talk about another issue that the Senator did not raise, the so-called aluminum tubes. Without getting into a big debate about it, you had the majority of the intelligence community believing that those were for one purpose related to production of nuclear materials. And you had a couple of other agencies that had expertise in the area saying they didn't think so.

I am not sure that anyone has ever concluded which were actually correct, or not, but a lot of information has been thrown out that clearly the majority opinion was wrong. I don't know that one can say that.

So I think we have to be careful. There are frequently, in intelligence estimates, little caveats: We are not sure how good this particular source is; we are not sure about this particular element.

But usually a consensus is reached. That consensus is what was briefed to us and that is what we were relying on. With respect to the four specific points—with respect to the issue of yellow cake coming from Niger, it was a fact that the intelligence the United States had was not nearly as conclusive as the intelligence from Great Britain, and therefore the President was advised—not the President himself directly but his speechwriters were advised—not to suggest that our intelligence confirmed the attempts of Iraq to acquire this nuclear material from Niger but rather to refer to a different intelligence service which, in fact, had concluded that the attempt had been made. That was the British service and that was the reference in the speech. The British service still stands by its position.

With respect to the bioweapons, there was very good evidence to suggest, prior to the war, that Saddam Hussein not only had a viable bioterrorism program but that he had even mobilized—in one respect, mobilized that program.

I am not certain we can say, from the Senate floor, how we have finally evaluated the intelligence with respect to that. I think it would be probably difficult for any Senator to discuss the issue in great length. I would be willing to acknowledge that, certainly, questions have been raised about whether it turns out that there were mobile units devoted to creation of bioweapons.

Third, with respect to the intelligence that Iraq agents had actually instructed terrorists in bomb making and poison making, that information was very clear. It was issued by CIA Director George Tenet. It was public information, so that can be discussed on the floor of the Senate, and I am aware of nothing that draws any question about that particular evidence. I do not recall whether it specifically related to al-Qaida or terrorists or al-Qaida-connected terrorists. I probably should not speak to that issue because I am not certain how much is classified. But it is absolutely certain in public testimony, and in a letter George Tenet specifically sent to the Congress he discussed the issue of Iraq training terrorist bomb makers in the art of chemical weapon-making.

Finally, in regard to this alleged meeting that never actually occurred, if it is the meeting in Czechoslovakia that the Senator was referring to, that is a matter of dispute. I don't think it has ever been resolved one way or the other.

The point of all of this is it is one thing to say the intelligence was inconclusive and in some cases that there were disputes in the intelligence community and in some cases it was not accurate. It is quite another to allege that the people who used the intelligence were misleading other people.

Certainly, I was not deliberately misleading anyone, and I am certain the Senator from Massachusetts was not deliberately misleading anyone when we said roughly the same thing based upon the same intelligence that suggested that Saddam Hussein was a threat and had weapons of mass destruction.

The final point on this, and then I do want to turn to the PATRIOT Act, there is a bit of a double standard in that critics of the administration are now saying: You can't just look to the consensus opinion, you need to look at some of those within the intelligence community who were dissenting about certain aspects of intelligence, the so-called nuggets. If you look deeply into this report, you will find there was some element of it that did not quite jibe with the rest of the consensus or there was some entity in our Government that didn't totally agree with the consensus opinion. As I said, you are going to see that through any national intelligence estimate or any other description of intelligence analysis.

We encourage that. One of the 9/11 Commission recommendations, and the other commissions that have looked into this, is that there is not enough devil's advocacy going on. There is too much ''group think'' within the intelligence community. So it is a good thing to have that intelligence questioned.

I remember there was actually criticism of Vice President CHENEY because he went down to the CIA headquarters and had the temerity to ask these agents: Are you sure about this? Are you sure about this intelligence?

They said: What's he doing that for?

He is a so-called consumer of the intelligence. He has every right to say: Are you absolutely sure of this?

People within the administration should be questioning as well. That is why I think it is so unfortunate that there is, literally, a cabal to attack the Defense Department for questioning some of the intelligence community's estimates—not all of which turned out to be right, as we know. But there is an investigation that has been actually formally requested. In order to get it resolved, the Defense Department has agreed to conduct an inspector general's investigation into one of the offices of the Department of Defense, into the question of whether it should have questioned the intelligence of the

CIA and taken its analysis and its questions to other people within the Defense Department or the national security apparatus of the administration.

Why not? The whole point of these commission recommendations is people ought to be asking questions. The CIA is not a monastery of monks who get manipulated intelligence that nobody else ever looks at. The whole point of gathering intelligence is so our policymakers can use it and make decisions based upon it. When the policymakers have questions about it, they have every right to ask those questions. And when there is some evidence that suggests the intelligence is not exactly accurate, they have a duty to raise that kind of issue.

There is a bit of a double standard going on that when one wants to criticize the administration and wants to play devil's advocate, there was a little bit of evidence over here that contradicted the consensus in the community, and we should have paid more attention to that. Maybe so. You can't turn around and criticize those, in this case, in the Department of Defense who saw the same infirmities, and who had questions about the CIA intelligence and now are being criticized because they had the temerity to raise those questions. You can't have it both ways.

In reality, intelligence is an imperfect proposition at best, and we ought to be playing devil's advocate and be asking tough questions about it. But I daresay, unless you get very good evidence that someone was deliberately lying or misleading, you shouldn't throw those kinds of words around.

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

Mr. KYL. I would be happy to yield.

Mr. SESSIONS. I hope every Senator was listening to Senator KYL's explanation of the important issues that have been raised. I hope the American people are listening. He served on the Intelligence Committee. He has been through these debates from the very beginning. He is a man of integrity, and he will be responsible in summarizing the matters that came before us.

He indicated that we hear allegations that things were black and white, when those of us who heard the briefings didn't hear them that way. They weren't black and white. The aluminum tubes—I ask the Senator from Arizona, regardless of the detail of it, whether he heard from those who debriefed us and got various opinions about that issue, and we were not misled. We were told there were various ways to interpret that evidence, were we not?

Mr. KYL. Mr. President, I say that is exactly right. In fact, the National Intelligence Estimate itself specifically characterized the dissenting as well as the majority views with respect to what those tubes were for. The majority view was that they were for centrifuge, for weapons material production. The minority view was they might be for artillery shells, or some other kind of projectile. There were two agencies within our government that held that latter view. The majority of the intelligence community held the former view.

But, yes, I remember as a member of the committee being briefed on that and hearing testimony on it numerous times.

Mr. SESSIONS. That was before 78 Members of this body—a majority of the Democratic Members along with a majority and maybe all of the Republicans—voted to authorize hostilities in Iraq.

Mr. KYL. That is true.

Mr. SESSIONS. We knew these subtleties and disagreements, and we were given the best estimate that the intelligence agency was given.

Let me ask the Senator this: The CIA is the Central Intelligence Agency. The Senator talked about the contradiction between saying at one point you should follow one or the other, or the minority opinion. Is one of the responsibilities of the CIA to review all intelligence and help advise the President, as that central agency, what he should take as reliable?

Mr. KYL. Mr. President, the Senator from Alabama is absolutely correct. There is an important factor the American people need to understand. There is not just one intelligence agency, the CIA; there are lots of different elements of our Government gathering information, a lot of it secret information. They meet as a group to try to put this together and to reach a consensus. But when the estimates are briefed to us and to the President, they try to arrive at a consensus. Frequently, that consensus is less certain because there are some dissenting views that characterize the consensus. Doubts are expressed in certain technical ways.

It is one thing for the community to say it is the community's judgment; of course, that is stepping down from saying we know it as a fact. A judgment is not fact, it is an opinion. Then there are further gradations down. We are exposed to those same—these are all footnoted. We all know who believed what. But at the end of the day, in order for us to get good advice, they try to put it together in a form that reaches a conclusion. Sometimes because there are differences within the intelligence community, those conclusions are not as certain or as certainly expressed as they are on other occasions because of that uncertainty.

Mr. SESSIONS. That is beautifully expressed. I think that is so important for us to know.

I want to drive home one point. The Senator from Massachusetts and other Senators have been complaining about these matters. I remember the briefings we attended. Every Senator was invited. Every Senator had the right to ask questions. People stayed late, if they chose to, and asked additional questions. They were given these nuanced opinions. It was only after all that, was it not, that this Senate, after full debate, voted to authorize military actions in Iraq.

Mr. KYL. Mr. President, the Senator from Alabama is correct. I would say that we should not make too much of these nuance opinions and disagreements. In one sense, they are important; but in another sense, you have to balance that against the fact that there was a mountain of evidence in different areas that all add up to the same proposition. And add to that—some of that turned out not to be correct—but add to that the element of judgment.

This can't be overemphasized. Intelligence analysts apply judgments and common sense to the evidence that they have. Because the evidence is rarely black and white, you very rarely get the bad guy to say, I will tell you everything I know, and it is everything you need to know about this. So you have to exercise judgment.

After the first gulf war, we later learned that Saddam Hussein was about 6 months away from having a nuclear weapon program. That is fact No. 1.

Fact No. 2: Throughout the ensuing decade, he hid his programs. He tried to deceive the inspectors. He refused to comply with U.N. resolutions to release information. One could, therefore, surmise—or at least it would not be a bad presumption to engage in—that if he had it at one point, or almost had it, we had evidence he was trying to get it. Again, he was hiding the ball at every opportunity. The intelligence analysts have to say, Which way am I going to presume this, that he does or that he doesn't? They concluded that there is every indication that we had better assume that he does.

The policymakers have to take that a step further. We say they are not absolutely certain; they are pretty sure, but they are not absolutely certain which way we should flop on this. Should we flop to the direction of inaction? Let's wait until we have absolute proof before we do anything, or go the other way? This is pretty dangerous business. If, in fact, he has, we had better act now before it is too late.

We think we will take the action that is based upon the proposition that he will have it. That is a judgment that we engaged in.

As my colleague, the Senator from Arizona, so eloquently has pointed out, the choice was when, not if, we would face Saddam Hussein. The question was, would we do it on his terms or on ours? We chose to do it on ours. The result is Saddam Hussein today stands trial for mass murder. The Iraqi people have an opportunity for freedom, and we have an opportunity to transform that region of the world into one that supports peace and opposes evildoers and terrorists as opposed to one which was a hot bed when Saddam Hussein was in charge.

Mr. SESSIONS. Mr. President, again, I thank the Senator for his thoughtful

and thorough analysis of how we came to know what we knew and how we came to make the decisions about matters that came before us. We think there is no doubt that Saddam Hussein used weapons of mass destruction against his own people. We know that. That is indisputable. Where it went subsequently I don't know, and people are shocked that we have not found them. We know that the French intelligence agency—the French Government opposed our entry into the war—believed he had weapons of mass destruction.

Those matters were very important. And what I am so glad about is people have heard what Senator KYL said and discussed, which is relevant to this Senate. We knew these things, fellow Senators. We discussed these things. Grown people make decisions based on the best evidence they have.

We had many hearings, top secret briefings, and every Senator could go. We heard the argument. We heard the evidence. We cross-examined, and we heard the uncertainties and certain levels expressed by the authorities that came before us. Then we came into this body and we voted to send our soldiers to execute our policy in harm's way. And we owe those soldiers our support. We don't need to be undermining the President, or even ourselves and our system, as in this circumstance making the policy. We voted by a 78-to-22 vote to make it more difficult to achieve and to place our soldiers at greater risk.

I thank the Senator for his wonderful comments.

THE PATRIOT ACT

Mr. KYL. Mr. President, I want to get to the matter I came to speak on, the PATRIOT Act.

The Senator from Massachusetts spoke to us about having respect for one of our colleagues in the other body who is, in fact, a patriot and who certainly should never be called a coward.

I also want to ask that same deference to those in the Defense Department and others who were doing their duty for our country, who could have been in the private sector making a lot of money and taking care of their families but chose to serve their country in another way in later life by acting on behalf of all of us in matters of national security. The Secretary of Defense, Don Rumsfeld, Paul Wolfowitz, Doug Fife, who headed the office I spoke of, these are patriots. And for anyone to suggest that someone like Doug Fife or Don Rumsfeld or Paul Wolfowitz were misleading anyone is, frankly, about as low as you can get. And even loose words such as ''unlawful'' have been thrown about.

This is a very bad state of affairs that we have come to when that is the kind of discourse we have in talking about people who have served our country honorably. I hope my colleagues will join me in trying to elevate the rhetoric rather than taking it down further. And that applies to everybody—Democrat and Republican Members of Congress, or the administration.

I came to talk about the PATRIOT Act. I would like to make some comments because we are in the middle of a big debate in the Senate and House about the reauthorization of the PATRIOT Act. If we don't reauthorize the PATRIOT Act, all of the tools that we have given to our law enforcement and intelligence community to help us win the war on terror are going to—not quite, but most of those tools will cease to exist. They will expire. That is why we have to reauthorize it.

Just as it is important for us to give the men and women in the military the tools they need in the missions we send them on, the war on terror, so, too, it is for us to ensure our law enforcement and our intelligence people have the tools they need to carry out the mission that we ask of them.

In the war on terror, intelligence and the ability to use it in the law enforcement community are critical to our success.

One of the greatest things we accomplished after 9/11 in passing the PATRIOT Act was to tear down the wall that had been created between our intelligence-gathering organizations and law enforcement. They couldn't talk to each other. One could gather information, but they couldn't give it to the other, and vice versa.

As a result, neither were able to do their job in getting information about terrorists and putting out that information to proper and good use.

There is virtually no disagreement that I know of that this part of the PATRIOT Act has been critical to our success since 9/11. Yet there are those on both sides of the aisle in this body who are threatening to hold up the reauthorization of the PATRIOT Act because they haven't gotten their way on every little thing that they want, and some of them don't even know what the conference committee has been negotiating. I am on that conference committee and I know what we have discussed, and I know what is still a matter of issue out there.

I want to talk a little bit about the PATRIOT Act because there is a great deal of ignorance about what this important tool does for our war on terror. And we cannot be ignorant, even though it is a matter of law and a little bit complicated. We don't have the luxury of being ignorant about this. We have to understand it to appreciate it.

I will speak to that for a little bit.

I believe, like some great controversies of the time, history books will record that the controversy over the PATRIOT Act was actually something we will look back on and say, What was all the fuss about? It is a little bit like when President Reagan talked about tearing down the wall and calling the Soviets the ''Evil Empire.'' There was great handwringing. This was not going to be good for our foreign policy. We look back on it now and say, What was all the fuss about? He was right. It was a good thing.

Those who are threatening to hold up the reauthorization of the PATRIOT Act should have pretty much the same words spoken to them about the wall. This time we are talking about the wall between intelligence and law enforcement. I say to them, ''Tear down this wall.'' We did it in the PATRIOT Act. They are about to let the PATRIOT Act expire because they have some view that every little thing they want has not gotten accomplished in the PATRIOT Act.

This is important business. For those who are threatening to prevent the reauthorization of the PATRIOT Act, I challenge them to come to the Senate today, tomorrow. I will be here. Let's have the debate.

What are the big deals in the PATRIOT Act? The biggest is the wall coming down, as I said. There is no disagreement about that. Yet, it is going to go right back up if we do not act.

The second provision in the PATRIOT Act that people have focused on is the so-called section 215 which allows a FISC, Foreign Intelligence Surveillance Court, to issue subpoenas to produce business records. That authority has been in the law for a long time. But we added it to the PATRIOT Act in order to allow the FBI to seek an order from this special court that was created for:

> . . . the production of tangible things (including books, records, papers, documents, and other items) for an investigation to obtain foreign intelligence information.

Not to obtain foreign intelligence information. And FISC defines ''foreign intelligence'' as information relating to foreign espionage, foreign sabotage, or international terrorism.

Section 215 is basically a form of subpoena authority, such as that allowed for numerous other types of investigation. A subpoena is merely a request for particular information. Unlike a warrant—and this is important—a subpoena does not allow a government agent to enter somebody's property and take things. It is only a request. If the recipient objects, the Government must go to court and defend the subpoena and seek an order for its enforcement. Most Federal agencies have the authority to issue subpoenas, and many agencies have multiple subpoena authorities.

The Justice Department has identified over 335 different subpoena authorities in the United States Code. One can hardly contend that although the Federal Government can use subpoenas to investigate Mohammed Atta if it suspects he is committing Medicare fraud that it should not be allowed to use the same powers if it suspects he is planning to fly airplanes into buildings. What sense would that make?

Some critics argue that most of the existing authorities are different because section 215 subpoenas do not relate to heavily regulated industries

like some of the other subpoenas. But even subpoenas issued to investigate the industries are used to request information from persons outside the industry. For example, the Small Business Administration is authorized to use subpoenas to aid its fraud investigations. When it uses that subpoena, it can and often does request information from others doing business—from anyone doing business—with the recipient of the SBA loan.

In one important way, the authority in section 215 of the PATRIOT Act is even narrower than the authority given by most subpoena statutes. This is critical. Unlike these other authorities, a section 215 order must be preapproved by a judge. Many people who debate the PATRIOT Act ignore this or do not know it. They say, you do not even have to get a court order. It must be preapproved by a judge. Even grand jury subpoenas, despite their name, are simply issued by a prosecutor conducting a grand jury investigation with no judicial review prior to their issuance.

Chief among the complaints made by critics of this section is that it could be used to obtain records from bookstores or libraries. Some of these critics have even alleged that section 215 would allow the FBI to investigate someone simply because of the book he borrows from the library. Section 215 could, in fact, be used to obtain library records, though neither it nor any other provision of the PATRIOT Act specifically mentioned libraries or in any way is directed at libraries. Section 215 does authorize court orders to produce tangible records and that could theoretically include library records.

Where the critics are wrong is in suggesting a section 215 order could be obtained because of the books that someone reads or Web sites he visits. Section 215 allows no such thing. Instead, it allows an order to obtain tangible things as part of an investigation to obtain foreign intelligence information, information relating to foreign espionage or terrorism or relating to a foreign government or group and national security.

By requiring a judge to approve such an order, section 215 assures these orders will not be used for an improper purpose. And as an added protection against abuse, the PATRIOT Act also requires that the FBI fully inform the House of Representatives and the Senate every 6 months. These checks and safeguards leave FBI agents little room for the types of witch hunts the PATRIOT Act critics conjure up. Any use of the subpoenas, in other words, must be reported to us.

Further, and I ask Members to think about this for a moment, especially in view of some of the criticism that has been leveled at the act, I would like to emphasize there are very good and legitimate reasons why an intelligence or criminal investigation might extend to a bookstore or a library. One example former Deputy Attorney General Comey has cited is the investigation of the Unabomber, Ted Kaczynski. Remember that the Unabomber's brother had relayed to Federal agents his suspicion that Ted Kaczynski was behind this decades-long string of mail bomb attacks. At the time, the Unabomber had recently published this manifesto which cited several obscure and ancient texts. In order to confirm the brother's suspicions, Federal agents subpoenaed Ted Kaczynski's library records and discovered that, in fact, he had checked out these same obscure texts cited in the manifesto.

Section 215 also could have been used directly to investigate the perpetrators of the September 11 attacks. How so? We now know that in August of 2001 individuals using Internet accounts registered to Nawaf al Hazmi and Khalid al Midhar used public access to computers in the library of a State college in New Jersey. The computers in the library were used to shop for and review airline tickets on an Internet travel reservation site. Al Hazmi and Al Midhar were hijackers aboard American Airlines flight 77 which took off from Dulles Airport and crashed into the Pentagon.

The last documented visit to the library occurred on August 20, 2001. On that occasion, records indicate that a person using Al Hazmi's account used the library's computer to review September 11 reservations he had previously booked.

In August of 2001, Federal agents knew that al Midhar and al Hazmi had entered the United States. They initiated a search for these individuals because they knew they were associated with al-Qaida. Had the investigators caught the trail of these individuals—and by the way, one of the criticisms in the 9/11 Commission Report was that our Government did not adequately pursue these two individuals; that there was a lot of evidence they could have pieced together. They didn't follow it. They let them out of their sights, at which point they were gone. They knew they were here, but they could not find them. Had they followed the trail of the individual and had the PATRIOT Act already been law, the investigators would have likely used a section 215 to use the library records to see the Internet trail, and history might well be different.

Finally, over half a dozen reports submitted by the Inspector General of the Department of Justice have uncovered no instances of abuse involving section 215. The latest public report indicates this authority has been used approximately three dozen times—not all related to libraries, of course. Section 215 is not used very often. But we know that when Federal agents do use it, it is for an important purpose. I cannot imagine that any one of us would want to stop Federal agents from using section 215 in the way it has been used.

There were those who said we should have some additional restrictions on section 215; even though it is an important tool, we need it further restricted. So the conference committee said, all right, let's first make sure we have a new statutory relevance standard so there is no question the information obtained has got to be relevant to the foreign intelligence investigation.

Another concession made was that there would be a three-part additional test which would be put in place to presume relevancy if you can satisfy this three-part test. It is going to further complicate things, further delay things. It is not going to be easy for the Justice Department to prove.

Moreover, another layer of bureaucracy was imposed with so-called minimization standards. The Department of Justice would be required to put into regulation limits on how long the material could be kept, who it could be given to, and so on and so on.

Those who had concerns about section 215 brought those concerns forward and those have been negotiated. I know of no further issue relating to section 215 in the conference that Members of either side of the aisle have brought forward. So those of my colleagues who have said we are going to filibuster the conference report on the PATRIOT Act because, among other things, it has this section about library records. They ought to get informed about the section, and they also ought to appreciate the fact that the people who have negotiated this on both sides of the aisle, on both sides of the Capitol, have concluded they are now done with this section. We have put everything in there we need to to further ensure it can never be abused, but we want to retain it as an important part of our tools in fighting terrorism.

The second of the three sections I discuss is section 213, the delayed notice searches. This is the so-called ''sneak and peek'' search. It is an unfortunate name. Section 213 of the act merely codifies judicial common law, allowing investigators to delay giving notice to the target of a search that a search warrant has been executed against him. Section 213 allows delayed notice of a search for evidence of any Federal criminal offense if a Federal court finds reasonable cause to believe that immediate notice may result in endangering the life or physical safety of an individual, flight from prosecution, destruction, or tampering with evidence, intimidation of potential witnesses, or would otherwise seriously jeopardize the investigation. Notice still must be provided within a reasonable period of the warrant's execution, though this period may be extended for good cause.

The ACLU, in particular, has been critical of section 213. One might think an organization seeking to find fault with this section that deals with the war on terrorism might focus on something other than this particular PATRIOT provision because all it does is codify authority that has been allowed

by the Federal courts for several decades. This is not new. The ACLU alleges that section 213 expands the Government's ability to search private property without notice to the owner. It also states that section 213:

. . . mark[s] a sea of change in the way search warrants are executed in the United States.

And it finally has charged that as a result of the section 213 authorization of delayed notice, ''you may never know what the government has done.''

None of these allegations is true. First, the target of a delayed notice search will always eventually ''know what the government has done'' because section 213 expressly requires that the Government give the target notice of the execution of the warrant ''within a reasonable period of its execution.'' Section 213 clearly and explicitly authorized only delayed notice, not no notice.

Further, section 213 neither ''expands the government's ability'' to delay notice nor can it even remotely be described as a ''sea change'' in the law. Twenty-five years ago the U.S. Supreme Court established that ''covert entries are constitutional in some circumstances, at least if they are made pursuant to a warrant.'' That citation is Dalia v. U.S. Congress first authorized delayed notice searches 35 years ago in the 1968 Omnibus Crime Control Act. These searches repeatedly have been upheld as constitutional.

In 1990, the U.S. Court of Appeals for the Second Circuit held:

Certain times of searching or surveillance depend for their success on the absence of premature disclosure. The use of a wiretap, or a ''bug,'' or a pen register, or a video camera would likely produce little evidence of wrongdoing if the wrongdoers knew in advance that their conversation or actions would be monitored. When nondisclosure of the authorized search is essential to its success, neither Rule 41 nor the Fourth Amendment prohibits covert entry.

You can see why this is so. There are certain circumstances where you cannot let the ''bad guy'' know you are listening in on his conversations.

To the extent the ACLU intends to suggest that delayed notice searches are unconstitutional, it bears mention that the U.S. Supreme Court has already addressed that view. I mentioned the 1979 Dalia case in which the Supreme Court described that argument as ''frivolous.''

If anyone would still wish to argue that section 213 is controversial, I would note that on this point, too, the conference committee has resolved the only issue that was in contention. The Senate passed a bill that substantially reenacted section 213 with no restrictions on authority. The bill was, by the way, reported out of the Judiciary Committee on a unanimous rollcall vote, which means even the most vocal critics agreed to it, and it later passed the full Senate by unanimous consent. The only debate in the conference over section 213 is what the presumptive time limit should be for investigators to return to court to renew the delay-in-notice provision.

The Senate bill included a presumptive delay of 7 days, the House bill a presumptive delay of 180 days, with no provision for longer delay in particular cases. The conference committee has agreed to 30 days. I suggest that is an eminently reasonable compromise. And for all the huffing and puffing about so-called ''sneak and peek,'' this is what the real debate has come down to.

I have one more matter, and I will conclude very quickly, Mr. President.

The other section, the third section, is this one on roving wiretaps. It simply allows terrorism investigators to obtain a wiretap for any phone that a suspect uses rather than limiting the wiretap to a particular phone. Criminal investigations already have this authority. The PATRIOT Act simply updates the law to give terror investigators the same authority. As I said, this particular section is no longer in controversy. To my knowledge, all questions have been resolved in the conference committee on this.

Mr. President, I conclude by noting that the conferees have made a very good-faith effort to iron out differences, to add additional protections, preventions of abuse. What it boils down to is we have a law that finally gives law enforcement and the intelligence community the tools they need to fight terrorism. It brings down the wall that prevented them from cooperating in the past. It provides adequate safeguards to ensure that no liberties are being diminished. It applies only to the investigation of terrorism and crimes by terrorists against the citizens of the United States. It would be a pity if we did not move forward to reauthorize this important piece of legislation before it expires.

I renew my challenge to my colleagues. If anyone wants to discuss this, or debate it, I will be here today. I will be here tomorrow. For that matter, I will be here Monday if they want to do it. It is important we get this done and not leave here until we have given our law enforcement officials the tools they need to protect us.

Mr. LEAHY. Mr. President, the current consideration by the Congress of a rewrite of the USA PATRIOT Act is a significant event. These are important issues, and they have become increasingly important to the American people.

This bill, more than any other, must have the confidence of the American people. I understand that and Chairman SPECTER understands that. I commend the chairman for his commitment to work in a bipartisan manner, both during the committee process and throughout the House-Senate conference. He and I agree with the vast majority of Americans that a reauthorization of the PATRIOT Act's expiring provisions must be accomplished in a bipartisan process, not in a bitter, partisan battle.

The PATRIOT Act suffers from an image problem. This perception problem stems in large measure because of the rhetoric, practices and secrecy of the Bush administration and the Ashcroft Justice Department. The antidote is clear and it is simple—less secrecy, more congressional oversight, more judicial review and an adjusted balance that better protects the rights and liberties of all Americans.

That is what we produced here in the Senate when first the Senate Judiciary Committee and then the Senate unanimously adopted our PATRIOT Act reauthorization bill. We worked together and we did so in a timely manner, completing our work in July. The Senate appointed conferees immediately. Regrettably, the House did not follow suit. They delayed more than 3 months until November 9, just last week and just a week before Congress was scheduled to recess. We lost 3 months that we could have used to find common ground and create a better bill. Unfortunately, the House Republican leadership played games with the PATRIOT Act while the clock was ticking.

Even last week, with conferees newly appointed by the House, I was hopeful that in our limited time, we could negotiate in good faith and reach a bipartisan, bicameral agreement. We made some progress over the weekend on important issues, reaching a tentative agreement on improved reporting requirements that would shine some light on the use of certain surveillance techniques. I believed that we were close to striking a reasonable balance on the core civil liberties issues raised by the PATRIOT Act.

But on Sunday, the Bush administration stepped in and, with the acquiescence of congressional Republicans, the bipartisan negotiations were abruptly ended. The curtain came down. Democratic participation was excluded from the process. As a result the tentative agreements were scuttled based on Bush administration demands.

Further impeding bipartisan progress, the conference report was being loaded up with controversial provisions that had nothing to do with the PATRIOT Act, terrorism, or anything in either the House or Senate-passed bills. The PATRIOT Act suddenly was being used as a vehicle of convenience to pass laws that could not be passed on their own merit. This overreaching by the House Republican conferees caused more time to be lost, and because of the ill-advised choices that were made late in this process, the conference report is not what it should be.

The needless and divisive chapter in the late stages of what should have been—can what could have been—an open and bipartisan conference threatens to undermine national consensus on this bill. Sadly, it also threatens national confidence in how we as a Congress can best address these important issues. Before the Bush administration butted in and grabbed the reins, we were close to a compromise that could have been acceptable to almost all members of Congress and to the American public. This is not that conference

report. I am not sure that this conference report can win the confidence of the American people. Rather than seek common ground with the Congress and with the American people that we represent, the Bush administration and Republican conferees have taken and abused their power and taken terrible advantage.

Just 2 months ago, we observed the fourth anniversary of the horrific attacks of September 11, 2001. In the aftermath of the attacks, Congress moved quickly to pass anti-terrorism legislation. The fires were still smoldering at Ground Zero when the USA PATRIOT Act became law on October 30, 2001, just 6 weeks after the attacks.

Many of us here today worked together in a spirit of bipartisan unity and resolve to craft a bill that we had hoped would make us safer as a nation. Freedom and security are always in tension in our society, and especially so in those somber weeks after the attacks, but we tried our best to strike the right balance. One of the fruits of that bipartisanship was the sunset provisions contained in the PATRIOT Act. These sunsets have allowed us some opportunity to obtain key information Americans have a right to know, and to revisit these matters to add more sunshine and oversight. Those sunsets were supported by Dick Armey, the Republican House majority leader and by me in the Senate an unlikely duo I concede, but in this case, a successful and productive alliance that proved to benefit the American people. We prevailed, thank goodness.

Sadly, the Bush administration and Republican congressional leadership has largely squandered this opportunity to refine the PATRIOT Act. Instead, they are insisting on a continuing assault on habeas corpus rights and adding other extraneous matters. Working with Chairman SPECTER, we are insisting on modifications to the conference report that will make it more protective of civil liberties and increase opportunities for oversight, including a 4-year sunset.

I thank Senators KENNEDY, ROCKEFELLER and LEVIN for their efforts to improve the draft circulated to us this week. I know that some Senate Republican conferees were not satisfied that the draft fully protected Americans' civil liberties and thank them for working to improve this important measure. I hope that the other conferees will work with us to arrive at a conference report that we all can support and that we can take to the American people together.

If the Bush administration would cooperate with us—the people's representatives—we will be better able to refine the authorities and uses of national security letters and the other tools provided in the law. Without that cooperation, with the veil of secrecy cloaking so much activity, neither Congress nor the American people will know or trust what the government is doing.

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

Mrs. HUTCHISON. Mr. President, I thank the Senator from Arizona for the passion and commitment he has to the protection of our law enforcement officers, who are doing a great job for us. I appreciate what he is saying and doing.

UNANIMOUS CONSENT AGREEMENT—CONFERENCE REPORT TO ACCOMPANY H.R. 2528

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that there be 1 hour of debate equally divided between the two managers in relation to the conference report to accompany H.R. 2528, the Military Quality of Life and Veterans Affairs appropriations bill. I further ask consent that following the use or yielding back of time, and when the Senate then receives the conference report, it be immediately considered, and the conference report be adopted, with the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I believe what we bring before the Senate today is a product worthy of our support. The conference report has been crafted under two different approaches. What I believe has emerged is not only a good compromise but also makes strides in both oversight and policy. What has emerged is a solid recommendation.

I thank my chairman, Senator COCHRAN, for his leadership. This subcommittee faced some extreme budgetary shortfalls, and without his leadership, and basically allocating more resources to this committee, we would not be able to bring this conference report to the Senate today.

I also especially thank my ranking member, Senator FEINSTEIN, for her constant support and willingness to work together. I thank her staff as well: Christian Evans, B.G. Wright, and Chad Schulken for their hard work and professionalism, along with my great staff, Tammy Cameron, Dennis Balkham, and Sean Knowles. It has been a team effort and I appreciate that so much.

The military construction portion of our bill provides $6.2 billion for military construction, $5.1 billion of which is for Active Component construction, and $1.1 billion for Reserve Component construction. It also includes $4 billion for family housing. There is $1.75 billion for BRAC implementation and cleanup for both 2005 and prior rounds. The conference agreement also provides necessary services for our service men and women and their families, not only enabling them to effectively do their jobs, but also providing an improved quality of life in our military communities. This is important for many reasons. Of course, it is the right thing to do for our military. It is also the smart thing to do with our tax dollars. In this time of war and frequent deployments, recruiting and retention, maintaining a ready and available workforce is very much on the minds of our military leaders. We often say, in this era of an All Volunteer Force: You recruit individuals, but you retain families. The quality-of-life improvements that make our military communities great places to live are crucial in the retention of military families. Within this conference report before you, we fund projects that will improve the lives of those families. We fund 11 family housing privatization projects, which will provide high-quality, market-standard housing for nearly 15,000 military families; 39 barracks projects that will get our single soldiers, sailors, airmen, and marines out of substandard living conditions, or, in some cases, off ships and into first-rate facilities; and schools, child development centers, and family support centers that will ensure our servicemembers' children and spouses are cared for, are included in this bill.

These improvements make it easier for troops to deploy, to focus on their day-to-day jobs, while giving them the peace of mind that comes with knowing their families and homes are taken care of, so they can give their attention to the job we are asking them to do—protecting America. The conference report provides the first piece to the most recent BRAC round. With the funds provided, it places priority on those funds which are critical to carrying out BRAC, while providing the necessary financial oversight of the resources provided.

For our veterans, we have fully funded the President's request for veterans benefits and health care. This has not been easy. House and Senate conferees have provided $22.547 billion for medical services, which includes $1.225 billion in emergency funding to fully meet the President's amended request for medical care for the country's veterans. This conference has strongly responded to the VA's recent budgetary shortfall by putting in place stringent financial reporting requirements in an effort to avoid the repeat of budget crises witnessed this summer in VA health care.

We have fully funded the request for medical facilities and infrastructure, totaling $3.3 billion for fiscal year 2006. We have created three Centers of Excellence for mental health care, while at the same time fully funding health care for post traumatic stress disorder and other mental health care throughout the VA.

The conference has funded medical and prosthetic research at $412 million, which is $19 million more than the President's request. This is important because we know many of our troops coming home from Iraq and Afghanistan are suffering from loss of limbs, to a greater extent than we have seen before. So we want the research to make sure the prostheses they have make

them fully ambulatory and able to function in the rest of their lives.

The conference takes the unprecedented step of providing $15 million specifically dedicated to Gulf War Illness research for this year and the next 4 fiscal years, fulfilling the Research Advisory Commission's recommendations on Gulf War Illness. This is a disease for which we must determine the cause so we can treat the one in six who returned from the Gulf War with these symptoms and protect future service men and women from contracting this disorder.

The conference report before you today establishes a new account within the VA dedicated to information technology systems. Not only does this new account provide for increased oversight and consolidated information technology efforts within the VA, it codifies the new position of a VA Chief Information Officer and subsequent reorganization. I believe this is a critical step toward helping the VA achieve success in medical recordkeeping and medical record availability. Its HealtheVet-electronic patient records project paid great dividends during the recent hurricanes.

In fact, the conference report has also responded to the recent hurricanes by providing the VA authority to establish an Assistant Secretary for Disaster Preparedness, something which will enable the VA to better respond to future disaster situations.

Finally, we have provided $1 million over the President's request for the American Battle Monuments Commission for an environmental study to save the eroding monument at Normandy Cemetery.

All in all, I believe the conference report before the Senate provides much-needed resources and does so while maximizing our limited resources in meeting the greatest needs of our military, their families, and our veterans.

On a personal note, I want to say I have worked very closely with Secretary Jim Nicholson of the VA, and I know of his dedication to doing what is right for our veterans, something we all wish to do. I appreciate his leadership. We owe our active-duty military, our Guard and Reserves, who stand ready to serve, and our veterans, who have served, the care of our country. We have achieved these goals in the conference report today.

Therefore, I urge my colleagues to vote in favor of this conference report.

Mr. President, I yield to my ranking member, Senator FEINSTEIN.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I am very pleased to join my chairman, Senator HUTCHISON, in recommending this 2006 Military Construction, Veterans Affairs, and Related Agencies appropriations conference report to the Senate. This is the first year that MILCON has added dramatically to its portfolio, and I want to compliment the chairman of our committee, and I want to compliment her staff for what has been, I think—on what could have been a very difficult bill—a very bipartisan, constructive, team-like, problem-solving effort. I only wish we had more of it in the Senate. But I want the chairman to know how much I am grateful to her for her leadership, and I want her staff to know that as well.

I also thank Chairman COCHRAN—what Senator HUTCHISON said was right about the amount of money—and also Senator BYRD for their leadership and diligence in getting this bill through conference and to the Senate floor.

As the chairman said, the conference report before us today is a first. It provides for the infrastructure needs of our military and the health care and other needs of our veterans.

The bill is a big one. It is an $82.57 billion bill. It includes $12.167 billion for MILCON, family housing, environmental cleanup; $70.25 billion for veterans' benefits and health care—that is the big addition—and $157.6 million for several related agencies.

Of the many vital programs the Senator elucidated as funded in this conference report, none is more important than the funding we provide to meet the medical needs of our Nation's veterans. As a Senator from a State with the largest population of veterans in the Nation, I cannot overstate the importance of this issue. We have to support our veterans to the fullest extent possible.

The conference report before us today provides $22.547 billion for veterans medical services. Included in that level is $1.225 billion in contingent emergency funding to make up the projected shortfall in the President's original budget request. The Senate had sought a higher level of funding, and it was my sincere hope that the House, which had zero emergency funding for veterans in its version of the bill, would have agreed to our position and accepted the full amount provided in the Senate bill. That did not happen. But given the huge disparity between the House and Senate funding proposals, the level of funding provided in the conference report is a good start. I commend, again, the chairman for her hard work—for the cooperation of Senator COCHRAN, chairman of the Appropriations Committee—in bridging the enormous gap between the two bills and ensuring that the conference report did not shortchange our veterans. I do not believe it does shortchange our veterans.

The proposed funding for VA medical services is equal to the level of funding the administration has said it needs for fiscal year 2006. That is clearly a good start. But it offers—and it has to be pointed out—no safety net to our veterans, should the VA's budget once again prove to be wrong. This is a worrisome prospect. Hopefully, the administration got it right this time and the funding will be sufficient, but everyone should know that we will be watching. Additionally, there is much talk floating around the Capitol of an across-the-board cut to discretionary programs. I would like to be clear to everyone, any across-the-board cut to VA medical services will mean cuts in health care for veterans. There is no other way around it. We can't allow it to happen.

As I noted earlier, the medical services proposal includes the $1.225 billion in contingent emergency funding. This means the administration will have to designate the funding as an emergency before it is apportioned to the VA. I want to send this message loud and clear to the administration: Do not sit on this funding and force the VA to have to begin rationing health care. We will not stand for that.

The MILCON portion of the report provides $12.17 billion to fund state-of-the-art facilities. The Senator has mentioned some of them—barracks, housing for military families, and other vital infrastructure for servicemembers around the world.

Army projects were increased by 19 percent; Air Force, by 18 percent; and the Navy, by nearly 8 percent. When enacted, this bill will fund Active-component MILCON at $5.1 billion. We were also able to provide significant increases in funding for Reserve-component MILCON. This is important at a time when our Reserve Forces are being asked to do more than ever before and, in many cases, are being deployed to combat zones overseas multiple times. Ensuring that these troops have adequate facilities in which to train and maintain their equipment is crucial to the success of their mission. To that end, the conferees agreed to increase funding for Army Guard projects by 60 percent, a substantial amount; for Air Guard projects by 83 percent over the President's budget request. In fact, overall funding for Reserve components was increased by 52 percent over the President's budget request, dedicating $1.1 billion for new facilities for our Reserve bases. That is important, and it means that this committee has done an excellent job in recognizing the need.

In summary, I once again thank my chairman, Senator HUTCHISON. I not only enjoy her collegiality but her friendship as well. I want her to know that that means a great deal to me. I thank Chairman COCHRAN and Senator BYRD for their leadership. And I would like to thank our staffs who really worked in what I like to believe is a hallmark, sometimes, of this great body, which is bipartisanship. They have shown an unfailing spirit of cooperation. So thank you, Tammy Cameron, Sean Knowles, and Dennis Balkham for Senator HUTCHISON, and Christine Evans, B. G. Wright, Chad Schulken, and Chris Thompson of my staff.

I yield the floor.

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

Mrs. HUTCHISON. Mr. President, collegiality and bipartisanship is a

two-way street. You can't do it if only one person wants to do the right thing. I have worked with Senator FEINSTEIN. She has been chairman of our committee, and I have been ranking member. I have been chairman, and she has been ranking member. We have always come together to do what is right for the military personnel who are defending our country as we speak today. We both believe in quality of life, good housing, good health care facilities, good childcare facilities, and all the things that we can provide in the purview of our bill. And now we have the veterans, which has been added to our bill this year, which is a great opportunity for us to continue to say thank you to those who have preserved the freedom for our generation.

We have come together on the goals, and I could not ask for a better partner.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from Texas.

Mrs. HUTCHISON. I so appreciate that we can do this in the Senate, which is what we ought to be doing in every committee. I hope by our ability to do this—frankly, the Appropriations Committee, in general, does so—we will be able to create a better America for all of our constituents.

I thank the Chair and yield back all of my time.

Mrs. FEINSTEIN. I do, as well, Mr. President.

Mrs. HUTCHISON. Mr. President, we have already passed the resolution. When it comes from the House, we have deemed that it would be passed here.

With that, 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. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

THE PATRIOT ACT

Mr. SESSIONS. Mr. President, I would like to share some thoughts on the PATRIOT Act which, unfortunately, seems to have reached an impasse. That is distressing to me. I can't imagine that we have allowed this to happen. It is very disappointing. The American people need to understand how important the act is and how little it impacts the liberties which we cherish and how carefully it was crafted so as to not impact our liberties. I would like to share a few thoughts about that.

Many of the key provisions of the act are scheduled to sunset at the end of this year. We will now presumably have to try to come back, in the few days we have in December, to complete the work. That is a very risky thing. We should complete this work today. Remember, those who do not sign up for this legislation, this conference report, or support it and do it today, giving us time to vote on it before we leave for the year, are risking letting the PATRIOT Act expire. And with its expiration, the walls that prohibited our governmental agencies from sharing critical intelligence information will go back up. Those are the very walls that were structured between the FBI and the CIA and other agencies that blocked the sharing of intelligence information that, in retrospect, we believe could possibly have allowed us to find out about and stop the 9/11 attacks. Perhaps not, but those walls, those failures to be able to share intelligence between those agencies were a critical factor in our lack of cooperation prior to 9/11.

We passed the PATRIOT Act to fix that. It has worked extremely well. We should not go back to that time of the great walls.

The PATRIOT Act has, without doubt, made us immeasurably safer. I fully support the act's provisions as originally passed. The main goal of the act was then, and remains today, very simple: to give Federal law enforcement officers, the FBI, and other agencies the same tools to fight terrorists and agents of foreign powers as the tools they have—and virtually every law enforcement officer at the county, city and State level have—to fight other type criminals, drug lords, murderers, and even white collar tax evaders.

I do not believe we acted too hastily in passing the PATRIOT Act. We were focused on this act. We made a commitment not to alter any of the great protections that we had. We negotiated it intentionally. People made the most outrageous allegations and had the most incredible misinformation about what was in it. By the time we completed the intense negotiations and debate for weeks, it was voted for in the Senate by an overwhelming bipartisan majority of 98 to 1. The House voted it with a huge majority also, 357 to 66. This year we passed the bill unanimously out of the Senate Judiciary Committee, a contentious committee, a committee which has civil libertarians on the right and the left. We voted it unanimously out of that committee, and the Senate passed it by unanimous consent. As originally drafted, the PATRIOT Act does nothing to harm the civil rights and liberties of Americans.

I want to talk about that just a little. The Department of Justice inspector general, Glenn Fine, an appointee of President Clinton, has investigated all of the claims of civil rights and civil liberties violations received by the Department of Justice under the act. The independent inspector general found no incident in which the PATRIOT Act was used to abuse the civil rights or civil liberties of American citizens or anyone else.

I do not believe portions of this act must be significantly revised, or have additional so-called protections added. And, I do not believe that sections of this act should be sunsetted. I will share with my colleagues the words of Attorney General Gonzales which he gave in a letter to our conferees as we tried to work out the final words for this act. He wrote to us and said—and no truer words have been spoken:

> The terrorist threat against this country will not sunset, and neither should the tools we use to combat terrorism.

Let me mention a few of the provisions of the act that give us the tools that are so important. One is the roving wiretap provision. Roving or multipoint wiretaps have been available to criminal investigators for many years. But section 206 of the PATRIOT Act made sure that this tool was also available for fighting terrorism. It allows the FISA court, the special foreign intelligence court, to authorize a wiretap to move from device to device as the target of the wiretap, the target of the foreign intelligence investigation, changes modes of communication.

So let me tell you, though this has been approved as a legitimate law enforcement tool, and should continue to be a law enforcement tool, it is not that easy to obtain, you really have to prove you need a roving wiretap. I was a Federal prosecutor for over 15 years, a U.S. attorney, and I personally supervised and prosecuted a lot of cases. Let me just tell you how it works.

In my 12 years as U.S. attorney for the Southern District of Alabama, I think maybe we had two wiretaps. These are very difficult to obtain. You have to have probable cause to believe that a person is involved in criminal activity. You have to identify how he is using communication devices and then submit to the court a memorandum—and the ones that I have seen were 60 to 100 pages of facts—to prove to the judge's satisfaction that we are not snooping on somebody who is innocent, but we are actually attempting to understand the scope of major criminal activity.

The way it is monitored and managed is incredibly important because you have to listen to it constantly. If they talk about their family, you are supposed to turn it off. You have to have people listening all the time so that you can catch the evidence you are seeking. It is very expensive. You don't do it unless it is very important.

So I have to say, Mr. President, it is so important in a terrorism investigation that agents have this tool when they are on to a group or entity that is not just selling drugs, as bad as that is, but are intent on blowing up and killing thousands of American citizens. And when you are on to them and they start using this phone and that phone and that phone and you have run back to court with your 60-page memorandum and find a judge and set up a hearing date and all that, by that time he has maybe gone to another phone, a cell phone, a pay phone, a phone in a motel, wherever he moves.

So it is perfectly appropriate to have a wiretap if it is approved by a court

upon sufficient showing of probable cause. That is no doubt. All this does is to say that you can get the ability to intercept communications on that individual and then can use whatever phone he is using. Previously, the tradition was that you would have the wiretap on a single telephone number. This makes it clear that the court decisions allowing roving wiretaps are the law of the land, and it also creates a standard as to how they should be approved and utilized.

So I think that is an important tool for investigators. Can you imagine how important that is to an investigative team that may be working on a dangerous terrorist cell? It could be the difference of life and death for thousands of American citizens.

Let me mention another provision of the act. The objections to this one are so amazing to me. It just breaks my heart that people seem to have as much confusion about it as they do. This is the delayed notice search warrant. Under section 213, the PATRIOT Act created a nationally uniform process and standard for obtaining delayed notice search warrants. The act's standard applies to delayed notice warrants sought in any type of investigation, not just terrorism investigations. Delayed notice warrants are explained by the August 29, 2005 letter from the Department of Justice. They said:

> A delayed-notice warrant differs from an ordinary warrant only in that the judge authorizes the officer executing the warrant to wait for a limited period of time before notifying the subject of the warrant because immediate notice would have an adverse result as defined by statute.

We must remember that delayed notice search warrants have been around for decades. As a matter of fact, I was reading a book not long ago about an organized crime matter that occurred years ago and they referred to a delayed notice search warrant. They didn't have any statutory standards for it at that time, but they asked the judge to allow them to delay notice, and the judge allowed it, and that process has been approved constitutionally.

The PATRIOT Act did not create any new authority or close any gap in delayed notice law because there was really no gap to close. It simply set a uniform statutory standard for getting permission to delay notice.

It is absolutely false to imply, as many have done, that these warrants are a way for the Government to ''sneak and peak'' into a civilian's home, papers, or effects without ever telling them. The truth is that they have to be told, but there is a delay between the search and when they are told. The critics have continued to suggest that these warrants are done without approval of a court, they want you to believe that because of the PATRIOT Act, the government can go into your house without a warrant and see what you have and never tell anybody that they have been there.

Nothing could be further from the truth. That is why this bill passed 98 to 1. We didn't write those kinds of broad provisions in this bill. We maintained the classic standard of approval of a search warrant, the probable cause standard and all that goes with it. The PATRIOT Act simply set an objective uniform standard for delayed notice.

Why is this important? Well, I could go into detail, but I would just ask you to imagine that one is surveiling a group that you have probable cause to believe is going to try to blow up an area of the United States and that you have probable cause to believe that they have planned to make a bomb. You could go in this residence while nobody is there pursuant to a search warrant on probable cause issued by a Federal judge and conduct a search. Normally, the only difference in these warrants is that you would normally tell the person whose house is searched immediately, and immediately report back to the Court. Here you have make a report but you don't have to tell the person you have searched their house until a later date set by the judge.

You may find in their house bombmaking materials papers on how to make a bomb, explosive devices, triggers, and those kinds of things. And it may be that from that you could obtain information from their house on who else was involved in the cell, to identify the entire ring, the entire cell, and arrest them all at once at an appropriate time. If you have to tell the person immediately, in some cases you risk tipping the whole group off and having them spread out like a covey of quail. That is what too often happens if you don't have this kind of tool. It is critically important to investigators trying to protect the United States of America that we preserve this section of the PATRIOT Act.

Section 215 of the PATRIOT Act allows the FBI to seek an order for the production of tangible things—books, records, papers, documents, and other items for an investigation to obtain foreign intelligence information. Basically, they are a form of subpoena authority. Section 215 orders must be preapproved by a judge and cannot be used to investigate ordinary crimes or even domestic terrorism. Opponents of section 215 have tried to create the impression that the FBI is using 215 to visit libraries nationwide in some sort of dragnet to check the reading records of everyday American citizens.

That is just not so. They have no interest in that whatsoever. Why would they? They are not doing that. I did get a letter from Rebecca Mitchell, director of the Alabama Public Library Service, who was critical of some of her colleagues who have been objecting to these provisions in the act. Her August 15 letter to me stated:

> I want to personally thank up for your strong leadership stand on the PATRIOT Act. Our libraries should not be a tool for terrorism. I know you have received negative comments from the American library association on your stand but this is not the opinion of most librarians in our State. Please continue to fight to keep our Nation safe.

Please understand that no provision of the PATRIOT Act, including section 215, even mentions libraries or is directed at libraries. Nevertheless, as Director Mitchell points out, it is important that library records remain obtainable as one of the tangible records that section 215 can reach. Intelligence or criminal investigators may have very good and legitimate reasons for extending to library or bookstore records. For example, investigators may need to show that a suspect has purchased a book giving instructions on how to build a bomb.

I prosecuted a guy who had already had one book written about him, and after the prosecution, they made a second movie about him. We conducted a search warrant, a lawful search warrant that was upheld. We found a book called ''Death Dealers Manual,'' describing how to kill people; and a book called ''Deadly Poison,'' describing how to make deadly poison. That was great evidence to use to show that he was more than casually interested in murdering people.

Andrew McCarthy, a former Federal prosecutor who led the 1995 terrorism case against Sheik Omar Abdel Rahman, recently elaborated on this point in an article in National Review Online. This is what he said:

> Hard experience—won in the course of a string of terrorism trials since 1993 [that he had personally been involved in] instructs us that it would be folly to preclude the Government a priori from access to any broad categories of business records. Reading material, we now know, can be highly relevant in terrorism cases. People who build bombs tend to have booklets and pamphlets on bomb making.

For heavens' sake, I would add, of course they do.

> Terrorist leaders often possess literature announcing the animating principles of their organizations in a tone tailored to potential recruits. This type of evidence is a staple of virtually every terrorism investigation—both for what it suggests on its face and for the forensic significance of whose fingerprints that may be on it. . . . If he [a defendant] claims unfamiliarity with the tenets of violent jihad, should a jury be barred from learning that his paws have yellowed numerous publications on the subject? Such evidence was standard fare throughout Janet Reno's tenure—and rightly so.

Of course, she was Attorney General under President Clinton.

So this occurs in every courtroom in America. Documents are obtained through subpoena. It is stunningly dangerous that we would not understand this concept and why it is needed in the context of terrorism investigations.

I will add just a few additional thoughts on obtaining records and documents. An American citizen has an expectation of privacy and it is the right of an American under the Constitution to be free from unreasonable—unreasonable—search and seizures is guaranteed by our Constitution.

Where do you have privacy rights? If you give someone your personal papers,

you turn them over to them, do you still have privacy rights if they were to read them? Certainly not. So the law has developed many years in this fashion. You have an expectation of privacy in those areas of your life where you have control—the inside of your automobile, the trunk of your car, the glove compartment of your car, your desk at your office, any part of your house, your garage, an outbuilding around your house that you have exclusive control over. Those are areas over which you have exclusive control, and you have an expectation of privacy. People cannot go into those places and seize anything you have there without probable cause or else it would be an unreasonable search and seizure.

But if you go to a motel and fill out a motel receipt and give it to the motel operator, it is not yours. It is the motel's document, it is a business record. If you go to a bank and you open an account and they keep all kinds of records of that account, they are the bank's records, not yours. Every person in that bank has access to those documents and records. If you make a telephone call, the words you use are yours, and you have an expectation of privacy between you and the person who receives the call. But the fact that you make a telephone call and the telephone company prints out a billing statement that has telephone numbers on it, that is available to anybody who works in the telephone company. That is not your record, it is their record. So you do not have the same privacy expectations, that is all.

The court has always understood that. This has never been in dispute. Every district attorney in America, all kinds of law enforcement officers, State and Federal, through subpoenas, without court approval, have been able to obtain those kinds of documents if the documents are relevant to an investigation they are undertaking.

I received telephone toll records in drug cases I prosecuted. These kinds of records could be relevant in a terrorist case, make no mistake about it. You check the telephone numbers they call, and they are calling a certain number in New York City. Maybe you have records from another person, and they are calling that same number at various times of the day, and maybe right before a terrorist attack occurred or right after an attack occurred, phone calls are going back and forth. That is real evidence of who may be involved in a terrorist cell or criminal drug enterprise. That is how investigators work every day. That is what juries expect to see when cases are prosecuted. To have this great fear that there is something in this act that in a significant way alters those classical powers of investigators to find out those who may be trying to kill us—it is just not true. It is an exaggeration. It is a concern that is not real.

This PATRIOT Act is about to expire. It would be an abdication of our responsibility as the Senate not to move this bill forward before the end of the year. Let's move it now. If we need to stay over the weekend, I am willing to do so. We can stay next week; I am willing to do so. It is important that we not allow this legislation to fail. I encourage the leaders on both sides to work toward achieving that goal.

TRIBUTE TO WILLIAM SMITH

Mr. SESSIONS. Mr. President, I wish to take a personal minute to share some thoughts and to bid farewell to my chief counsel on the Judiciary Committee, William Smith, who is sitting beside me. I know the Presiding Officer, the Senator from Georgia, knows Mr. Smith and admires him. He has been a great friend and a tremendous asset to this Senate. He will be returning to Alabama to practice at one of our State's most outstanding and prestigious law firms, Starnes & Atchison. Even more importantly, he will return to Alabama, accompanied by his soon-to-be bride, Diamond, to whom he will be married in early January.

But I am going to feel a great loss. The things he has done for me are innumerable, including helping us to prepare and pass this great act, the PATRIOT Act. Each day we have worked together, William has shown an unwavering dedication to his State, to his country, to me, and to the values we share. His passion for the law is unmatched, and his commitment to the rule of law is unwavering. I trust his judgment, and I have relied on him to manage our staff and our issues, confident that his work ethic and his ideals are beyond reproach.

Before joining the Senate, William had a distinguished legal career, having served as staff attorney on the Alabama Supreme Court and having taught at both Duke University School of Law and the University of Southern California School of Law.

In 2001, he moved to Washington, DC, to be my deputy chief counsel on the Subcommittee on Administrative Oversight and the Courts. He became my chief counsel the following year.

When William leaves the Senate at the end of this session, he will begin a practice focusing primarily on medical malpractice defense and commercial litigation. I have no doubt he will do well in this next venture of his life, and I have no doubt his principled approach, work ethic, and dedication are going to be difficult for this Senate to replace.

It is obvious my loss will be the State's gain. His presence in Washington was all our gain. William's work on the Senate Judiciary Committee is almost legendary. The Judiciary Committee takes an enormous number and wide variety of complex and sometimes controversial issues. It is one of the most demanding committees in the Senate.

To be successful as an attorney on that committee, you must not only be hard working and intelligent, but a public servant who routinely works long hours. You must also be a tough negotiator, able to frame your arguments in a strong but respectful and intellectually honest way. William does all of this with seemingly effortless skill.

Evidence of William's dedication to and influence on the committee and its staff can most clearly be seen by simply looking at what his colleagues say about him.

Ed Haden, my former chief counsel of the Courts Subcommittee and currently a lawyer with Balch & Bingham in Birmingham, says:

> William Smith is an example of a man who walks his principles. He is a Christian who lives it. He is a conservative who means it. He is a friend who is there for you. In a legislative body that fosters compromise, he will compromise on details, but not on his principle. How fortunate the United States Senate, the Judiciary Committee, and all of us who have worked for Senator SESSIONS have been to know and love this man.

Rita Lari Jochum, chief counsel for Senator GRASSLEY, says this:

> William Smith is a smart lawyer, a shrewd strategist, a dedicated public servant, and an all around great guy. He sticks to his principles and values, and has been a rock solid role model for many of us. The Senate will miss a much respected colleague, and I will miss a true friend. Even though he will no longer be walking the halls of the Capitol, he will not be forgotten.

Stephen Higgins, chief counsel of the Judiciary Subcommittee on Terrorism, Technology and Homeland Security, chaired by Senator JON KYL, says this:

> William Smith has an incredible love for this country and a great passion for his job. He is a devoted public servant and a forceful advocate for Senator Sessions.

Mary Chesser, chief counsel of the Judiciary Subcommittee on Corrections and Rehabilitation, chaired by Senator TOM COBURN, says this:

> William is a great American, leader, mentor, and friend. His diligent work on the committee constantly inspires his colleagues. I feel honored to have worked with him. He has always represented Senator Sessions and the people of Alabama with impeccable character, wisdom, and insight. He will be missed.

Chip Roy, senior counsel for the Senate Judiciary Subcommittee on Immigration, Border Security and Citizenship, chaired by Senator JOHN CORNYN, says this:

> William Smith has served the U.S. Senate admirably and with conviction. He personifies conservativism and the simple idea that there ought to be a limit to what we do here in Washington. While many staffers and members alike, Democrat and Republican, seem to succumb to the misguided notion that more government is better, William stands solidly on his strongly held belief that this simply is not the case. I will miss his strong sense of patriotism and his strong Christian faith, each of which serve as an example for all.

James Galyean, chief counsel on the Judiciary Subcommittee on Crime and Drugs, chaired by Senator LINDSEY GRAHAM, says this:

William Smith is a man of sterling character, devout faith, and unwavering integrity. Senator Sessions, Alabama, and the Nation have been well served during his time on the Committee. And while his presence and influence will be missed, we look forward to great things from him in the future.

And indeed we do.

Ajit Pai, chief counsel on the Judiciary Subcommittee on the Constitution and Civil Rights, chaired by Senator SAM BROWNBACK, says this:

William Smith is a tenacious advocate, a firm defender of principle, and an expert on the many rules of this institution. To me and others fortunate to know him well, he is also known as a good man and a great friend. He leaves the Judiciary Committee with a solid professional and personal record, and I wish him all the best as he makes a well-deserved return home.

Amy Blankenship, legislative counsel to Senator SAM BROWNBACK, says this:

Perhaps William's greatest gift is teaching. He exemplifies the kind of staffer we all want to be—thorough, prepared, and committed. Though some may disagree with his views, no one can question his commitment to uphold the principles he believes in.

The respect, loyalty, and friendship William has won from his colleagues extend well beyond the Senate Judiciary Committee and its staff.

Alan Hanson, my legislative director, says this:

Exceeding his commitment to the United States and its Constitution, which is indeed great, William Smith is a committed Christian and friend—both of which are in far too short supply in this day and age. His happy departure is the United States Senate's unfortunate loss.

Steven Duffield of the Senate Republican Policy Committee says this:

William is a real American who loves his country and cherishes the Constitution. He never hesitates to stick his neck out to defend both.

Allen Hicks, chief counsel for Senate Majority Leader BILL FRIST, says:

William is an anchor for conservative principles in the midst of shifting political winds. In leadership, we could count on him to represent views on issues clearly and articulately, without hesitation or equivocation. The Senate will miss his candor and his passion, and we wish him and his future bride all the best.

Ed Corrigan, executive director of the Senate Steering Committee, says this:

William Smith is known on Capitol Hill for his wisdom, cheerful banter, and an unflinching commitment to principle. Even his political adversaries have come to respect and admire him. The Senate will miss William, as will the countless number of us who are fortunate to call him friend.

John Abegg, legal counsel for Majority Whip MITCH MCCONNELL, whom I see on the floor, said:

I have enjoyed working with William very much. William is a man of high principle. He is devoted to the Constitution and to his country. He is an excellent lawyer, a straight shooter, and a real leader. He will be missed.

Mr. MCCONNELL. Mr. President, will the Senator from Alabama yield?

Mr. SESSIONS. I will be pleased to yield.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that I be allowed to make an observation rather than ask a question.

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

Mr. MCCONNELL. Mr. President, William has many friends in the Senate, both Senate staffers and Members of the Senate. I was listening to my friend from Alabama discuss William's distinguished career on my television monitor, and I decided to come over and make an observation, if it is appropriate.

I remember running into William one time. I said:

What is your principal duty with Senator Sessions?

He said:

Well, it's to keep him from drifting off to the left.

I say to our friend William: You have done a good job of keeping Senator SESSIONS from drifting off to the left. You have had a distinguished run here in the U.S. Senate, and I am sure I am not the only Member of the Senate who hopes we will see you again in public service some day. I wish you well in your new endeavor.

Mr. President, I yield the floor.

Mr. SESSIONS. I thank the Senator from Kentucky for his remarks. So many of the Senators whom I have talked to feel the same way. Many have come by, Chairman SPECTER, Senator DOMENICI, and others to speak to William.

He will be here a few more weeks, but we will be out most of that time so this is probably our last time to get together.

Let me keep reading what William's colleagues have told me about him.

Wendy Fleming, legislative counsel to Senator DAVID VITTER, says this:

William Smith is truly a great American. He has a tremendous respect for the Constitution and the courage to stand-up for his core values. It was an honor to work for him.

William Henderson, counsel for Senator JIM BUNNING, says this:

Three of the things Americans cherish the most are God, country, and family. That is as true for William as anyone. Every day he lives his Christian faith. He works with a love of this country and defends the Constitution. Now he is leaving to start a family. William has been a great friend and teacher to me, and I am better for knowing him.

Chris Jaarda, legislative assistant for Senator JOHN ENSIGN, says this:

Every American should know the name William Smith and the character that he possesses while working on their behalf. His commitment to principle and respect for the rule of law, is unquestioned. Were William your lawyer, you would be served by a skilled advocate, committed to the highest standard of ethics and professionalism. Were William your judge, you would observe someone with the utmost respect for the Constitution and our laws. Were William your friend, as he is mine and countless others who serve in the Senate, you would be blessed; better for knowing him.

Chad Groover, counsel to Senator CHUCK GRASSLEY, says this:

William and I came to the Senate Judiciary Committee the same day, April 16, 2001. From that day on, William has been a close friend, mentor, and encourager. His strong Christian faith and unwavering commitment to conservative principles have been an example to me. The American people are truly better off because of William's service. He took to heart the adage that ''the government is best that governs least'' and, consequently, never let a bad bill go unchallenged. William represents the best there is in public service. I'll miss working with him on the Judiciary Committee, but I know that in Alabama he will continue to serve his Country and his Savior with the utmost distinction and fervor.

Drew Ryan, director of Government Affairs for The American Center for Law and Justice, says this;

William Smith is a man of character, a man of vision, and best of all, a man strong in his faith.

Tim Chapman, senior congressional liaison and national political writer for Townhall.com, says this:

William Smith's steadfast adherence to conservative principle has been an inspiration to me both personally and professionally. He is a man of character who our organization could always count on to put principle ahead of politics. His absence from the United States Senate and from the Judiciary Committee in particular, will not to without notice.

It is clear that William has influenced a great number of his colleagues and leaves behind a committed group of friends dedicated to advancing this great Republic's founding principles of federalism, liberty, and democracy. He will undoubtedly be missed by them, as he will be missed by me. He has served me and our State faithfully and tirelessly and in doing so has served our great Nation immeasurably.

Let me say I am already looking forward to working with him again after he goes back to the great State of Alabama. I have no doubt that he will continue to work toward the greater cause of service to his fellow man.

William, we appreciate you. No one has given more to this country. From the time you get up in the morning until the time you go to bed at night, you are committed to doing the right thing for this country. I love you for it. Your friends love you for it. God bless you in your future endeavors.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have been recognized. I notice that Senator HARKIN is in the Chamber. How much time would the Senator like?

Mr. HARKIN. About 15 minutes.

Mr. DOMENICI. Mr. President, am I recognized?

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

Mr. DOMENICI. Mr. President, does the Senator from Alaska have a question? I understand it is her time to take the chair and preside. I ask the Senator if there is something this Senator from New Mexico could do for her? What is going on?

Ms. MURKOWSKI. Through the Chair, to the Senator from New Mexico, I have about a 3-minute statement.

If I could have the indulgence of doing that before I serve as the Presiding Officer, I would appreciate that from the Senator.

Mr. DOMENICI. Obviously, we have to get consent because I am next.

I ask unanimous consent that Senator MURKOWSKI be given 3 minutes at this point and then the Senator from New Mexico be recognized for up to 10 minutes, followed by Senator HARKIN. Is that correct, the Senator wants to be next after the Senator from New Mexico?

Mr. HARKIN. Yes.

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

Mr. DOMENICI. I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

RURAL TEACHER HOUSING ACT OF 2005

Ms. MURKOWSKI. Mr. President, I appreciate the indulgence of my colleagues this afternoon.

I rise today to talk about a bill that I introduced last week that will have a profound effect on the retention of teachers, administrators, and other school staff in remote and rural areas of Alaska. This bill is the Rural Teacher Housing Act of 2005.

In rural areas of Alaska, we have school districts that face enormous challenges of recruiting and retaining teachers, administrators, and other school staff. The challenges lie primarily in the lack of housing. In one particular year, in the Lower Kuskokwim School District in western Alaska, they hired one teacher for every six who decided not to accept job offers. Half of those applicants who did not accept a teaching position in that district indicated that their decision was related to the lack of housing. When we talk about lack of housing, it is not they cannot find an apartment that is to their suiting or to their liking, the fact of the matter is there is no housing available.

In 2003, I had the opportunity to travel through rural Alaska with then-Secretary of Education Rod Paige. I took him there because I wanted him to see the challenges of educating children in such a remote and rural environment. We went to the village school in Savoonga. We met the principal there. Secretary Paige was overwhelmed when the principal showed him the broom closet in the school, not to show him the school supplies but to let him know that this is where the principal of the school lived, in the broom closet in the school. This was because there was no housing in Savoonga for the teachers.

We met the special education teacher at the school, and she brought out the mattress that she sleeps on in her classroom every night. She does not have a home to go to. She does not have a space to call her own. Her classroom is her room, her house, her bed. The other teachers at the school shared housing in a single home.

When one thinks about that in terms of what the teachers do, needless to say there is no place for their spouse, so these teachers who are married—the teachers might be married, but the spouse might be living in another part of the State or, in the principal's case, his wife lived out of State.

Unfortunately, Savoonga is not an isolated example of the teacher housing situation in rural Alaska. Rural Alaska school districts experience a high rate of teacher turnover due primarily to the lack of housing. Turnover is as high as 30 percent each year in some of the rural areas with housing issues being a major factor.

So the question is, How can we expect our kids to receive a quality education when we cannot get good teachers to stay? How can we meet the mandates of No Child Left Behind in such an educational environment?

Clearly, the lack of teacher housing in rural Alaska is an issue that must be addressed in order to ensure that children in the rural parts of the State receive the same level of education as their peers in more urban settings.

My bill authorizes the Department of Housing and Urban Development to provide teacher housing funds to the Alaska Housing Finance Corporation, which is the State of Alaska's public housing agency. In turn, the corporation is authorized to provide grant and loan funds to rural school districts in Alaska for teaching housing projects. This legislation will allow the school districts in rural Alaska to address the housing shortage in the following ways: They can construct housing units, purchase housing units, lease housing units, rehabilitate, purchase or lease property on which the units can be constructed. They can repay loans secured for teacher housing projects and conduct other activities normally related to the construction, purchase, and rehabilitation of the teacher housing projects.

This also includes transporting construction equipment and materials to and from the communities in which these projects occur, which in the State is a particular concern because most of these communities are accessible only by air or water. Eligible school districts that accept funds under this legislation will be required to provide the housing to teachers, administrators, other school staffs, and members of their households. It is imperative that we address this important issue and allow the disbursement of funds to be handled at the State level. The quality of the education of our rural students is at stake.

I thank my colleagues and I yield the floor.

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

SENATE MAJORITY LEADER

Mr. DOMENICI. Mr. President, I rise to congratulate the majority leader of the Senate, BILL FRIST. I do not do this because he is my good friend but because I want to make sure that we all understand that we have had an exceptionally productive legislative year. I thank him especially for his critical help in passing legislation in areas where I have been primarily responsible. In addition to that, I want to summarize the things that have been done this year under his leadership.

The reason I came to talk about this is because there is such an overwhelming, high-octane negativism in the air that one would hardly know the Senate was at work. There is so much politics going on that one would wonder whether the Senate is even functioning. Even on the floor there is an awful lot of polarization that has occurred. I do not say this in any real accusatory sense. It is true.

In spite of that, in his own way, the majority leader has very quietly and with very mature feelings and inordinate ability grasped details of legislation and has contributed immensely to a success story.

I would like to start by talking about matters that this Senator has particularly been involved in. We were able to pass in this body an Energy Policy Act. We have been working at that for almost a decade, but for the last 3 years we have tried each year and failed. This year, we got it done.

Obviously, something was done differently. That is, we attempted to create a bipartisan bill in the committee under my chairmanship, with the help of Senator BINGAMAN, and the majority leader, as leader in the Senate, should take great pride in that accomplishment, and we should as a Senate.

In addition, as it pertains to things the Senator from New Mexico works on, we sent to the President for his signature an appropriations bill that is called Energy and Water appropriations. That bill contained hundreds of millions of dollars that go to the storm-ravaged gulf coast. It is there to continue critical projects that are already started and moving along. They are projects that are needed. They are not part of the great concern about how much may be spent or should not be spent. These are public works projects in that four-State area that are important. I think that is very good.

In that bill, the nuclear armament programs of the United States went through to the President of the United States and also some very important nuclear nonproliferation activities.

In addition, the Energy and Natural Resources Committee was part of a reconciliation bill—let us call that the deficit reduction bill—that passed. The occupant of the chair in the committee that we served on contributed a piece of that. For the first time, we sent in such a bill for the start-up of the Alaska National Wildlife Refuge activity

where we will be starting to find out what is up there in terms of producing oil for the United States. That bill was a big achievement, $36 billion in deficit reduction. I guarantee that could not have been done without the help of the majority leader. So we got that done also with his very exceptional attention, his enlightened approach to getting people together. We barely did that, and without his help it would not have happened.

Finally, literally scores of small bills that are part of the Energy and Natural Resources Committee have passed the Senate within the last 2 days, for various things around the country. We thank him for getting that done. Yesterday, we passed big legislation and who would have thought 6 weeks ago we could pass it. It is the tax provisions of the Budget Act. We all know that that was hard. That extended the alternative minimum tax so it affects far less Americans in a negative way on the amount they owe to the Government. It extended research and development tax credits for American business so they can continue to invest in research. That whole bill had many items in it that are good for America's future. We got it passed. There are some things in it, obviously, that I do not like, and I hope some of those are not continued, because I think some of them are negative to the production of oil in the future, but overall, by an overwhelming vote, we passed a tax measure that moves us ahead. That was the strategy, for all of that was worked out with the help of our leader and the help of other distinguished Senators, including the chairman and ranking member of that committee.

I mentioned the Energy Policy Act, but let me back up to some other things people take for granted. They say, ''So what?'' We know our Founding Fathers said, with reference to bankruptcy in our country, the U.S. Government would have exclusive authority. For years we know the bankruptcy law of the Nation needed reform. How many times have we had bankruptcy reform on the floor only to see it fail? This year it finally passed. It will make those who file for bankruptcy slightly more responsible. That is, after they are finished, if they can by way of their job pay a small portion of what they owed, they will. That is all subject to criteria which the judges will administer so we are sure we are asking only those who can afford it to pay some. Finally, it was passed.

I say to the Senate that was a great credit to all of the Senate, but also to the distinguished majority leader for pushing, for exercising the dedication, and most of all, there is a certain steadfastness about this leader. He doesn't give up. He says what he is going to do. He stays right on it, and this is another example.

In addition, we have had the issue of excessive litigation. It still hangs over us like something we cannot quite fathom, but it is rampant. We were told the other day that American companies spend more on litigation than they do on research when you add it all up. That is a rather startling thing. This bill we passed will not fix that. Hopefully, sometime we will address it even more broadly. But we did pass a class action reform piece of legislation. We had only one part of that pass about 8 years ago. But this one makes it more difficult to abuse the class action litigation part of the Federal jurisdiction, where we use our Federal courts to accomplish class action suits. That is a great feather in the hat of the Senate because it has taken so long to get there. For that, we have to say to our majority leader: Thank you for your leadership. It is terrific.

The highway bill—let's leave aside the pieces of the highway bill. Let's talk about the overall funding of the highway system of America by the gasoline tax imposed on our citizens. That was tied up. It was supposed to have been passed 3 years ago. It got passed after that period of time. I think the absolute commitment it would get done, and the power of a majority leader's office, got us there. That is very important.

The Senate has passed all of its appropriation bills. It looks as though we may have been able to avoid an omnibus appropriation bill—or we are going to. Let's hope so. If we do, that will be a very big credit. But at least we are on the way. We have not gotten them all passed in both Houses, but they have all cleared this institution, which is a credit at this time of year. We don't do that very often. So that is another thing we can say that demonstrates we have had good leadership, good direction, and good pressure, the kind of positive pressure the Republican leader brings.

I am going to wrap up by talking about judicial appointments. I would be remiss if I did not mention that the United States of America has a new Chief Justice. It is pretty fair to say that the extraordinary patience and persistence of the majority leader got us to this place. The country is pleased with it. That is obvious. While they do not know everything about these nominees, they learn about our Supreme Court nominees because there is much openness. This man is ultimately a credit to the President for nominating him, the Senate for finally doing what they should, and to our majority leader for pushing it as he did.

Everybody has to acknowledge there are three or four things we must get done. They, too, are being looked at with the precision and the dedication and stick-to-it-iveness of our leader. They are right there on the horizon for next year.

I understand the asbestos quagmire is something people wouldn't think is big enough to be listed among the most important pieces of pending legislation. Let me say there is no question it is. Asbestos liability, for better or for worse, the reality of it, brings to the American economic system a chance, an opportunity, a probability of real job loss, fantastic economic degradation, and it must be resolved.

The leader has played a big role. Two Senators have been working on it on the majority side for years. Senator SPECTER is very close, with the help of our majority leader, to getting a package that can be bipartisan. That is next.

We know broad immigration reform is right up on the screen. That is very difficult. I say, and predict, since the majority leader says it is going to get done this coming year, I believe those who have been waiting are going to be able to say it will be done. I believe so.

Obviously, much more must be done. Other things we have passed are not very publicly known yet, and should be. I can't do much about it. But essentially, a bill on health technology passed last night without much ado. I say it is a giant step.

I ask unanimous consent for 2 additional minutes.

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

Mr. DOMENICI. It is a giant step in the modernization of the delivery system, which will save money. I won't take much time, except to say the majority leader had a lot to do with that.

I failed to mention that while all of this was going on, that I mentioned the Senate passed an important bill, the free trade agreement, the Central American Free Trade Agreement. Who would have thought 6 months ago that this, too, would be in this litany of successes? But it is.

All in all, in spite of all the noise, in spite of all the bickering, in spite of everything that seems to be moving toward polarization and politicization in the Senate, we did get a lot done. I particularly think much of that is attributable to the distinguished majority leader, Senator BILL FRIST. I want to again indicate to him, from this Senator, my great appreciation for his work and my admiration for how he does that.

PROVIDING FOR ADJOURNMENT

Mr. DOMENICI. Madam President, I ask unanimous consent the Senate now proceed to the consideration of H. Con. Res. 307, the adjournment resolution, provided that the concurrent resolution be agreed to and the motion to reconsider be laid on the table.

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

The concurrent resolution (H. Con. Res. 307) was agreed to, as follows:

H. CON. RES. 307

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Friday, November 18, 2005, or Saturday, November 19, 2005, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, December 6, 2005, or until

the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on any day from Friday, November 18, 2005, through Wednesday, November 23, 2005, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, December 12, 2005, or Tuesday, December 13, 2005, or until such other time on either of those days, as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

Mr. DOMENICI. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

PAKISTAN'S RECOVERY FROM EARTHQUAKES

Mr. HARKIN. Madam President, it has been nearly 6 weeks since Pakistan was devastated by one of the most powerful and deadly earthquakes in modern times. More than 140,000 people were killed or injured in the disaster. The earthquake left 3 million people homeless; hundreds of thousands of children were left without schools. More than a million jobs were wiped out.

I have come to the floor this afternoon to remind my colleagues that as we are prepared to leave town to spend the holidays with our families, to enjoy a wonderful Thanksgiving meal with turkey and all the trimmings, as we sit around our dining tables and warm houses with family and friends close by, and we give thanks for all our blessings, let's also pause and remember those halfway around the world who will not even have enough to eat that day, will not have a warm house, and who are facing a winter ahead of cold and deprivation. These are the people of Pakistan, one of our most important strategic allies in Asia, especially in the war against terrorism.

There are many difficult months and years ahead for the Pakistani people and the immediate danger is that the winter snows will now soon make relief efforts in Kashmir difficult and in some places all but impossible, even by helicopter. Americans can be very proud of the role our Armed Forces have played in relief operations in the earthquake zone. Immediately after the disaster struck, the United States offered Pakistan $156 million in aid. We deployed 950 soldiers as well as 24 helicopters. As I speak, a U.S. Army mobile surgical hospital is operating in Muzzafarabad, providing medical care to thousands of quake victims.

To give our colleagues and viewers watching on C–SPAN a better idea of the devastation in Pakistan, I share several photographs taken by a former member of my staff, Mr. Sam Afridi, who now works for the International Labor Organization in Geneva. Earlier this month he visited some of the most hard-hit areas, including Muzzafarabad, and Balakot. These pictures speak for themselves.

Here is Balakot police station with hardly a stone standing on top of another stone.

Here is another—devastation in the local neighborhood. As you can see, the resilience of the people—they are already setting up their fruit and vegetable stands to help out one another.

This is another indication of the devastation. Here you can see the U.S. Army Chinooks flying overhead in this picture.

Here is a picture of the Hizwan public high school. The earthquake killed 50 students, including the principal's son. You see all the clothes and the backpacks still left there.

Here is a project Mr. Afridi was involved in, the International Labor Organization Emergency Employment. They are hiring people to clean up the debris and move the debris out of the roads. They are working to clean up the devastation.

Here is a young child caught in the rubble in a full body cast. We hope he is going to be all right, but the child may be disabled for the rest of his life.

Here is a young boy, showing the crutches and the fact that, while we hope he can walk again, we don't know if he will ever walk again.

These are some of the images from a country that has been a great friend of ours and a great ally of ours for a long time. Even back during all of the years of the Cold War, Pakistan we could always reply on—always. They have fought beside us, side by side, in every war we have had, from the Korean war on.

We have done some things, as I mentioned, but we must do more. The Washington Post editorial pointed out this morning that, after the Indian Ocean tsunami that killed 200,000 people, the United States sent nearly $1 billion in government aid, 16,000 soldiers, 57 helicopters, 42 aircraft, and 25 ships—$1 billion. Thus far we have offered Pakistan $156 million.

We sent 16,000 soldiers after the tsunami. In Pakistan we deployed 950. After the tsunami, 57 helicopters, Pakistan 24.

While I am sure that aid is welcomed, what I am trying to point out is the devastation here was every bit as devastating; there were 140,000 Pakistanis killed in the earthquake.

Half that many are now homeless and facing a desperate winter without even as much as a tent.

The assistance we have offered Pakistan—one of our best friends and longtime allies, a crucial ally in our war on terror has been way too modest.

I ask unanimous consent to have the editorial from this morning's Washington Post printed in the RECORD.

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

[From the Washington Post, Nov. 18, 2005]

WINTER IN KASHMIR

It takes advanced seismographs to anticipate earthquakes and computerized weather models to predict hurricanes. It doesn't take sophisticated technology to predict that leaving thousands without shelter in the freezing Himalayas will be disastrous. Unfortunately, however, predictability is not a predictor of action. With perhaps two weeks to go before snows close down the relief efforts that followed the Kashmir earthquake, it's not clear that enough has been done to avert a horrific secondary disaster.

Last month's earthquake caused an initial death toll of at least 74,000 and left perhaps 3 million people homeless. But so far only about 340,000 tents have been distributed. Doctors are trying to immunize 1.2 million children put at risk by bad shelter, diet and sanitation. But the immunization drive has only half the $8 million that it needs. Relief teams are trying to position stocks of food in remote villages before the snows come. But the food lift got underway belatedly, although donors led by the United States have provided helicopters.

As The Post's John Lancaster described it Sunday, the contrast with the Indian Ocean tsunami is distressing. After the tsunami, the United States sent nearly $1 billion in government aid, 16,000 soldiers, 57 helicopters, 42 other aircraft and 25 ships. After the Kashmir quake, the United States has offered Pakistan $156 million in aid, including military equipment; deployed 950 soldiers; and sent 24 helicopters. Aid that's available for immediate relief needs has been especially slow in coming. The United Nations has appealed for $550 million in emergency aid, but donors have pledged only $159 million.

The tsunami triggered a tsunami of generosity because it hit during the holiday season and because Western tourists were affected. But the logistics of getting relief into the Himalayas are more daunting; the weather is more punishing. While no deaths were linked to disease and hunger following the tsunami, the risk of an after-disaster in Kashmir is real. Add in Pakistan's two-headed role as an ally in the war on terrorism and an incubator of terrorists, and the case for scoring a combined humanitarian-foreign policy success by delivering more relief faster should be obvious. President Bush has sent Karen Hughes, his chief of public diplomacy, to Pakistan. But sending another fleet of helicopters would be even more helpful.

Mr. HARKIN. Madam President, as the editorial points out, we have a big stake in delivering much more generous relief to Pakistan. Largely because of the war in Iraq, America's standing in the Muslim world has fallen dramatically in recent years.

According to a recent Pew Center poll, only 22 percent of Pakistanis expressed a favorable view of the American people.

So clearly the aftermath of the earthquake is a chance for us to put our best foot forward, demonstrating our compassion, generosity, our friendship for the Pakistani people.

By reaching out to them in their hour of need, we can show the people of Pakistan that we see their country as more than a base for operations against terrorists.

To that end, I urge President Bush, Secretary of State Rice, and the Government to take a more assertive leadership role in rallying the international community to assist Pakistan. We can begin tomorrow at the International Donors' Conference in Islamabad. To date, the international community has only provided a quarter of the emergency relief that the United Nations requested for earthquake assistance in Pakistan.

Let me repeat that. The United Nations has appealed for $550 million in assistance for Pakistan, but donor nations have pledged only one-fourth of that amount.

In contrast, 1 month after the Indian Ocean tsunami, the U.N.'s emergency appeal was 99 percent filled. Now it is only a quarter filled.

Some good things are happening. For example, as I pointed out, the International Labor Organization has set up an emergency cash-for-work program in the earthquake region. People are being put to work making infrastructure repairs, removing debris, improving sanitation.

This is a picture of the International Labor Organization and their emergency employment and what they are doing.

The aim of this program is to inject cash back into the local economy, while helping people get back to work to support themselves.

According to my former staff member, Mr. Afribi, one of the participants in this program said to him, ''For every rupee we get for this work, it feels like 10 because we have earned it.''

So clearly these are people of pride and dignity and they are willing to work hard. They are looking for a handup, not a handout. It behooves us to be more generous and forthcoming than we have been to date. We need to continue to provide immediate emergency humanitarian relief. But we also need to tend to the longer term needs of the survivors.

Many children, as I have shown, have had amputations. They need to be cared for. Safeguards need to be put in place to ensure that their disabilities do not get in the way of their education. Past experience tells us that such children are vulnerable to being exploited in the workplace. In closing, we have an important mission here—to come to the aid of the Pakistani people in their moment of maximum need.

I have many good friends in the Pakistani-American communities. I have many good friends in Pakistan. I was privileged to visit there this September, the third time I have been to Pakistan. I traveled quite extensively in the country. The Pakistani people are wonderful. They are highly educated and skilled. The Pakistanis in America, who have come to make a better life for themselves, are doctors, surgeons, engineers, and so on. Many of them have called me, eager to get involved in the relief in Pakistan.

We ought to be looking for ways for the USAID to provide a way for these people to go to Pakistan, under the American flag, for a period of weeks or months so they can put their talents to use in assisting the earthquake victims.

This would send a powerful message of friendship and good will of the American people to the Pakistani people.

I urge my colleagues to remember the pictures I have shown and to remember, this Thanksgiving week coming up, the millions of poor people in Pakistan whose lives were shattered in only a few minutes, one of the most devastating earthquakes to ever hit our planet. They are struggling to put their lives back together. We need to do more—again, both in terms of short-term relief and long-term reconstruction. Time and again, Pakistan has been there for us. Time and time again, from the beginning of the Cold War, when they allowed our U–2 flights to fly from Peshawar over the Soviet Union, all through the Cold War, the Korean war, the Vietnam war, Haiti, everywhere we have been, the Pakistanis have been by our side. Now it is our turn to be there for the people of Pakistan in their hour of need. During this Thanksgiving week, let us resolve to do better than we have done in the past.

I urge the President and the Secretary of State at the Donors' Conference tomorrow in Islamabad to step forward to lead the international community to do better than they have done in the past.

I yield the floor.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I thank the Chair.

IRAQ

Mr. BYRD. Mr. President, as we look out the window in most of our great country, we can witness the season change, the change in the season, and we can feel it. The air has become crisp with autumnal chill. The leaves on the trees change their color; from the exuberant, green lushness of the summer months to the tired, brown, yellow, and red of the autumn, much like the graying hair of a man advancing in age.

Nature can sometimes mimic human events with a subtlety that no words can quite convey. As our country heads into the season that is celebrated with the love of family and the love of home, Americans should also look across the landscape of America and reflect upon the loss of so many young Americans in the 12 months since autumn last fell upon us.

Think about it. In the past year, more than 820 servicemembers have lost their lives in Iraq.

The evening news features pictures of American troops who have perished in service to our flag, in service to our country. I am struck by these colorful mosaics of these troops, amen; the green and blue of their uniforms set against the background of the bold colors of our flag, Old Glory, Old Glory. Each of these proud troops holds an expression of pride and courage, even though many of them appear to be so young. Note their ages—18, 19, 20, 21—just starting out in life, having one full glance of what is around them.

I can only imagine the grief of their loving families during this time of the year, as the somber tones of fall contrast with the joy of being with family during the upcoming holidays. I pray that God, Almighty God, will comfort those who have suffered losses, that He will bless the fallen in their everlasting life, and that His hand will protect those who still serve in harm's way.

That so many have sacrificed during this war in Iraq is reason enough to ask questions about our Government and about our Government's policy in that faraway land. Our troops continue to shed their blood, and our Nation continues to devote enormous sums of our national wealth to continue that war.

The Constitution protects the American people from unjust laws that seek to stifle the patriotic duty to question those who are in power. But it is the courage of the American people that compels them to actually speak out when those in power call for silence. If anything, attacks on patriotism of freedom-loving Americans may result in even more Americans fighting against attempts to squelch the constitutional protections of freedom.

Since our country was sent to war on March 19, 2003, 2,073 American men and women have been killed. Yes, 2,073 Americans have died. Nearly 16,000 troops have been wounded.

Our military is straining under the repeated deployment of our troops, including the members of the National Guard. They come from all walks of life. They are lawyers. They are teachers. They are preachers. They are coal miners. They are farmers. More than $214 billion has been spent in Iraq and the end is not in sight. More than $214 billion spent in Iraq and the end is not in sight. Urban combat takes place each day, every day, in Baghdad, all day long. Every day and night.

Veterans hospitals in our own country are threatened by budget shortfalls, and yet Americans are still left to wonder, when will our brave troops be coming home? When?

I opposed this war in Iraq from the outset. From the beginning I spoke out against our entry into this war. I pleaded with my colleagues. I pleaded with the White House. I asked questions that have not been answered. I spoke out against the invasion of a country which did not pose an imminent threat to our national security. I said so then—and I was right. I opposed the war in Iraq from the outset. From the word go, I opposed it. But our troops were ordered to go to Iraq and they went.

The question is, now, when will they come home? The administration has so far laid out only a vague policy, saying our troops will come home when the Iraqi Government is ready to take responsibility for its country. When our troops are no longer needed, when the job is done, they will come home. We will not stay a day longer than we are needed.

That sort of political doublespeak is small comfort to the mothers and the fathers of our fighting men and women, the mothers and fathers who turn and toss upon their pillows, whose tears wet the pillows, whose prayers break the silence of night. Oh, when will they come home? Bring my boy home. Oh, God, this awful war.

Wednesday evening the Vice President of the United States, even claimed that criticism of the administration's war in Iraq was dishonest and reprehensible. Did you hear that? Hear me, now; let me say that again: On Wednesday evening the Vice President of the United States, the man who is within a heartbeat of being the President of the United States, the Vice President of the United States even claimed that criticism of the administration's war in Iraq was ''dishonest and reprehensible.''

Since when are we not to lift our voices? Are the American people not to lift their voices in criticism of the administration's war in Iraq? Is it dishonest on the part of the American people to do that? Is it reprehensible on the part of mothers and fathers of sons and daughters who were sent to that most dangerous country in the world? Is it reprehensible? Did the Vice President measure his words? The Vice President's comments come on the heels of comments from President Bush, who said:

> What bothers me is when people are irresponsibly using their positions and playing politics. That's exactly what is taking place in America.

Listen to that. The President and the Vice President need to reread the Constitution, take another look at that inimitable document. Asking questions, seeking honesty and truth, and pressing for accountability is exactly what the Framers had in mind. What would George Washington say? What would Alexander Hamilton say? What would James Madison say? What would Gouverneur Morris say? What would James Wilson say?

Questioning policies and practices, especially ones that have cost this Nation more than 2,000 of her bravest sons and daughters, is the responsibility of every American and is also a central role of Congress as our duty as the elected representatives of a free people. We—you, you, you and I—we are the elected representatives of the American people, the people all over this vast land, its plains, its prairies, its mountains, it valleys, its lakes, its rivers, its seas. Yes, we are the men and women who are tasked with seeking the truth. Is that irresponsible to seek the truth?

But instead of working with the Congress, instead of clearing the air, the White House falls back to the irksome practice of attack, attack, attack; obscure, obscure, obscure; attack. The American people are tired of these reprehensible tactics. If anything is reprehensible, it is these tactics.

Circling the wagons will not serve this administration well. What the people demand are the facts. They want the truth. They want their elected leaders to level with them. And when it comes to the war in Iraq, this administration seems willing to do anything it can do to avoid the truth, a truth I believe will reveal that the Bush administration did, indeed, manipulate the facts in order to lead this Nation down the road to war. War. War.

The administration claims that the Congress had the same intelligence as the President before the war and that independent commissions have determined there was no misrepresentation of the intelligence. But neither claim is true. The intelligence agencies are under the control of the White House. All information given to the Congress was cleared through the White House. And the President had access to an enormous amount of data never shared with the Congress. There was a filter over the intelligence information the Congress received. That filter was the administration, which is actively engaged in hyping the danger and lusting after this war, this terrible war in Iraq.

Remember the talk of weapons of mass destruction? Remember the talk of mushroom clouds? Remember? Remember the talk of unmanned drones? The so-called proof for war was massaged before it was sent to Congress, to scare Members, and leaked to reporters to scare people.

No independent commission has stated that the case for war was indisputable. Commissions have looked at how the intelligence fell short, but none have yet examined possible political manipulation.

Even the Senate Select Committee on Intelligence slowed its examination, stalled its examination of possible White House manipulation. My colleague from West Virginia, the ranking member of the Intelligence Committee, Senator Jay Rockefeller, is rightly pressing for answers.

Right now we are engaged in a mission with no definition. That is troubling because without a clearly defined mission, it is impossible to determine when our effort is truly accomplished.

This week, the Senate had the opportunity to establish some very basic benchmarks for progress in Iraq, benchmarks that would have clearly outlined goals and provided accountability in meeting those goals. The proposal, offered by the senior Senator from Michigan, Senator Carl Levin, was a modest, flexible approach that would have given our troops, their families, the American people, and the Iraqi people some basic guidepost. Unfortunately, the Senate turned its back. It could not see the wisdom of this approach. It could not bring itself to see the wisdom of the approach.

So, my fellow Senators, it is vital that we have benchmarks against which to gauge our progress. That is how we can measure effectiveness and, most importantly, how we know when the job is done. The administration's strategy of keeping our troops in Iraq for as long as it takes—have you heard that before? Keeping our troops in Iraq for as long as it takes?—that is the wrong strategy. Who knows how long it will take for the Iraqi Government to institute order in that fractured, unhappy, miserable country?

Unfortunately, the questions that the American people are asking about the missteps and the mistakes in the war in Iraq are not being answered by this White House, not being answered by the administration. Vice President CHENEY has dismissed these important questions as ''making a play for political advantage in the middle of a war.''

Now, listen to that. The Vice President of the United States has dismissed these important questions as ''making a play for political advantage in the middle of a war.'' How about that?

Perhaps the Vice President should question White House aides about using war for political advantage. For example, on January 19, 2002, the Washington Post reported that Karl Rove—get this—advised Republicans to ''make the president's handling of the war on terrorism the centerpiece of their strategy to win back the Senate and keep control of the House in this year's midterm elections.'' Does the Vice President have anything to say about that?

Let me say that again. On January 19, 2002—I read about it at the time; I did not miss it—the Washington Post reported that Karl Rove advised Republicans to ''make the president's handling of the war on terrorism the centerpiece of their strategy to win back the Senate and keep control of the House in this year's midterm elections.'' That was said on January 19, 2002. That was quoted in the Post on that date. Yes, does the Vice President have anything to say about that?

The Vice President also lashed out at those who might deceive our troops:

> The saddest part is that our people in uniform have been subjected to these cynical and pernicious falsehoods day in and day out.

Now, listen to that. Was the Vice President trying to clarify some of his past statements on Iraq? Was he?

On March 24, 2002, the Vice President said that Iraq ''is actively pursuing nuclear weapons at this time.'' There was no doubt about it, to listen to the Vice President—no doubt.

On August 26, 2002, the Vice President said:

> Simply stated, there is no doubt that Saddam Hussein now has weapons of mass destruction. There is no doubt that he is amassing them to use against our friends, against our allies, and against us.

Let me go back and read the quote. Let me repeat it.

On August 26, 2002, here is what the Vice President said:

> Simply stated, there is no doubt—

Get that—

> Simply stated, there is no doubt that Saddam Hussein now has weapons of mass destruction. There is no doubt that he is amassing them to use against our friends, against our allies, and against us.

That is the end of the quotation.

On March 16, 2003, the Vice President said:

> We will, in fact, be greeted as liberators.

Do you remember that?

On March 16, 2003, there it is, the Vice President said:

> We will, in fact, be greeted as liberators.

Are these the ''pernicious falsehoods'' that the Vice President believes our troops have been subjected to? That is, of course, a rhetorical question. Far from questioning his own statements about the war in Iraq, the Vice President's comments are a hamhanded attempt to squelch the questions that the American people out there are asking about the administration's policies in Iraq. The American people should not be cowed. They should not be intimidated. And Senators should not be intimidated by these attempts to intimidate. The American people should not allow the subject to be changed from the war in Iraq to partisan sniping in Washington.

Instead, the American people must raise their voices—hear us—the American people should raise their voices—hear us, listen to us—the American people must raise their voices even louder to ask the administration the same simple questions: What is your policy for Iraq? Answer that. What is your policy? Is it stay the course? When will the war be over? How many more lives will this war cost? When will our troops return home?

Mr. President, the holiday season is almost upon us. Americans will soon sit down at their Thanksgiving tables. They will gather together to give thanks to Almighty God, give thanks to Him for the blessings that have been bestowed upon America's families. As we gather, there will be an empty seat at many tables. Some chairs will be empty because a service member is serving his or her country in a faraway land. Other seats will be empty as a silent tribute to those who will never, never return.

Each of these troops has fought to protect our freedoms, including the freedom of Americans to ask questions—yes, the freedom to ask questions. Our troops have fought for that freedom—people back home, their families, might ask questions, their friends might ask questions—the freedom to ask questions of their Government, the people's Government.

The whole picture, the truth is that the continued occupation of Iraq only serves to drive that country closer to civil war. They do not want us there. They do not want us there.

How would you feel, Senators, how would you feel if our country were invaded by another country? You would want them out. You would do anything you could to get them out. American troops are now perceived as occupiers, not as liberators. The longer we stay, the more dangerous Iraq becomes, and the more likely it is we will drive the future government further from a democratic republic and closer to religious fundamentalism and, not insignificantly, the more American and Iraqi lives will be lost—forever.

I, for one, believe that it is time to say ''well done''—''well done''—to our brave fighting men and women. May God bless them one and all. Let us say, job well done, and start to bring the troops home.

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

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

The legislative clerk proceeded to call the roll.

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

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

TRIBUTE TO LILY STEVENS

Mr. BYRD. Mr. President, last night, as the Senate was working into the late hours of the night and tensions were running high, our esteemed and beloved colleague, the former chairman of the Senate Appropriations Committee, took me by the arm and pulled me aside. There was something he wanted to show me. There was something that my esteemed and beloved colleague, TED STEVENS, wanted to say to me and wanted to show me. There was something he wanted to show me. It was an article that his daughter Lily Stevens had written about the U.S. Capitol, and he wanted to share it with me.

I was touched by this. I know Lily. What a prodigious memory she has. Ah, what a rose in full bloom, what a lovely woman, Lily. She adores her father. He adores her.

With everything that was going on in the Senate at the time, Senator STEVENS was showing a father's pride in his daughter's accomplishment.

I have literally watched Lily grow up. In her article, she points out that her father was already a Senator when she was born, and while she was a baby, her father would bring her to the Capitol—I have seen him many times—and carry her around in a basket. I remember that, just as I remember how she attended a number of my parties, and I attended a number of hers.

I watched her grow into the remarkably—talented person she is today. She is a graduate of Stanford University and is currently a law student at the University of California at Berkeley. Lily is not only prodigious and intelligent, but she also is a polite, courteous, gracious, and charming young lady. Senator STEVENS is so proud of her, and he has a right to be.

The article his daughter wrote is an outgrowth of her senior thesis at Stanford University, and as I read it, I understood why Senator STEVENS was so excited about it and why he wanted to share it with me. Titled, ''The Message of the Dome: The United States Capitol in the Popular Media,'' the article explores the ways in which the Capitol has served and communicated with the general American public over the years. It discusses the Capitol as a symbol to the American people and how the meaning of that symbol has changed over time.

This beautifully written article skillfully conveys the sense of wonder that awaits every first-time visitor to Capitol Hill. With a trip to the Capitol, Lily points out, a visit to Washington goes well beyond ''a vacation in the leisure sense.'' It becomes ''an education journey, one in which the visitor can learn more about the government and the history of the United States.''

And Lily's article makes fascinating and intriguing points about this building in which her father, Senator TED STEVENS, and I work. Visitors to the Capitol, Lily Stevens writes, while sharing certain common experiences, still find their own individual interests. As she quotes one author: ''The Capitol means many things to many people.''

Lily Stevens makes the point about how the Capitol functions as a ''national shrine,'' a place for appreciating our democratic form of government and for praising our Nation, our history, and our national leaders. And she explains how, over the years, the Capitol has functioned as a church. Indeed, religious services were once held in this building. And the Capitol still performs many functions that are religious in nature, like funeral services for certain national leaders. Statuary Hall, she points out, can be seen and interpreted as ''an American Westminster Abbey.'' How about that?

There is so much fascinating reading in this article, I could speak long about it. I am asking that it be printed in the CONGRESSIONAL RECORD, and I urge all my colleagues to read it. I promise you, you will enjoy it.

Senator TED STEVENS is also entitled today to his own personal congratulations. Why? Today, November 18, is Senator STEVENS' birthday. How about that? Senator STEVENS' birthday, today. A wonderful man, a great legislator. Today Senator STEVENS is 82 years young. Oh, to be 82 again. Just to be 82 again, oh, my. I said to Ted: ''The next 5 years are going to be the heaviest, Ted.'' I know. Five years ago I didn't need those canes, no. My feet and legs were still good.

Senator STEVENS and I have worked together in the Senate since 1968, and we have been on the Senate Appropriations Committee together since 1972. In all this time together, I have always known Senator TED STEVENS to be an

outstanding Senator, a great colleague, and a trusted friend. Oh, I realize he may grumble every now and then. He is getting a little bit grumbly. But you can forgive him for that.

You never have to be concerned about turning your back on him. He is honest. He is straightforward. And his word is his bond. Over the years we have had our spats, but never once did I doubt our friendship, our admiration for this country, its flag, each other, and our ability to work together.

So today, TED, I say in the words of the poet:

Count your garden by the flowers,
Never by the leaves that fall.
Count your days by the sunny hours,
And not remembering clouds at all.
Count your nights by stars, not shadows,
Count your life by smiles, not tears.
And on this beautiful November afternoon,
Senator STEVENS, count your age by friends,
not years.

I conclude my remarks by again congratulating Senator STEVENS on his 82nd birthday and on his beautiful daughter's marvelous work. I thank TED STEVENS for being a superb colleague and a great friend, a great servant of his people in Alaska, and for sharing Lily's article with me.

I ask unanimous consent to print the article in the RECORD.

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

''THE MESSAGE OF THE DOME:'' THE UNITED STATES CAPITOL IN THE POPULAR MEDIA, 1865–1946

(By Lily Stevens)

Anyone who has spent a considerable amount of time in the nation's capital has a particular experience with the white building on the Hill. Growing up in Washington D.C., I never lost the wonder and excitement of visiting the Capitol. I cannot remember the first time I entered the building, as it was in a small basket carried by my father. He was elected to represent the state of Alaska in the Senate before I was born. As a little girl, I loved walking up the marble stairs within the building, feeling the grooves worn into the center of each step. I would run my hand up the shiny round banisters attached to the wall and shuffle my feet along step after step. The Capitol was a wondrous place that always seemed to be changing. I could have run for hours around the big tile circles on the floor, following one pattern until it made me so dizzy that I lay on the ground laughing, staring at the tall ceiling, until I got up to start my game again.

There were just so many things to look at: the marble heads on stands that towered above me, the paintings on the walls and ceilings, the many people who crowded the halls. Every time I walked into the Rotunda, I would lay my head down on the white circle that represents the center of Washington so that I could see all of the figures on the ceiling. My next stop in the Rotunda would be my favorite painting so that I could count the eleven toes on one barefooted man. In Statuary Hall, I would look for King Kamehameha, with his brilliant gold clothes. When I left the room, my neck would hurt from looking up at his enormous face, looming over six feet above mine. As I grew older, I knew every ghost story, and loved to tell the tales of Lincoln being spotted in his tall hat before stepping through walls, of the large cat that would appear in the Rotunda and continually grow larger until it would finally disappear. I knew where alcohol was hidden during Prohibition, where the bomb had gone off in the early 1980s, and where to stand to hear the whispering secrets of Statuary Hall.

My fascination with the Capitol led me to this project for my undergraduate honors thesis at Stanford University. I wanted to explore the ways in which the Capitol has served and communicated with the general American public. I wondered why so many visitors had entered the Capitol, and what they were looking to find. In my thesis, I explored what the Capitol had symbolized to Americans and whether its meaning had changed over time. I thought of the many images and references to the Capitol that I had seen in the popular media and wondered how the building had been shown and described since its construction. In this excerpt, which include the first chapter, ''All Roads Lead to Washington,'' we will look at Washington as a figurative center of the country, as the destination for anyone interested in learning more about the government and the nation.

Authors throughout the early part of the twentieth century described Washington as a natural destination for any traveler. In 1940, Marion Burt Sanford offered advice for a trip to the nation's capital to readers of Woman's Home Companion. She declared the city to be the country's focal point: ''In front of the White House is the zero milestone from which all distances in the country are measured, so all roads lead to Washington.'' Her article rested on a puzzling premise. She claimed that Washington was a ''zero milestone,'' and yet the nations's capital was certainly not at the geographical center of the country. Some capitals sit at a central location, convenient to every part of the country: Paris, France and Madrid, Spain for example. Washington, D.C., however, is on the eastern seaboard, and certainly not accessible for the western portion of the country. Yet taken in a figurative sense, Washington D.C. is a location that draws many visitors. As the federal capital, it is a destination for politicians, lobbyists, tourists, school groups, and others. Every person in the United States has a tie to the city, as the place where the laws are made and enforced and where the country is governed. Therefore, though Sanford's claim that ''all roads lead to Washington'' is, in the literal sense, a misstatement, it does offer an interesting way of looking a the nation's capital as a magnet for many types of people.

While the White House was the ''zero milestone,'' Sanford suggested that the first stop for any traveler must be the Capitol. Even before any organized visits, the Capitol was a starting point for a memorable walk in the city: ''If you arrive at night and are not too weary take the taxi to the Grant Statue below the Capitol and walk a mile down the wide silent Mall to the illuminated Washington Monument and the Lincoln Memorial. You will never forget it.'' Making a memory of visiting the monuments at night was the first on her list for a woman to do when coming to the city. The reader she addressed was a casual visitor, one who would be interested in seeing the major monuments as well as in experiencing the social side of the city. Sanford advised her readers: ''The first day in Washington should be given to the Capitol and the surrounding buildings.'' She warned that in order to have a successful trip to the nation's capital, the visit must not be too hasty: ''You can't see the House and Senate in action, or the rare private collections in the vast Library of Congress, or saunter past the embassies on Massachusetts Avenue on a hurried bus tour.'' Her proposed tour was a casual one in which women, their husbands, and perphaps their families could enjoy as much time as possible at different points of interest.

Sanford's article reflected a common practice of any Americans, that of a short journey to Washington to visit and experience the monuments and nation's government. Central to this journey was a trip to the U.S. Capitol, for the visitor to wander the halls, see the building, and watch Congress in action. Many articles such as Sanford's described in detail the functions of the Capitol, the sculptures of Statutory Hall and the paintings of the Rotunda. All offered a virtual paper tour of the pubic monuments. These articles suggested that the Capitol and Washington D.C. were a major point of interest to Americans. Authors like Sanford encouraged a trip Washington. But what did the travelers hope to learn or find in the Capitol, and what types of visitors came? Why, in particular, was the Capitol such a popular destination for the traveler?

A trip to Washington was not usually a vacation in the leisure sense; rather, it was an educational journey, one in which the visitor could learn more about the government and the history of the United States. Some articles focusing on the Capitol or Washington referred to travelers as ''pilgrims.'' This term for visitors to the Capitol evoked both a religious tone and a reminder of the country's history. In one definition of the word, pilgrims are religious devotees, often covering large distances to reach a particular sacred spot. In his essay on ''Geography and Pilgrimage,'' Surinder Bhardwaj defined the religious pilgrim in terms of three characteristics: ''. . . the religiously motivated individual, the intended sacred goal or place, and the act of making the spatial effort to bring about their conjunction.'' Pilgrims can also be travelers in search of a spiritual revelation or enlightenment, wanderers without a concrete destination. One dictionary entry for ''pilgrim'' declares that the word is applicable to any traveler, whether on a religious mission or not. A pilgrim can be anyone who leaves home behind to make a journey. In another definition, the term ''pilgrim'' labels the early European settlers of the United States who fled their countries, suffering hardships on their trip across the ocean to be able to practice religious freedom and develop their own communities. This definition is perhaps not as relevant to the idea of visitors to the Capitol, but the reference to the founding of the United States is poignant and instructive—and would not have been lost on American readers.

What constituted a ''pilgrimage'' to the Capitol, and who were these ''pilgrims''? They all came to the nation's capital to see the workings of the government and the history of the buildings, but pilgrims were may different types of people. They were schoolchildren brought to the building by their teachers to learn a civics lesson. They were historians on a pilgrimage to see the sites where certain senators sat and certain documents were signed. They were mourners who came to pay last respects to assassinated presidents and unknown soldiers. They were also women like Clara Bird Kopp, who wrote an article for the National Republic describing her daylong journey around the Capitol. Entitle ''A Pilgrimage to the Capitol,'' her article showed ways in which an everyday person could make a casual pilgrimage to the Capitol, see their senator or congressman and make a connection with the building. Pilgrims, therefore, could come with a specific interest, could be on a trip to learn something new about the government, or could just come to experience the Capitol.

What did these pilgrims hope to find? Certainly not on a religious mission, they went to Washington in search of knowledge about

the government. The idea behind many of these trips was that the complex structure of the United States Government and its three branches could somehow be slightly decoded, slightly more understood if one traveled to Washington. Seeing parts of the government in action, whether Justices presiding in the Supreme Court or Senators arguing on the floor, would lead to a deeper understanding of the functions of the government. Along with the live experience of viewing the Congress within the Capitol came the opportunity to peruse the architectural, artistic, and historic elements of the building. Not only did the Capitol present highlights of the country's history through artwork, it also held memories of great events that took place within its walls, whether joyful or sorrowful. While some who entered the Capitol and wrote about their experience saw themselves as pilgrims of democracy, others were casual visitors. Still others were professionals in search of a certain statute or room. Some were visitors on a mission, at the Capitol to lobby, protest, or otherwise participate in the process of democracy.

One of the most visible and common groups of ''pilgrims'' in the Capitol was schoolchildren. Every American education included an exploration of the federal government, and often a trip to Washington accompanied this lesson. In an article for National Geographic Magazine, Gilbert Grosvenor included a picture of group of young Americans, with a caption that read: ''A group of proud pilgrims on the steps of the Capitol.'' The paragraph of explanation below the image spoke of the phenomenon of pilgrims, of visitors to the Capitol:

Tens of thousands of Americans take a short course in patriotism and government annually by making a pilgrimage to Washington; but none of them get more of happiness and inspiration out of it than the members of the boys' and girls' clubs of the rural high schools. The boys and girls in this picture hail from the parishes of Louisiana and won a national poultry judging contest. They are seeing Washington under the guidance of one of their Senators and the Secretary of Agriculture.''

For the students and their companions, presumably their teachers or guardians, the trip to Washington was a special honor. Grosvenor used them as models for his idea of the pilgrimage, which he described as ''a short course in patriotism and government.'' These pilgrims were becoming better, more faithful citizens through their trip to the Capitol and Washington. Grosvenor equated enhanced patriotism with a first-hand experience in Washington, as though visiting national buildings like the Capitol would naturally inspire feelings of pride in the government and in the country. While most visitors did, in effect, take ''a short course in . . . government,'' not all necessarily left the Capitol with patriotic feelings, as we will later discuss.

Several articles in education periodicals complemented Grosvenor's positive view of the school-age child's reaction to a pilgrimage to Washington by suggesting knowledge of the Capitol should be basic like reading, writing, and arithmetic. In the National Education Association Journal as well as in School Life, articles highlighted the Capitol and suggested reasons why a visitor might be interested in the building. One unidentified author of such an article spoke of the general visitor to Washington: ''Next to himself and his home town or city, the average citizen is interested in his country, its laws and lawmakers, its seat of government. In April and May . . . Washington's parks and drives reflect the lavish mood of nature and countless visitors climb the steps leading to the Capitol.'' The author boldly stated that any ''average citizen'' has a natural interest in the government and that the trip to Washington, DC was a trend of ''countless visitors.'' Most of the articles in education magazines took this interest of the ''average citizen'' as a given, and described aspects of the Capitol or Washington for the pilgrim. Behind all of these articles was the idea that children and adults alike would become better, more knowledgeable citizens by being pilgrims, thus partaking in a common experience with many other Americans.

Although many shared in the common experience of visiting the Capitol, each individual might have found a different interest. Writing in the National Education Association Journal, Mildred Sandison Fenner suggested: ''The Capitol means many things to many people.'' Her article appeared during World War II, at a time when Washington had become a center of focus for the world. She used the Capitol, as a house of government and a national monument, to reach out to many types of Americans and world citizens. She divided people into seven categories and addressed a section to each, explaining what aspects of the U.S. Capitol would be of interest to those people. Her categories: travelers, architects, artists, historians, teachers, ''all American citizens,'' and ''all Citizens of the world who believe in the four freedoms.'' By commenting on all of these specific interests, she was able to describe almost every intrigue about the Capitol, as well as explain her ideas about what it meant to all people. Travelers, she said, would remember the Capitol as their first sight if they arrived at Union Station. Speaking of the architects' interests, she was able to describe the basic appearance and dimensions of the Capitol, as well as speak of the architects who contributed to the building. Artists, she said, would be interested in the ''paintings and sculptures of great historic and patriotic interest.'' Her passage ''to Historians'' was the longest, mentioning several moments in the Capitol's history. She wrote of the laying of the cornerstone, the move of the national capital to Washington, the burning of the Capitol in 1814 by the British, the completion of the dome during the Civil War, and more.

According to Fenner, the Capitol embodied a variety of meanings for the various visitors. For those who led the school trips to Washington, the Capitol could be seen as a key to a broad history. ''To teachers,'' she wrote, ''the story of the capitol is an even broader one, embracing the history of the country itself.'' Of course, she also admitted that ''[t]o all American citizens,'' the Capitol represented the basic actions of government, the legislative body and the basic process of democracy. She expanded this idea in her last section, addressing ''all citizens of the world who believe in the four freedoms.'' To these people, Fenner claimed, ''the Capitol of the United States is the 'arsenal of democracy.' To these millions it is a symbol of hope and a prophecy of the future.''

As a symbol of hope and prophecy, the Capitol became a ''national shrine,'' a term that appeared in a 1947 article in the Saturday Evening Post. Author Beverly Smith remarked upon the ways in which the building served as a center for praising the government, for remembering the past: ''The Capitol is part shrine, part hangout. It has been called 'the Caaba (holy of holies) of Liberty,' . . . Rufus Choate said, 'We have built no temple but the Capitol.'" The Capitol served as a national shrine, or civic temple, in a variety of ways. As a mostly secular shrine, the Capitol assumed a role of a place for worshipping democracy, for praising the nation, its history, and its leaders. In addition to the artistic remembrances of great moments past, it embodied a certain history of its own, from the burning of the Capitol during the War of 1812, to the memories of documents signed, deals arranged, and people who visited. It was a shrine that celebrated the past, present, and future of the country.

Like the idea of a ''pilgrim,'' the use of the word ''shrine'' to describe the Capitol conveyed religious connotations. Though it did not function as a religious shrine, and though the United States on principle supported a separation of church and state, the Capitol did have some involvement with religion. Gilbert Grosvenor described one way in which the Capitol functioned almost like a church: ''For some years religious services were held in the old Hall of Representatives on Sunday afternoons; Lincoln attended them during the war period, when the hall was crowded because many churches had been converted into barracks.'' The national shrine also held funeral services for leaders, in addition to the national tradition of leaders laying in state within the rotunda. Grosvenor also commented that the placing of statues in that ''old Hall of Representatives,'' transformed the room into more than just Statuary Hall: ''The floor of this room was raised to its present level when the hall was converted into an American Westminster Abbey.'' Relating the room to an American Westminster Abbey certainly had religious overtones, but he was most likely referring to the memorializing of leaders and notables that took place in the room through sculpture.

Aside from memorializing American history through art, the history of events within the Capitol itself reflected important moments in the development of the United States. As the National Education Association Journal declared, ''The history of the Capitol is the history of our country.'' Memories of the great and disappointing moments of the past that occurred in the building illustrated various times in the country's history. ''If you study this building long enough,'' Beverly Smith wrote for the *Saturday Evening Post,*

''. . . you can learn America's history since Washington's day. In the very first Congress which sat here, Jefferson was elected over the devious Burr on the thirty-sixth ballot, saving the young republic from who knows what oblique destiny. Here Andrew Jackson escaped assassination when two pistols missed fire. Here Representative—formerly President—John Quincy Adams died, on that couch now in South Trimble's office. In this building were voted all our wars since 1800. Lincoln worked here as a congressman. Here Woodrow Wilson pleaded, and Franklin Roosevelt spoke, tired and tense in his chair, after his return from Yalta.''

Her readers received a crash course in some highlights and low points of American history and pride. Notable events include the deaths of officials within the building, the actions of the Congress, and the presence of great leaders. These events were not readily apparent to the tourist. In order for a visitor to appreciate what history the building held, they had to have a tour guide, or a literary tour guide such as Smith, explain these moments.

Many of these articles gave an insider's account of the past, including both popular and little-known stories of the Capitol's history, for it was not through the casual pilgrimage that a person could notice these spots and instinctively know what happened in the past. Gilbert Grosvenor also included some stories of moments past in ''The Wonder Building of the World.'' He wrote of Statuary Hall, the former chamber of the House of Representatives: ''Here Lincoln, John Quincy Adams, Horace Greeley and Andrew Johnson served in the same Congress. Here Henry

Clay welcomed Lafayette, who replied in a speech said to have been written by Clay. Here John Marshall administered the oath of office to Madison and Monroe.'' The preservation of the country's history through memories such as those Smith, Grosvenor, and Fenner described was an essential element to the appreciation of the shrine.

In addition to holding stories, the national shrine preserved key moments in American history through art. For the artistic ''pilgrim,'' the halls of the Capitol were filled with visual history. Visitors could peruse the art within the Capitol and learn something about the past entirely on their own. Fenner mentioned her own preference for some of the works: ''Among the better oil paintings are those of Stuart, Peale, and Trumbull.'' Congress had commissioned Trumbull's paintings in the early nineteenth century to commemorate scenes of the American Revolution. Throughout the Capitol, frescoes offered allegories of great leaders or of basic principles of the republic. Works of art hung on walls in offices and hallways, all portraying different moments in America's past. However, the paintings that hung in the Rotunda were not of particular interest to authors, perhaps because any visitor to the Capitol could observe them. More important to these literary pilgrimages were little known stories and facts about the national ''shrine.''

Both preserving a memory of the past and praising great leaders through sculpture, Statuary Hall was the center of much debate on the early twentieth century, and a common destination for the ''pilgrim'' especially interested in the arts. Dedicated by the House and Senate to be a place where each State could send sculptures of two people of accomplishment, the Hall became a source of many extreme opinions. While some people enjoyed the sculptures and admired the idea of placing leaders from each State within the Capitol, many others described it as a '' chamber of horrors,'' due to the poor quality of the sculptures and the bad arrangement of figures. Gilbert Grosvenor was of the former opinion, and gave a positive view of Statuary Hall. ''An unwarranted phrase,'' he wrote, ''has made it popular to call Statuary Hall a chamber of artistic horrors. Such designation does injustice to the art and the history of the room where the House of Representatives met for 40 years and which now exemplifies a really fine memorial idea. Setting clear his feelings about the hall in the beginning, he continued on to explain how it came to be. A law was passed in 1864 to create Statuary Hall, which he said was so that: ''the States could use it as a place to do national honor to the memory of their sons and daughters renowned for civil and military service, each State being entitled to place two statues here.'' At the time that most of these articles were being written, there was but one woman among the collection of statues, Frances E. Willard. Statuary Hall attracted many visitors who came to gaze at the statues as well as to experience the ''whispering'' phenomenon of the elliptical room; a person standing at one focus of the room could hear a person whispering at the other.

Many authors, artists, and other citizens did not view Statuary Hall in so pleasing a light as Gorsvenor. Lambert St. Clair wrote an article for Collier's, ''The Nation's Mirth-Provoking Pantheon,'' in which he described the Hall in detail, attacking it artistically. Not only were the sculptures themselves terrible, but their placement around the room also left much desired: ''The arrangement obviously is bad. Forty-one statues are crowded into a space which might accommodate ten artistically . . . Guides expect to grow wealthy rescuing lost tourists when the entire ninety-six are placed.'' He did not merely dislike the positioning of the statues, but also the statues themselves. He explained that they had no artistic continuity, as a wide variety of artists had completed them, and that State Legislatures had often favored cheaper statues over ones that were more aesthetically pleasing:

''Zachariah Chandler, the latest addition to the hall, wears neatly creased trousers and a new white topcoat with fashionable roll lapels. Lewis Cass, who stands beside him, is clothed in a suit so badly wrinkled that one look will make a tailor's hands twitch. General Lew Wallace's right coat sleeve is laid open halfway to his elbow and rolled back while his left sleeve is drawn tightly about the wrist. Daniel Webster's coat is woefully in need of pressing. The dress worn by Miss Frances E. Willard, the only woman in the group, appears to have been slept in.''

St. Clair maintained that he was not alone in his opinion, and related the story of a ''merry war'' that was ensuing at the time. The conflict arose between the lieutenant governor of Kansas, Sheffield Ingalls, and an artist who had completed one of the statues. St. Clair explained that Ingalls was attempting to have the statue of his late father, Senator John J. Ingalls, removed from Statuary Hall. Ingalls' motivations reflected his worry about the sensation surrounding the room: ''Reverence for his parent made such action imperative, the son said, inasmuch as the entire collection of statues had, due to their poor arrangement and, in many cases, inartistic execution, become ridiculous and mirth-provoking curiosities to tourists.'' Ingalls' concern that his father would become the source of ridicule and mocking shows the impact that the phrase ''chamber of artistic horrors'' had on how Americans thought about Statuary Hall. Though it originally was intended to honor great leaders, the artistic failings made it a controversial room.

Former leaders were also honored in the ''national shrine'' through the tradition of laying-in-state. On these occasions, the Rotunda was turned almost into a funeral home or church as Americans came to pay last respects to the deceased. Many presidents have lain in the center of the Rotunda, mostly those who died in office. The ceremony had a strong impact on the participants, as Catherine Cavanagh described in an article for Bookman:

''The solemn Rotunda of the Capitol has been made almost unbearably solemn by funeral services which have been held there—notably those of the three presidents who died by the hands of assassins—Lincoln, Garfield and McKinley. And one who has looked upon the silent form of one of our rulers lying under the lofty canopy of the dome can never forget the awe of the occasion. The long black line in front, and the long black line behind, in the procession of reviewers are forgotten—one seemed alone with the august dead in the vast grandeur of the chamber typifying the core of the Nation.''

To Cavanagh, visiting a leader lying in state not only was a solemn occasion, but also was an opportunity to have solitary time within what she sees as the Nation's figurative heart. As one waited in line to visit the coffin, it was an occasion to ponder all of those who have passed. Authors strongly associated the Rotunda with these services: to the National Education Association Journal, mentioning the tradition of laying in state was a natural part of a description of the rotunda. A general explanation of the size and shape of the Rotunda was accompanied by a reminder of several services that had taken place within the room: ''Here Lincoln's body lay in state; here multitudes passed before the flower-laden catafalque of the unknown soldier prior to interment at Arlington.'' The ritual of paying respects to the unknown soldier began after World War I, and has continued to be a part of the post-war tradition for all major conflicts. By placing the coffin of the Unknown Soldier in the Rotunda before it is interred at Arlington Cemetery, the country has been able to symbolically mourn for all those who died in war. At the same time, this tradition makes the statement that deceased presidents as well as those who die fighting for the United States deserve the same respect and honors.

The national shrine did not only praise those leaders and notables of the past. As a way of honoring the nation and democracy, some revered the leaders who worked within the Capitol at the time. Grosvenor concluded his long article on the Capitol by saying that the present deserved as much attention and commendation as the past. He included members of the House, Senate, and Supreme Court in his praise. He began by stating a common practice of people to overlook the present: ''Amid the glamour of history, some are prone to discount the achievement of the present and the abilities of those to whom have been entrusted the duties of lawmaking and law-administering. But the student of the past knows that the wail of the 'decadence of the times' is one which has gone forth in every age.'' Grosvenor concluded his article by reminding the reader that those current leaders could some day be given great honor: ''The men of to-day who are making the history of America will, in turn, have their meed [sic] of recognition, and in some future time their effigies in bronze and marble will be placed in Statuary Hall as comrades in glory with the Founders and Preservers of the Republic.'' In some ways, Americans paid tribute to the actions of their leaders every day by listening to debates on the floor of the House and Senate and by visiting their delegations' offices.

However, not all who came to the ''national shrine'' found people, or actions, worth praising. In one book, *Historic Buildings of America*, ''famous authors'' took a critical look at American institutions and traditions that were generally accepted and praised. A chapter by Charles Dickens, ''Within the Capitol,'' attacked the motivations of all politicians within the chambers. Though Dickens' excerpt was likely written during the early 19th century, its inclusion in this early 20th century book suggests its message resounded with readers years later. Dickens wrote:

''I saw in them the wheels that move the meanest perversion of virtuous Political Machinery that the worst tools ever wrought. Despicable trickery at elections; underhanded tamperings with public officers; cowardly attacks upon opponents, with scurrilous newspapers for shields, and hired pens for daggers; shameful trucklings to mercenary knaves whose claim to be considered, is, that every day and week they sow new crops of ruin with their venal types, which are the dragon's teeth of yore, in everything but sharpness; aidings and abettings of every bad inclination in the popular mind, and artful suppressions of all its good influences: such things as these, and in a word, Dishonest Faction in its most depraved and most unblushing form, stare out from every corner of the crowded hall.''

Dickens would have been one of the critics who Grosvenor attacked in the conclusion to this article. Writing an impassioned account of the characters of leaders within the building, Dickens was far from praising those who made or enforced the laws. Though Dickens was not praising the actions of those politicians within the shrine, he was exercising the right of free speech, a basic principle on

which the democracy was founded. As a British citizen, he brought a slightly different perspective to his view of the Congress, but his attack reflects the basic right to offer criticism. Therefore, though he did not admire the actions of these particular leaders, he was valuing an ideal that the ''national shrine'' was intended to represent.

Just as Dickens criticized the government openly and thereby enjoyed one of the privileges of democracy, so have millions of Americans come to the Capitol in order to express their grievances. Their roads led to Washington for a different purpose: for a pilgrimage of protest. These protests could easily be the subject of an entire paper, and so I will just take a look at one of the protests as an example of the many that have occurred. In an article for *New Republic* in 1931, John Dos Passos described a ''hunger march'' that took place at the Capitol. The situation was tense as a group of men proceeded up Constitution Avenue to the expanse between the Capitol and the Library of Congress. Dos Passos gave a picture of the scene to the reader:

''The marchers fill the broad semicircle in front of the Capitol, each group taking up its position in perfect order, as if the show had been rehearsed . . . Above the heads of the marchers are banners with slogans printed out: 'in the last war we fought for the bosses: in the next war we'll fight for the workers . . . $150 cash . . . full pay for unemployed insurance.''

These men had come to the Capitol to seek government aid during the Great Depression, and though the banners may have changed for each different group that came to protest, the general process of a protest pilgrimage was familiar. This group had come to Washington, like many, to raise awareness about their plight and to get the attention of lawmakers within the Capitol. In his article, Dos Passos took a highly cynical tone, describing the dome of the Capitol that ''bulges smugly'' and the Senate Chamber as a ''termite nest under glass.'' He also suggested that the Capitol building itself played an active role in the protest, for as the men shouted their demands, Dos Passos claimed that ''a deep-throated echo comes back from the Capitol facade a few beats later than each shout. It's as if the status and the classical-revival republican ornaments in the pediment were shouting too.'' For Dos Passos, the Capitol took on a human quality, with the status seeming to participate in the march as well. The pilgrimage of protest such as this ''hunger march'' was but another way that the ideals embodied in the Capitol, the ''national shrine,'' could be expressed.

Underlying many of the articles that discussed the Capitol as a pilgrim's destination was the idea that the building belonged to the American public. These articles attempted to relate a more human side to the Capitol, one that could describe the formal white building as a familiar place. The American public should think of the building as theirs. Beverly Smith suggested throughout her article that though the Capitol was a shrine, it should also be thought of as accessible, even as ''a friend.'' She quoted a fellow journalist: '' 'I am not one of those who can sneer at the Capitol,' wrote Mary Clemmer Ames, a lady correspondent in Washington 70 years ago. 'Its faults, like the faults of a friend, are sacred.' '' Her entire article contrasted the Capitol as shrine with the Capitol as a hangout, which created a picture of the building as a national space that should be a comfortable place for pilgrims. She declared that the building was a friendlier place than its image suggested, an idea that appeared in other representations of Washington from the time. Similarly, in an article entitled ''Nerve Center of the World,'' Albert Parry wrote that Washington could still be thought of as a small town, even though its importance was growing on the national and international scene, ''If anything,'' he wrote, ''Washington is a charming Southern town which has grown large and cosmopolitan without losing its drawl.'' In these and other articles on the Capitol and Washington, journalists were demystifying the formal ideal of the Capitol, making it a more accessible place.

Smith in particular wanted Americans to see ways in which the Capitol belonged to them. In one story she related a physical way in which everyday Americans left their mark on the building:

By day in the sunshine or at night under its floodlights, the great dome looms white and pure. But, if you climb the long spiral stairs to the little galleries around the dome, you see that every inch of the surface within human reach is covered with writing, in pencil, ink, crayon and lipstick—all the small familiar chirography of the American people: Jimmy loves Marge . . . Kilroy was here . . . Mr. and Mrs. G. Wallace Shiffbaur, of Minesota . . . Hubba, hubba. Hearts and arrows. Periodically the writing is painted out, but a new swarm of tourists and honeymooners covers it up again, quick as magic. ''What can you do?'' says a guard. ''It's their Capitol, ain't it?'

Though the dome appeared to be completely ''white and pure,'' she informed her readers that upon closer look, it was filled with graffiti, the kind that normally covered bathrooms and college hangouts. It was quite an image that she presented; as a whole, the Capitol seemed formal, pure, and stately, and yet on close inspection, it was partially made up of the marks of everyday Americans. The guard who watched people daily write upon the dome merely shrugged his shoulders at the practice. he saw no problem with the signatures, as he believed the building upon which they were writing was their property as citizens of the country.

The Capitol as a destination and a place for pilgrimage drew countless number of Americans to its step. The roads and paths of many different types of pilgrims led to Washington and to the United States Capitol. Pilgrims to the Capitol were sometimes eager, sometimes critical. They came to see their leaders in action, to wander the halls, to view the places where certain events occurred, and to participate in the democratic process. They encountered or red about a space that could become as familiar to them as an ''old comfortable home.'' By appealing to different interest, these journalists made the building understandable and intriguing to all types of readers and visitors. The Woman's Home Companion offered advice on how to organize a trip to Washington and the best times to visit the Capitol; the Saturday Evening Post wrote stores full of human interest, including both formal descriptions and little-known facts. Besides the stories of contemporary life, articles focused on the Capitol's interior: paintings and sculptures that celebrated great moments in the history of the United States and great leaders past. Mentor published articles specific to its readers, focusing on the art within the Capitol. Through these articles, authors reached out to readers to make the Capitol more accessible to all. The civic space, the ''shrine,'' offered visitors and readers alike a glimpse of the past, the present, and the future. Authors invited readers to consider the building as belonging to all Americans, and not as an untouchable place. While Americans no longer participate in the ritual of signing their name on the dome, they still come to experience the Capitol as countless have done before them. The Capitol remains a central destination for all who find themselves on a road that leads to Washington.

IN THANKSGIVING

Mr. BYRD. Mr. President, as the City of New Orleans and countless other communities along the U.S. gulf coast continue to clean up from the twin disasters that were Hurricanes Katrina and Rita, as Florida reels from yet another major hurricane there, as U.S. casualties in the Iraq and Afghanistan conflicts soar above 2,000, and as scandal engulfs the White House itself, it might seem difficult to find anything to be thankful for on this Thanksgiving.

For many families in the United States this holiday season, the tables, if tables they can find to set, will be set with fewer plates than usual, and the fare might be somewhat skimpier than in years past. Their homes are in ruins, their jobs lost, their friends and family members scattered, and their prospects for rebuilding the lives they once knew are uncertain. It can be difficult to take the long view in the face of such circumstances, or to reflect on history with any equanimity, even though history is replete with examples of recoveries from terrible disasters. One has only to think of Hurricane Camille, or the Great Depression, or World War II, or the San Francisco earthquake, the great Chicago fire, to find evidence that out of the ashes of war and devastation can come the rebirth of cities, communities, and economies. There is hope.

There is also much worth celebrating as families sit down to their Thanksgiving tables. We may be grateful that the loss of life to the hurricanes was not greater. We can all celebrate the tremendous outpouring of support that spontaneously erupted from the hearts, hands, and wallets of Americans outside the gulf coast disaster zone and from friends around the world who were glad to come in their turn to our assistance as the United States has in the past come to theirs. Communities all along the periphery opened their doors to welcome refugees from the storms, and volunteers flooded into the area in such force that relief organizations were overwhelmed. The public response to the gulf coast disasters was truly inspiring and heartwarming. It proved that a core value of this Nation, its sense of community, remains strong and vital.

We can also celebrate the ability of our Nation's first responders to learn from their mistakes. While the planning and response to Hurricane Katrina was in most people's estimates pretty abysmal, the preparation for and response to Hurricane Rita was a little better. And, unfortunately for the people of Florida, they have gotten a lot of practice in the last couple of years, and their preparations for and response to hurricanes is well rehearsed. There is much we can learn from these terrible

events, and hope that we take those lessons to heart.

The brightest spot in the war in Iraq is the performance of our troops. Day after dangerous day, they do their duty. They patrol, they seek out insurgents, they struggle to provide a secure environment for the rebuilding of that nation. Day after day, they face down their own fears and travel those lethal roads to take the battle to the enemy. However one may feel about the path that led us to Iraq, we can feel nothing but love, pride, and respect for our men and women in uniform. Whatever the circumstances under which we sent them there, through misread intelligence or misleading rhetoric, the U.S. military has gone, and gone again and again, and performed their duties with courage and dedication.

Even the scandal that now haunts the White House, and which is beginning to wash over the President's closest advisors, may give us cause for celebration, and not for any partisan reasons. As Americans, we may be thankful for living in a nation in which no man is king, to rule at his own whim and to undermine his detractors at will and without consequence. We may be thankful for our system of government, with its checks and balances between the three branches of government firmly established in our Constitution. And we may celebrate the wisdom of guaranteeing freedom of expression and the existence of a free press.

Though the wheels of government may sometimes grind exceedingly slowly, we can be grateful that they still can be pushed and cajoled into conducting their oversight functions and asserting those checks and balances. That is what keeps this country strong. President Abraham Lincoln said ''Let the people know the truth and the country is safe.'' Whatever may be the final outcome of the investigation into possible retribution by the White House against Ambassador Wilson and his wife for Wilson's role in unmasking a fraud in the government's case for going to war in Iraq, the Nation is safer and better off for having the means for citizens, acting through their elected officials and their legal system, to challenge possible abuses of power.

So even in these dark days, there is cause for thanksgiving. I hope that the recent dip in gasoline prices will allow families to come together, pull out the good china and set a beautiful table overflowing with all the dishes that make this feast so memorable and so mouthwatering: turkey, roasted, grilled, smoked, barbequed or deep fried; stuffing in all its regional variations with herbs or oysters or sausage or cornbread; hams coated in pineapples and cloves or cured with smoke or sugar; cranberries served jellied or chopped, with oranges or not; green bean casserole with a crown of fried onions; yeast rolls or biscuits dripping with butter or gravy; sweet potatoes in casseroles or with marshmallows and brown sugar; and pies—glorious pies with spicy pumpkin topped with whipped cream, and fruit pies in flaky shells, topped with cheese or ice cream. Americans know how to cook, and all the variations on our traditional Thanksgiving meal surely mean that this feast will never settle into routine.

Thanksgiving. Can there be a better day? It starts with parades to watch for the youngsters. Then the action in the kitchen heats up, competing with football games and the happy arrival of guests for our attention with a whole array of enticing aromas and clattering noises. The meal itself is wonderful, with family and friends around the table giving thanks and meaning it. And after the meal, in the warm glow of a full stomach, there is time for companionship as the leftovers are put away and the dishes are washed. The evenings are primed for walks in the cool weather, or short naps, or other sports, before the leftovers make their first reappearance. There are few days like this, devoted entirely to family without the distraction of, say presents at Christmas or Easter egg hunts. Thanksgiving is the one time we can really focus on all that we have to be thankful for just by looking around that table. My wife Erma and I have so much to be thankful for, and I know that she joins me in wishing a very happy thanksgiving to all Americans. May each of you, no matter how desperate your present circumstances may be, be blessed and see all that you have to be thankful for.

Mr. President, I wish you a happy Thanksgiving. I would like to close with a poem by Charles Frederick White, written in November 1895. His words serve to remind us that Thanksgivings past were not very different than today.

THOUGHTS OF THANKSGIVING

Thanksgiving Day is coming soon,
That long remembered day
When nature gives her blessed boon
To all America.

On that glad day, in all our land,
The people, in their wake,
Give thanks to God, whose mighty hand
Deals blessings good and great.

The roast goose, steaming on the plate,
The sweet potato cobbler,
The cranberry sauce, the pudding baked,
The seasoned turkey gobbler,

All these delights and many more,
From north, south, west and east,
Do all the nation keep in store
For this Thanksgiving feast.

Alas, for those who are denied
This blessed boon of God!
May all the needy be supplied
Like Israel by the rod.

The PRESIDING OFFICER. The Senator from Kentucky.

TRIBUTE TO SENATOR SUSAN COLLINS

Mr. MCCONNELL. Mr. President, I rise this afternoon to pay tribute to one of the most effective and outstanding Members of the Senate, Senator SUSAN COLLINS of Maine. Today, Senator COLLINS cast her 2,942nd consecutive vote as a Senator, breaking the record of the former Senator from Maine, Margaret Chase Smith. In doing this, Senator COLLINS has maintained a perfect voting record since she was sworn in to the Senate in January 1997.

Senator COLLINS recently honored Margaret Chase Smith just a few weeks ago during a ceremony to unveil an official portrait of Senator Smith, a portrait entitled ''The Great Lady From Maine'' which now hangs proudly in the U.S. Capitol. As Senator COLLINS said in a tribute to Senator Smith at that unveiling:

> For every woman serving in the Senate, Margaret Chase Smith blazed the path, but she was a special inspiration to me.

Senator COLLINS met Margaret Chase Smith as a senior in high school, participating in a Senate youth conference here in Washington. She remembers Senator Smith telling her to ''stand tall for what I believed.'' Senator COLLINS continues to use this advice today as she chairs the Homeland Security and Government Affairs Committee and working for the people of Maine.

I know I speak for all of my colleagues in the Senate when I congratulate her on this truly remarkable accomplishment.

AFGHANISTAN

Mr. MCCONNELL. Mr. President, freedom continues to advance in Afghanistan. Of course, they are a great ally in the war on terror. In fact, I recall visiting Afghanistan just a little over 2 years ago with the current occupant of the Chair, and we had an opportunity to see firsthand the progress they had made at that time, not to mention how far they have come since.

A few days ago the results of that country's historic parliamentary elections, held in mid-September, were officially certified. At the time that Senator BURNS and I were there, they had not yet had the election of the President, not officially. They have since had that election. Now they have had a parliamentary election. Those results are now certified. A joint Afghan and United Nations election commission has declared the winners in races for 249 seats in the lower parliamentary house, as well as members of 34 provincial councils around the country.

Afghanistan's continued progress toward democracy is obviously a victory in the war on terror. Four years ago, the ruthless Taliban regime ruled Afghanistan with an unyielding, murderous intolerance, and they laid down that country's welcome mat to all the terrorists to ''come on in.'' I would like to remind my colleagues that 4 short years ago Afghanistan was ruled by a regime so intolerant that as part of an effort to erase any trace of Afghanistan's history before the rise of Islam in the seventh century, the Taliban destroyed two priceless Buddhist statues. These statues had been carved into the

face of a cliff outside the Afghan city of Bamiyan. These ancient wonders that had endured for centuries were instantly turned into dust. The Taliban was literally trying to erase history. But now the Taliban itself is history.

America's quick defeat of the Taliban, the rescue of the Afghan people out from under their wicked thumb and the quick transformation of Afghanistan into a burgeoning democracy in just 4 years is nothing short of amazing.

Today, a democratically elected parliament and a democratically elected, President Hamid Karzai, are charting a new course for their country. I am proud to say that a new day has dawned in Afghanistan. Where there was repression, now there is liberty.

For instance, reports indicate that 68 of the new legislators are women. Four years ago little girls weren't allowed to go to school, and women had no rights whatsoever. Four years ago women were second-class citizens, blocked from jobs and educational opportunities by the Taliban. These 68 women legislators make up over a quarter of their chamber. That is significantly higher than the proportion of women in our Congress in the United States.

Afghanistan will continue to make progress toward freedom and democracy. The provincial councils are now in the process of selecting 68 members of the House of Elders, which is the upper parliamentary house. Those selections will be completed soon. Then with President Karzai's selection of an additional 34 members to the upper house, the full Afghan Parliament is scheduled to convene for the first time in the third week of December.

I ask my colleagues to join me in saluting the people of Afghanistan as they move forward toward freedom and democracy. I ask all of us to join in pledging the full support of the United States as the people of Afghanistan continue to fight the last vestiges of an extreme terrorist element, and as they continue to stand with the grand coalition of free nations who are waging the war on terror.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

TRANSPORTATION, TREASURY, HOUSING AND URBAN DEVELOPMENT, THE JUDICIARY, THE DISTRICT OF COLUMBIA, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2006—CONFERENCE REPORT

Mr. BOND. Mr. President, I ask unanimous consent that the Senate proceed to 1 hour of debate in relation to the conference report to accompany H.R. 3058, the Transportation-Treasury-HUD bill; provided further that Senator COBURN be in control of up to 30 minutes of debate; I further ask consent that the two managers have up to 15 minutes each and that following the use or yielding back of the time, and when the Senate has received the conference report, it then be agreed to, with the motion to reconsider laid upon the table.

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

(The conference report is printed in the House proceedings of the RECORD of today, November 18, 2005.)

Mr. BOND. Mr. President, I thank all or our colleagues. This has been a long and interesting path that we have trod.

Today I stand in support of the Transportation, Treasury, HUD, Judiciary, and Independent Agencies fiscal year 2006 appropriations bill. This bill also includes the District of Columbia fiscal year 2006 appropriations act. Before getting into the details of the bill, I thank Chairman KNOLLENBERG and his ranking member, Mr. OLVER, on the House side. Particularly, I express my sincere appreciation to my ranking member, Senator MURRAY, for her hard work, thoughtful and bipartisan approach to crafting a good bill, and her unwavering commitment to getting the bill done on an expedited schedule as mandated by the leadership. As all who follow this place know, we have had some bumps on the road over the last several days which forced both House and Senate staff to work throughout a number of nights this week while completing a blitzkrieg schedule in order for us to be able to vote on this measure today. Despite these bumps, we have completed our work, and I compliment Congressman KNOLLENBERG on his commitment and perseverance to work with me to overcome these problems.

I do express my sincerest gratitude and thanks to our excellent staffs; on the Senate side, on the subcommittee, on my side, Jon Kamarck, Paul Doerrer, Cheh Kim, Lula Edwards, Josh Manley, and Matt McCardle; on Senator MURRAY's side, Peter Rogoff, Kate Hallahan, William Simpson, Diana Hamilton, and Meaghan McCarthy.

Obviously, we extend our thanks as well to the House side staffers.

Now, Mr. President, the staff had to work extremely hard, in a bipartisan manner, to make our recommendations and instructions a reality. This is not a simple bill. Yet it is likely a Rube Goldberg machine with many complex moving parts.

This bill is the first real appropriations product of a new subcommittee that grew out of the reorganization of the Senate Appropriations Committee earlier this year. It is a substantial and complex bill that will have a significant and positive impact on every State and community in the Nation as it covers, among other things, every mode of transportation, financial services, and IRS requirements as guided by the Department of Treasury; it funds the Federal Government's role in housing and economic role under HUD; it funds the Executive Office of the President, Federal judicial system, and funds other related agencies such as the General Services Administration, Office of Personnel Management, and the Postal Service.

I believe that given the circumstances and our budget allocation, this is a good bill. We started with a budget that was severely underfunded in many of the important programs in the bill. These are programs which historically have been strongly supported by Members of this body. Thankfully, in most cases we have been able to restore many of the cuts and shortfalls, perhaps not as much as some Members would want and certainly some areas not as much as I want. But I think all Members will understand and appreciate our efforts to fund the programs and activities that enjoy the greatest support.

I wish to express a very special thanks to our chairman, Senator COCHRAN, who demonstrated his understanding and sensitivity to the needs of the Transportation-Treasury Appropriations Subcommittee.

While we received significantly less budget authority for the conference, without Chairman COCHRAN's help the House would have demanded a much harsher and unrealistic reduction in our allocation, with the results we saw that happened in regard to the Labor-HHS fiscal year 2006 funding bill yesterday in the House.

In particular, despite our fiscal limitations, we have worked diligently to ensure the transportation programs in this bill are adequately funded. One of my highest priorities in fashioning this bill was to provide the needed funding for the safety, construction, and maintenance of our highways, transit systems, and airports. Funding for our Nation's transportation infrastructure, and especially for our highways and road network, creates jobs and promotes economic growth. More importantly, it continues the continued maintenance and growth of our economic infrastructure by which we serve markets throughout the Nation and ultimately the world. The transportation system is the heart and arteries by which we pump our goods and products which guarantee our current and future prosperity in the national and international marketplace, and we cannot afford to shortchange this system.

We also removed the designation on the Alaskan bridges. The funds remain with Alaska to meet their priority needs. These bridges were grabbing unreasonable and unwarranted attention which was beginning, in many ways, to undermine the very good work and the very necessary projects in this highway bill.

In addition, this bill provides $14.4 billion for the Federal Aviation Administration, which is approximately $400 million more than the request. This recommendation includes $14.3 million to hire safety inspectors and restore inspector staffing levels on an accelerated basis. It also adds $4 million to restore engineering and inspector staffing at the Office of Certification so that new equipment and technologies

can be approved for use in aviation and our Nation can retain its leadership in aviation. I am pleased also to announce that the bill does not cut the Airport Improvement Program, as proposed in the budget request.

I am also happy to report we have been able to fund Amtrak at $1.315 billion, while making some incremental steps to reforming how Amtrak conducts its business. These reforms are critical, and it is my hope that these improvements will move to jump-start the efforts of Senator LOTT, Senator STEVENS, and others to pass a truly comprehensive reform package.

Mr. President, I was troubled by the administration's demand of Amtrak reform with a budget request of $360 million. A $360 million-a-year appropriation would likely jolt Amtrak directly into bankruptcy, a costly financial and emotional blow to the Nation and send Amtrak into chaos. Many Members, including the occupant of the chair, our distinguished Senator from West Virginia, and Members throughout the Senate asked us to take strong action to avoid that problem. Thankfully, we were able to scrape enough funds together to ensure the continued existence of Amtrak, although it meant a number of other programs were underfunded, and when we received finally the recommended reforms at Amtrak from the administration, we were able to include them.

Mr. President, I also should touch on another issue in the conference report, and that is the ongoing efforts to improve protection consumers have from being preyed upon by rogue household movers. I think we all know they are a small group of fly-by-night companies that purport to pack and transport family household possessions and then stealing them and holding them hostage for exorbitant fees or make unreasonable demands. This could be a devastating blow.

In this past year's highway bill, additional requirements on movers were included, along with new provisions granting State officials, particularly attorneys general, new authority to help police the Federal law. Part of the problem has been the lack of the Federal enforcement. The Federal agency, the Federal Motor Carrier Safety Administration, has not had sufficient resources, and the U.S. attorneys, with the notable exceptions of the Miami and New York-New Jersey agencies, have also not made these crimes a priority; thus, the ideas of expanding cops on the beat by giving authority to State agencies and, thus, my work to make sure that while we expanded responsibilities, we did so in a reasonable and consistent way.

First, we provided additional resources to the Federal Motor Carrier Safety Administration to help them do their job better. We restored $1 million to the Education and Outreach Program in order to help them train State officials as to how to look and find the risky carriers. We also reiterated our support for the strong State-Federal partnership which had been included in the highway bill to ensure effective Federal-State cooperation.

Where we and some of our colleagues part company is on the scope and the venue. I strongly believe that Federal law should be enforced in Federal court, and thus the key provisions in the conference report will ensure that that will occur. There will be Federal enforcement on the major interstate activities. State law violations will continue to be enforced in State court. Federal law violations will continue to be enforced in Federal court.

In order to ensure that the States target those typical rogue movers who seem to be too small for U.S. attorneys and thus are slipping through the cracks, the language makes clear that the responsibilities of the State agencies are focused on what carriers they have jurisdiction over. Namely, these are the highest risk, fly-by-night carriers or carriers who meet one or more of the following: The carrier is unregistered; or the license of the carrier or broker has been revoked for safety or lack of insurance; three, the carrier is unrated or received a conditional or unsatisfactory safety rating by DOT; or the carrier has been licensed for less than 5 years.

This then accomplishes all the goals we have been discussing—tougher Federal law, additional consumer protections, State attorneys general and other State agencies have been granted the authority to be a cop on the beat to help enforce the Federal law. Their targets are the fly-by-night rogues and their venue is the Federal court and they are being asked to help enforce Federal law.

Now, Mr. President, moving on to some of the other areas in the bill, for the Department of the Treasury, this bill provides $11.7 billion for 2006. This amount is about $50 million above the budget request and some $475 million above the fiscal year 2005 enacted level. We think it is very important to provide resources for Treasury's efforts to fight the war on terrorism, and we provided full funding for the Treasury's Office of Terrorism and Financial intelligence. I know how important the Treasury's Antiterrorism efforts are, and I strongly believe they play a vital and unique role in cutting off financial assistance to terrorist organizations.

Next, to help close the so-called tax gap, where those people who pay taxes as they should voluntarily have to carry a heavy burden for the small percentage who do not, we have provided $10.7 billion for the IRS, including $6.9 billion for tax enforcement. This amount is $443 million above the fiscal year 2005 enacted level. These additional funds will help ensure there will be less fraud and that honest taxpayers will have a greater level of confidence in our tax system.

We also have provided full funding for IRS's modernization efforts through their Business Systems Modernization Program. This program is correctly IRS's highest management and administrative priority.

For the Federal judiciary, the bill includes a total appropriation of $5.7 billion, a 6-percent increase over the previous year, and this represents the funding necessary to meet the judiciary fiscal year 2006 funding needs.

For HUD, the bill provides some $38.2 billion for fiscal year 2006, an increase of $2.1 billion over the request. These additional funds include almost $4.22 billion for the Community Development Fund and CDBG, which was slated for elimination through a reduction of over 30 percent of its funding and a consolidation of its activities along with other programs into a new grant program within the Department of Commerce.

The bill also increased the Senate-proposed rescission of ''excess'' section 8 funds from $1.5 billion to $2.05 billion. After further review of the account, we firmly believe we have identified a one-time savings from section 8 that allowed us to increase the rescission to $2.05 billion.

In addition, I am happy to report we have adequately funded HUD programs at a minimum of last year's level which is generally higher than the request.

The bill basically funds the Executive Office of the President at the requested level. We have fully funded the High Intensity Drug Program at $127 million; whereas, the budget would have funded it at 100 million in the Department of Justice. This is a critically important program that has been successful throughout the Nation at helping to root out and eradicate methamphetamine production, marijuana, and ecstasy use, as well as heroin and cocaine importation. This program has been especially important in Missouri, where methamphetamine production and use have reached almost epidemic proportions.

Mr. President, as I prepare to close, I wish to express my sincerest thanks to the ranking member of the full committee who has been a great friend and mentor of mine and who has helped Senator MURRAY and me as we have worked through this by gaining the necessary funds.

I also thank—I feel his presence immediately behind me—the chairman emeritus of the Appropriations Committee whose birthday we celebrate, with very best wishes and, fortunately, no songs on the Senate floor. He has been of great assistance to us.

I must say, one of my last thank yous is to my chief of staff, Julie Dammann, who has served me since I arrived in this body. I was going to say in 1897 but it was 1987. She has been with me for these years and has become very well known and respected. This will be her last bill and, as on all the other bills, not only was the appropriations staff working day and night, but we were communicating by BlackBerry in the middle of the night. She

was working on the details with the appropriations staff and others. She was communicating with Senators' offices. We only came to the floor today because she had worked with other Senate offices, as Senator MURRAY and her staff had, to clear away objections which might be raised.

So it is with great thanks that I note the contributions to this, her last appropriations bill, of Julie Dammann and wish her all the best.

I also note that my partner, the Senator from Washington, Mrs. MURRAY, has been working extremely hard on this. She helped clear the way of the remaining problems. I cannot think of how she could have been more helpful or more productive in this effort.

The PRESIDING OFFICER. The Senator has used 15 minutes.

Mr. BOND. I thank the Chair. I yield the floor.

Mrs. MURRAY. Mr. President, I am pleased to join my colleague, Senator BOND, in supporting the conference report on the Transportation, Treasury, Housing and Urban Development, the Judiciary and Independent Agencies Appropriations for fiscal year 2006.

This bill is the product of many hours of hard work since the Senate passed the bill on October 20. First, I want to express my sincere gratitude for the cooperative spirit that my colleague, Chairman BOND, along with our House colleagues, Chairman KNOLLENBERG and Congressman OLVER, brought to bear during our conference negotiations.

I am pleased to say that the conference agreement, like the Senate-passed bill, restores many of the more punitive cuts that were included in the President's budget for transportation, housing and drug law enforcement.

We have funded airport grants at $3.55 billion rather than accept the President's proposal to cut this program by half a billion dollars.

While the President sought to move the Community Development Block Grant program to another department and cut it by more than a third, this bill restores most, but not all of the annual funding for CDBG.

While the President's budget effectively zeroed out Amtrak and proposed to eliminate rail service in our country, this conference agreement provides Amtrak with a $100 million increase and includes many of the reforms that were agreed to and included the bill reported by the Senate committee.

This is a good bill that addresses many of the urgent needs facing our country. It includes critical investments in our Nation's transportation infrastructure and provides much needed housing assistance to our most vulnerable.

Mr. THUNE. Mr. President, I recently announced a major railroad initiative in three different cities in my home State of South Dakota—Sioux Falls, Huron, and Rapid City. This particular project is the result of legislation I authored as part of the recently enacted Transportation reauthorization bill. My amendment was improved and incorporated in large part through work with Senator LOTT, who chairs the Senate Commerce Committee's Surface Transportation and Merchant Marine Subcommittee. I believe the changes that Senator LOTT and I made, both during Senate consideration as well as conference deliberations, will have a major positive impact on my State's rail infrastructure needs and I think significantly alleviate some of our Nation's rail infrastructure problems.

Much of the language that ended up in the final Railroad Rehabilitation Improvement Financing—or RRIF—program originated from past legislation that Representative DON YOUNG introduced. Building on Representative YOUNG's bill language, Senator LOTT and I made a number of changes to that legislation, but it provided a very solid foundation upon which to build.

The South Dakota project itself actually involves a major national initiative to build a second rail line into the capacity-strapped Powder River Basin, PRB, of Wyoming. The Dakota, Minnesota & Eastern Railroad DM&E, announced this project in 1997 and filed an application with the Surface Transportation Board, STB, in February 1998 to obtain regulatory approval. That process will be concluded in the near future, which I hope will allow the DM&E railroad to apply for a RRIF loan to finance construction of the project.

This project is strongly supported by virtually all of South Dakota's existing rail shippers and by the agriculture and economic development organizations throughout the State. It is also supported by the vast majority of communities served. And at the press events I participated in earlier this month—as noted in the *Rapid City Journal* article that I will later ask to be made part of the RECORD—even many of the landowners directly affected by the construction support it. I have supported this project since it was first announced in 1997, when I was serving in the House of Representatives, and have supported the project ever since in both the public and private sectors. It is incredibly important to the future of my State.

But on a national scale, it is also extremely important to our country's entire capacity-constrained rail system and to our national energy policy in particular.

Our national energy policy specifically states that:

> [d]emand for clean coal from Wyoming's Powder River Basin is expected to increase because of its environmental benefits. However, rail capacity problems in the Powder River Basin have created a bottleneck in the coal transportation system . . . There is a need to eliminate bottlenecks in the coal transportation system.

The new RRIF legislation requires the Secretary to prioritize projects that:

> (8) would materially alleviate rail capacity problems which degrade provision of service to shippers and fulfill a need in the national rail system.

The national ''need'' criteria of the legislation was written specifically with this nationally articulated energy policy ''need'' in mind.

The new RRIF legislation also requires the Secretary to prioritize projects that:

> (7) enhance service and capacity in the national rail system.

Mr. President, as the National Energy Policy clearly notes, there is an overwhelming rail capacity problem in Wyoming's PRB. The Powder River Basin corridor is one of the most heavily traveled rail corridors in the world. Over 400 million tons of coal per year are shipped out, virtually all of it by rail. That number is expected to exceed 500 million tons soon, and to grow beyond that if capacity allows. It is therefore clear that, if completed, this 1,300–mile project in the West and Midwest would have a material impact on rail capacity in this region and throughout the country.

We also have a critical rail capacity problem throughout the entire United States. What happens in the PRB profoundly affects capacity elsewhere. It also affects the movement of grain and industrial commodities and general merchandise intermodal traffic. When this incredible flow of coal traffic increasingly merges with all this other rail traffic as it continues its flow eastward, it has a big impact. First and foremost, immediate and obvious traffic congestion occurs the further ''downstream'' into the traffic flow you go. The train of merchandise goods making its way from the west coast to Chicago has to pull off to the siding to allow another train to pass. Or less obvious, perhaps because of a crew or locomotive power shortage, the railroad will have to dedicate limited and locally available resources to one train over the other. This has a cascading effect because it makes it hard to recover when too many of your sidings are being used to park trains instead of being used for a quick meeting point so they can pass in the opposite direction.

A less obvious problem is the drain on resources from other regions to accommodate spot problems. Right now, for example, we are seeing a rail capacity shortage across the board. In addition to the long haul traffic that is mixed into these heavy haul coal lines, areas of the country that never come into direct physical contact with these lines are affected by their congestion problems. When those lines ''bottle up'' as they are doing now, it takes more locomotive power and more people to move trains. So resources are shifted. For example, we have dozens of loaded grain trains standing today with no power to move them. Grain orders are a month or more behind in my State and throughout the Midwest today. Locomotive power and other resources are being diverted to the PRB and elsewhere to address problems there, and

our farmers are suffering as a result. The same can be said for virtually every traffic commodity out there today—including coal and general merchandise traffic.

With the completion of this new rail line to serve a heavy traffic area, it will relieve pressure on one of the biggest problem spots, which in turn relieves pressure on the system throughout the country. This project will not only add more physical track to our system and greatly improve existing track, it will also result in more locomotives and equipment and people. Across the board, this project will relieve pressure on the rail system from northeast corridor to the southwest reaches of the United States.

In a very basic sense, the national railroad system is well beyond its capacity today. There is not a railroad in this country that is not backed up on its orders. We have more traffic to move than the system can handle. And, adding to that, the U.S. Department of Transportation projects that railroad freight traffic demand generally will rise 55 percent by the year 2020. We need to add capacity. That requires major investments of the kind envisioned in our new RRIF legislation.

The changes made to that program did more than authorize the amount that can be loaned. The improvements were specifically tailored to encourage large-scale investment of the type envisioned by the DM&E project. After all, a large-scale investment is needed if we want to have a material impact on the national capacity problem. For that reason, I think this project is critically important to the country. I hope others will follow suit and develop projects that are national in scope. Nothing is more important to our national rail system in my view than this basic need for capacity.

On a related issue, the rail industry has gone through a massive consolidation on a national scale. Thousands of miles have been torn up in recent decades and are never to be recovered. This has certainly increased efficiency on single line segments up to this point. But in the process, at least from a national rail system perspective, we have lost important redundancy in the system. If we have a problem in one area, it quickly ripples through the rest of the country because of traffic backups that have nowhere else to go. We need more pressure relief valves, and more alternatives that allow the national system a little more flexibility to recover from spot problems. We have seen melt down after melt down in the national rail system. That problem is never going to get better unless we have some alternative emergency routings developed. The DM&E project will also be of great help in providing a fairly dramatic pressure relief valve for this critical part of the national rail system. So on many levels, from a national rail system perspective, this project reaches well beyond its immediate track geography.

Going on to other aspects of the new RRIF program, perhaps the most significant change we made was in regard to the valuation and treatment of collateral. This legislation requires the Secretary to use the more realistic ''going concern'' valuation instead of ''net liquidation'' value the Secretary has used in the past in relation to collateral. This is important because collateral value is a critical component of the credit risk premium calculation. This language is intended to ensure that the Secretary applies a ''going concern,'' or market value, to the collateral when determining whether and to what extent a credit risk premium is required. In short, the question becomes, what could the government reasonably expect to get for the value of the collateral if it were sold as a 'going concern' business? In the past, the Secretary has used a ''net liquidation'' or ''scrap'' valuation approach. But in the real world if we are facing a default situation under the RRIF Program, the Secretary is not going to ''scrap'' the collateral. He is going to sell it for its highest and best use value. So that is the way it should be valued when considering collateral during the application process. This is consistent with private sector lending practices. It provides protection for the Government, and also encourages greater rail infrastructure investment by avoiding artificial credit risk premium payments when they are not necessary. It also requires the Secretary to take into consideration what the value will be after giving effect to the improvements that will be made with the loan. That of course will be discounted based on the overall cost of capital for the project.

Along those same lines, another feature that was added to the original Young RRIF language was to provide for the loan repayment schedule ''to commence not later than the sixth anniversary date of the original loan disbursement.'' The intent was that this discretion should be used for those large-scale projects that require several years of construction before revenues are generated and where the revenue ''ramp up'' may be gradual. This is a pretty standard feature in large private sector loans, but under the former law the Secretary did not have any flexibility to do that. Under the new law, interest would accrue and compound during this period. It was primarily my intent to provide a reasonable breathing period so that a solid revenue flow would be established before payments would be required.

Senator LOTT and I also added a provision to the RRIF improvements to allow the Secretary to charge, and for the FRA to collect and retain, a fee to evaluate loans. This provision was included because we want the process to be efficient, and not be a drain on the government. The best solution was to allow the Secretary to hire help and charge the cost to the applicant. It is hoped that this will make it easier to expedite these loans, and the expectation is that FRA will undertake best efforts to keep these fees to a minimum. The point here is to help expedite the process and give FRA a little more flexibility to get the job done quicker. The former RRIF Program was notorious for the amount of time it took to process. There was a particularly bad history there, which I think the FRA has already improved substantially. This, hopefully, will give them the tools they need to take the next step.

The $35 billion authorization level was in Representative YOUNG's original legislation, as was the provision that prohibited the Secretary from limiting the size of a single loan, and the 90-day review period. Those were important provisions that we wanted to retain because they all go to this concept of encouraging major new rail infrastructure investment in this country, and I appreciate the efforts by the Senator from Mississippi and his staff to retain them and add my language to them.

In closing, the original RRIF Program got off to a very slow start, owing in large part I think to a certain degree of resistance from OMB. I am very hopeful that everyone recognizes this effort as a good faith attempt by Congress to send a clear message that we are trying to encourage major rail infrastructure investment in the United States rather than think up reasons to not do it. This is a program that is very much in the national interest. As former director of the South Dakota Rail Division, I believe strongly in the importance of and urgent need for major rail infrastructure investment in this country. I think most Members of Congress feel the same way, and I hope our colleagues in the administration receive this message and will support our recent action to strengthen the RRIF Program. I hope they will now join in the effort to make RRIF a strong engine for rail infrastructure investment as was originally intended and as we directed in the recently enacted legislation.

Mr. President, I ask unanimous consent that articles describing the proposed rail project—which appeared in the November 6, 2005 editions of the Sioux Falls Argus Leader, and the Huron Daily Plainsman, and the Rapid City Journal—be printed in the RECORD.

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

[From the Argus Leader, Nov. 6, 2005]

IN DM&E, BACKERS SEE JOBS, PROSPERITY

(By Peter Harriman)

Rail boss Kevin Schieffer and Sen. John Thune toured South Dakota on Saturday announcing a plan to seek a $2.5 billion federal loan to reconstruct 1,300 miles of line in three states and reach Wyoming's Powder River Basin coal fields.

The reaction in their wake ranged from the dogged determination of opponents to continue fighting the scheme to the ecstatic embrace of shippers and communities that foresee an economic development bonanza.

''This is huge for us, huge for us,'' said Lisa Richardson, executive director of the South Dakota Corn Utilization Council and South Dakota Corn Growers Association.

Having clearance to seek the loan is a quantum leap for the Dakota, Minnesota and Eastern Railroad and Schieffer, its chief executive officer. Yet it's seen as a smaller piece of a bigger puzzle. At a Sioux Falls news conference Saturday, Schieffer developed that theme.

''The end game is not building a railroad,'' he said. ''The railroad is the means to an end.''

The project would create 3,000 construction jobs over three years and permanently employ 2,000 new DM&E workers and create as many new jobs for contractors working for the railroad.

But Schieffer said: ''The direct jobs here are the tip of the iceberg. The real action is in the economic development.''

Schieffer said the railroad's presence already has attracted new businesses. The DM&E's presence in Brookings brought Rainbow Play Stations and 500 jobs to that community. If the railroad can transform itself into the nation's newest, most technologically advanced Class I carrier, ''I see dozens and dozens if not hundreds of Rainbow Play Stations springing up along the line,'' he said.

$286.4M PROJECTED IN REVENUE FIRST YEAR

With a $2.5 billion capital investment, the DM&E will create for itself a railroad with metaphors at both ends of the line. In recounting the railroad's history, Schieffer said the DM&E's acquisition of a sister line several years ago gave it an eastern terminus at railroading's Rome. ''For railroads, Chicago is Rome. All roads lead there,'' he said.

He also called the Powder River Basin coal fields ''the Holy Grail'' of railroading.

Pursuit of the Holy Grail has kept the DM&E project wrapped in controversy. The goal of expanding to Wyoming is to let the DM&E grow beyond its status as the country's largest Class II regional carrier and join the Union Pacific and BNSF railroads in hauling vast quantities of low sulfur coal to power plants in the Midwest and East. North America has seven Class I railroads, based on annual revenue of $200 million. When the project is complete ''absolutely and immediately we will become the first Class I that has built itself into a Class I since the classes were established,'' Schieffer said. In asking the federal Surface Transportation Board for a permit to become the third carrier into the Wyoming fields, the DM&E projects coal hauling revenue of $286.4 million in the first year alone.

CRITICS OBSERVE ABSENCE OF PRIVATE INVESTMENT

But spirited opposition has formed in places such as Brookings and Pierre, along with Rochester in southeastern Minnesota. Critics there don't want to see mile-long coal trains traveling through their towns. Some landowners in West River South Dakota and in Wyoming don't want 280 miles of new rail bisecting their ranches. Other criticism rises from the Oglala Sioux Tribe that worries rail construction will threaten culturally sensitive sites.

Environmentalists fear noise and air pollution from the coal trains and additional air pollution in the East from the increased use of coal to generate electricity.

The announcement that the DM&E is seeking the huge federal loan that it thinks it is uniquely qualified to get didn't weaken the resolve of prominent longtime opponents nor prompt them to view the project more kindly.

''It doesn't change the fact that's not a viable coal line,'' said Nancy Darnell of Newcastle, Wyo. She is a member of the Mid States Coalition for Progress that sued the Surface Transportation Board over its decision to allow the DM&E expansion. The DM&E applied for the permit in 1998.

''Schieffer had seven years to get financing in a vibrant economy from an industry with a lot of money floating around, and basically nobody was willing to invest in it,'' Darnell said.

''Private industry was not willing to put any money into it. Nothing but stupid money would put money into the DM&E, and the federal government tends to be incredibly stupid. That's why it's the financing of last resort,'' she said. ''Rebuilding the railroad in South Dakota for hauling grain, that might have been something different. But to build the PRB project and expect to haul coal is totally stupid.''

On Saturday, Thune and Schieffer said the Powder River Basin project would address a transportation bottleneck identified in the 2001 U.S. energy plan. The plan states there is not enough rail capacity to move Wyoming coal to power plants farther east at the rate it is needed. Because it deals with that need, the DM&E's $2.5 billion loan request to the Federal Railroad Administration's Railroad Rehabilitation and Improvement Financing Program would be given high priority, Thune and Schieffer said.

This will not stop the Mid State's Coalition from trying to block the loan, Darnell promised.

''We'll certainly look into it. That will be a stone that will not be left unturned,'' she said.

LAWSUITS, OTHER BARRIERS COULD DELAY START

The news the DM&E might have broken the longstanding logjam on project funding left some opponents scrambling. Raymond Schmitz is the attorney for Minnesota's Olmstead County. The county, city of Rochester and the Mayo Clinic there all have opposed the DM&E's effort to haul coal through Rochester.

''It is my understanding the city and Mayo Clinic will be taking whatever steps they can to continue their opposition,'' Schmitz said Saturday. ''Whether the county board elects to do anything actively at this point is a decision they have to make. The county's position to this all along has been the impact of this on the county was way out of proportion to any benefit the county might realize.''

Schieffer praised Thune for including in the 2005 federal transportation bill provisions that make it possible for the DM&E to get a federal loan for its reconstruction and expansion.

''Obviously, at this point, we don't know what that legislation says,'' Schmitz acknowledged. ''It was carefully buried in the transportation bill. Whether there is a vehicle to raise the issue is something that is going to have to be explored.''

When the Surface Transportation Board approved the DM&E project in 2002, the Mid States Coalition sued the STB, claiming its decision was flawed. The U.S. 8th Circuit Court ruled the STB decision was essentially sound. The court did, however, require the board to further analyze the environmental effects of rail vibration and horn noise, and of potential increased coal consumption, before drafting a final environmental impact statement and issuing a final decision of approval. That review is ongoing. It might allow opponents to at least slow the railroad's progress toward securing a loan, since regulatory issues must be resolved before the Federal Railroad Administration can consider a DM&E loan application.

''I don't see where they can do anything until they finish that EIS process,'' said Sam Clauson, a South Dakota Sierra Club delegate in Rapid City. ''The final EIS is due out this fall. There's an appeal period on that We're going to probably appeal it.''

Schieffer said he hoped to complete the loan application this year or early next and have a decision from the rail administration on the loan by next spring. That would let construction begin next year.

Even as they laid out a future for South Dakota as an El Dorado of economic development spinning off the DM&E's ambitious project, Thune and Schieffer acknowledged the ongoing controversies and promised to resolve them.

''Those are legitimate concerns. This is a small state. We're neighbors,'' Schieffer said. 'We need to work these things out, and we will.''

Thune said of the project: ''Yes, it's great for South Dakota. But it is not unanimously supported. There is some work to do, there are some issues to address.''

Issues indeed. Fred Seymour lives on Derdall Drive near the DM&E tracks in Brookings.

''Nobody has a keener idea of the situation than me. I expect if the railroad comes through town you will see property values drop by 40 percent,'' he said. Seymour was one of the earliest to call for the railroad to bypass Brookings with its coal trains. But as the project has dragged on, the momentum of opposition has slowed, he said.

''In my view, the people who opposed the railroad have gotten older and gotten crankier and have perhaps not promoted their own interests too well,'' he said. He anticipates within a month Brookings will resolve its differences with the DM&E, and from his vantage near the tracks he predicts with what sounds like cynical satisfaction ''I would expect the DM&E is coming right through here.''

Opponents did not rule the day as Schieffer and Thune made their way to news conferences in Sioux Falls, Huron and Rapid City.

POTENTIAL WINDFALL FOR ETHANOL AND FARMERS

News that the DM&E project has taken a long step toward becoming real also was widely praised Saturday. Schieffer said the railroad will build an operations center in Huron, which has struggled to attract new business. Huron lawyer Ron Volesky said Friday he is seeking the Democratic nomination for governor, and he hailed the DM&E announcement that it has potential financing for the Powder River Basin project.

''That is terrific news for Huron,'' he said. ''I have always been a big supporter of the expansion project, and I am very pleased to see these positive developments come about.''

At the same time, Volesky said, as governor he would try to broker compromise between the DM&E and its opponents. ''The governor has responsibility as the political leader of the state to help where he can to bring about as much consensus as possible,'' he said.

Gov. Mike Rounds could not be reached for comment Saturday. But he endorsed the DM&E project Friday and said: ''I will continue to work with the DM&E to help make this proposal a reality and address outstanding concerns at the state level.''

The state's burgeoning ethanol industry has almost swamped its existing rail facilities, which lends urgency to a DM&E expansion, according to Ron Lamberty, vice president for market development for the American Coalition for Ethanol.

''What we had was not built for this,'' he said. A project such as the DM&E's ''is probably something that's a necessity in the long term,'' he said.

Richardson of the corn growers association peers toward the horizon Lamberty identified and sees an even brighter future. A rebuilt DM&E will aggressively compete with the state's dominant commodity carrier, the Burlington Northern Santa Fe, and will result in lower shipping rates for farmers, she said.

And there is this: ''I was visiting with some people in the ethanol industry who said we will see coal-fired plants in the next 18 months,'' Richardson said. At some point, Wyoming coal hauled by the DM&E could provide the energy to distill ethanol from South Dakota corn at new ethanol plants built here, she suggested.

''It's huge. Huge,'' Richardson said of the DM&E's improved prospects for securing money for its Powder River Basin project. ''We really hope it happens.''

[From the Rapid City Journal, Nov. 6, 2005]

DM&E LOAN COULD HELP S.D. ECONOMY

(By Jan Kaus)

RAPID CITY.—If a $2.5 billion federal loan request by the Dakota, Minnesota & Eastern Railroad is approved, construction on South Dakota's largest railroad project could begin as early as next year, according to DM&E president Kevin Schieffer.

That announcement came in a news conference Saturday at Rushmore Plaza Holiday Inn, where Schieffer and Sen. John Thune, R–S.D., spoke to a group of several dozen people about the financing that only recently became an option—in a transportation bill that expands railroad rehabilitation funding.

The plan would allow DM&E to build or rehabilitate more than 1,300 miles of rail, the majority of which would be in South Dakota.

''The impact it could have on the whole state is huge,'' Thune said Saturday, calling the railroad infrastructure ''an economic development magnet.''

''Who even knows the kinds of industry we could bring in? Literally, the sky is the limit in terms of what this could mean,'' Thune said.

He said that it would not only provide thousands of jobs in South Dakota, but would also address a pressing national need—affordable and abundant energy.

''Forty percent of the country's electricity is fueled by coal,'' Thune said.

Schieffer added: ''And it's not just about coal. This is about wheat, cement, clay out of Belle Fourche, timber and a lot of other things.''

Although most who spoke Saturday were in support of the railroad, property owner Veronica Edoff said she doesn't see where the proposal is going to be fair to people who, she said, are giving up everything to put money in DM&E pockets.

Other landowners, including Leonard Benson and Richard Papousek said the company has been more than willing to negotiate and work with the ranchers.

Wall Mayor Dave Hahn thanked Thune and Schieffer for what the railroad could do for the state and its people, drawing the only applause of the evening.

Thune said it would enable South Dakota to diversify and grow the economy in a way no single industry can. After the recent battle to save Ellsworth Air Force Base, he said, that need is more obvious than ever.

''There's a lot of work ahead of us yet, but I can tell you, it's a lot further along that it was yesterday,'' Schieffer said.

Schieffer emphasized that the funding is a loan—not a grant or taxpayer-funded program.

''We would have to pay it back, but the key thing is that it would be stretched over a longer period of time.''

Thune called the project ''hands-down the biggest single investment ever made in South Dakota. ''

The Federal Railroad Administration has 90 days to decide whether to approve the loan after the application is filed. The project would likely take about three years to build, Schieffer said.

[From the Huron Daily Plainsman, Nov. 6, 2005]

COMMITTED TO HURON

(By Roger Larsen)

They came to hear when seven long years of waiting for the start of a project unprecedented in state history in terms of scope and jobcreating significance would be over.

Dakota, Minnesota & Eastern Railroad President Kevin Schieffer couldn't specifically say when the first spike in the $2.5 billion expansion and reconstruction project will be driven into the ground.

But he could tell them something nearly as promising.

''We feel very good about where things are right now,'' Schieffer told a Huron crowd estimated at 250 on Saturday.

And for the first time since the project to access the Powder River Basin coal fields in eastern Wyoming was proposed in 1998 there is also this:

Thanks to a change in the law that now allows the DM&E to seek the $2.5 billion in federal loans, Schieffer is in a position to say that if the application is approved some construction would start in 2006.

Until now, there has been no specific timetable. As each year has passed, there has been hope the next one would bring construction crews to the region. But the largest hurdle has been a lack of private financing, and that is no longer the problem.

Sen. John Thune, R–S.D., authored a provision in the recently passed highway bill that expands the Railroad Rehabilitation Infrastructure Financing program from $3.5 billion to $35 billion.

Of that, $7 billion is set aside for Class II and Class III railroads.

Based on the traffic load, DM&E is one of 50 Class II railroads in the country.

Project completion would make it the sixth Class I railroad.

While financing can now be sought in terms of a loan, ''it doesn't mean it's going to get done, doesn't mean it's approved, doesn't mean it's a done deal,'' Thune cautioned.

''But it does provide a financing option that was not available prior to the passage of that legislation which works for this project,'' he said. A federal funding source means the project has expanded from a $1.4 billion pricetag to $2.5 billion, with new west and east branches, Schieffer said.

Huron would be home to an operations center, where cars and locomotives are fueled and serviced. The area would see 300 to 500 new railroad jobs, based on traffic loads, and there would be 3,000 to 5,000 construction jobs over three years in three states.

Other servicing facilities would likely be near Wall, the Wyoming border and New Ulm, Minn.

''There's a lot of moving parts to this thing,'' Schieffer said.

''Facilities will change and move as time goes forward so its hard to pin anything down with any certainty but one thing isn't going to change.

''Huron, South Dakota is going to be the operational heartbeat of this enterprise when it's done and that is something that's not going to change.''

He said that decision is based on personal and political commitments.

An enthusiastic crowd of 250 at Saturday's presentation one of three Thune and Schieffer hosted in the state will keep the project on track.

''There's a lot of incentive to keep this thing going, but just remembering pictures like this provides more incentive than I can ever convey to you,'' Schieffer said.

Throughout seven years of ups and downs, ''Huron has been a steady rock of support,'' he said.

Thune's background and knowledge of railroad issues put him in a unique position to understand DM&E's needs. He served as South Dakota Railroad Authority director and worked on railroad issues while on former Sen. Jim Abdnor's staff.

Thune has also been on board since the early days, Schieffer said. ''It's easy for him and it's easy for me to stand in front of this crowd today because there's such enthusiastic support for it,'' he said. ''Seven years ago, that man stood in front of a crowd about this big, but most of them were angry landowners who were opposed to the project,'' Schieffer said.

He said Thune listened to them, empathized with them and pledged to make sure the DM&E acted responsibly. But he also told them they must understand the project is too important to the state not to be built.

''That took courage and some leadership. That's the kind of thing that's always been there, just like Huron,'' Schieffer said.

There are still hurdles to overcome. Opposition still exists west of the Missouri River, as well as in Pierre and Brookings.

''We've got issues still to address up and down the line,'' Schieffer said. ''I think some of them will be successful and we'll still be able to do things and some we won't.''

The regulatory issues are pretty much over and don't have to be revisited with the new application for funding.

Schieffer said he doesn't want to raise false expectations, ''but this legislation is very potent stuff.''

Railroads like the Union Pacific and Burlington Northern had made use of federal funds in the past, but the law had expired and when it was renewed the rules were changed so DM&041E didn't qualify.

Not only does the Thune provision set the clock back so the railroad qualifies, if it meets the criteria the secretary of transportation must give it priority and preference to make the project happen.

Instead of an open-ended time frame, the government must make a decision on the loan application within 90 days of its filing, which is expected in a couple months. Sometime in the second quarter of next year, the fate of the project should be known.

Schieffer said he thinks the DM&E project is the only one in the country that fits the criteria. Applicants must be able to prove their projects will have a material impact on rail capacity in the country and will serve a compelling national need.

''This is the only rail project I know about out there that will have a material impact on the rail capacity in this country and there is a very clear national need in the federal energy policy.

''We have a very strong case to make,'' Schieffer said. ''We still have to make it, we still have to get it through.'' But the legislation gives the railroad a great advantage.

''It is absolutely everything we have hoped for,'' he said.

Debate in the country has been raging about not having enough energy, generation and transmission, Thune said.

''We would be prime positioned to benefit from some utility plants and additional power generation that could result if this railroad project is built,'' he said.

The project would create a synergy between transportation and energy, he said.

Low sulfur coal is in great demand because of the environmental benefits.

''We get 40 percent of our electricity from coal,'' Thune said. ''The Powder River Basin has literally unlimited reserves of coal resources.'' Competition in the basin would also relieve bottlenecks, he said. By 2020, it's estimated there will be a 55 percent increase in rail traffic in the country.

In answer to a question, Schieffer said without the need for private investors ''this gives us control of our destiny much more.''

He said greater independence would mean the DM&E could become a publicly traded company.

There has also been concern that the DM&E will forget its ag producers and shippers. But the project has strong support from commodity groups, and service will not only improve, but will expand.

''They know what it means to them,'' Schieffer said. ''It's going to be a huge benefit.''

Mr. COBURN. Mr. President, Congress has a moral obligation to make difficult decisions about spending priorities as we fight the war on terror, recover from natural disasters, and struggle to shore up Medicare and Social Security. Last year in fiscal year 2005 our national debt increased by $538 billion, or $1,738 per man, woman and child in this country.

The American people, therefore, are justifiably outraged when Congress engages in an earmark spending free-for-all. Pork projects tend to be allocated outside of the regular priority-setting debate that governs the rest of the budget process. This is wrong. Members of this body should not be asking what right one Senator might have to question another Senator's projects. Instead, we should be listening to the American people who are asking what right we have to force them to finance questionable projects in all 50 States. Every pork project should be balanced against other national priorities. Pork is not a civil right for politicians.

This bill contains more than 1,100 earmarks. Some of those earmarks include: $150,000 for the Alaska Botanical Garden in Anchorage, Alaska for expansion and renovation of its infrastructure; $750,000 for the construction of the Tongass Coast Aquarium; $100,000 to the city of Guntersville, for renovations to the Whole Backstage Theater; $250,000 for the Greenville Family YMCA for child care facility acquisition, renovation, and construction in Greenville, Alabama; $200,000 for the Hayneville Lowndes County Library Foundation for construction of a new library in Hayneville, Alabama; $250,000 for the Cleveland Avenue YMCA for facility expansion in Montgomery, Alabama; $150,000 to the El Dorado Public Schools in El Dorado, Arkansas for the expansion of a recreational field; $200,000 for Audubon Arkansas for the development of the Audubon Nature Center at Gillam Park in Little Rock, Arkansas; $350,000 to the City of Douglas, Arizona for facilities renovation of the Grand Theater; $350,000 to Valley of the Sun YMCA in Phoenix, Arizona for facilities construction of a YMCA; $250,000 to the City of Banning, CA for city pool improvements; $350,000 to the City of Beaumont, CA for the construction of the Beaumont Sports Park; $350,000 to the City of E1 Monte, California for construction of a community gymnasium; $250,000 to the City of Lancaster, California for installations related to the baseball complex; $150,000 to the City of Long Beach, California to develop an exhibit to educate the public on the importance of ports; $200,000 to the City of Placerville, California for Gold Bug Park renovations; $100,000 to the City of San Bernardino, California for Renovations to National Orange Show stadium; $125,000 to the City of Tehachapi, California for design and construction of a performing arts center; $350,000 to the City of Yucaipa, California for development of the Yucaipa Valley Regional Sports Complex; $250,000 to the Lake County Arts Council in Lakeport, California for renovation of the Lakeport Cinema to a Performing Arts Center; $175,000 for the San Francisco Fine Arts Museums, CAY for M.H. de Young Memorial Museum construction; $350,000 to the City of Bridgeport, Connecticut for relocation of the Music and Arts Center for the Humanities to a now-vacant department store; $300,000 to the University of Hartford in Hartford, Connecticut for facilities construction and renovation of the Hartt Performing Arts Center; $250,000 for the Town of Southbury, CT, for renovations to the Bent of the River Audubon Center; $200,000 to Lake County, FL for construction of a library; $96,300 to the City of Coral Gables, Florida for the renovation of historic Biltmore Hotel; $200,000 to the City of Ft. Myers, Florida for the redevelopment of Edson & Ford Estates; $200,000 to the City of Hollywood, Florida for the construction and development of the Young Circle Arts Park project; $100,000 to the City of Pensacola, Florida for construction of the YMCA of Greater Pensacola; $125,000 to the City of Treasure Island, Florida for construction of beach walkovers; $250,000 for Miami Dade County, Florida for the Miami Performing Arts Center; $75,000 to the City of Tybee Island, Georgia for a new facility for the Georgia 4–H Foundation; $300,000 for the Kauai YMCA to construct facilities; $150,000 to Seguin Services in Cicero, Illinois for construction of a garden center; $80,000 to the City of Beardstown, Illinois for construction of the Grand Opera House Beardstown Historical Society; $250,000 to the City of Joliet, Illinois for repairs to Rialto Square Theater; $250,000 to the City of Peoria, Illinois for design and construction of Africa exhibit at Glen Oak Zoo; $500,000 for the City of Muncie, Indiana to revitalize the downtown urban park; $250,000 for the Learning Collaborative to implement the Web Portal Technology Development Initiative in Daviess County, IN; $150,000 to Hardin County, Kentucky for renovation of an historic state theater; $150,000 to Powell County Fiscal Court in Powell County, Kentucky for the construction and development of a park; $100,000 to the City of Louisville, Kentucky for construction of a playground in Shawnee Park; $600,000 for the Kentucky Commerce Cabinet to develop a visitor center at the Big Bone Lick State Park; $500,000 for the Audubon Nature Institute for the Audubon Living Science Museum and Wetlands Center in New Orleans, Louisiana; $100,000 to Greenfield Community College in Greenfield, Massachusetts for a feasibility study; $280,000 for the City of North Adams, MA for the renovation of the historic Mohawk Theater; $260,000 for the City of Lawrence, MA for the redevelopment of the Lawrence In-Town Mall site; $200,000 for the American Visionary Arts Museum, Maryland $350,000 to the City of Saginaw, Michigan for renovation of the YMCA of Saginaw; $250,000 to Walsh College in the City of Troy, Michigan for a library expansion; $500,000 to the City of Cape Girardeau, Missouri for the construction of a new school for visual and performing arts at Southeast Missouri State University; $200,000 to the City of Meridian, Mississippi for the construction of the Mississippi Arts and Entertainment Center; and $750,000 to the City of Pontotoc, Mississippi for construction of the Pontotoc County Sportsplex.

Mr. SARBANES. Mr. President, I want to congratulate subcommittee Chairman BOND and Ranking Member MURRAY for successfully concluding this conference report. I would like to note that this is the first time this subcommittee, as currently constituted, has brought a conference report to the Senate and, in my view, this report is a worthy achievement and I intend to support it.

I note, in particular, the strong title on Transportation funding in the report. We all worked very hard to pass a Transportation authorization bill earlier this year that maintains a balanced transportation program, ensuring adequate funding for both our Nation's highways and transit programs. In my view, both of these components are extremely important to the future economic growth of our country, and I am happy to note that the conference report being brought to us this afternoon is largely faithful to the provisions included in SAFETEA–LU.

The report's provisions regarding Federal employees are also to be commended. The report includes language that will help Federal employees to compete on a more level playing field with contractors in cases where Federal agencies decide to consider contracting out jobs. The report ensures pay parity for all Federal employees—military and civilian alike. It also provides over $125 million to consolidate the FDA at White Oak, and ensures that 68 Taxpayer Assistance Centers, including 4 in Maryland, will remain open until after the inspector general completes a report to determine the impact proposed closures would have

on both employees and clients. I thank the managers of the bill for their hard work on these important issues.

I also want to talk about the appropriation for the Department of Housing and Urban Development, HUD. At the outset, I want to express my appreciation to Senator BOND for his commitment over many years to maintaining strong and effective housing programs. Senator MURRAY, who has not served as Ranking Member on the Subcommittee dealing with HUD issues until this year, has proven to be a very valuable addition to this effort and has shown a deep understanding of, and commitment to, these important programs.

The key problem that the Conferees faced in putting together this report is that they were not given enough money to fund the housing programs at a fully adequate level. For example, the HOME and CDBG program, both very flexible programs, used to build and rehabilitate housing, create new homeowners, and create new jobs, suffer modest cuts in the report.

Public Housing, the Nation's basic housing program for the poor, is inadequately funded as to both its day-to-day operations, and its long-term capital needs. The funding figures are very close to last year's appropriations—and I recognize that this was no easy task for the conferees—but we need more to maintain our basic investment in this fundamental program. HOPE VI is cut by nearly one-third, though I commend the managers for getting this much, given the administration's repeated efforts to kill the program altogether.

Finally, I want to express my deep disappointment that the conference report adopts the funding formula for renewal of section 8 vouchers put forward by the House instead of the far more effective formula adopted by the Senate in the bill we passed earlier this year.

Section 8 is the largest housing program funded the Federal Government, serving over 2 million low-income people. On the positive side, the conference report we are considering today does provide an increase in funds over last year that will help to restore at least some of the vouchers that were lost.

On the other hand, by adopting the House formula voucher renewals, we are likely to see the loss of thousands of valuable housing vouchers in fiscal year 2006. For several years, voucher funding for each housing authority has been allocated based on the prior year's cost and utilization of vouchers at each housing authority around the country. The Senate would have used as a base for this calculation the most recent 12-month period. By contrast, the House formula, which has been adopted by this report, uses only a 3-month snapshot. As you might expect, the Senate provision gives a much more accurate picture of both the housing authority's voucher utilization and costs by taking a broader picture of the data. In addition, the data that would be used under the Senate provision would be more up to date, ensuring a more accurate outcome.

Projections based on data from HUD confirm this view. Under the House formula, some housing authorities will get millions of dollars of voucher funds beyond what they can legally use, while others will not get enough to fund even vouchers that are currently in use. At a time of such tight resources, this kind of planned waste is simply inexcusable.

I want to emphasize that the Senate managers fought for the more sensible Senate language. It is unfortunate that the House, with the strong support of HUD, prevailed in this case. Earlier this week, a senior official at HUD said in the New York Times. ''Lack of Section 8 Vouchers for Storm Evacuees Highlights Rift Over Housing Program,'' November 8, 2005, ''The housing voucher program is something we believe in. But we have to make sure the money's well spent.''

I regret to say that HUD objected to the Senate provision which would have produced a demonstrably more effective and efficient allocation of section 8 funds. In the end, despite the efforts of the chairman and ranking member, HUD and the House prevailed. This concerns me greatly. I certainly hope that HUD does not come back next year and use the wasteful results of this ineffective system for which they advocated, as a rationale to provide less funding for fiscal year 2007.

Despite this significant disappointment, I want to, again, indicate my support for the overall package.

Mr. LOTT. Mr. President, we will hear plenty of self-congratulatory statements on this floor today about this conference report. And I am sure that there are probably many provisions that in fact have merit.

I cannot let the Senate consider this conference report, however, without highlighting some particularly egregious provisions which were literally inserted at midnight. These specific provisions were not included in either the House or Senate appropriations bills, they were never discussed during any of the meetings of the Conference Committee, nor were they subject to hearings by either the authorizing committees with jurisdiction, nor by appropriations committees.

I think we should call these provisions the ''Leave the Victims of Unscrupulous Moving Companies Behind Act.''

Consumers have fewer rights in trying to seek recourse when they are victims of fraud or outright theft than when they deal with a dishonest interstate moving company. The consumer has no ability to use State or local laws or consumer protection regulations. That is because Federal law preempts State and local action in this area. The only recourse a defrauded consumer has is to try to enforce the Federal regulations by going to Federal or State court. This is expensive and in most cases extremely impractical. Let me explain.

One of the most common forms of abuse is what is commonly called ''hostage goods.'' This abuse was described by the Department of Transportation's Inspector General at a hearing I held in the Commerce Committee to look at this problem. Let me quote from his testimony:

> . . . household goods moving fraud is a serious problem, with thousand of victims who have fallen prey to these scams across the county. Typically, an unscrupulous operator will offer a low-ball estimate and then refuse to deliver or release the household goods unless the consumer pays an exorbitant sum, often several times the original estimate. In one case, for example, a New York husband and wife in their seventies were quoted a price of $2,800 to move their household goods to Florida. Once the movers had loaded about half of the goods, the foreman advised the couple that unless they paid the new price of $9,800 they would never see their property again. Fearing that the moving crew might physically hurt them, the couple paid the vastly inflated fee.

In such a case, trying to find an attorney and then proceed to courts while all your worldly possessions are on a truck heading to Florida is not especially practical.

This is not an isolated incident. Since 2001, consumers have filed over 10,000 official complaints with the Department of Transportation. Since 2000, the Inspector General has investigated allegations of fraud associated with approximately 8,000 victims.

In the recently completed highway bill, Congress included provisions to try to tip the scale back a little bit to the side of the consumer. The provisions that were included in the highway bill conference report were almost identical to the provisions in the Senate passed bill and to the provisions that were included in the highway bill that passed the Senate in the last Congress. The basic point of these provisions was to allow State attorneys general and State consumer protection officials to intercede on behalf of consumers and enforce Federal law and regulations dealing with moving companies.

The appropriations conference report we are considering today basically puts these proconsumer provisions on a hold for a year, and allows State officials to intervene in only the most limited of circumstances.

Finally, let me be clear. Most of the companies and individuals engaged in the moving industry are hard-working and honest. It is a small minority of companies that engages in unscrupulous behavior and it is these companies that need to be reined in.

Unfortunately, this conference report allows unscrupulous movers to continue to defraud consumers with little practical recourse for our constituents that have been mistreated.

Mr. PRYOR. Mr. President, I rise today to voice my disappointment and frustration with provisions included in this conference report that severely weaken critical consumer protection law for those that ship household goods using commercial movers.

As the ranking member of the Commerce Committee's Consumer Affairs, Product Safety, and Insurance Subcommittee, as a former State attorney general, and as a leading member of the Committee's Surface Transportation Subcommittee for motor carrier issues, I must express my outrage that this conference report undermines the consumer protections for victims of unscrupulous movers that were part of the transportation bill, known as SAFETEA–LU, signed into law less than 4 months ago.

These provisions were inserted despite commitments I received to the contrary. We had an agreement that we would not seek to modify the household goods consumer protection language within the Commerce Committee's jurisdiction beyond an amendment that was offered as part of the floor consideration of this appropriations bill in the Senate.

Instead, over the objections of myself, Senator INOUYE, Senator STEVENS, Senator LOTT, and the leadership of the House Transportation and Infrastructure Committee, this new language was forced into the conference report in order to protect a few big moving companies from increased public accountability.

Adding insult to injury, provisions that were specifically rejected during the conference on the transportation bill this summer were included in addition to language that goes well beyond those items and further undercuts the work Congress did to aid consumers who face fraud, extortion, and abuse at the hands of unregulated moving companies.

As a former State attorney general, I know the public benefits from local and State officials who are dedicated to protecting consumers. Over the past year, picking up on work begun by Senator MCCAIN, and working with Senators LOTT, INOUYE, and STEVENS, I have tried to find ways to assist the many citizens from all across this country who have been victimized by moving companies and have nowhere to turn.

The most outrageous situation is when a moving company holds all of a consumer's possessions until they pay thousands of dollars in excess of the original estimate for the move. This practice, known as ''hostage goods,'' is extortion, plain and simple. And it leaves consumers helpless in a strange city, with none of their possessions and no recourse.

I say helpless because, although there are some Federal laws to protect consumers when shipping their goods in interstate commerce—protections we enhanced with the passage of SAFETEA–LU—the Department of Transportation, DOT, is simply not suited to police the 1.5 million interstate moves that occur each year.

In 1995, the predecessor of the Federal Motor Carrier Safety Administration, FMCSA, assumed the regulatory duties of the household goods moving industry previously carried out by the Interstate Commerce Commission. Until recently, FMCSA had a total of 3 personnel assigned to handle all of the consumer complaints for the entire Nation and could do little about them. I understand that FMCSA has received nearly 20,000 consumer complaints since January 2001. They have taken little action in this area because FMCSA contends that its limited resources must be focused on truck safety, the agency's primary mission.

States, which want to get involved and already oversee consumer protections for the intrastate movement of household goods with little controversy, have been told by the courts that they have no jurisdiction in this area, since it involves interstate commerce. The net result is that moving companies operating in interstate commerce face no regulation of their commercial behavior, and therefore, continue to take advantage of consumers.

To address this glaring problem, SAFETEA–LU created a partnership with the states by allowing them to enforce certain Federal consumer protections rules as determined by the Secretary of Transportation—a model that works well in other areas.

It is so disheartening that only a few months after these new authorities were put in place—before they could even take effect and be put to use to protect consumers—these provisions have been reopened and basically gutted on behalf of a few big moving companies that want to keep operating without real oversight.

The household goods provisions added to this conference report will: limit a State attorneys general's ability to initiate an action to enforce Federal household goods consumer protection law to only cases involving new moving companies or those who egregiously violate Federal motor carrier safety regulations. The effect of this provision is to totally insulate most movers, particularly larger and more-established moving companies, from even the threat of action by a State, regardless of how outrageous their violation of Federal consumer protection law may be.

Further, the provisions will: apply these same enforcement limitations to State authorities that already regulate intrastate movers and require that the State consumer agencies enforcing Federal household goods consumer laws bring their cases in Federal courts only, where they would languish on average for 3 more years. What are consumers supposed to do while everything they own is being held hostage by a mover during those 3 years?

I believe these provisions go well beyond anything the Commerce Committee would ever have agreed to, had we the opportunity to consider these directly. The only thing positive I can say about them is that they are set to end after Fiscal Year 2006.

This language is an affront to all authorizing committees that—after years of discussion—agreed upon these provisions. It is wrong that those who did not get what they wanted—were rejected both in the Senate and in conference—can then hijack the consumer protection provisions that this Congress approved in July.

The passage of the SAFETEA–LU household goods language signaled Congress's willingness to stand up for the consumer and correct an injustice that occurs far too often. It is sad that this conference report seeks to undo this achievement and make it significantly more difficult for our citizens to get the recourse they deserve.

State attorneys general and State consumer protection agencies are much more likely than the Federal Government to doggedly pursue justice for their citizens in these cases. A letter from the National Association of Attorneys General on January 21, 2004, proves this point, by indicating the association's full support for State enforcement of Federal household goods consumer protections. The letter, signed 48 State attorneys general, specifically rejects complaints from the moving industry against this new authority.

In conclusion, let me say that I appreciate the work of the other House and Senate appropriations conferees and my colleagues on the Senate Commerce Committee for trying to keep these provisions out of their bill. It is unfortunate that they ended up being included, and I plan to work to see that they are overturned.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I ask that I be recognized for a few minutes and that the time not come out of the time that is currently allotted on this bill.

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

THANKING THE SENATOR FROM WEST VIRGINIA

Mr. STEVENS. Mr. President, I regret seriously that I was not here at the beginning of the statement made by the distinguished Senator from West Virginia, Senator BYRD. I was in an interview, as a matter of fact. My staff came to tell me the Senator was speaking about the article I gave to him that my daughter Lily wrote. I have come to the floor to thank him for his courtesy and generosity in speaking about that article.

Lily is one of my six children, the last of my children. As the Senator from West Virginia indicated, she is in law school at Boalt Hall. She wrote her thesis at Stanford about the history of this Capitol. I gave a copy of that thesis to the Librarian of Congress, James Billington, and he passed it on to the National Capitol Historical Society. They determined they would print part of it in their current bulletin, which pleased me very much.

I shared that with the Senator from West Virginia, as any proud father would, particularly with the Senator from West Virginia because of our

great friendship and the time we have been here together. He is the senior Senator on his side of the aisle, and I am now the senior Senator on this side of the aisle. I will forever be his junior in terms of not only age but service and the admiration I have for him.

I knew Senator BYRD would be interested in the way Lily described this Capitol, its history, and its importance to this country. It is a beautiful article, I think, and I am doubly proud of her and extremely pleased that he would take the time and do us both the honor of putting that article in the RECORD.

I invite my friends and colleagues to read that article. Lily had a different life than most of my other five children. She literally grew up here from the time she was a very small baby, and came to the Senate quite often and sat on my shoulder when we were in conference meetings.

Senator BYRD has always been very gracious about coming to her birthday parties which we held here during the 8 years I was the whip on this side of the aisle. All of our family has such a great admiration for the Senator and for his great history.

I think many people do not realize that he is not only the most senior Senator, but he is the only Senator who went through both the university level and law school level while serving in the Congress. He has a prodigious memory. I think of times when, for instance, we were at the U.S.-British Parliamentary Conference when I encouraged the Senator to tell us some of his memories of serving in the Capitol when we were with our fellow legislators from the Parliament of Britain. We have great memories of that.

I also have a memory of the time when we were in West Virginia when one member of the Parliament made the mistake of saying that Americans didn't know much about the history of our mother country and those who have served Britain and their monarchy. Senator BYRD proceeded to tell us in detail about every single person who ever served in that position, including the husbands and wives of the monarchs of Britain.

I have so many great memories of service with Senator BYRD. I have already ordered a copy of the transcript and the tape of this presentation to send to Lily. I can think of no nicer birthday present to me than that the Senator from West Virginia would honor my daughter and the article she has written about the place we both love, the Capitol of the United States.

I thank the Senator very much for his courtesy.

Mr. BYRD. Mr. President, if the distinguished Senator will yield briefly—and I am not going to keep my friend from Texas waiting. He has been standing and waiting to be recognized.

It was a pleasure, may I say to my friend, to call to the attention of Senators this beautiful article written by Senator STEVENS' daughter Lily. She is a really precocious child. I have watched her from almost day one. I admire her. She is a well-bred woman. She is the flower of womanhood. She is seeking always to enlarge her mind and doing a great job of it.

I am pleased the Senator feels that he rejoices that her article has been mentioned by me. I want to assure him that he is entitled to every plaudit I can bring to bear on this subject. I hope he conveys my love and my admiration to his daughter Lily.

And may I say to the Senator, ''Thou art my guide, philosopher, and friend,'' as the Pope once said. I mean every word of that. I treasure our friendship, I say to Senator STEVENS, and may his beautiful daughter continue to do her work and complete her studies and go on to higher things. She is a fine model, and many of us can learn from her efforts to improve herself. I will certainly do that myself. I thank the Senator. I thank him very much.

Mr. STEVENS. Mr. President, the Senator twice honors me. I do thank the Senator very much. Those of us who have had the privilege of serving here more than a short time develop relationships that I think the rest of the body and perhaps the country don't understand. Very clearly my commitment in terms of friendship and devotion to my friend from West Virginia is equal to his for me. I am very pleased and proud to have that relationship with him.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I ask unanimous consent to speak as in morning business.

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

Mr. CORNYN. Mr. President, I also ask unanimous consent that after I am recognized, Senator COBURN and Senator DEWINE be recognized for up to 30 minutes each.

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

Mr. CORNYN. I thank the Chair.

CHILD SUPPORT ENFORCEMENT

Mr. CORNYN. Mr. President, I talk about two subjects that are very near and dear to my heart. The first is the matter of child support enforcement. My colleagues might wonder how does that issue arise. The fact is, last night, the House of Representatives passed their version of the Deficit Reduction Act of 2005. As each of us knows, the purpose of that Deficit Reduction Act of 2005 is to actually bring down the Federal deficit by finding cuts in the Federal budget, the Federal budget that currently comprises something in excess of $2.5 trillion a year.

This is a very important exercise. This represents the first time, I believe, since 1997 when we have seen real and meaningful cuts in Federal spending. The challenge, of course, is that about a third of the money the Congress spends is discretionary spending. Half of that third is defense spending, and the rest of it is homeland security and other discretionary programs. But some of that you can tell by the mere description is hardly discretionary because it is important to our national security.

My point is that two-thirds of the Federal budget is not, even under any conception or definition, discretionary spending. It is Medicaid, Medicare, and Social Security, and we simply have to come to grips with that so-called entitlement or nondiscretionary spending in order to draw the reins in on a Federal Government that continues to grow day by day in its scope and size and expense.

I am here to say I think there are some cuts that make more sense than others and some cuts make no sense whatsoever. I consider child support money that goes to assist the States in collecting child support to fall into that last category—cuts that make no sense whatsoever. Let me explain.

The House bill will cut $5 billion in Federal funds from the child support program over 5 years—$5 billion over 5 years. It will cut $15.8 billion, almost $16 billion, over 10 years. This translates into a 40-percent reduction in Federal spending for the child support program. My State of Texas would lose $258 million over 5 years and $824 million over 10 years.

I ask unanimous consent that a chart prepared by the Center for Law and Social Policy which lays out the proposed cut to Federal child support funding State by State be printed in the RECORD.

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

TABLE 2.—PROPOSED CUTS TO FEDERAL CHILD SUPPORT FUNDING

[$ millions]

State	5-year Cut 2006–2010	10-Year Cut, 2006–2015
Alabama	−187	−59
Arizona	−188	−59
California	−1,006	−3,211
Connecticut	−71	−228
Dist. Columbia	−15	−49
Georgia	−105	−334
Idaho	−19	−61
Illinois	−161	−514
Indiana	−61	−194
Iowa	−49	−157
Kansas	−47	−151
Louisiana	−55	−176

TABLE 2.—PROPOSED CUTS TO FEDERAL CHILD SUPPORT FUNDING—Continued

[$ millions]

State	5-year Cut 2006–2010	10-Year Cut, 2006–2015
Maine	−22	−72
Maryland	−94	−299
Massachusetts	−88	−282
Michigan	−249	−795
Minnesota	−133	−425
Mississippi	−23	−72
Missouri	−82	−261
Montana	−12	−40
Nebraska	−42	−134
Nevada	−38	−121
N. Hampshire	−15	−48
New Jersey	−173	−554
New Mexico	−37	−119
New York	−303	−967
North Carolina	−106	−339
North Dakota	−11	−35
Ohio	−288	−918
Oklahoma	−44	−139
Oregon	−49	−156
Pennsylvania	−188	−602
Rhode Island	−11	−35
South Carolina	−33	−105
South Dakota	−8	−25
Tennessee	−75	−238
Texas	−258	−824
Utah	−34	−110
Vermont	−11	−36
Virginia	−80	−256
Washington	−130	−415
West Virginia	−36	−114
Wisconsin	−96	−308
Wyoming	−10	−31
Nationwide	−$4,962	−$15,846

CLASP calculations based on preliminary estimates by the Congressional Budget Office of the total cut in federal child support funding under the House Ways and Means Committee budget reconciliation chairman's ''mark,'' The total cut was distributed by state based on each state's share of total child support administrative expenditures in 2004, as reported by the federal Office of Child Support Enforcement Preliminary Report FY 2004, table 7.

Mr. CORNYN. Mr. President, those are the cuts, $5 billion over 5 years, $16 billion roughly over 10 years.

What is the impact of these cuts on child support collected? This will reduce child support collections by $7.9 billion over 5 years and $24.1 billion over 10 years.

That is right, for a $5 billion cut, it eliminates $7.9 billion in child support collections. For a $16 billion cut, it eliminates $24.1 billion in collections over 10 years. In my State of Texas these cuts will reduce child support collections by $411 million over 5 years and $1.25 billion over 10 years.

At this point, I ask unanimous consent that a chart also prepared by the Center for Law and Social Policy, which states the projected impact on child support collections State by State, be printed in the RECORD.

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

TABLE 3.—PROJECTED IMPACT ON CHILD SUPPORT COLLECTIONS

[$ millions]

State	5-year Cut 2006–2010	10-Year Cut, 2006–2015
Alabama	−93	−285
Alaska	−31	−95
Arizona	−94	−286
Arkansas	−61	−185
California	−1,601	−4,884
Colorado	−104	−316
Connecticut	−113	−346
Delaware	−35	−108
Dist. Columbia	−24	−74
Florida	−366	−1,115
Georgia	−166	−508
Hawaii	−15	−45
Idaho	−30	−92

TABLE 3.—PROJECTED IMPACT ON CHILD SUPPORT COLLECTIONS—Continued

[$ millions]

State	5-year Cut 2006–2010	10-Year Cut, 2006–2015
Illinois	−256	−782
Indiana	−97	−295
Iowa	−78	−239
Kansas	−75	−230
Kentucky	−85	−258
Louisiana	−88	−268
Maine	−36	−109
Maryland	−149	−454
Massachusetts	−140	−428
Michigan	−397	−1,210
Minnesota	−212	−647
Mississippi	−36	−110
Missouri	−130	−397
Montana	−20	−61
Nebraska	−67	−204
Nevada	−60	−183
N. Hampshire	−24	−74
New Jersey	−276	−842
New Mexico	−59	−181
New York	−482	−1,470
North Carolina	−169	−516
North Dakota	−18	−54
Ohio	−458	−1,396
Oklahoma	−69	−211
Oregon	−78	−237
Pennsylvania	−300	−915
Rhode Island	−18	−54
South Carolina	−53	−160
South Dakota	−12	−37
Tennessee	−119	−363
Texas	−411	−1,253
Utah	−55	−167
Vermont	−18	−55
Virginia	−128	−390
Washington	−207	−631
West Virginia	−57	−173
Wisconsin	−153	−468
Wyoming	−15	−47
Nationwide	−$7,900	−$24,100

CLASP calculations based on preliminary estimates by the Congressional Budget Office of the projected effect of funding cuts on collections under the House Ways and Means Committee budget reconciliation chairman's ''mark.'' The total cut was distributed by state based on each state's share of total child support distributed collections in 2004, as reported by the federal Office of Child Support Enforcement Preliminary Report FY 2004, table 7.

Mr. CORNYN. Mr. President, in the year 2004, the child support program collected $ 21.9 billion, while the program costs were $5.3 billion. Let me make this clear for my colleagues. In other words, for every $1 spent by the Federal taxpayer $4.38 in child support was collected for the children who need it. This is not the typical Federal program. This is not money that once spent we see no real benefit from. Rather, this is one that for every dollar that is invested $4.38 in child support is collected for the children who need it and who are legally entitled to it.

The President's 2006 budget cites the child support program as ''one of the highest rated block formula grants of all reviewed programs Government-wide.'' This high rating is due to its strong mission, effective management, and demonstration of measurable progress toward meeting annual and long-term performance measures.

Even there, the numbers and these sort of accolades about this program do not tell the whole story. The story is completed by the fact that many children who receive child support are thereby prevented from drawing down other Government programs. For example, child support enforcement reduces reliance on Medicaid, temporary assistance to needy families, and other social service programs. It is estimated that more than 1 million Americans were lifted out of poverty through child support programs in the year 2002 alone.

So in addition to money that is a good return on investment, $4.38 for every dollar, this money actually avoids additional expenditures of tax dollars by creating individuals who are qualified for other Government programs at a lot more expense to the Federal taxpayer.

The problem with these cuts is that they are likely to reverse dramatic improvements in the child support program's performance over the past decade, and they may well force many families back on the welfare caseload. This means former welfare families and working families of modest income will lose an important source of income that now enables them to maintain financial self-sufficiency and thereby having to draw on Government resources through public assistance programs.

The reason I feel so passionately about these particular cuts and the effectiveness of the child support enforcement program is that for 4 years before I came to the Senate I served as attorney general of Texas. It was my job, on behalf of approximately 1.2 million children, to see that they got the child support that they deserved, that they needed, and that they were legally entitled to.

I am proud to say that my State ranks second in the Nation in terms of total collections, collections of about $1.8 billion in fiscal year 2005, and an increase of 83 percent of collections since fiscal year 2000.

Now, that did not happen by accident. The reason it did happen is because of the great work being done by the men and women in the child support enforcement division of the State of Texas. It also happened because of the money that is provided by the Federal Government to help fund this necessary function. Due to the good work of these hard working men and women in the child support division, obligations, that is court orders, establishing support have risen from 55 to 82 percent of the qualifying population, and the cost-effectiveness in Texas has gone from $4.96 to $6.81.

I mentioned the national average of $4.38 for every dollar spent. In Texas, we now collect $6.81 for every dollar spent.

If the financial benefits, if the cost-effectiveness of this program, and if the avoidance of other costs to the Federal taxpayer were not enough, there are other intangible benefits to a strong and effective child support enforcement program. I have seen with my own eyes that too many families, when they divorce, reach a tacit agreement with regard to their children. Moms who frequently are the ones who have custody of the children sometimes

reach a tacit agreement with their ex-spouse, typically the father, that if they do not exercise their visitation rights that the mother will not press the father for the financial support to which their children are legally entitled.

What happens is that these children become two-time losers. Not only are they denied the financial benefits that the law says they are entitled to, they are denied contact with both parents that every child needs in order to have the best chance of success.

Indeed, one of the intangible benefits of an effective child support program is not just the money collected, it is not just lifting children who would otherwise be in poverty out of poverty, it is not just avoiding the additional expenses of Government programs that would otherwise be invoked if that support was not there, it is literally the benefit of having a mother and a father both engaged, involved, and committed to the welfare of their children.

I can think of no more important purpose that our efforts could serve than to reunite mothers, fathers, and children in a collective effort to improve the status of our children and their prospects for a bright future.

So I hope in the conference on the Deficit Reduction Act of 2005 our colleagues in the House will reconsider, and I hope our colleagues in the Senate will persuade them that of all the cuts they might have chosen these were the least deserving and that the money should be reinstated. I am confident throughout the $2.5 trillion Federal budget that there are other programs, other waste, other fat, other ineffective programs that could be more effectively cut and with far less damage to the most vulnerable among us.

PATRIOT ACT

Finally, just for a couple of minutes, maybe 5, I want to speak about another subject, and that is the USA PATRIOT Act. It has been more than 4 years since our country was hit on September 11 by terrorists who care nothing for our way of life and nothing for the laws of war. They have attacked, because they could, innocent civilians in their jihad against those who have different ways of life and different views.

We know the PATRIOT Act has been largely responsible for making America safer by bringing down the wall that prevented the sharing of information between law enforcement and intelligence agencies, by making available to our FBI and other intelligence-gathering bodies the same sort of techniques that are currently used against organized crime members and other criminals. Simply, what this body did in the PATRIOT Act was make sure that we used every legal and reasonable means to root out terrorism, to investigate it, and to stop it before it killed other innocent Americans.

The PATRIOT Act was passed shortly after September 11 by a strong bipartisan vote of 98 to 1 in the Senate and 357 to 66 in the House. As I said, the PATRIOT Act enhanced law enforcement and intelligence agencies' ability to gather and analyze intelligence information and to use the most modern communications technologies, such as e-mail, cellular telephones, and the Internet, and it strengthened criminal laws and penalties against terrorists.

As always, we must be concerned with the right balance between the need to protect innocent American lives and the need to preserve our civil liberties. Despite the dire predictions of some groups, the PATRIOT Act has not eroded any of our rights that we hold near and dear as Americans. To the contrary, the PATRIOT Act has enabled the Justice Department, the FBI, and the CIA and other Federal, State, and local law enforcement agencies to cooperate and to share information and thereby save American lives and protect what is perhaps the most important civil liberty of all, and that is freedom from future terrorist attacks.

I serve on the Judiciary Committee, and we have held 25 oversight hearings to date within the Judiciary Committee to ensure that we have both the tools we need and that we struck the right balance between civil liberties and our need to be secure. As all of our colleagues know, several sections of the PATRIOT Act are set to expire, sections 203 and 218, on December 31, 2005. These are the very provisions that have been instrumental in bringing down this wall that has previously separated different agencies of the Federal Government in getting information that is needed in order to save American lives and to stop terrorist attacks.

I would just read briefly from recent testimony before the Senate Judiciary Committee by Peter Fitzgerald, the U.S. attorney for the Northern District of Illinois, who has recently been in the news. He has recounted from personal experience how this wall between law enforcement and intelligence personnel have operated in practice. He said:

> I was on a prosecution team in New York that began a criminal investigation of Usama Bin Laden in early 1996. The team—prosecutors and FBI agents assigned to the criminal case—had access to a number of sources. We could talk to citizens. We could talk to local police officers. We could talk to other U.S. Government agencies. We could talk to foreign police officers. Even foreign intelligence personnel. And foreign citizens. And we did all those things as often as we could. We could even talk to al Qaeda members—and we did. We actually called several members and associates of al Qaeda to testify before a grand jury in New York. And we even debriefed al Qaeda members overseas who agreed to become cooperating witnesses. But there was one group of people we were not permitted to talk to. Who? The FBI agents across the street from us in lower Manhattan assigned to a parallel intelligence investigation of Usama Bin Laden and al Qaeda. We could not learn what information they had gathered. That was ''the wall.''

Well, people who remember the hearings before the 9/11 Commission will remember that there were a number of high-profile witnesses from Janet Reno, the former Attorney General of the United States, to former Attorney General John Ashcroft, who served during the first term of the Bush administration, and FBI Director Mueller. Witness after witness testified that that wall between criminal investigators and our intelligence-gathering communication prevented the sharing of information that has been absolutely critical in protecting innocent American lives and preventing future terrorist attacks.

It is that same wall that will be resurrected on December 31, 2005, unless the U.S. Congress acts. It is absolutely critical that we look at this with cold-eyed clarity and not be swayed by scare tactics or emotional appeals.

I am astonished, when I look at the reality of how the PATRIOT Act has made our Nation safer, that there are those who would use scare tactics to try to convince them that America's civil liberties are somehow imperiled. In fact, the American Civil Liberties Union, time and time again, through fundraising appeals and elsewhere, has misrepresented the PATRIOT Act in a way that I believe has frightened the American people. They happen to use it to raise money in their direct mail campaign, but it has had the disservice of breaking American resolve and confusing the American people about exactly what is at stake and what the benefits of the PATRIOT Act are.

Perhaps the most telling manifestation of the effectiveness of their scare tactics and their misinformation campaign is that approximately 300 different municipalities across America have passed resolutions calling for the repeal of the PATRIOT Act. I think we have to mark that off to a lack of good information, or perhaps the gullibility on the part of some of these city councils and others. Because, as the Senate Judiciary Committee has found out, when you ask the American Civil Liberties Union to detail a single violation of American civil liberties as a result of the passage and implementation of the PATRIOT Act, they have been able to come up with none, zero, zilch, nada.

Senator DIANNE FEINSTEIN, with whom I am honored to serve on the Senate Judiciary Committee, who always does a very diligent job on behalf of her constituents and on behalf of the Senate, asked the ACLU to search the records and come up with a single instance that they believe demonstrated or proved that the PATRIOT Act imperiled the civil liberties of the American people, and they did not come up with a single example.

I hope, as we continue to work on a conference report to reauthorize the PATRIOT Act, that the Members of the Senate will do our jobs with a clarity of mind based upon evidence and not yield to the scare tactics by those who want to create a disinformation campaign and perhaps confuse the American people about the importance of the PATRIOT Act. It is absolutely critical that we reauthorize this act, that

we not allow that wall to be resurrected because the truth is, we owe it to the American people and we owe it to those whose lives will literally be lost unless we do our job and reauthorize the PATRIOT Act before provisions of that act expire on December 31, 2005.

Mr. President, I yield the floor.

MILITARY CONSTRUCTION AND VETERANS AFFAIRS, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

The PRESIDING OFFICER (Mr. DEMINT). Under the previous order, the Senate having received a conference report on H.R. 2528, that report is considered agreed to and the motion to reconsider that act is laid on the table.

Mr. ROBERTS. Mr. President, at this time, under the regular order and a unanimous consent request, the distinguished Senator from Ohio was to be recognized. He has acquiesced in my behalf that I may be recognized for 15 minutes. I ask unanimous consent that I may speak as in morning business for 15 minutes, to be followed by the Senator from Ohio, and that the Senator from Colorado will be recognized after the Senator from Ohio.

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

(The remarks of Mr. ROBERTS pertaining to the introduction of S. Res. 329 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. I thank the Chair.

(The remarks of Mr. DEWINE pertaining to the submission of S. Res. 321 are located in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

HONORING OUR ARMED FORCES

ARMY PRIVATE FIRST CLASS HARRISON J. MEYER

Mr. DeWINE. Mr. President, I rise this evening on the floor of the U.S. Senate to pay tribute to a brave, young Ohioan, who lost his life while serving in Operation Iraqi Freedom. Army Private First Class Harrison J. Meyer, a combat medic from Worthington, OH, was killed on November 26, 2004, while attempting to rescue a wounded comrade during a firefight. Born on Veterans Day—November 11, 1984—he was barely 20 years old at the time of his death.

When I think about the sacrifices of our men and women in uniform, I am reminded of something President Ronald Reagan said about the strength of the American people. He said this:

> Putting people first has always been America's secret weapon. It's the way we've kept the spirit of our revolutions alive—a spirit that drives us to dream and dare, and take risks for the greater good.

Harrison Meyer was always taking risks for the greater good—always putting others first and selflessly giving of himself for his fellow man. According to Medical Platoon Sergeant Randolph L. Nutt:

> [Private First Class Meyer] fully knew what the dangers were and willingly accepted them as a risk to save others' lives. He made the ultimate sacrifice so that others may live. Six other soldiers are still alive directly due to his actions.

Indeed, Mr. President, Harrison Meyer—Harry to his friends and family—embodied the true American spirit that President Reagan described.

> Harry grew up in Worthington and attended Thomas Worthington High School. He graduated in 2003. While in high school, Harry belonged to the track team for 3 years. He competed as a pole-vaulter. Andy Cox, a U.S. history teacher and track coach at Thomas Worthington, remembers Harry as a ''teddy bear who made everybody laugh. He was a real team player—always wanting to help people.'' Coach Cox went on to say that ''Harry was the kid who was trying to make all the other kids relax, feel good about competing.''

Harry often brought homemade treats to the track meets for the entire team. Coach Cox emphasized the popularity of his cheesecake. As he affectionately recalls, ''[Harry] was a great cook!''

Hary did not join the track team during his senior year because he wanted to focus his attention on his upcoming military career. Still, however, he attended all of the school's track meets, and, according to Coach Cox ''he'd always bring something homemade for the team.''

Harry was also a member of the school's choir, and for four summers, Harry worked at the Worthington municipal pool doing various jobs, including serving as a lifeguard.

According to his mother, Harry was deeply affected by the September 11th terrorist attacks. He enlisted in the Army's pre-graduation program, and shortly after his high school graduation, he was inducted. He was stationed in Korea and assigned to Headquarters and Headquarters Company, 1st Battalion, 503rd Infantry Regiment, 2nd Infantry Division, Camp Howze, before leaving in August 2004, for Iraq. His mom said that Harry's selflessness was one of the reasons he decided to become a medic after joining the Army.

In fact, according to Chris Begin, a good friend of Harry's, Harry wanted to go on to medical school after returning from Iraq.

While in Iraq, Harry and his comrades faced danger daily. Harry's mom recalls that before he was killed, Harry had treated a dozen seriously wounded soldiers. She said that ''he knew (insurgents) were targeting medics. He indicated it was a very dangerous place. ''But, he always told me—'Don't worry, Mom.' ''

The dangers became too grave on November 26, 2004 near Ar Ramadi. Harry was killed the day after Thanksgiving, while trying to pull a wounded comrade to safety during an insurgent attack on his unit.

At the services held in Harry's honor after his death, friends and family recalled Harry's heroism and generosity, saying that the cause of his death reflected how he had lived. According to his mom, ''Harry had always wanted to help people. He didn't think about his own welfare. He'd give you anything he had.''

I recently came across a touching reminder of Harry's lasting impact on others. It is a posting on an Internet tribute for service members who have been killed in either Operation Iraqi Freedom or Operation Enduring Freedom. A friend of Harry's—Pamela Moorehead from Worthington—posted the following email message:

> Harry, I was thinking about you today. I'm not sure what made me think of you. I think I was just reminded by something someone said. It's September 26, 2005, so in one month you will have been gone for a year. Everyone still misses you. The memories from pole vaulting with you and hanging out with you and Brandon make me both happy and sad. To your family—Harry is one of my heroes, and we all still think about him. We miss him and continue to keep him and all of you in our thoughts and prayers.

Harrison Meyer was a kind soul, with a warmth that touched many people. My wife Fran and I keep Harry's family—his parents Deborah and William; and his three sisters—Lynn, Bronwyn, and Kelley, in our prayers.

I would like to conclude my remarks with an excerpt from a poem titled ''American Hero, written by Harry's cousin Jordan Michael Meyer. The poem is in remembrance of Harry:

He is out there on the front lines.
He knows the risk.
He knows the sacrifice.
He is going to put it all on the line and role the dice.
The man is fighting for a better life.
The American soldier found his home after this brutal fight.
Now looking down upon us he sets flight.
Always keeping us in sight.
He won't stop protecting us, day and night.
He is an American soldier, brought up on love, alone, feeling so far from home.
He hides his fear, doing anything to protect those who are dear, knowing death is near.
He is a young man taking upon the sacrifice of a nation he holds dear.

Harrison Meyer held his Nation dear, and we hold dear his memory. We will never forget him.

MARINE CORPORAL NATHAN R. ANDERSON

Mr. DeWINE. Mr. President, while deployed in Iraq, Marine Corporal Nathan ''Nate'' Anderson made sure to write his family back home in Howard, OH, as often as he could. After witnessing the death of a good friend, Nate wrote that ''the service of freedom demands sacrifice.'' He tried to calm his family's fears as he continued, ''No worries. I will be fine wherever I end up. I have the Lord on my side and guardian angels on both shoulders. I am good to go.''

I rise today on the floor of the United States Senate to pay tribute to this brave Marine. With the Lord on his side, Nate left this Earth on November

12, 2004, as he was killed while fighting insurgents in Al Anbar province in Iraq. He was 22 years-old.

Nate gave his life the day after Veterans Day, just over a year ago now. It is fitting in a sense, given his deep devotion to protection our Nation. When I think about Nate and the dedication of all our men and women in uniform, I am reminded of something President Ronald Reagan once said about freedom. He said that ''the task that has fallen to us as Americans is . . . to keep alive the hope and dream of freedom.''

Nate Anderson accepted this task wholeheartedly. He believed in freedom. And he believed that he had a mission to protect it and promote it around the world.

Nathan Anderson was born in Zanesville, OH on May 22, 1982. Growing up in Apple Valley, Nate enjoyed hunting, fishing, snowboarding, and bull riding. Older sister, Meg, remembers her brother as a ''happy and good spirited'' kid who liked swimming, making mud pies, and riding roller coasters at Cedar Point amusement park. She said that Nate was ''the life of the party.'' He had a real zest for life. He loved country music, rodeos, and the military. Even at the young age of 10, Nate dreamed of someday becoming a Marine.

Nate attended East Knox High School, where he was both a dedicated student and gifted athlete. Karen Smith, a guidance counselor and teacher, described him as ''a very likable, well-rounded young man'' who had a lot of friends. Nate's football coach, Chet Looney, said that Nate's ''contribution to the team was outstanding. He was one of those guys you need because he was a great team player. He was kind of fiery at times and then other times he was a jokester.'' Kathy Frere, an English teacher at East Knox High, fondly remembers Nate. ''He was just a special student,'' she said. ''He was so enduring. To know him is to love him—it's an old saying, but it's true.''

Following his high school graduation in June 2001, Nate's dream of joining the Marines became a reality. He was assigned to the 1st Battalion, 8th Marine Regiment, 2nd Marine Division, 2nd Marine Expeditionary Force, based in Camp Lejeune, NC. In 3 short years, Nate's service took him to over ten countries, including his final deployment in 2004 to Iraq in 2004.

Nate's family recalled the pride that Nate displayed as a result of serving his country and his desire to be the best Marine and the best son, brother, and friend he could be.

April Buckingham, Nate's close friend and former high school classmate, described his outgoing and compassionate personality as always uplifting others. She recalls gathering around the campfires that Nate often built, with the help of friends, in his parent's backyard. She said that ''Nate was an honest guy—the heart and soul of all our friends. He was the one who tried to keep us all together after graduation. He was an amazing person. We all loved him, and will miss him very much.''

Nate's sisters remember him with great love, affection, and respect. His sister Traci describes her brother as ''soaring on wings like eagles. I salute you, my brother. I salute the way you lived. I salute your sacrifice. I will always be in your debt.''

Nate's sister Meg said that he was her best friend. She last spoke to him on the phone 2 weeks before his death, when he told her that they would be on a special mission. Meg said that Nate told here ''it'd be two weeks and not to worry. He said he loves me. He said he'll be home soon.''

At Nate's funeral service, held at North Bend Church of the Brethren, 400 mourners gathered to say goodbye. As the Reverend Patrick Bailey said, ''They had come to honor a great son, an awesome brother, a great friend, a fellow [marine] and hero.''

Nate was all of those things and more. He loved his family. He loved his country. He fought for freedom. And, we will never forget him. His parents, Mary and Neil Shaw and Richard Anderson; sisters Meg, Traci, and Kelly; and his brother Adam all remain in our thoughts and in our prayers.

I would like to conclude my remarks by reciting an e-mail message that was posted on an Internet tribute to Nate. Someone who just signed her e-mail as ''Amy of Ohio'' wrote the following:

> Thank you Nate for your sacrifice—for protecting me and my children and for being our hero. We hope and pray that your reward will be great in Heaven. To Nate's family— we pray for you and will never forget your son's courage or the price he paid for our great country. May you find peace in God's love and know your son will always be with you, and you will one day be reunited. I hope and pray that all Americans are grateful of our men and women, sons, daughters, moms, dads, brothers, sisters, husbands, wives, and grandchildren who are fighting for our freedom while we enjoy our lives in the comfort of our own homes. Nate, you will never be forgotten and will be our hero forever and always. God bless you and your family and God bless America.

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

Mr. ALLARD. Mr. President, I ask unanimous consent to speak in morning business.

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

Mr. ALLARD. Mr. President, I rise to discuss the situation in Iraq.

Critics of the Bush administration have recently gone out of their way to try to convince the American people that the President misled our nation about Iraq. Some are arguing most vociferously that President Bush purposely withheld intelligence information from Congress. Others accuse the President of deliberately fashioning U.S. intelligence to fit his own agenda. A few even suggest that the President had some kind of personal vendetta against Saddam Hussein and was willing to do whatever it took to remove him from power.

I can accept criticism leveled at our intelligence agencies for providing inaccurate intelligence. I can accept criticism lodged against the Department of Defense for not sufficiently preparing for an Iraqi insurgency.

I can even accept criticism that the Bush administration did not appropriately prepare the American people for the cost of the war in Iraq.

What I cannot accept, what I feel is so irresponsible, and what is so damaging to our nation are accusations that suggest that President Bush deliberately lied to the American people about either the intelligence or about his reasons for going to war.

I was a member of the Senate Armed Services Committee when the President requested Congressional authorization for the use of force against Iraq in 2002. I participated in numerous open and classified, bipartisan hearings and briefings on our intelligence regarding Iraq's weapons of mass destruction. The conclusions that I reached, that President Bush reached, and that many Democrats reached, were the same.

We all agreed that Saddam Hussein had weapons of mass destruction. We all agreed that he had used such weapons in the past against Iran and Iraq's Kurdish populations. And, we all agreed that he would not hesitate to use them against the United States in the future.

The U.S. Congress and President Bush were not alone in this assessment. The intelligence agencies of Britain, Germany, Russia, China, and even France all believed Saddam Hussein had weapons of mass destruction. The entire international community watched as Saddam used these weapons to murder thousands of his own people. Even the Chief United Nations weapons inspector, Han Blix, thought the chemical weapons he discovered prior to the war in Iraq were the ''tip of a submerged iceberg''.

The fact is that the debate in Congress over whether to authorize the use of force was never about Iraq's weapons of mass destruction. Everyone thought Saddam Hussein had them. In fact, even those who voted against the use of force in Congress never questioned the veracity of our intelligence information.

That is not because the Bush administration manipulated the intelligence that was presented to Congress, as some have alleged. Indeed, a number of independent commissions since the war began have investigated this issue and found the Bush administration did not distort intelligence information. The best known investigation was the bipartisan Senate Select Committee on Intelligence, which stated unequivocally in its report that, ''the Committee did not find any evidence that Administration officials attempted to coerce, influence or pressure analysts

to change their judgments related to Iraqi weapons of mass destruction capabilities.''

Therefore, if we agree that the President did not lie about our intelligence on Iraq's WMD programs, then the critics can only argue that the President Bush's rationale for going to war at the time of the Congressional debate was somehow flawed and unjustifiable. Here I would again disagree.

During the debate, I joined with a large majority of the Members of Congress on both sides of the aisle who voted to authorize force. We did so because of two important facts—the same two facts offered by the President.

First, Saddam Hussein was in breach of more than a dozen United Nations Security Council resolutions. He continued to refuse to cooperate with U.N. weapons inspectors even after a decade of sanctions. He rejected proposal after proposal to conduct fair and transparent inspections.

When he finally allowed inspections, Saddam did everything he could to undermine, cajole, and otherwise manipulate the inspections process. He gave every appearance of hiding large stockpiles of weapons of mass destruction.

Second, a large bipartisan majority of Members of Congress, including nearly 30 Senate Democrats and 81 House Democrats, voted to authorize the use of force against Iraq because, after September 11, it was clear that America could no longer afford to allow imminent threats to our nation go unhindered and unopposed. In most minds, Iraq represented a highly dangerous nexus between terrorism and weapons of mass destruction. In the context of Saddam's decade-long defiance, it was a nexus that Members of both sides of the aisle in both the Senate and the House was no longer willing to ignore.

When critics try to cover up their vote in support of the use of force against Iraq, they damage the credibility of our government overseas and send a disheartening message to our soldiers, sailors, airmen, and marines who are bravely defending freedom in Iraq and Afghanistan.

When they falsely accuse the President of misleading the American people, they encourage the enemy who believes America will throw in the towel and give up when the fighting gets tough.

It is time for the President's critics in Congress to remember why they voted to authorize force against Iraq in 2002. It is time for them to acknowledge the progress our soldiers are making now in Iraq and Afghanistan. It is time for them to recognize the success we have had against global networks of terror.

And most of all, it is time for these critics to lay aside their own political ambitions and do what is right for America. It is time for them join our Commander-in-Chief in the fight against those who wish to destroy our Nation.

An agenda of disunity and surrender will never lead to victory. We need to unite behind our Commander-in-Chief if we are to defeat this enemy. It is my hope that the President's critics will see this imperative and finally do what is best for our Nation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. TALENT. I ask unanimous consent to speak as in morning business.

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

DEFENSE BUDGET

Mr. TALENT. Mr. President, I decided to come to the Senate for a few minutes this evening to speak to the Senate because of growing concern over the defense budget and, in particular, the growing likelihood that we are going to see cuts in the defense budget so that next year's budget is lower than what the President had proposed for fiscal year 2007.

I am moved especially by a recent ''Inside Defense'' column which reports that because of pressure from the Office of Management and Budget, the Deputy Secretary of Defense may well require that the service chiefs take $7.5 billion out of next year's budget and $32 billion in cuts over the next 5 years—this at the end of the budget cycle, not as a result of an assessment of military need or necessity. As I will show in a minute, one could hardly in any dispassionate view of our military needs believe we could absorb $7.5 billion in cuts next year because of procedure that is budget driven. When I see that, it reminds me of other things I have been hearing lately. I felt it was deja vu all over again, as Yogi Berra might have said.

I remember the days in the 1990s when military needs were determined by the budget rather than the budget being determined by military needs. When the Berlin Wall fell and the Cold War ended, our country was justifiably pleased. We believed there was a peace dividend available. The Clinton Administration took a lot of money out of the defense budget. I will go into that in a minute. They took too much out of the defense budget, and left a force that by the end of the 1990s was hollowing out. Our military was not as prepared as it should have been. We have been doing the best we can in the last few years to reconstitute that force, but now we may be headed in the wrong direction.

I emphasize, this pressure is not from within the Department of Defense. It is not what the Department wants to do. It is what the Department may be forced into as a matter of false economy. There is no economy more false than depriving our military and our men and women of what they need to defend us.

Let me go over a little bit more of a history lesson in some depth. Defense spending actually decreased in real terms every year from 1990 through 1999. In fact, during 3 years in that period, it decreased in nominal terms by almost $50 billion.

Actual dollars, or nominal dollars, went down in the defense budget over 3 years during that period by $50 billion, and in every year during that period military spending decreased in real terms.

The reason was, some people thought with the fall of the Soviet Union we would need the military less. That was true for the nuclear arsenal, but not true for the people in the military. It turned out we needed conventional forces actually more than we needed them before the fall of the Soviet Union because deployments went up. We found, in the post-Cold War era, that regional conflicts around the world, the ethnic and religious and regional conflicts that had been suppressed by the bipolar nature of world competition, rose to the surface.

I remember reading what former CIA Director Gates said about it. He said: History had not ended with the fall of the Soviet Union. It had just been frozen before that. And he said: ''Now it is thawing out with a vengeance.''

Well, when you spend less and less overall, at least as against inflation, and you have to spend more and more on operations and maintenance, on readiness, because you are actually using the troops more and more, something has to give. You cannot take more and more of a percentage for operations and maintenance out of a budget which is less and less, at least as adjusted against inflation, without something giving. And what gave was procurement.

We took basically a decade-long ''procurement holiday.'' By the last few years of the 1990s most people realized what was happening and we were able to push more money back into the defense budget, but it was not enough to make up for what had happened before.

From 1975 through 1990, we purchased, on average every year, 78 scout and attack helicopters. From 1991 through the year 2000, we purchased 7 per year on average. For battle force ships from 1975 through 1990, it was 19 a year; 7 a year from 1991 to the year 2000. For fighter aircraft for the Navy, we purchased 111 per year from 1975 through 1990. We purchased 42 per year on average in the decade of the 1990s. I could go on and on.

For tankers, we purchased 5 per year on average during the 15-year period from the mid-1970s to 1990. In the mid 1990s, we purchased one per year. For tanks, artillery, and other armored vehicles listen to this, the basic platforms the Army uses; tanks, artillery and other armored vehicles—we purchased 2,083 on average every year from 1975 to 1990. But we purchased 145 on average every year from 1991 through the year 2000.

What happened is what you would have expected. The average age of the force and the equipment in the force

grew. Look at legacy aircraft, the A–10, the ''Warthog,'' 24 year old; the B–52 bomber, 44 years old; the C–130 transport, 33 years old; the KC–135 tanker, 43 years old. The procurement holiday left us with equipment that was too old.

Well, what happened? Beginning at the end of the 1990s, Congress and the President at the end of the Clinton administration, and especially with the beginning of the Bush administration—began to respond. The Chiefs complained to the point where people who didn't get it earlier finally saw what we were talking about. The decision was made to increase spending enough to sustain the volunteer force, to recapitalize the basic equipment that we had not bought in the 1990s, and to begin designing and producing the new generation of systems that the men and women in our military would use for decades to come.

The plan was to increase defense spending by a modest amount above inflation, beginning around the year 2001, so that these needs could be met. There were many of us who were concerned that was not enough money. The Department of Defense has traditionally been rather optimistic in its estimation of costs. The CBO traditionally has claimed we needed between $20 billion and $30 billion more than even was estimated at that time. But at least we had a plan. It was a beginning. It was based on an actual if perhaps optimistic estimate of need.

Unfortunately, the plan has not been as effective as we hoped in achieving its goals, and particularly in recapitalizing the force. There are a lot of reasons for that. One is that op tempo, operational tempo, has been even higher than we expected after what we experienced in the 1990s. It is what the military calls ''mission creep,'' a significantly expanded number and variety of missions that drive up defense costs because they stress the force. Operations and maintenance costs go up, readiness costs go up. Just staying in place, just keeping the force you have and the equipment you have maintained and ready becomes more difficult.

But what was the mission creep? The September 11th attacks had something to do with that, and then Afghanistan and Iraq. Our Armed Forces have become global first responders. We have homeland security missions now that we never anticipated. Contingency peace enforcement missions around the world, special ops, and ongoing training operations. Operational tempo is at a historic high. It is likely to remain so.

This means not only that we are sucking up more money in operations and maintenance, it means the equipment we have is being used up even faster. Even if you maintain it properly, if you are using it at a greater rate than you anticipated, it is not going to last as long. We face a situation where we are going to have to reset or reconstitute the basic equipment in the force.

In addition, personnel costs have been higher than we anticipated because we wanted to do right by the men and women in America's military. We voted for pay raises. And we should have. We have increased housing allotments. We have met the obligations we promised our retirees regarding health care. Those were good things. I supported them. But adjusted for inflation, personnel costs have increased from 1999 to 2006 from $92 billion to $109 billion annually. That alone would eat up any of the real increases we had planned and have been able to give the military in the last 5 years.

In addition, we are facing a threat, at least sooner, and certainly more seriously—or a potential threat—than we thought we would have to face; and that is, the rising military power of China. China is engaged in a comprehensive effort to profoundly improve its ability to project naval power and to develop a comprehensive anti-access capability in order to prevent the American military from having access into the western Pacific.

I am not saying that China is going to become, or need become, an enemy of the United States. I am saying that China is rising as a world power. It is very deliberately, according to plan, increasing in particular its naval strength. If we are to deter some kind of aggression or conflict, we need to be strong—not provocative, but we need to be strong in response. We did not anticipate, 5 or 6 years ago, that they would grow so strong so quickly.

Their most significant advances are in submarines. China will take delivery of 11 submarines in 2005. We are going to buy one. Its fleet includes an increasing number of the following vessels: the Type 93 nuclear-powered attack submarine; Type 94 nuclear-powered ballistic missile submarine, which carries an ICBM with a range of more than 5,000 miles; and Russian-built ''Kilo''-class diesel electric attack submarines.

By the year 2010, they may be able to deploy a fleet of up to 50 modern submarines to confront us, should they choose to do so. Remember, they can concentrate that power in the Western Pacific.

Among China's surface combat vessels, the most notable is the growing number of Russian-built missile destroyers which carry the SS–22 ''Sunburn'' anti-ship missile, and the Type 72 large amphibious assault ship. In addition, China is developing and producing its own advanced fighter aircraft. It is procuring hundreds of advanced Russian-built Sukhoi fighters. China has deployed over 700 land-attack ballistic missiles opposite Taiwan. It is adding over 100 new missiles each year.

I could go on for a considerable period of time. The upshot of that is, by the end of the decade, China may be able to field, as I said before, 50 submarines, all concentrated in the Western Pacific. They are closing the technology gap and working steadily to develop an area denial capability which is aimed directly at American strength.

I am not saying they are going to use it. I do believe strongly that the more they believe we are going to be prepared and ready, the more likely they will be to seek peaceful redress of whatever concerns they may have, the more likely it is we are going to be able to avoid developing a confrontational relationship with them.

For all these reasons, we have not completed the task of redressing procurement shortfalls from the 1990s. We need 160 aircraft per year to keep the average age in the inventory stable. Instead, we are purchasing 80 aircraft. The current plan is to purchase less than one-half the number of new F/A–22s the Air Force says it needs. This is the superior air-to-air fighter. The Navy is at 283 ships, and that number is going down. We purchased an average of 5.6 ships per year over the past 10 years. You assume a 30-year service life. At that rate, it is eventually going to give us a fleet of 170 ships.

The last time the Department of Defense estimated the number of ships we needed to be secure, it was 375. I expect that a reasonable Quadrennial Defense Review, looking at this, will produce a number no lower than 300. We are not purchasing ships at anywhere near the rate we have to in order to sustain the Navy at that level. At that rate, our submarine force will drop below 40 in the next decade. Every recent study identifies the need for 55 to 76 submarines at a minimum. We need to get the shipbuilding budget up, and estimates range from $14 billion to $18 billion a year to maintain a Navy at approximately 300 ships. We are not there yet.

Now, additional reductions are being proposed. Those reductions, if implemented, will mean the defense budget again will not grow, at least in real terms. Most of the Department's budget is basically committed. You cannot short operations and maintenance. You cannot short readiness. You must pay your people. You must provide the benefits you have committed to provide. That means any budget cuts must come almost entirely out of exactly the platforms, the ships and planes and tanks and vehicles that we have been designing and developing to provide the new generation of capabilities that our men and women need to be able to defend us.

So proposals are afoot and rumors are out that the Army is going to cancel the Future Combat System. That is the Army's system to replace the older tanks, the Bradley fighting vehicles, to make sure the technology is adequate, the information technology is networked together. FCS is the system designed to give us the most modern ground combat capabilities. All of this

is potentially on the chopping block. The next generation destroyer, the DD(X), may not get built. That is the ship that is going to provide naval surface fire to support troops going ashore. The Joint Strike Fighter, our stealthy air-to-ground strike fighter, which we have been developing for years, is on the chopping block. The new tanker is imperiled. The need for additional airlift is imperiled. This situation is serious.

What do we need to do? The Department is engaged right now in a Quadrennial Defense Review. Every 4 years the Department looks at its needs and is supposed to analyze what it needs to defend us and analyze that in terms of military needs, not fiscal constraints. In other words, the way the law reads, they look at what structure of forces, what package of capabilities they need to defend the United States, and then we try to come up with the money to pay for that.

Well, I am concerned that the analysis may be the other way around. They may be given a figure, a budget number, and told to come up with a force structure and a package of capabilities that meet that budget number. They must be allowed to assume reasonable inflation-adjusted increases in the defense budget for the future and then be allowed to build the package of capabilities and force structure needed to defend the United States.

That Quadrennial Defense Review needs to be military driven, not budget driven. Then, in the meantime, while we wait for that review, we should stick with the planned figure for fiscal 2007. Every year, the Department sends its budget here. And, of course, the key number is the number for the upcoming fiscal year, but it is always a 5-year defense plan. In the first few years of the Bush administration, to the credit of the Department and the administration, they have basically stuck to their projections year by year, with fairly minor deviations.

The figure for fiscal 2007 that we were given last year is $443 billion, and that is the figure that should come over. We should not sacrifice our defense requirements for deficit concerns. Whatever your feelings about the deficit and about how we ought to resolve the deficit, it is not caused by the defense budget.

The defense budget is 48 percent of discretionary spending. It was just about the same in the Carter era. The defense budget as a percentage of the total budget is 17 percent, which is 6 percent less than it was in the Carter era. As a percentage of gross domestic product, it is 3.6 percent which, again, is less than it was in the Carter era. The military budget has not caused the deficit that we are dealing with today. In fact, if we could just sustain defense spending at 4 percent of the gross domestic product, which would be an historic low, that would be more than adequate for us to build the kind of force structure that we need to defend our country. That is not too big a sacrifice to pay for this Nation's security.

I said at the beginning of my remarks that reducing the defense budget in the name of reducing the deficit is a false economy. I ask Senators to consider the world situation today. The stability of the international order in the world depends on the reality and the perception of American military power. The more stable the world is, the more hospitable it is to freedom and to our interests, the faster our economy will grow, and the more money we will have available, not just for defense spending but, indeed, for all other obligations of the Government. That is something President Reagan understood. When he became President in 1981, he began building up America's defenses. He had double-digit spending increases in the military budget. He knew that was a key aspect of winning the Cold War. He got the attention of the Soviets. After a few years, they decided it was not worth it to try to compete with the United States in that arena. That was one of the key factors that led to the fall of the Soviet Union. And the freedom that resulted from that, the end of the isolation of Eastern Europe, the opportunities that were unleashed on the world are one of the reasons that we had unparalleled economic growth all throughout the 1990s, which then enabled us to balance the budget and eventually get to a surplus.

If, as a result of budget-driven decisions, we reduce the defense budget beneath what is minimally adequate, we create a sense of instability in the world, a doubt about our resolution to maintain our obligations and to protect our freedom. If that even minimally increases the possibility of a confrontation somewhere in the world, it will affect our economic opportunities and our economic growth far more than anything we could possibly save by reducing the defense budget, to put it on just as low and cold a level as possible. A strong defense, the perception of American will and resolution is good for the economy. It is necessary if we are going to grow as a country, create jobs, and generate the kind of revenue that will allow us to address the deficit.

I offer a personal note on behalf of this issue. The men and women who defend us in our military are the finest people who have ever served in any military service at any time in the Nation's history. They know the obligation that they are undertaking. They undertake it willingly. Over Veterans Day, I attended a few rallies around Missouri. I like to do that in commemoration of the men and women who have served. I was in Lebanon, MO, and met a number of our service personnel who were there. One of them was a recent enlistee in the National Guard, a young man who was proud to wear his country's uniform, proud at the prospect that he might be actively involved, as I am sure he will be, in helping our Nation win the war against terror.

We had an opportunity to visit. He understood that in doing that, he was doing something very important, very large. He was sacrificing, and his sacrifice was a measure of the value he placed on the freedom of his country and the security of his family.

Those young men and women in America's military will keep faith with us. They are going to do what we ask and expect them to do to protect us. We owe it to them, particularly in the Congress. We owe it to them, to keep faith with them. They protect us. They count on us to protect them, to do what we know is necessary to provide them with what they need to do their jobs.

Let's live up to that. Let's have confidence that doing the right thing, meeting our obligations with regard to the national defense, is the best way to approach the future, both economically and as a matter of foreign policy and as a matter of the Nation's security.

I yield the floor.

FOREIGN OPERATIONS APPROPRIATIONS

Mr. FRIST. Mr. President, Thursday night, on the eve of Veterans Day, we passed the Foreign Operations appropriations bill with near unanimous, bipartisan support. I commend my colleagues for their cooperation on this bill which is so critical to America's security.

I especially recognize Senator MITCH MCCONNELL for his steady leadership.

Diplomacy and foreign policy are essential pillars of our national security. They reflect America's values, principles, and vital interests.

This $21 billion appropriations bill promises to promote democracy, stability, and prosperity, and strengthen America's security here at home and around the world.

It also promotes America's leadership in the arena of international aid. Targeted foreign assistance is an invaluable instrument for spreading democratic values, and improving the health and welfare of our neighbors close to home and around the world. It can promote economic growth and opportunity in even the poorest of nations.

The Foreign Operations appropriations bill includes several provisions that advance these efforts. I would like to take a moment to share some of them.

The defeat of Global HIV/AIDS is one of the world's greatest humanitarian challenges. In many countries, an entire generation of productive adults has been wiped out by this one, tiny, malicious virus. The funds set aside to battle the HIV/AIDS virus target relief where it can do the most good and make the biggest difference.

Under this legislation, America is committed to providing $2.82 billion for Global HIV/AIDS relief. That includes: $2 billion for the Global HIV/AIDS Initiative; $250 million for HIV/AIDS from the Child Survival and Health Programs Fund; and a $450 million contribution to the Global Fund to Fight AIDS, tuberculosis, and malaria.

By providing this desperately needed help, we save lies, strengthen alliances, and promote peace and stability.

I have often talked about humanitarian aid as a currency for peace. The Foreign Operations appropriations bill wisely sets aside targeted funding for global health programs to advance that cause.

Along with tackling the Global HIV/Aids crisis, the Foreign Operations appropriations bill supports the Child Survival and Health Programs Fund. These funds help reduce child mortality and morbidity, and combat other, serious public health problems.

One of the most important public health crises this bill addresses is the lack of clean, drinkable water in many regions of the world.

Every 15 seconds a child dies because of a disease contracted from unclean water. Fully, 90 percent of infant deaths can be attributed to this one, basic cause.

In total, water-related disease kills 14,000 people a day. That is over 5 million people a year, not counting the millions who are debilitated and prevented from leading healthy lives.

Cholera, typhoid, dysentery, dengue fever, trachoma, intestinal helminth infection, and schistosomiasis can all be prevented by simply providing clean, drinkable water and proper sanitation.

Funding for the Safe Water: Currency for Peace Act, which I cosponsored earlier this year, will go a long way to providing this simple, but profound necessity.

In addition to providing Foreign Operations needed and targeted humanitarian aid, the Foreign Operations appropriations bill advances the critical work of stopping the spread of WMD.

We are working closely with our friends and allies to secure stockpiles of WMD-related materials and technology and to make sure our allies have the ability to protect these sensitive materials.

The Foreign Operations appropriations bill provides over $410 million toward our nonproliferation, anti-terrorism, and demining efforts.

One of the gravest threats we face is the threat of WMD falling into our enemy's hands.

We cannot, we must not, let this happen.

Ultimately, the goal of each and every one of our foreign operations programs must be to promote America's security and America's values. And as the last century taught us, our security and our values must go hand in hand.

Whether for humanitarian, diplomatic or security purposes, effective foreign assistance advances our vital interests and protects the homeland.

The United States remains committed to eliminating poverty, expanding prosperity, and strengthening domestic institutions abroad.

And by doing so, we advance our security and prosperity right here at home.

TRIBUTE TO MR. BEN WORTHINGTON

Mr. McCONNELL. Mr. President, I rise today to pay tribute to a dedicated steward of our national forests, Mr. Ben Worthington. Last month, Ben retired from the National Forest Service after 32 years of service. For the last 10 of these years, my home State of Kentucky was fortunate to have him serve as forest supervisor of the Daniel Boone National Forest.

Ben began his forestry career at Washington State University, where he earned a degree in forest management. After graduating, he joined the Peace Corps and was relocated to Costa Rica for 2 years. Upon his return, he worked for the Forest Service in his home State of Oregon and eventually in Washington State and California. Before moving to Kentucky, he was the deputy forest supervisor at Bridger Teton National Forest in Wyoming.

As forest supervisor of the Daniel Boone National Forest, Ben oversaw the day-to-day operation and preservation of Kentucky's only national forest. The Daniel Boone National Forest covers over 700,000 acres of land from the northeastern part of the Commonwealth of Kentucky all the way to the Tennessee State line, and also includes some noncontiguous counties in eastern Kentucky. This Kentucky treasure has something for every outdoor enthusiast. With over 600 miles of trails, it can be hiked, biked, and explored on horseback. Visitors may also fish, hunt, and camp in the forest, making it a popular weekend getaway or vacation destination.

I had the privilege to team up with Ben by securing funds over the years to help with the marijuana eradication operations on or near the national forest land. Ben and his staff have worked in lockstep with the local sheriff's departments, the Kentucky State Police, and the Kentucky National Guard to identify and destroy marijuana plants. They have done a terrific job, and I know that Ben's success will be carried on by his successor.

After working for 32 years in the Forest Service, Ben plans to remain in Kentucky. His wife is active in their local community of Winchester, his mother now calls Kentucky home, and his two children attend Western Kentucky University. Ben's work ethic, dedication, and love of the land will be greatly missed, but it is time for him to start a new chapter, and I wish Ben the best in his retirement.

HONORING SGT. JOHN BASILONE, ''A PLAIN SOLDIER'' AND THREE OTHER MARINE LEGENDS

Mr. DURBIN. Mr. President, last week, on the 230th anniversary of the U.S. Marine corps, the U.S. Postal Service unveiled a long-awaited set of postage stamps honoring four of the corps' greatest heroes.

Today, a new generation of Americans are risking their lives to serve this Nation. Nearly 2,100 Americans have died in Iraq, and more than 15,000 others have been injured. It is important that we honor their sacrifices and the sacrifices of those who came before them. I would like to take a few moments to talk about the four legendary marines commemorated on the new stamps.

LTG John A. Lejeune is probably the best known of this fabled four. Regarded as ''the greatest of all leathernecks,'' Lieutenant General Lejeune made history in World War I as the first marine to lead what was predominantly an Army division. He was awarded the Distinguished Service Medal from both the Army and the Navy, as well as the French Legion of Honor and the Croix de Guerre with Palm for his service during World War I. He is best known, however, for his foresight and determination to enhance the Marine Corps by introducing specialized amphibious assault capabilities into Marine Corps training. Marines today annually read his 1921 Birthday Message Order that summarizes the history, mission, and traditions of the Marine Corps.

LTG Lewis B. ''Chesty'' Puller rose through the ranks from private to become one of the Marine Corps' most celebrated leathernecks. His distinguished service and leadership during critical battles in the '' Banana Wars,'' World War II, and the Korean War earned him five Navy Crosses and made him one of the most decorated marines ever. He led marines in two of the Corps' most daring assaults: at Guadalcanal in World War II; and at Inchon in the Korean Conflict. He died in 1971 and is still revered in the Corps today for his courage in combat and his ability to inspire confidence and loyalty and for the attention and respect he showed to those under his command.

SGM Daniel J. Daly is one of only two marines to be awarded two Medals of Honor for separate acts of heroism. According to the ''Historical Dictionary of the United States Marine Corps'', his ''record as a fighting man remains unequalled in the annals of Marine Corps history'' nearly 70 years after his death. In 1900, Sergeant Major Daly was sent to China, where he earned his first Medal of Honor during the Boxer Rebellion. In 1915, he was sent to Haiti, where he earned his second Medal of Honor fighting off nearly 400 bandits. He saw combat as a gunnery sergeant in France during World War I and was awarded the Distinguished Service Cross and the French Government's Croix de Guerre with Palm. He retired in 1929 and died in 1937, and remains a legend to all marines.

The fourth of the legendary marines honored on the new postage stamps is the only one the four killed in combat. One writer described him as a ''big, handsome Marine with jug ears and a smile like a neon sign.'' GEN Douglas MacArthur called him ''a one-man Army.''

Marine GySgt John Basilone was 1 of 10 children of an Italian-born tailor, Salvatore Basilone, and his wife Dora. He was born in Buffalo, NY and raised in Raritan, NJ.

He enlisted in the Army when he was 18 and served in the Philippines, where he picked up the nickname ''Manila John.'' He fought as a light heavyweight prizefighter in the Army, going undefeated in 19 fights. He received an honorable discharge after completing his 3-year enlistment, returned home, and worked briefly as a truckdriver.

In July 1940, sensing war clouds on the horizon, John Basilone enlisted in the Marine Corps. In October 1942, he was serving with the 1st Battalion, 7th Marines, 1st Marine Division, on Guadalcanal. For 6 months, the Army and Marines had fought a bloody battle to hold a critical airfield on that island. On October 24, GySgt John Basilone and 14 other marines were ordered to hold back many times that number of elite Japanese troops.

A private first class serving under him would later recall that, ''Basilone had a machine gun on the go for three days and three nights without sleep.'' He fired machine guns, fixed guns, and crawled repeatedly through Japanese lines to get more ammunition. When the sun rose the next morning, the marines still held the airfield, and John Basilone was credited by his men with giving them the will to fight on the most terrifying night of their lives.

For his heroism at Guadalcanal, John Basilone was awarded the Congressional Medal of Honor and ordered home to take part in a war bonds tour. The tour brought in $1.4 million in pledges. He crisscrossed the country, met Hollywood startlets, and even met his wife, another marine, at Camp Pendleton. He could have remained stateside for the remainder of the war but, he turned down the bars of a second lieutenant because, he said, he didn't want to become ''a museum piece.'' In his words, ''I'm a plain soldier, and I want to stay one.'' So just before Christmas 1944, he kissed his new wife goodbye and rejoined his ''boys'' in the Pacific.

On February 19, 1945, SGT John Basilone was serving with the 1st Battalion, 7th Marines, 5th Marine Division during the first day of the invasion of Iwo Jima. He was on the island less than 2 hours when an enemy artillery round exploded, killing Basilone and four members of his platoon. He had just destroyed an enemy blockhouse, enabling the marines to capture another critical airfield. On his left arm were tattooed the words ''Death before Dishonor.'' John Basilone was 27 years old.

He was awarded the Navy Cross and Purple Heart posthumously, making him the only enlisted marine in World War II to be awarded the Congressional Medal of Honor, the Navy Cross, and the Purple Heart. He was also awarded the American Defense Service Medal, American Campaign Medal, Asiatic-Pacific Campaign Medal, World War II Victory Medal, Presidential Unit Citation with Star, and Presidential Unit Citation with Bar.

After the war, John Basilone was reburied at Arlington National Cemetery. In 1949, the USS Basilone, a destroyer, was commissioned in his honor. Today, a life-sized bronze statue of him watches over his hometown of Raritan, NJ, and in 1981, Raritan began a parade in his honor. It remains the only parade in the Nation dedicated to the memory of one veteran.

The National Italian American Foundation, the Order of the Sons of Italy of America, the Sergeant John Basilone Foundation, and veterans and marines organizations worked long and hard to see this ''plain soldier,'' as John Basilone called himself, included among the marine heroes honored on the new stamps. We thank them for helping to make a new generation of Americans aware of the service and sacrifices of this son of an Italian immigrant, a true American hero.

When he died, The New York Times noted in an editorial that there always had been Americans like John Basilone, willing to fight for their country even when they knew their luck wouldn't last. ''The finest monument they could have,'' the newspaper said, ''would be an enduring resolve by all of us to this time fashion an enduring peace.''

Let us never forget how much we owe John Basilone and all those who have given so much, over so many generations, so that we can live free.

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HONORING OUR ARMED FORCES

PRIVATE FIRST CLASS DUSTIN YANCEY

Mr. GRASSLEY. Mr. President, today I address the Senate in tribute to PFC Dustin Yancey, originally from Cedar Rapids, IA and more recently from Goose Creek, SC. Private First Class Yancey was tragically killed on November 7, 2005 during Operation Iraqi Freedom. His Humvee was struck by an improvised explosive device and both Private First Class Dustin Yancey and Captain James M. Gurbisz were killed. Private First Class Yancey served with the 26th Forward Support Battalion, 2nd Brigade, 3rd Infantry Division based in Fort Stewart, GA. He was only 22 years old.

I ask that the Senate, the people of Iowa, and all Americans stand today and recognize the sacrifice that Private First Class Yancey made yearlier this month. Our country has survived throughout the centuries due to the brave men and women who have composed our Armed Forces, and I am saddened to announce to the Senate that another of our bravest will be buried in Arlington National Cemetery.

We could all learn from the patriotism and spirit of Private First Class Yancey. His cousin, Brian Yancey of Cedar Rapids, IA, remembered that Private First Class Yancey ''was very much a patriot, very much a military man. He was a person who wanted to do what he could for his country.''

We must remember Private First Class Yancey's family, in both Georgia and Iowa, and stand with them during this time of loss and grief. The thoughts and prayers of countless Americans go out to Private First Class Yancey's family and friends. He did not die in vain, but rather gave his life for the promotion of freedom and security around the world. He will be sorely missed, but will also be an inspiration for future brave Americans for years to come.

U.S. MILITARY PERSONNEL SERVING IN IRAQ

Mr. SANTORUM. Mr. President, I rise today to share with my colleagues another positive story from a member of the U.S. Armed Forces currently serving in Iraq. His story, once again, depicts the frustration that so many of our servicemembers have with the lack of public attention in the U.S. to the humanitarian and military successes of their work in Iraq.

I recently received a letter in the mail from Ms. Ann Sensenich of Boiling Springs, PA. Ms. Sensenich wrote to me:

DEAR MR. SANTORUM: Enclosed is a copy of a letter I received from one of our soldiers serving our country in Iraq. I am forwarding this to you as I feel this is a letter that should not be viewed by only my eyes.

I have been sending packages to my employer's son in Iraq and he forwards them on to his soldiers and this is one of the responses I received.

Please share this letter with anyone you feel would appreciate the service of this and all our U.S. soldiers defending our country and keep in mind he indicated he would go back seven times before he would let terrorists on our soil.

Thank you for reading this and please share his words with others.

Sincerely,

ANN B. SENSENICH.

Attached to Ms. Sensenich's correspondence is the letter that a deployed servicemember wrote to her when her package was shared with fellow servicemembers. He wrote:

DEAR ANN SENSENICH, I am deployed with the 3/3 ACR. We received your package, and I just wanted to take a little bit of my time to say thanks.

Your package helped with the morale of a lot of soldiers. Due to the negative feedback we get from the media and people back home, it is nice to receive a package from someone who supports us and what we do.

People like you are the reason why we fight this war. We sit over here day to day risk getting shot at or having mortar rounds dropped in on us so that the people back home (like yourself) can keep on enjoying the freedoms that a lot of people take for granted everyday. I, myself used to take those things for granted also until I was deployed to fight for our freedom. This is my second deployment, and this is the first time that we have received a package from someone in the states. So, thank you for your unselfishness, and don't ever feel bad for the soldiers that are over here fighting this war. This is our job! This is what we were trained

to do. I would come back over here seven more times before I let these terrorists on our soil. You can sleep safe in your home tonight, enjoy every warm meal you have, enjoy your warm shower tonight, and wake up to a free world tomorrow because we are over here fighting for you and your family.

Once again—Thanks! I just wanted you to know that your package that you sent did not go unnoticed.

Mr. President, these stories need to be told. Our soldiers are sacrificing their lives for us; they are putting themselves in harm's way each and every day over there, and missing valuable time with their families and loved ones. They need to know that we support them, and that their bravery and hard work is not going unnoticed.

We cannot allow critics here in the United States to influence the mentality of our troops. They need to know that we stand with them and that we support their invaluable mission.

WHAT'S AT STAKE FOR U.S. AGRICULTURE IN THE NEXT TWO MONTHS?

Mr. SANTORUM. Mr. President, our top U.S. trade negotiators traveled this week and last in Europe, Africa, and Asia. They are making a concerted effort to encourage certain influential countries among our 148 trading partners in the World Trade Organization to put meaningful agricultural offers on the table in Geneva. We are coming down to the wire in the most recent round of multilateral trade negotiations, referred to as the Doha Development Round. The offers that our trading partners put on the table in the next month or two are the starting point for agricultural negotiators. That deal in agriculture will be combined with the results of similar negotiations in the manufacturing and services sectors of the economy. Together, they constitute the outcome of the round that has been going on for the last 4 years. Without a deal in agriculture, however, the Doha Development Round will falter.

While bilateral trade agreements are beneficial to U.S. exporters, it is through multilateral negotiations that across-the-board tariff reductions can be achieved. That is why the Doha Development Round is so crucial.

The agricultural negotiations are significant to all of us representing states with agricultural constituencies. In the case of Pennsylvania, production agriculture generated $4 billion in cash receipts in 2003, according to USDA statistics. That's $4 billion for the producers of livestock and commodities in my State. Pennsylvania generates only 2 percent of agricultural cash receipts received by producers nationwide, so you can imagine how important agriculture is to the 31 States with larger agricultural economies. Then there is the added value to the Pennsylvania economy of further processing and manufacture of food products and their export. Virtually every State has a stake in these negotiations.

The producers of U.S. food and fiber no longer are producing for the U.S. market alone. Those days are gone forever. Our farmers are part of the global economy. In fact, because they are so efficient, they produce in excess of what the U.S. can consume and must gain access to global markets to expand sales opportunities.

Yet many markets overseas remain closed to U.S. producers because of high tariffs applied against U.S. exports. Particularly egregious are the tariffs imposed by the European Union and Japan among developed economies and by certain developing countries such as India and Brazil, where they continue to claim developing status despite making major advances in certain sectors of their economies.

These issues have been discussed at the WTO during the past 4 years of the current Doha Development Round, with little movement in agriculture. In an effort to move the round forward, the U.S. last month put forth in Geneva an aggressive proposal to jumpstart the stalled negotiations. Since U.S. tariffs already are low compared to our trading partners, there was little the U.S. could offer in market access to encourage comparable reductions. So the U.S. proposed to pull back its own domestic subsidies in exchange for significant cuts by our trading partners in the tariffs protecting their market access.

The rationale behind the offer is that U.S. producers are so efficient that they require minimal domestic subsidies, as long as they have unfettered access to expanding markets. Those markets increasingly are found overseas where the increased prosperity of growing middle classes demands the kind of dietary diversity and convenience we have long enjoyed. U.S. producers and food manufacturers can supply both that diversity and convenience and supply it year in and year out.

But not all agriculture is as efficient as that in the U.S. Rather than improve efficiency, some countries protect producers excessively with high tariff barriers to market access. And they are not forthcoming with offers of significance to begin the process of reducing those barriers. Frankly, there isn't much time left. The round ends at the end of 2006, and the initial offers for negotiation should be on the table this December at the Hong Kong ministerial meeting so negotiators are able to assemble the final package of tariff reductions and subsidy cuts in the next year. They will need every minute to do so.

After last week in Europe, the Secretary of Agriculture and the U.S. Trade Representative were far from optimistic that the Hong Kong ministerial meeting would grapple with the type of formulas to be used in cutting tariffs or with the number of ''sensitive'' products that countries could declare protected behind a high tariff.

And what happens if there is no agreement or a face saving agreement with minimal substance? That's what worries me and should worry American farmers. U.S. production agriculture has been a partner in the international effort of our trade negotiators to gain market access. But how long can the partnership last if the round fails? Where do farmers and ranchers put their efforts if the latest round of negotiations fails to live up to its promise?

The European Union, for example, insists that dairy is sensitive and deserves special protection. How can the dairy farmers of the U.S. be convinced that overseas market access is the key to increased profitability if the European market remains unavailable behind high tariff walls? I am concerned that agriculture will lose patience with the trade negotiation process and return to familiar domestic farm programs to augment its income because the world market could not. What do responsible Members of Congress do then, facing the kind of fiscal constraints we do in 2006, just as existing farm programs expire?

There is real potential under those circumstances for backlash. Testimony by commodity groups earlier this month in the House has telegraphed that already. Wheat, corn, and soy producers all expressed reservations at the degree of ambition and commitment to trade liberalization shown by U.S. trading partners, particularly the European Union and the G–20 group of developing nations, as evidenced by their counter proposals to the U.S. proposal in the WTO. U.S. producers are savvy. They see the inadequacy of those offers by our trading partners and have no intention of venturing too far in the direction of liberalized trade alone without a very strong safety net. The weaker the commitment to reform among our trading partners, as evidenced by the degree of success in the Doha Development Round, the more expensive will be the net required by our producers. That's bad news for those in Congress wishing to lead their agricultural producers toward a more productive and profitable model based on increased markets overseas, where 95 percent of the world's consumers live.

A recent study by Australia, a leading member of the Cairns Group of trade-liberalizing nations within the WTO, underscores the potential loss if the more robust proposal of the U.S. in the WTO is not realized. Australia's agricultural economics bureau, ABARE, estimates the U.S. proposal would deliver an extra $17.5 billion in gross income per year to U.S. farmers from increased exports. Much of that increase would flow to producers of meat and fruit and vegetables, who would benefit from increased market access. In fact, the U.S. proposal would benefit all efficient producers in the world, according to ABARE.

This is not the time to accept less than the U.S. proposal in the negotiations. ABARE estimates the European Union proposal would yield only about $3 billion, barely enough to account for

assumption variables in the study, and it would continue to protect a number of its product lines where the U.S. stands to gain the most from market access. The proposal of the G–20 group would yield an extra $7.5 billion per year, a bare minimum.

Moreover, the benefit to U.S. production agriculture from increased earnings under the U.S. proposal would provide latitude for writers of the next farm bill to adjust domestic programs to accommodate two important realities. Some of our domestic programs have been ruled trade-distorting under the WTO. Ultimately we will have to reform these programs. Either we change our farm programs now by negotiation in the WTO where we can get something in return for them, or we will be forced to change them by litigation by which we don't get anything for them. Here is the perfect opportunity, where we can gain market access and income to offset changes made domestically.

The second reality is the cost of farm programs. That cost may not seem like much in years of little budget competition. But today we are in a budgetary climate where any policy that depends on government financing is subject for review. There is strong competition for public outlays, and an effort to reduce the deficit places new scrutiny on all programs.

We all have just experienced the budget reconciliation process in Congress. In agriculture, we were obligated to find $3 billion worth of savings to accommodate budget targets. That is just the beginning, and we are well advised to know the alternatives available to us to make adjustments in important programs in advance of the need. This WTO negotiation provides the U.S. with the opportunity to convert its aggressive proposal for reform into real income for farmers and agribusiness. For instance, if the U.S. program crops like wheat, corn, rice, and soybeans continue to be under pressure in the WTO for the portions of their domestic subsidy programs that ''distort'' trade, the advent of the next farm bill provides us a chance to convert supports for those crops into a format that conforms to WTO guidelines. In return, we gain the market access from our trading partners to sell them U.S. fruit and vegetables, meat and dairy products, and other specialty crops not previously allowed into their markets in sufficient quantity.

If we don't succeed in opening those opportunities for U.S. agriculture, we will have nothing with which to persuade our producers to give up the expensive domestic subsidies to which they have become accustomed. Another expensive, non-innovative, and divisive farm bill might unfortunately be the result. Mr. President, a great deal is riding on the success of the Doha Round.

REPRESENTATIVE JOHN MURTHA'S SPEECH

Mr. AKAKA. Mr. President, I rise today to talk about Representative JOHN MURTHA's statement on Iraq. JOHN MURTHA is right. We need an exit strategy from Iraq. The administration should have had one before the war.

As I and other Members of Congress consistently requested before Operation Iraqi Freedom, OIF, began, it was imperative for the administration to have a plan for both entering and, now more importantly, for exiting Iraq. We are 2 years into OIF with no clear end in sight. There is no excuse for not having one now.

We must provide the Iraqi people with the tools necessary to stand on their own. Only the Iraqi people can rebuild Iraq. Only the Iraqi people can defend Iraq. We cannot do it for them. We cannot want it more than they want it. What we must do is provide them with the means to accomplish this, but what we are unable to do is to give them the will.

Whether we leave Iraq tomorrow, or in 6 months, or longer, the President needs to tell the American people when and how we will be able to withdraw our troops. We cannot afford to lose more Americans in Iraq.

JOHN MURTHA is a great patriotic American. His service in the military and in the U.S. Congress cannot be measured. Those who disparage him tarnish only themselves.

Everyone who knows JOHN MURTHA knows that he believes in his heart and soul in the American military and he will do everything he can to help them. He should be listened to for what he has done, for who he is, and because he is right.

NATIONAL SECURITY PERSONNEL SYSTEM REGULATIONS

Mr. INOUYE. Mr. President, I am very disappointed with the U.S. Department of Defense and Office of Personnel Management's final regulations for the National Security Personnel System, NSPS, that will affect more than 350,000 defense civil service employees throughout our Nation. What makes the new system dangerous is that upon a cursory glance, it would almost appear ''acceptable'' in the name of national security. Scratch the surface, however, and it becomes very alarming.

The rhetoric does not match reality. U.S. Defense Secretary Donald Rumsfeld in public testimony stated that these new regulations ''would not end collective bargaining,'' but, rather, would ''bring collective bargaining to the national level'' to avoid duplication and inefficiency. This has not occurred, nor do I believe there is a sincere interest in the Pentagon to pursue national collective bargaining. In fact, I would suspect that the Pentagon's plan is just the opposite—to substantially remove from the table the number of subjects for good faith collective bargaining.

For this reason, I am pleased that the employee unions have gone to Federal court to challenge the regulations, in the same fashion that they challenged the Department of Homeland Security regulations. I hope they will prevail in their call for injunctive relief, as they did in the Homeland Security case, as well as to prevail in the final disposition of both cases.

While I would be the first to say that the Federal civil service system is not perfect, it is a system that has withstood the test of time as fair and impartial. To overhaul it in favor of vesting the subjective power to hire, fire, discipline and promote in the hands of a few political appointees is very dangerous. At this point, the ''seemingly acceptable'' national security rationale for the wholesale stripping of employees' rights fast begins to lose its luster. It is no longer reasonable. There seems to me to be an inherent conflict. In the name of national security, this administration is willing to deny its own workers a small modicum of security—employment and family security—especially when I do not believe it is necessary to achieve our goal of national security. I call into question the motivations behind their actions.

My position on the Pentagon's issuance of the NSPS regulations is what I believe any decent fellow would say: Now is the time for our Nation to come together in support of our armed services abroad. To do so, we must stand behind our civilian defense workforce from whom we are demanding great productivity in support of our troops.

Now is not the time to be divisive and punitive of our Federal workforce. It creates low morale, mistrust, and a decreasing level of respect between worker and management. The consequences stemming from such instability, could be dire. For me, the stakes in terms of human lives are too high to be taking such a gamble. United we stand—civilian and military together. Divided we could fail.

NATIONAL DEFENSE AUTHORIZATION ACT

Ms. SNOWE. Mr. President, I rise to speak in favor of my amendment No. 2528, unanimously adopted into the National Defense Authorization Act for fiscal year 2006, to provide targeted size standard relief for small U.S. contractors incurring extraordinary security and protection costs on foreign battlefields in the global war on terror.

Right now, in Iraq and Afghanistan, there are many brave, small contracting businesses working alongside our uniformed soldiers in many cases. Employees of these small contracting firms get shot at and encounter roadside bombs, suicide attacks, ambushes, and kidnapings. Yet, in order to provide our military with desperately needed goods and services, these small

battlefield firms diligently endure these daily risks.

These daily dangers force small conflict zone firms to hire well armed, private security guards, and to incur extraordinary security expenses in order to protect their employees. The violence towards civilian contractors in Iraq and Afghanistan has become so prevalent that the government often requires companies to provide security services, and treats these extraordinary security costs as reimbursable contractor expenses. These security expense reimbursements do not increase or expand small contracting firms' core business capabilities. Instead the money the government pays to small battlefield contractors for security expenses is passed directly through to the security subcontractor providing protection to the small firms' employees.

Unfortunately, the Government's valid reimbursement of conflict-zone security expenses artificially inflates the size of many small battlefield firms causing them to out grow the Small Business Administration's small businesses size standards. It is important to understand that the SBA size standards were established on the basis of normal revenues for small businesses operating in North America. But, currently, these domestic size standards are penalizing our small contractors operating outside the U.S. and in war zones by eliminating their ability to obtain crucial small business contracts and loans once they exceed the domestic standards.

Our most reliable and dependable small battlefield firms, because they operate overseas, are.in danger of artificially outgrowing the SBA's domestic size standards. Not only does this artificial growth hurt small business ability to survive, it also harms the U.S. Government's ability to secure contracts for much needed goods and services that are used to support our troops in war zones. This ultimately reduces the Federal Government's access to experienced small contractors and hampers the Government's efforts to comply with the Government's annual statutory small business contracting goals.

My amendment directs the SBA to conduct a study and provide a report to Congress on the fairness of exempting reimbursement for subcontracts for private security services from the size standards caps applicable to small firms that perform contracts and subcontracts on overseas battlefields. I urge my colleagues to support our small battlefield contractors currently in harms' way by retaining this important amendment in the Defense authorization conference report.

SCIENCE, STATE, JUSTICE, AND COMMERCE APPROPRIATIONS

Ms. MIKULSKI. Mr. President, earlier this week the Senate passed the conference report accompanying H.R. 2862, the Science, State, Justice and Commerce Appropriations Act for fiscal year 2006.

As the ranking member on the Appropriations Subcommittee on Commerce, Justice, and Science, I rise today to explain how this legislation is critical to spurring economic innovation in our Nation and how the bill protects communities and saves lives and livelihoods.

I believe this appropriations bill is an important step in making our country more competitive in the global economy. The future of our economic security as well as our national security will depend upon our ability to innovate. This bill is a major Federal investment in innovation through science and technology, and it will help make America stronger by investing in our future.

Innovation begins with basic research. H.R. 2862 funds the National Science Foundation, NSF, at $5.6 billion, a $180 million increase over last year.

The key to innovation is investing in basic research in the physical sciences-biology, chemistry, physics and the cutting edge interdisciplinary initiatives in nanotechnology, biotechnology and information technology. The National Academy of Sciences, the Council on Competitiveness, and numerous other organizations have all called for a substantial increase in our investment in basic scientific research. This bill makes a downpayment on that investment.

The technology of tomorrow will create the jobs of tomorrow. But if we don't invest in research, the technology and the jobs will go overseas.

But it is not just about investing in research, we also have to invest in education. This bill preserves funding for graduate student stipends at $30,000 per year. NSF funds critical programs to improve the teaching of math and science and to improve science and math curriculum in our schools. We must increase the number of math and science teachers as well as the number of math and science students.

In addition, government and the private sector must work together to spur innovation in our economy. That is where the National Institute of Standards and Technology, NIST, comes into play. NIST invests in new technologies that lead to new breakthroughs that create jobs to make our nation more competitive. NIST also sets industry standards so that American business can be competitive abroad. H.R. 2862 funds NIST at $761 million, a $62 million increase over last year.

This legislation also funds other important agencies that are on the cutting edge of science and technology that can save lives and communities.

The National Oceanic and Atmospheric Administration, NOAA, is responsible for the National Weather Service as well as critical research into oceans, fisheries and the Earth's atmosphere.

For NOAA, we have provided $3.9 billion, a $20 million increase over last year. Whether it is warning us about severe weather so we can secure our property and get out of harm's way, or helping to restore our fisheries that are so critical to our economy, NOAA saves lives and communities every day.

In space, this appropriations bill fully funds the National Aeronautics and Space Administration, NASA, and the cutting edge scientific and technological research that only NASA can do.

For NASA, we have provided $16.4 billion, which is a $260 million increase over last year. This includes $271 million for the Hubble Space Telescope, $50 million over the President's budget request to accommodate a servicing mission to Hubble, should the Administrator determine that the space shuttle is safe to use.

The servicing of Hubble will involve replacing batteries, gyroscopes and installing new scientific instruments to make Hubble more powerful than ever. Hubble is the very symbol of innovation and discovery that are hallmarks of America's space program.

We continue our investment in the Mars program and fully fund the next generation of launch vehicles to replace the space shuttle.

All major science programs are funded at the President's request level or higher including the Living With A Star program which is crucial to understanding the Sun's effects on the Earth.

While NSF, NOAA, NIST and NASA are all integral to our nation's ability to innovate, along with our other federal agencies, it is the private sector that is responsible for most of the innovation that drives our economy.

The Patent and Trademark Office, PTO, plays a central role in protecting our nation's valuable intellectual property. The PTO has a backlog of applications waiting to be processed. H.R. 2862 funds the PTO at a record $1.7 billion, a 30 percent increase over last year.

This record increase will go a long way towards helping the PTO reduce the backlog of patent applications so we can properly protect our intellectual property and maintain our competitiveness.

But as we invest in our future, this legislation also takes care of our day-to-day needs especially when it comes to protecting our neighborhoods and communities

In making our country safer, the Department of Justice is our front line. This bill provides $21 billion to the Justice Department, $800 million more than last year. The Justice Department accounts for almost 50% of the entire bill. This includes funding for the FBI, DEA, ATF, U.S. Marshals, U.S Attorneys as well as the Federal Prison System.

The Justice Department provides assistance to our state and local law enforcement and help communities fight gang violence. It also protects us from terrorists and protects our neighborhoods and communities. Specifically, the FBI will receive $5.7 billion in 2006,

a $500 million increase over last year. Most of this increase has been devoted to counterterrorism.

H.R. 2862 also increases funding to fight sexual predators who prey upon our children. The bill provides $48 million to continue and expand the Missing and Exploited Children Program. It also funds a Cyber-Tipline, an online resource where people can report leads and tips about child sexual exploitation.

Finally, the bill provides $2.7 million for the FBI's innocent images program to investigate and capture child pornographers who use the Internet to prey on children.

In addition to sexual predators, gangs are becoming a growing local, regional, and national problem. We have provided increases to the ATF, U.S Attorneys and the FBI to help fight against gangs in our schools and communities.

Any anti-gang strategy must focus on three principles: prevention, intervention and suppression. In my own State of Maryland, in Montgomery and Prince George's Counties, and around the State, gangs are a growing problem.

This bill provides $2 million for Montgomery and Prince George's Counties to deal with gang violence and fund prevention programs. It also provides another $2 million to combat gang violence and gang prevention programs around the State of Maryland. The purpose of this funding is to bring federal resources to the local level to help stop and prevent further gang violence from afflicting our neighborhoods and communities.

Mr. President, the President's budget cut state and local law enforcement by $1.4 billion. We were able to restore $1.1 billion of that cut in this bill.

I know how important our local police are to fighting crime and gangs. Our local police are the first responders. If we were not subjected to strict limits on spending that were imposed on us by the Budget Resolution, we would have provided additional funding for state and local law enforcement.

But with the need to increase funding for counterterrorism and counterintelligence, plus the need to address the growing problems of both methamphetamine abuse and regional and even international gang violence, we had to make difficult choices, under very difficult circumstances.

Mr. President, the Science, State, Justice, and Commerce Appropriations bill is about investing in science and technology to spur innovation in our economy, protecting our Nation, and saving communities, lives, and livelihoods.

Investments in innovation are critical so America will retain its competitiveness as well as its economic and national security. Through the Department of Justice and its major law enforcement bureaus, we are increasing our commitment to protecting children from sexual predators and making our neighborhoods and communities safer from gang violence and street crime.

I look forward to working with my colleagues next year to continue the progress we have made and increase our commitment to innovation, science and technology.

LIHEAP

Mr. KENNEDY. Mr. President, winter is coming, and it could easily become a perfect storm of high energy prices, bitter cold, and too little heat for those in need.

Households heating primarily with natural gas will pay an average of $306 more this winter for heat, an increase of an incredible 41 percent over last year. Those relying primarily on oil for heat will pay $325 more, an increase of 27 percent.

The poor, the elderly, and the disabled need our help and they need it now.

Wilhelmina Mathis is one example of what is happening to the most vulnerable in our society. Wilhelmina is 71 years old and lives alone. All last winter she kept her thermostat set at 60 degrees to save money. She hopes the Federal Government will come through with more LIHEAP money. She says: ''I turn down the thermostat as low as I can and sometimes I turn it off and put on extra sweaters. I don't know how much longer I can keep doing this.''

We have tried four times this year to increase funds for LIHEAP, and all four times we were defeated by the overwhelming Republican majority who voted in lock-step to reject it.

The failure of the Republican Congress to increase LIHEAP funds continues to put millions of our fellow citizens at risk. But the Bush administration and the Republican Congress are telling the elderly, the disabled, and children across America that it doesn't matter if they have no heat this winter—they aren't a priority.

In fact, the Republican leadership is forcing us to make impossible choices. Look at the Labor-HHS bill. The Republican leadership is telling us that if we fund LIHEAP, we must cut health care for seniors, cut education for our children, cut essential job training funds for people trying desperately to enter the workforce and attain a level of self-sufficiency.

It is unconscionable. Why are we being forced to help one family at the expense of another? We must increase LIHEAP funds and fight against cuts to other essential health, education, and labor programs. It is time for Congress to stand up for the American people. We tell them we hear them and understand their struggle, now it is time to put our money where our mouth is. We need to stop the rhetoric and take action. The American people deserve nothing less.

Mr. KOHL. Mr. President, I rise as a cosponsor of the amendment offered yesterday by the Senator from Rhode Island to the tax reconciliation bill. This amendment addresses a concern that is on the mind of many Wisconsinites as winter quickly approaches—the increased cost of home heating.

The timing of this amendment could not be more relevant. Last week, executives from several major oil companies attempted to defend their record-breaking profits over the last quarter, in a hearing before the Senate Commerce and Energy Committees. Despite their efforts, they were unable to provide adequate answers. More importantly, they were unable, or unwilling, to provide solutions that would ease the burden on American consumers.

I would like to remind my colleagues that while prices at the pump have declined slightly, we are not yet in the clear. Winter is just around the corner, and with colder temperatures comes higher heating bills. I know my constituents in Wisconsin are worried not only about the costs of filling their cars, but also the costs of heating their homes. As the profits of these oil companies continue, what answers can I provide to these constituents, these hard-working Americans, about how they will pay their heating bills?

I believe the amendment of the Senator from Rhode Island was a first step towards offering my constituents some piece of mind when it comes to heating their homes. This amendment would have created a temporary, 1-year levy on the excess profits of U.S. oil companies to provide $2.92 billion for the Low-Income Home Energy Assistance Program. Because this would only be in place for 1 year, and only effect profits made in 2005, this amendment would have no effect on gas prices or do anything to increase dependence on foreign oil. The amendment offered a simple, short-term solution that would provide real help to those who will need it most, when the temperature starts to drop.

The Energy Information Administration has forecasted significantly increased home heating costs this winter. For those using home heating oil, the average increase in price will be $325 over last year. While that might not be much to the oil executives, I can assure you that it could mean going without heat for some families in Wisconsin. I believe it is the responsibility of the Federal Government to protect consumers when the market fails to do so.

I am deeply disappointed that the amendment failed in last night's vote. I assure my constituents that I will continue to work towards a comprehensive solution to high heating costs.

Mr. CARPER. Mr. President, I am pleased to voice my support for the Low-Income Home Energy Assistance Program and for the Reed amendment that I cosponsored to S.2020, the tax reconciliation bill. The Reed amendment would have fully funded LIHEAP in fiscal year 2006 and would have paid for the increased funding with a temporary tax on the windfall profits of major oil companies.

The Senate fiscal year 2006 Labor, Health and Human Services, and Education Appropriations bill took an important first step toward providing adequate LIHEAP funds by including $2.183 billion for the program for next fiscal year. This is a good starting point.

However, $2.183 billion represents only a very slight increase over fiscal year 2005 levels and is likely not enough to meet the needs of LIHEAP beneficiaries in the coming winter.

For this reason, I have worked to find ways to increase funding for the LIHEAP program and to do so in a manner that is fiscally responsible. The Reed amendment would have added $2.92 billion to the LIHEAP program and paid for this increase by taxing the windfall profits of major oil companies.

Some have criticized this windfall profits tax. Yet I believe that a temporary, limited tax on the windfall profits of energy companies is a reasonable way to help the least fortunate among us pay for their home energy needs.

Indeed, I believe that the country's oil producers can afford to help pay for LIHEAP. Last month they posted record profits. ExxonMobil reported that their profits rose 75 percent, and in just 3 months they made $9.92 billion in profit. Similar record profits have been reported by all of the major integrated oil companies. Some of this increase in profit is due to oil prices that started to rise this summer even before Hurricanes Katrina and Rita struck the gulf coast. After the hurricanes, though, the price of gasoline, diesel, jet fuel and other refined oil products soared.

Our Nation is still struggling to recover from the disasters along the gulf coast. All Americans have had to make sacrifices as a result. This winter the country is facing another crisis, record energy prices and associated increased household heating bills.

According to the U.S. Energy Information Administration, consumers who heat their homes with natural gas prices—about 55 percent of U.S. households—are expected to see their heating bills rise by 48 percent this winter. Those who heat with oil will pay 32 percent more, those who heat with propane will pay 30 percent more, and those who heat with electricity will pay 5 percent more.

These increases will take the greatest toll on the least fortunate among us. Low-income Americans will have a harder time heating their homes and may turn their heat down dangerously low in hopes of being able to pay their monthly bills.

That is why the LIHEAP program is so important. LIHEAP provides vital home energy assistance to low-income families to help them weatherize their homes and pay their energy bills.

The Reed amendment would have asked the oil companies that have profited so much from recent rising energy prices to help ease the burden of this winter's high prices.

I am pleased with the approach taken by the Reed amendment because I believe that we should try to pay for increases in spending. I have been uncomfortable supporting some previous amendments to increase funding for the LIHEAP program because they did not find a way to pay for the increased spending.

Senator REED has found a way not only to fully fund this vital program, but to pay for it as well.

Unfortunately, Senator REED's amendment was not accepted by the full Senate during consideration of the tax reconciliation bill. The amendment needed 60 votes to overcome a point of order and received only 50.

We will keep trying though.

The LIHEAP program serves a vital function in helping as many as 5 million low-income households who need a bit of help paying their energy bills or weatherizing their homes. I'm pleased to have been a cosponsor of the Reed amendment and I will continue to look for ways to increase funding for the LIHEAP program.

INTERNET GOVERNANCE

Mr. BURNS. Mr. President, I rise to say a few words about the resolution I submitted and which was approved by unanimous consent on the Senate floor this week, in support of the President's position on Internet governance at the U.N. Summit on the Information Society. I thank the cosponsors on this resolution: Senators STEVENS, INOUYE, LEAHY, SMITH, SUNUNU, BILL NELSON, HUTCHISON, INHOFE and CRAIG. And I also acknowledge Senator COLEMAN for all his good work on this issue.

No one can really control the Internet. It is not supposed to be controlled. It is an architecture, literally and figuratively, of freedom—freedom of information, of speech, of interconnection, of religion. Because the Internet was developed and commercialized in the United States, it reflects those core American values, and boosts them all around the world. And the United States should be proud of the way it has handled the growth of the Internet—particularly in the way it has kept the private sector experts in charge, and government bureaucrats out.

I have been particularly concerned the status of the Internet Corporation for Assigned Names and Numbers, ICANN, the private, expert body that oversees and manages the Internet's Domam Name System. This is the ''plumbing'' that makes each Internet site unique and keeps the Internet a global unitary network. The United States created ICANN and its unique model of oversight, with the input of international stakeholders. And U.S. Government oversight of ICANN has been critical in making ICANN more responsive and more capable of carrying out its important technical mission. ICANN is not perfect. I have been critical of its shortcomings in the past, and will continue to do so in the future. But I strongly support its model of governance that leaves the private-sector experts in charge.

The preliminary news from the U.N. conference seems to be good. Some of the worst ideas, such as creating a new U.N. bureaucracy instead of ICANN, or to direct ICANN, seem to have been avoided. But I will look closely at the final results and make sure that nothing has been agreed to that could damage the Internet. I hope to hold a hearing in the Commerce Committee early next year about this, and I look forward to hearing the testimony of the key stakeholders at that time.

THE SUCCESS OF THE 1994 BRADY ACT

Mr. LEVIN. Mr. President, statistics released last month by the Department of Justice indicate that the 1994 Brady Act has had a meaningful impact on keeping firearms out of the hands of criminals. The annual Bureau of Justice Statistics bulletin titled ''Background Checks for Firearms Transfers'' reveals that nearly 126,000 firearm transactions to prohibited individuals were prevented in 2004 alone.

As my colleagues know, the 1994 Brady Act requires individuals seeking to acquire guns from a federally licensed firearms dealer to undergo a background check. This process requires the applicant to provide a variety of personal information, which is not retained longer than 4 days unless the person is prohibited by law from receiving or possessing firearms. The primary factors that disqualify individuals from receiving firearms include felony or domestic violence convictions, identification as a fugitive or illegal alien, substance abuse, and serious mental illness. Unfortunately, membership in a known terrorist organization does not automatically disqualify an applicant from receiving or possessing a firearm under current law. This is one of the loopholes in our gun safety laws that should be addressed by Congress.

The Department of Justice reports that since enactment of the 1994 Brady Act, more than 1.2 million applications for firearms transfers have been rejected because disqualifying information was uncovered during a background check of the applicant. Of the applications that were rejected in 2004, 44 percent were rejected because the applicant had been convicted of or was under indictment for a felony offense. In addition, 16 percent were rejected because of domestic violence convictions or a related restraining order.

According to the Department of Justice statistics, almost 80 percent of the rejected applicants in 2004 had a serious criminal history, had been involved in domestic violence, or were identified as a fugitive. This means that nearly 100,000 times last year, criminals and

known domestic abusers were denied access to dangerous firearms because of background checks required by the 1994 Brady Act.

Unfortunately, not all firearms transactions are subject to a background check. The law requires background checks only for those transactions that involve a federally licensed firearms dealer. According to the Coalition to Stop Gun Violence ''two out of every five guns acquired in the United States; including guns bought at gun shows, through classified ads, and between individuals; change hands without a background check.'' The Coalition to Stop Gun Violence also estimates that ''extending criminal background checks to all gun transactions in the United States could prevent nearly 120,000 additional illegal gun sales every year.''

It is important that we do not infringe on the rights of law-abiding citizens. However, with those rights in mind and protected, we should not allow those with a violent or serious criminal record to acquire dangerous firearms. I urge my colleagues to join me in support of commonsense gun safety legislation, such as the 1994 Brady Act, that will make our nation safer.

AIR FORCE ACADEMY

Mr. ALLARD. Mr. President, in an era when college football players are almost universally derided as troublemakers, stories about football players who become leaders and role models off the field are indeed hard to find. One such leader currently exists at the U.S. Air Force Academy.

Earlier this week the Air Force Academy announced that Andy Gray, a senior cadet, has been selected to take over as the commander of the entire 4,000-strong cadet wing next semester. In this position, Andy will serve as the chief liaison between the academy's leadership and the cadet student body, akin to a student body president.

However, Andy is different than the average student body president. He has received extensive leadership training along with his fellow cadets. He has endured the rigorous cadet schedule of academics and military training. And, he has done it all while excelling as a member of the NCAA Division One Air Force Academy Falcon football team.

Andy is only the sixth football player to be chosen for this leadership role, and the first in 16 years. The last academy athlete to serve as the cadet wing commander was Delavane Diaz who played volleyball for the Falcons in 2003.

Andy Gray entered the academy in 2000 and played quarterback and defensive safety for much of his cadet career. In the fall of 2004, he was No. 1 on the depth chart as quarterback for the Falcons. This past season he played safety and had a big interception in the Air Force Academy's victory over UNLV.

Becoming a cadet wing commander is not easy and requires candidates to go through a rigorous screening process. Only the top two cadets from each of the academy's 35 squadrons are nominated to be considered. Then the pool is narrowed to 20. Each of the surviving candidates is closely interviewed by a board that includes members of the academy's leadership.

I commend Andy for his selection to be the academy's cadet wing commander. This selection is a real honor for him, and I know he will not take his new responsibilities lightly. I wish Andy the best as he takes up this important leadership position.

I also applaud the academy's football coach, Fisher DeBerry, for being such an outstanding role model for cadets like Andy. Coach DeBerry is a man of character who, for over 22 years, has turned hundreds of cadets into leaders while running a top-notch football program. I look forward to seeing in the future many more Academy football players become leaders in our Air Force.

THE SITUATION IN NEPAL

Mr. LEAHY. It may seem strange that on a day when the Congress is debating the budget resolution, I would be asking the Senate to turn its attention for a moment to the remote and tiny nation of Nepal.

I do so because for the past several years, a ruthless Maoist insurgency and a corrupt, repressive monarchy have brought that impoverished but breathtakingly beautiful country to the brink of disaster. It is important for the Nepalese people to know that while they may live half a world away, the difficulties they are facing have not gone unnoticed by the U.S. Congress.

It has been almost 9 months since Nepal's King Gyanendra dismissed the multiparty government, suspended civil liberties, and arrested the prime minister along with other opposition political leaders, human rights defenders, prodemocracy student activists, and journalists.

The king's explanation was that democracy had failed to solve the Maoist problem. He said that he would take care of it himself and then restore democracy after 3 years.

It is true that Nepal's nascent democracy had not solved the Maoist problem. Neither had the king. In the 4½ years since King Gyanendra assumed the throne and became commander in chief of the Nepalese army, the Maoists have grown from a minor irritant to a national menace. While the Maoists use threats and violence to extort money and property and they abduct children from poor Nepalese villagers, the army often brutalizes those same people for suspicion of supporting the Maoists. Like most armed conflicts, defenseless civilians are caught in the middle.

What the Nepalese people desire most is peace. Despite the king's autocratic maneuvers on February 1, many would have given him the benefit of the doubt if he had a workable plan to quickly end the conflict. Nine months later, it is clear that he does not. One can only wonder why King Gyanendra thought that he could defeat the Maoists by dissolving the government, curtailing civil liberties, and surrounding himself with a clique of elderly advisers from the discredited, feudalistic Panchayat era.

The United States, Great Britain, and India criticized the king's actions and have urged him to negotiate with Nepal's political parties to restore democratic government. Unfortunately, although he has released most political prisoners and reinstated some civil liberties, the king has increasingly behaved like a despot who is determined to consolidate his own power.

In the meantime, the Maoists declared a ceasefire. The violence has reportedly decreased, although abductions and extortions have continued apace. Whether the ceasefire is a sinister ploy or a sincere overture for peace may never be known, however, because it is due to expire next month and neither the king nor the army has indicated a willingness to reciprocate.

Against this disheartening backdrop, the Congress, on November 10, 2005, approved my amendment to impose new restrictions on military aid for Nepal. On November 14, President Bush signed it into law. I want to briefly review what we did, and why.

The amendment says that before the Nepalese army can receive U.S. aid, the Secretary of State must certify that the Government of Nepal has ''restored civil liberties, is protecting human rights, and has demonstrated, through dialogue with Nepal's political parties, a commitment to a clear timetable to restore multi-part democratic government consistent with the 1990 Nepalese Constitution.''

This builds on an amendment that was adopted last year, which required the Secretary of State to certify that the Nepalese army was providing unimpeded access to places of detention and cooperating with the National Human Rights Commission, NHRC, to resolve security related cases of people in custody. Unfortunately, the Secretary was not able to make the certification. Not only were the NHRC's members replaced through a process that was contrary to Nepal's constitution, the International Committee of the Red Cross suspended its visits to military detention centers because it was denied the free access it requires.

The Nepalese Government objects to any conditions on U.S. aid, arguing that the army needs help to fight the Maoists. The army does need help, but it also needs to respect the law and the rights of the Nepalese people. The Congress took this action only after it could no longer ignore the pattern of arbitrary arrests, disappearances, torture and extrajudicial killings by the army. The army's abusive conduct,

coupled with the king's repressive actions since February 1, have contributed to a political crisis that threatens not only the future of democracy but the monarchy itself.

Economic aid to support health, agriculture, hydropower, and other programs through nongovernmental organizations is not affected by my amendment. If the situation changes and the Secretary of State certifies that the conditions in U.S. law have been met, military aid can resume. But that alone will not solve the Maoist problem. The Maoists are expert at intimidating the civilian population and carrying out surprise attacks and melting back into the mountains. While they do not have the strength to defeat the army, neither can they be defeated militarily.

The only feasible solution is through a democratic political process that has the broad support of the Nepalese people. Perhaps seeking to placate his critics, the king, without consulting the political opposition parties, announced municipal elections for February 8, 2006. Not surprisingly, the parties say they will not participate in an electoral process dictated by the palace and when the army and the king's handpicked representatives have taken control of local affairs and are unlikely to relinquish power.

The U.S. Embassy is skeptical of the Maoists' intentions and has publicly discouraged the political parties from forging an agreement with the Maoists. This is understandable, since the Maoists have used barbaric tactics that should be universally condemned. But this conflict cannot be won militarily and the king has rejected a political accommodation with the country's democratic forces. He is imposing new restrictions on the media and civil society, and he has spumed offers by the international community to mediate. Nepal's younger generation, who see no role for the monarchy in Nepal's future, are taking to the streets. It may not be long before the army is faced with a fateful choice. Will it continue to side with the palace even if it means turning its weapons on prodemocracy protesters and facing international censure, or will it cast its lot with the people?

It is a choice that we may also have to make. For the better part of a year, the United States and others friends of Nepal, as well as many brave Nepalese citizens, have tried to nudge the king back toward democracy. It has not worked. With the king increasingly imperious and isolated and the political parties already making overtures to the Maoists, what is to be lost by calling for the Maoists to extend the ceasefire, for the army to reciprocate, for international monitors to verify compliance, and for representatives of all sectors of society who support a democratic, peaceful Nepal to sit down at the negotiating table?

There are no guarantees, but it would test the Maoists' intentions and it might create an opening for agreement on a democratic process, with the support of international mediation, that can finally begin to address the poverty, corruption, discrimination and other social ills that have fueled the conflict. The people of Nepal, who for generations have suffered far more than their share of hardship and injustice, deserve no less.

MEDICARE PRESCRIPTION DRUG BENEFIT

Mrs. BOXER. Mr. President, last Tuesday the open enrollment period for the Medicare Part D prescription drug program began. This program has been praised by the administration as a great benefit for seniors, but I can tell you that seniors are not so sure. According to a survey conducted by the Kaiser Family Foundation, only 20 percent say they will sign up. Over one-third say they won't, and the rest don't know what they are going to do.

One thing we do know for sure is that seniors are confused and scared. I have received over 4,000 letters from them telling me so. And why wouldn't they be. They have a series of complicated decisions to make.

First, they have to decide whether they want drug coverage. Do they already have drug coverage that is better or just as good as what is offered under the plan? And if they don't, do the costs of the plan exceed the benefits? And what will happen in the future? Should they sign up now to avoid the penalty for signing up late?

Second, if they do decide to join the program, what plan do they choose? In California, 18 companies are providing 47 stand-alone prescription drug plans. These plans all have different premiums, copays, and lists of drugs they will cover. For those in managed care plans, if they choose one of the stand-alone drug plans instead of their managed care plan, they will lose their health coverage.

In addition, seniors must make sure that their neighborhood pharmacy accepts the plan. Otherwise, they will end up having to find a new pharmacy that is probably less convenient. And after all that, any plan can—on 60 days notice—change the list of drugs it covers. Seniors, however, can change their plans only once a year.

If seniors do choose to participate, the benefit itself is meager. There is a large coverage gap—the so-called donut hole—so seniors must pay 100 percent of drug costs once they spend $2,250 and before they spend $5,100. Moreover, there is nothing in the program that will actually lower the cost of prescription drugs, and, in fact, Medicare is expressly prohibited from negotiating for lower prices.

Mr. President, the seniors who are the sickest and poorest have the most to lose with this new program. Those 6.1 million seniors are eligible for both Medicaid and Medicare. They are known as dual eligibles. Currently, State Medicaid programs cover their drug costs, but as of January 1, they will be switched to the less generous Medicare program, and the States will be prohibited from using Medicaid to provide better coverage.

We need to make changes to the program now so that our seniors do not suffer. That is why I am a proud cosponsor of several bills that will change the harshest parts of this program. We must allow Medicare to negotiate on behalf of seniors for lower drug prices. We must allow States to use Medicaid to improve the drug coverage of the sickest and poorest seniors. We must end the coverage gap for all seniors. We must allow seniors more time to understand the program before they are required to enroll.

Mr. President, these changes are needed—and needed now. Without them, the promise of a Medicare prescription drug benefit may turn out to be a hollow one.

THE 30TH ANNIVERSARY OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Mr. KENNEDY. Mr. Chairman, I was proud to serve on the Education Committee when it recommended the original Education for the All Handicapped Children Act in 1975, and I am proud to join Senator ENZI today as a sponsor of this resolution, which recognizes the major impact of the law on the lives of disabled children and their families across the Nation, by guaranteeing the right of every disabled child to a free public education.

We know that disabled does not mean unable. Children with disabilities have the same dreams as every other child in America to grow up and lead a happy and productive life. We know that IDEA helps them fulfill that dream.

It says children cannot be cast aside or locked away because they have a disability. Those days are gone in America—hopefully forever.

Children with disabilities have rights like every other child in America, including the right to learn with other children in public schools and prepare themselves for the future.

But even as we celebrate 30 years of continuing success in the education of disabled children, we continue to hear objections to the act's high cost, its paperwork, and the burden of litigation. Those are important considerations, but we can't let them overwhelm the vast benefit of IDEA.

The act is about disabled children and their rights. It is about their hopes and dreams of living independent and productive lives. It is about parents who love their children and struggle for them every day against a world that is too often inflexible and unwilling to meet their needs. It is about teachers who see the potential inside a disabled child, but don't have the support or training they need to fulfill it.

IDEA is our declaration as a nation that these children matter and that we

will do all we can to help their parents and teachers and communities achieve their education goals. That is why the government should make a clear commitment to provide adequate funds for special education. What is needed is a solid education plan for each child, a way to chart the child's progress, and a way to hold schools accountable if they fall short. That is not placing an unfair burden on schools. It is the correct expectation of a decent school system in America.

Brown v. the Board of Education struck down school segregation by race and said that all children deserve equal access to education under the Constitution. But it wasn't until the passage of the Education for the Handicapped Act in 1975 that the Brown decision had real meaning for children with disabilities.

Only then did we finally end school segregation by disability and open the doors of public schools to disabled children. Only then did the Nation's 4 million disabled children begin to have the same opportunities as other children to develop their talents, share their gifts, and lead productive lives.

We must never go back to the days when disabled children were denied public education, when few if any preschool children with disabilities received services, and when the disabled were passed off to institutions and substandard schools to be kept out of sight and out of mind.

We have made immense progress since those days. Six and a half million children with disabilities now receive special education services. Almost all of them—96 percent—are learning alongside their nondisabled fellow students.

The number of young children with early development problems who receive childhood services has tripled in the past 30 years. More disabled students are participating in State and national testing programs. Graduation rates and college enrollment rates for disabled students are steadily rising.

The opportunities for further progress are boundless. We know far more about disability today than a quarter century ago. We have much greater understanding of childhood disabilities, and how to help all such children to learn and achieve. We are finding out more and more each year about the power of technology to enable these children to lead independent lives. It means they can communicate with others, explore the world on the Internet, and move in ways we couldn't have imagined 5 years ago, much less in 1975 when the law was first enacted.

I hope all our colleagues will join us in recognizing the extraordinary role of IDEA in protecting the rights and broadening the opportunities available to children with disabilities. Let's work together to renew our commitment to IDEA and fulfill its great promise of hope for the future.

50TH ANNIVERSARY OF THE DEDICATION AND OPERATION OF THE U.S. AIR FORCE ACADEMY

Mr. ALLARD. I rise today to celebrate the 50th anniversary of the dedication and operation of the U.S. Air Force Academy, located in my home State of Colorado. It has been a privilege for Colorado to host the Academy for more than five decades. The Academy's outstanding record of turning cadets into officers of integrity and honor is a source of pride for many in Colorado.

Yet sometimes when we drive on I–25 and pass the Air Force Academy's beautiful campus, we assume that Academy has always been there. It is easy to forget the hard work it took to get the Academy to Colorado in the first place

It all began in May of 1949 when then-Secretary of Defense James Forrestal appointed a commission to evaluate the general education for each military service. This commission was chaired by Robert L. Stearns, president of the University of Colorado and father-in-law of Supreme Court Justice Byron ''Whizzer'' White. The commission also included other notables such as GEN. Dwight D. Eisenhower, who was then president of Colombia University. The Stearns Board quickly agreed that the U.S. Air Force needed an academic institution of excellence and that such an Academy should be established without delay.

Congress authorized the creation of the Air Force Academy in 1954. To determine a site for the new institution, then-Secretary of the Air Force Harold E. Talbott, appointed a team of individuals to assist him. The Air Force Academy Site Selection Board, as it was called, reviewed more than 580 locations in 34 States, and narrowed the field down to 7, 1 of which was Colorado Springs, CO. A year later, the majestic 14,000 acre area in the foothills of the Rocky Mountains near Colorado Springs was chosen by Secretary Talbott to be the site for the new U.S. Air Force Academy.

The selection of the site, however, would prove to be easy part. The design and construction of the permanent location would take years to complete. In the meantime, the Air Force had to find an alternate site so classes and training could begin. Lowry Air Force Base in Denver took on this mission and hosted the Academy until permanent buildings could be constructed.

The Academy staff was activated in the summer of 1954 when LTG Hubert Harmon, who had previously served as special assistant for Air Force Academy matters and was a member of the 1949 Air Academy Site Selection Board, assumed command. President Eisenhower, a West Point classmate and close personal friend of General Harmon, personally selected him as the first superintendent, stating ''Doodles'' Harmon would be the best man for the job.

The staff had only 11 months to prepare for the arrival of the first class in the summer of 1955. Due to space limitations, only 306 young men were admitted into the first class, the class of 1959. Thousands of applications were reduced to a few hundred, and those selected were truly America's ''cream of the crop''.

Dedication Day began with the arrival of 306 young men on July 11, 1955. The morning was spent processing such as fitting uniforms and getting haircuts. By 11 a.m. they were all lined up for intensive drill instruction. That afternoon, the stands were filled with over 4,000 military and civilian dignitaries, public officials, foreign attaches, cadets from West Point and Annapolis, press, and parents. With a flight of B–36 bombers flying overhead and the USAF band playing, the 306 cadets marched on the field in a near perfect formation.

At the time no one could have predicted that this small class would turn out Rhodes Scholars, numerous general officers and even All-American football players. Surprisingly, before they were to graduate, they would lead their football team to an undefeated season and a tie in the 1959 Cotton Bowl, one of the most underrated achievements in the history of major college sports.

LTG Hubert Harmon retired with lung cancer before the first class graduated in 1959. He will be remembered for his tireless work and dedication to the establishment of the Academy. He was the first person interred at the Air Force Academy Cemetery and is recognized by many as the ''Father of the Air Force Academy.''

Major General Briggs took over as the Academy's second superintendent, and during his tour of duty there, in 1958, the wing of 1,145 cadets moved to its present site from Denver. A year later, the Academy received its accreditation, and on March 3, 1964, the authorized strength of the cadet wing was increased to 4,417. In 1976, women were admitted for the first time into the Academy. The first class of women graduated in May 1980.

To date, more than 35,000 cadets have graduated from the Academy. The achievements of those who have graduated from the Academy have been many: 315 of these graduates have become general officers, to include former Chiefs of Staff of the Air Force, Generals Ronald Fogelman and Mike Ryan, 32 cadets have been selected as Rhodes Scholars, and 539 have entered medical school.

Even more important, 128 graduates have given their lives in the defense of our Nation, and 36 have been prisoners of war. We honor those who have served our Nation with such sacrifice and patriotism.

Over the years, the Air Force Academy has had to confront several difficult challenges. The institution has risen above these challenges and, in its quest for excellence, has become a model for other academic institutions

to follow. The Air Force Academy continues to be recognized as an invaluable proving ground for tomorrow's military leaders.

As we look back at the establishment of the Academy, we cannot help but be thankful to those who worked so hard to establish the Academy in Colorado. The citizens of Colorado are indeed honored to have this institution in our beloved State. We have stood by the Academy through both the good and tough times. We in Colorado continue to believe in the Academy's mission and support the institution's effort to train officers of integrity and honor. We salute the Air Force Academy's 50 years of success and look forward to many more decades to come.

PREVENTING TAX INCREASES

Mr. KYL. Mr. President, I want to take some time to discuss the importance of preventing tax increases that are scheduled to occur over the next several years.

The budget resolution conference agreement reached in April provides reconciliation protection for $70 billion of tax reductions over 5 years, with the direction that the allocation be used to prevent tax increases during the budget window. This sent a signal to investors that capital gains and dividends tax rates would be extended through 2010. I am disappointed that the legislation approved by the Senate does not meet that expectation. Fortunately, the bill approved by the Ways and Means Committee in the other body does, and I pledge to all investors that I will continue to work for that outcome. Indeed, the Senate majority leader pledged that he would not bring the bill back from conference without an extension of these investment tax rates. Similarly, the administration released its Statement of Administration Policy on the bill, which urged Congress to extend the lower rates for capital gains and dividends, noting, ''These extensions are necessary to provide certainty for investors and businesses and are essential to sustaining long-term economic growth.''

The tax reconciliation bill is intended to prevent tax increases by extending ''widely applicable'' tax provisions. My colleagues might find it interesting that more taxpayers benefit from the lower rates on dividends and capital gains than benefit from any of the provisions included in the tax reconciliation bill approved by the Senate. For example, nationwide, fewer than 8 million filers were helped by the AMT hold-harmless provisions in 2003, while more than 30 million filers reported dividend income and more than 22 million reported capital gains Income.

Nationwide, 17 percent of all tax filers reported capital gains in 2003, the most recent year for which statistics are available. Of all filers reporting capital gains income in 2003, 30.1 percent had adjusted gross income under $30,000 compared to just 8.7 percent who had AGI of $200,000 or more. In Arizona, 18 percent of all filers reported capital gains income, and of those reporting capital gains income, 32 percent had AGI under $30,000.

The story is similar for tax filers reporting dividend income. Nationwide, 23 percent of all filers reported dividend income in 2003. Of all filers reporting dividend income in 2003, 30.6 percent had AGI under $30,000 compared to 6.9 percent who had AGI of $200,000 or more. In Arizona, 22 percent of all filers reported dividend income and, of those filers reporting dividend income, 32 percent had AGI under $30,000.

But beyond the number of taxpayers who have benefited directly, the most important thing to know about these lower rates that were enacted in 2003 is that they are working. At the lower rates, the tax penalty imposed on the additional investment earnings—the reward from taking on additional risk—is smaller, and thus makes the risk more attractive. When investors get to keep more of their reward, they are encouraged to invest more; with more investment, businesses have an easier time attracting the capital they need to expand, create new goods and services, and also create more jobs. It is all of this additional economic activity that creates economic growth.

All Americans have benefited as the economy has rebounded with the help of these tax policies. Whether you embraced these lower rates at the time or not, everyone must now acknowledge that since the 2003 tax relief legislation was signed into law, gross domestic product has grown by more than 3 percent for 10 straight quarters, most recently expanding at a 3.8-percent annual rate in the third quarter. The United States remains the fastest growing major industrialized country in the world. Business investment had fallen in nine consecutive quarters before the 2003 bill's passage, but cutting taxes on capital helped reverse that decline. In the last nine consecutive quarters, business investment increased at a 6.9-percent annual rate.

The strong economy has had a very positive effect on the Government's finances, as more revenue is flowing into the Treasury even at the lower tax rates. As a share of the Nation's GDP, the 2005 deficit was 2.6-percent—down from the 3.6-percent share in 2004. In fiscal year 2005, taxpayers sent $274 billion more in revenue to Washington than the year before and $100 billion more than the Congressional Budget Office predicted. Clearly the American taxpayers are doing their part.

Yet some of my colleagues claim that we cannot afford to keep these lower rates, even though they have spurred economic growth, because we are still running a deficit. If We are to keep these tax rates, they argue, we must raise taxes someplace else. What they are seeking is a flawed form of budget discipline called paygo or pay-as-you-go. I am consistently rated one of the most fiscally responsible Senators by nonpartisan watchdog groups, but I don't support paygo because it has nothing to do with budget discipline when applied to taxes. The fact is, paygo simply does not work. Americans are not undertaxed; our problem is that Congress spends too much, and paygo will do nothing to control the fastest growing part of the Federal budget: mandatory spending. Paygo only applies to new spending or tax cuts; it does not apply to existing mandatory programs that grow unchecked year after year without Congress acting. Mandatory spending will grow from just over half of total Federal spending this year to two-thirds of total Federal spending by 2015, and paygo will do nothing to control it. So paygo is a false solution that is designed to prevent us from extending tax cuts—from making sure tax rates do not increase automatically—but that does nothing to prevent spending from increasing automatically.

I talked earlier about the extension of the dividend and capital gains tax rates that I expect to be added to the reconciliation bill in conference. I also want to mention some of the provisions that are already in the bill. It extends for 1 more year the increased exemption amounts for the alternative minimum tax that are scheduled to expire at the end of the year. Clearly, Congress must address the problem of the AMI in a comprehensive way, but until we can agree on a solution we must not allow the increased exemption amounts to expire. If we allow these exemption amounts to fall back to their pre-2001 levels, millions of middle-income American families will get hit by the AMT. The bill also prevents the AMT from eroding certain credits.

The tax reconciliation bill also includes an extension of the increased small business expensing amounts. Under current law, small businesses can deduct the cost of qualified investments in the first year they are made, up to $100,000 indexed for inflation. After 2007, this amount will drop back to $25,000. The bill extends the increased amount through 2009. Allowing them to expense a greater portion of their investments enables small businesses, which create most new jobs, to invest and grow.

The bill also includes an extension of the saver's credit. The saver's credit is a nonrefundable tax credit that encourages low-income taxpayers to make contributions to an employer-provided retirement savings plan or an IRA. The tax reconciliation bill extends the credit through 2009; it is currently scheduled to expire at the end of 2006.

The bill also extends the above-the-line deduction for college-tuition expenses. Under current law, the provision that allows a taxpayer to take an above-the-line deduction for the cost of college tuition expires at the end of 2005. The tax reconciliation bill would extend it through 2009, which will

make it easier for families and students to plan for their educational expenses.

The bill extends for an additional year an entire group of business tax incentives that generally expire on a yearly basis. Many of these provisions should be made permanent, and some others probably could be allowed to expire. Some of the provisions that I strongly support include the 15-year depreciation-recovery period for restaurant improvements, the 15-year depreciation-recovery period for leasehold improvements, and the extension and improvement of the research and development tax credit.

Finally, the Senate-passed tax reconciliation bill includes several business tax incentives designed to encourage investment in the hurricane-ravaged area of the southeastern United States. These include financing incentives and depreciation provisions to encourage business investment, and are very time-sensitive. We must encourage businesses to rebuild in the gulf coast area; these particular incentives have proven successful in other areas and I expect they will be successful in the Gulf region as well.

So, Mr. President, this tax reconciliation bill is not perfect, but it does include several very important provisions. I am confident we will make the necessary improvements by adding an extension of the lower rates for dividends and capital gains once we get the bill into conference with the House.

BUDGET SCOREKEEPING REPORT

Mr. GREGG. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under Section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of S. Con. Res. 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the 2006 budget through November 16, 2005. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 2006 concurrent resolution on the budget, H. Con. Res. 95. Pursuant to section 402 of that resolution, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the attached report excludes these amounts.

The estimates show that current level spending is under the budget resolution by $26.874 billion in budget authority and by $10.974 billion in outlays in 2006. Current level for revenues is $17.308 billion above the budget resolution in 2006.

Since my last report, dated September 26, 2005, the Congress has cleared and the President has signed the following acts that changed budget authority, outlays, or revenues: An act making continuing appropriations for Fiscal Year 2006, P.L. 109–77; Natural Disaster Student Aid Fairness Act, P.L. 109–86; Community Disaster Loan Act of 2005, P.L. 109–88; Homeland Security Appropriations Act, 2006, P.L. 109–90; Medicare Cost Sharing and Welfare Extension Act of 2005, P.L. 109–91; Agriculture Appropriations Act, 2006, P.L. 109–97; An act to extend the special postage stamp for breast cancer research for 2 years, P.L. 109–100; and, Foreign Operations Appropriations Act, 2006, P.L. 109–102. In addition, the Congress has cleared the Energy and Water Appropriations Act, 2006, H.R. 2419, and the State, Justice, and Commerce Appropriations Act, 2006, H.R. 2862.

I ask unanimous comment that the report be printed in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 17, 2005.

Hon. JUDD GREGG,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The enclosed tables below show the effects of Congressional action on 2006 budget and are current through November 16, 2005. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions for fiscal year 2006 that underlie H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006. Pursuant to section 402 of that resolution, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the enclosed current level report excludes these amounts (see footnote 1 on Table 2).

Since my last letter, dated September 22, 2005, the Congress has cleared and the President has signed the following acts that changed budget authority, outlays, or revenues:

An act making continuing appropriations for Fiscal Year 2006 (Public Law 109–77);

Natural Disaster Student Aid Fairness Act (P.L. 109–86);

Community Disaster Loan Act of 2005 (Public Law 109–88);

Homeland Security Appropriations Act, 2006 (Public Law 109–90);

Medicare Cost Sharing and Welfare Extension Act of 2005 (Public Law 109–91);

Agriculture Appropriations Act, 2006 (Public Law 109–97);

An act to extend the special postage stamp for breast cancer research for two years (Public Law 109–100); and

Foreign Operations Appropriations Act, 2006 (Public Law 109–102).

In addition, Congress cleared, and sent to the President for his signature, the Energy and Water Appropriations Act, 2006 (H.R. 2419) and the State, Justice, and Commerce Appropriations Act, 2006 (H.R. 2862).

The effects of the actions listed above are detailed in the enclosed tables. The tables also reflect an adjustment to exclude administrative expenses of the Social Security administration, which are off-budget.

Sincerely,

DONALD B. MARRON
(For Douglas Holtz-Eakin, *Director*).

TABLE 1.—SENATE CURRENT-LEVEL REPORT FOR SPENDING AND REVENUES FOR FISCAL YEAR 2006, AS OF NOVEMBER 16, 2005

[In billions of dollars]

	Budget resolution[1]	Current level[2]	Current level over/under(-) resolution
ON-BUDGET:			
Budget Authority	2,094.4	2,067.5	−26.9
Outlays	2,099.0	2,088.0	−11.0
Revenues	1,589.9	1,607.2	17.3
OFF-BUDGET:			
Social Security Outlays[3]	416.0	416.0	0
Social Security Revenues	604.8	604.8	0

SOURCE: Congressional Budget Office.

1. H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, assumed the enactment of emergency supplemental appropriations for fiscal year 2006, in the amount of $50 billion in budget authority and approximately $62.4 billion in outlays, which would be exempt from the enforcement of the budget resolution. Since the current level totals exclude the emergency appropriations in Public Laws 109–13, 109–61, 109–62, 109–268, 109–73, 109–77 and 109–88 (see footnote 1 on Table 2), the budget authority and outlay totals specified in the budget resolution have also been reduced (by the amounts assumed for emergency supplemental appropriations) for purposes of comparison.

2. Current level is the estimated effect on revenue and spending of all legislation that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made.

3. Excludes administrative expenses of the Social Security Administration, which are off-budget.

TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2006, AS OF NOVEMBER 16, 2005

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in Previous Sessions:			
Revenues	n.a.	n.a.	1,607.650
Permanents and other spending legislation	1,293,011	1,250,287	n.a.
Appropriation legislation	0	382,272	n.a.
Offsetting receipts	−479,872	−479,872	n.a.
Total, enacted in previous sessions:	813,139	1,152,687	1,607,650
Enacted This Session:			
Authorizing Legislation:			
TANF Extension Act of 2005 (P.L. 109–19)	148	165	0
An act approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2005 (P.L. 109–39)	0	0	−1
Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (P.L. 109–53)	27	27	−3
Energy Policy Act of 2005 (P.L. 109–58)	141	231	−588
Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (P.L. 109–59)	3,444	36	9
National Flood Insurance Program Enhanced Borrowing Authority Act of 2005 (P.L. 109–65)	2,000	2,000	0
Pell Grant Hurricane and Disaster Relief Act (P.L 109–66)	2	2	0
TANF Emergency Response and Recovery Act of 2005 P.L. 109–68)	−4,965	105	0

TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2006, AS OF NOVEMBER 16, 2005—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Natural Disaster Student Aid Fairness Act (P.L. 109–86)	36	18	0
Community Disaster Loan Act of 2005 (P.L. 109–88)	751	376	0
Medicare Cost Sharing and Welfare Extension Act of 2005 (P.L. 109–91)	354	341	0
An act to extend the special postage stamp for breast cancer research for two years (P.L. 109–100)	−1	−1	0
Appropriation Acts:			
Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (P.L. 109–13)	−39	−21	11
Interior Appropriations Act, 2006 (P.L. 109–54)	26,211	17,301	122
Legislative Branch Appropriations Act, 2006 (P.L. 109–55)	3,804	3,185	0
Homeland Security Appropriations Act, 2006 (P.L. 109–90)	31,860	19,306	0
Agriculture Appropriations Act, 2006 (P.L. 109–97)	99,333	57,310	0
Foreign Operations Appropriations Act, 2006 (P.L 109–102)	20,979	8,164	0
Total enacted this session:	184,085	108,545	−450
Continuing Resolution Authority:			
Continuing Resolution, 2006 (P.L. 109–77)	615,060	392,014	0
Passed pending signature:			
Energy and Water Appropriations Act, 2006 (H.R. 2419)	30,459	19,604	0
State, Justice, and Commerce Appropriations Act, 2006 (H.R. 2862)	58,2190	35,763	0
Total, passed pending signature	88,669	55,367	0
Entitlements and mandatories:			
Difference between enacted levels and budget resolution estimates for appropriated entitlements and other mandatory programs	366,557	379,409	n.a.
Total Current Level 1,2/	2,067,510	2,088,022	1,607,200
Total Budget Resolution	2,144,384	2,161,420	1,589,892
Adjustment to budget resolution for emergency requirements 3/	−50,000	−62,424	n.a.
Adjusted Budget Resolution	2,094,384	2,098,996	n.a
Current Level Over Adjusted Budget Resolution	n.a.	n.a.	17,308
Current level Under Adjusted Budget Resolution	26,874	10,974	n.a.

1. Pursuant to section 402 of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the current level totals exclude: $30,757 million in outlays from the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (P.L. 109–13); $7,750 million in outlays from the Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (P.L. 109–61); $21,841 million in outlays from the Second Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (P.L. 109–62); $200 million in budget authority and $245 million in outlays from the TANF Emergency Response and Recovery Act of 2005 (P.L. 109–68); −$3,191 million in revenues and $128 million in budget authority and outlays from the Katrina Emergency Tax Relief Act of 2005 (P.L. 109–73), $47,743 million in budget authority and $26,543 million in outlays from the Continuing Resolution (P.L. 109–77), and −$751 million in budget authority from the Community Disaster Loan Act of 2005 (P.L. 109–88).

2. Excludes administrative expenses of the Social Security Administration, which are off-budget.

3. H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, assumed the enactment of emergency supplemental appropriations for fiscal year 2006, in the amount of $50,000 million in budget authority and $62,424 million in outlays, which would be exempt from the enforcement of the budget resolution. Since the current level totals exclude the emergency appropriations in P.L. 10–13, P.L. 109–61, and P.L. 109–62 (see footnote 1 above), the budget authority and outlay totals specified in the budget resolution have also been reduced (by the amounts assumed for emergency supplemental appropriations) for purposes of comparison.

Notes: n.a. = not applicable; P.L. = Public Law.

Source: Congressional Budget Office.

NOMINATIONS OF WILLIAM KOVACIC AND THOMAS ROUSCH

Mr. WYDEN. Mr. President, when it comes to energy, the Federal Trade Commission, FTC, is basically out of the consumer protection business.

Well over a year ago, I released a report documenting the Federal Trade Commission's campaign of inaction when it comes to protecting consumers at the gas pump. My report documented how the FTC has refused to challenge oil industry mergers that the Government Accountability Office says have raised gas prices at the pump by 7 cents a gallon on the West Coast. My report also documented how the FTC failed to act when refineries have been shut down or to stop anti-competitive practices like redlining and zone pricing.

Since then, nothing has changed.

Despite the recent record-high prices for consumers and record profits by big oil companies, we are seeing a record level of inaction by the Federal Trade Commission, FTC, on behalf of energy consumers.

In the last few months, when the price of gasoline soared to an all-time record-high level, the FTC has been invisible. As far as I can tell, the FTC failed to take any action at all in the wake of hurricanes in the gulf that sent the price of gasoline skyrocketing to over $3 a gallon nationwide.

If you do a Google search on the ''FTC and gasoline prices,'' nothing comes up that shows the FTC is taking any action on behalf of energy consumers.

What you will find are statements by the Chairman of the Federal Trade Commission arguing against giving the agency additional authority to protect consumers against price gouging at the gas pump. For example, the FTC Chairman recently made statements opposing Federal price gouging laws, because ''they are not simple to enforce'' and that they could do more harm to consumers.

But 28 States already have price gouging laws on their books and two state attorney General testified at last week's joint hearing by the Senate Energy and Commerce Committees that these laws are more beneficial than harmful to consumers.

In her testimony before the joint Senate hearing last week, FTC Chairman Majoras described what I consider to be an astounding theory of consumer protection when she essentially said there is no need for Federal price gouging laws no matter how high the price goes. She argued that gasoline price gouging was a ''local issue'' even if the price gouger was a multinational oil company.

FTC officials also recently testified before Congress that the agency has no authority to stop price gouging by individual oil companies. Despite this clear gap in the agency's authority, the FTC has refused to say what additional authority it needs to go after price gouging, as I have pressed them to do for years.

Mr. President and colleagues, there is gasoline price gouging going on today and it didn't start with Hurricane Katrina. As The Wall Street Journal documented in September, gasoline prices have increased twice as fast as crude oil price during the past year. Clearly, the oil companies are not simply passing on higher crude oil costs but are also adding on substantial increases to the cost of gasoline above and beyond the higher crude costs.

Since the early 1970s, there has never been the kind of disparity between increases in the price of gasoline and the increase in the price of crude oil that we are seeing today. We didn't see this great of a price difference even in the days of the longest gas lines following the OPEC embargo.

Over the past 30 years, gasoline prices never rose more than 5 percent higher in a year than the cost of crude increased. But in the past year, gas price increases outpaced crude by 36 percent. And since Hurricane Katrina, the price difference has soared even higher to 68 percent.

Further evidence of price gouging can be found in what happened on the west coast immediately following Hurricane Katrina when prices surged 15 cents per gallon overnight. For years, oil industry officials, the Federal Trade Commission and other government agencies have maintained that the west coast is an isolated gasoline market from the rest of the country.

West coast supplies were not affected by the hurricane. The west coast gets almost none of its gasoline from the gulf. If the west coast is an isolated market as the oil industry has claimed for years, then Katrina is no justification for jacking up gas prices on the west coast immediately after the hurricane hit.

The FTC is the principal consumer protection agency in the Federal Government. It is the Federal agency that

can and should take action when gasoline markets are going haywire as they have both before and since Hurricane Katrina.

But instead of action, we have excuses. In the past, the FTC often claimed that it was studying the problem or monitoring gasoline markets as an excuse for its inaction on gas pricing.

Recently, the FTC's campaign of inaction has even extended to its studies. The FTC Chairman testified last week that a study of gas price gouging that Congress required the FTC to complete by this month would not be ready until next spring.

Mr. President, the FTC's campaign of inaction is approaching the point of paralysis!

The FTC has continued its program of inaction on behalf of gasoline consumers despite findings by the U.S. Government Accountability Office, GAO, that the FTC's policies are raising prices at the gas pump.

In May 2004, GAO released a major study showing how oil industry mergers the FTC allowed to go through during the 1990's substantially increased concentration in the oil industry and increased gasoline prices for consumers by as much as seven cents per gallon on the West Coast.

Specifically, GAO found that during the 1990's the FTC allowed a wave of oil industry mergers to proceed, that these mergers had substantially increased concentration in the oil industry and that almost all of the largest of the oil industry mega-mergers examined by GAO each had increased gasoline prices by one to two cents per gallon. Essentially, the GAO found that the FTC's oil merger policies during the 1990's had permitted serial price gouging.

Two years ago, when the current FTC Chairman, Deborah Majoras, came before the Senate for confirmation, I asked her to respond to the GAO's report. Despite her promise to do so, I have yet to receive any response from Chairman Majoras.

The GAO is not alone in documenting how FTC regulators have been missing in action when it comes to protecting consumers at the gas pump. Since 2001, oil industry mergers totaling $19.5 billion have been unchallenged by the FTC, according to an article in Bloomberg News. The article also reported that these unchecked mergers may have contributed to the highest gasoline prices in the past 20 years.

According to the FTC's own records, the agency imposed no conditions on 28 of 33 oil mergers since 2001.

You can see the results of the FTC's inaction at gas stations in Oregon and all across America. Nationwide, the GAO found that between 1994 and 2002, gasoline market concentration increased in all but four states. As a result of FTC merger policies, 46 States' gasoline markets are now moderately or highly concentrated, compared to 27 States in 1994.

The FTC, oil industry officials and consumer groups all agree that in these concentrated markets, oil companies don't need to collude in order to raise prices. The FTC's former General Counsel William Kovacic has said that ''It may be possible in selected markets for individual firms to unilaterally increase prices.'' In other words, the FTC General Counsel basically admitted that oil companies in these markets can price gouge with impunity. Mr. Kovacis is one of the two nominees for FTC Commissioner who is now before the Senate.

Despite all this evidence that gasoline markets around the country have become more concentrated and, in these concentrated markets, individual firms can raise prices and extract monopoly profits, the FTC has failed to take effective action to check oil industry mergers. In the vast majority of cases, the FTC took no action at all.

In addition to its inaction in merger cases, the FTC has also failed to act against proven areas of anti-competitive activity.

Major oil companies are charging dealers discriminatory ''Azone prices'' that make it impossible for dealers to compete fairly with company-owned stations or even other dealers in the same geographic area. With zone pricing, one oil company sells the same gasoline to its own brand service stations at different prices. The cost to the oil company of making the gasoline is the same. In many cases, the cost of delivering that gasoline to the service stations is the same, but the price the service stations pay is not the same. And the station that pays the higher price is not able to compete.

Another example of anticompetitive practices now occurring in gasoline markets is a practice known as ''redlining.'' This involves oil companies making certain areas off-limits to independent gasoline distributors known as jobbers who could bring competition to the area.

The Federal Trade Commission's own investigation of west coast gasoline markets found that the practice of redlining was rampant in west coast markets and that it hurt consumers. But the FTC concluded it could only take action to stop this anti-competitive practice if the redlining was the result of out-and-out collusion, a standard that is almost impossible to prove in court.

In my home State of Oregon, one courageous gasoline dealer took on the big oil companies and won a multi-million dollar court judgment in a case that involved redlining. This dealer gave the evidence he used to win his case in court to the Federal Trade Commission. But the Federal Trade Commission the preeminent consumer protection agency in the Federal Government failed to do anything to help this dealer or reign in the anti-competitive practices at issue in his case.

In areas other than energy, the Federal Trade Commission has been a great consumer protection agency. It has not hesitated to move aggressively to act on behalf of consumers.

To give one example, the FTC created a ''Do Not Call'' program to prevent consumers from being hassled at home by telemarketers. With its ''Do Not Call'' program, the agency pushed to protect consumers to the limits of its authority and even went beyond what the courts said it had authority to do.

But in the case of energy, the FTC has a regulatory blind spot. And this has been true in both Democratic and Republican administrations. It's been a bipartisan blind spot that keeps the agency from looking out for gasoline consumers.

The FTC won't even speak out on behalf of consumers getting gouged at the gas pump. The agency won't use its bully pulpit to even say that record-high gasoline prices are an issue of concern, that they will be looking at closely.

The FTC's approach on gas prices has got to change. I'm not going to support the business as usual approach on energy we've seen for too long at the FTC. So, I have asked the Senate leadership for additional time to study the views of the two nominees to the Federal Trade Commission, Mr. William Kovacic and Mr. THOMAS Rousch. I just received detailed letters and other documents from each of them.

I have asked the leadership for time for consultation on these two nominations, as it is not my intent at this time to lodge a formal objection to a unanimous consent request to consider them. I will use the time between now and when the Senate returns in December to examine their records more carefully and reach a decision as to whether these individuals are committed to and will in fact work aggressively toward changing the culture of inaction at the FTC regarding consumer protection in the energy field.

TRIBUTE TO EARL LEE MONHOLLAND

Mr. GRASSLEY. Mr. President, I rise today to mark the loss of one of my staff members and to make a statement for The CONGRESSIONAL RECORD about the good work of this individual for the people of Iowa. Earl Lee Monholland died at home on October 31, 2005, due to heart illness, at the age of 37. Earl worked on my staff for 12 years as a constituent services specialist in Davenport, Cedar Rapids, and Washington, DC. He was a dedicated public servant who thoroughly enjoyed helping Iowans. He was committed to providing assistance in a responsive and timely manner and to making sure that whatever could be done got done behalf of a constituent having problems with the Federal bureaucracy. Earl also was an outstanding colleague to his fellow staff members, going out of his way to make things work for the entire team, especially with the computer systems. I greatly appreciate the fine work that Earl did during the last 12 years and the unassuming way he

got the job done. There is no doubt that Earl Monholland will be missed by his friends and colleagues on the Grassley staff.

100TH ANNIVERSARY OF THE BIRTH OF J. WILLIAM FULBRIGHT

Mr. LEAHY. Mr. President, Dr. Allan Goodman, President of the Institute for International Education, recently passed along a speech that Senator DICK LUGAR gave at Pembroke College in Oxford, England commemorating the 100th Anniversary of the Birth of J. William Fulbright.

Senator LUGAR is one of the finest statesmen in the Senate, and I have enjoyed working closely with him on a number of issues. His speech at Pembroke College highlights his leadership and insight on U.S. foreign policy.

I ask unanimous consent that his statement be printed in the CONGRESSIONAL RECORD so that all Senators can see these thoughtful remarks.

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

THE 100TH ANNIVERSARY OF THE BIRTH OF J. WILLIAM FULBRIGHT

My Lords, Ladies, and Gentlemen, it is an honor to have the opportunity to deliver this address as we commemorate the 100th anniversary of Senator J. William Fulbright's birth and celebrate the achievements of a visionary statesman, humanitarian, and son of Pembroke College. It is particularly moving to be here in a place that meant so much to Senator Fulbright and means so much to me.

Last year, I joined 25 of my classmates for the 50th reunion of the entering Class of 1954 at Pembroke College, and we have continued that reunion through our correspondence. I was the only American in the College in 1954, but was elected President of the JCR the following year in a most generous spirit of Trans-Atlantic cooperation. The election provided a spur to my vivid imagination of what might happen in years to come.

THE EXAMPLE OF SENATOR FULBRIGHT

Soon after I arrived at Pembroke, my tutor in politics, Master R.B. McCallum, told me about his tutorial work with Senator William Fulbright of Arkansas. I did not have the pleasure of serving with Senator Fulbright in the Senate. He left office in 1974, two years before I was elected to represent Indiana. But his influence on my career and development was profound and permanent.

Senator Fulbright and I shared a remarkable number of common experiences, though generally these. occurred decades apart. Both Senator Fulbright and I won Rhodes Scholarships after earning our bachelor's degrees. Both of us chose to study at Pembroke College. Both of us focused much attention on government and economics while at Oxford. And both of us were blessed with the same tutor, R. B. McCallum. Senator Fulbright studied under the Master near the beginning of his career, while I was tutored much later.

Both of us were elected to the Senate from our home states—Arkansas in his case, and Indiana in mine. Both of these states are in the interior of the United States and neither was typically associated with international interests a half-century ago. But both of us sought a seat on the Senate Foreign Relations Committee, which has oversight of US. foreign policy and diplomacy. Both of us, ascended to the chairmanship of this Committee. Senator Fulbright, in fact, holds he record as the longest serving chairman of the Foreign Relations Committee, a remarkable tenure from 1959 to 1974.

Since the beginning of the United States Senate, there have been only 1884 Senators. Of these, only 48 have served five complete six-year terms. Senator Fulbright is a member of this exclusive club, having served from 1945 through 1974. At the end of next year, I would join this group of Senators who have served at least 30 years in the Senate.

Like Senator Fulbright, I discovered the extraordinary challenges and opportunities of international education at Pembroke College—my first trip outside of the United States. The parameters of my imagination expanded enormously during this time, as I gained a sense of how large the world was, how many talented people there were, and how many opportunities one could embrace.

In my first year of residence at Pembroke College, emboldened by Master McCallum's Fulbright stories, I decided to write to Senator Fulbright. He was in the midst of an embattled relationship with Senator Joseph McCarthy of Wisconsin, and he shared with me his thoughts about the McCarthy era in a series of letters as our correspondence expanded. I was deeply moved that he took the time to write to me and even more astonished to learn, years later, that he had kept my letters.

He was especially generous to me when I became chairman of the Foreign Relations Committee in 1985 for the first time. He wrote: ''It is an unusual coincidence that two Rhodes men from Pembroke should be Chairmen of the Committee. I think Cecil Rhodes would be as pleased as the two Masters of Pembroke would be.'' He continued to offer encouragement during visits that we enjoyed at Senate receptions and reunions. In September 1986, I had the great pleasure to join Senator Fulbright at the University of Arkansas, where he had served as President, for a celebration of the Fulbright Scholarship Program.

THE FULBRIGHT PROGRAM AT WORK

Senator Fulbright is known throughout the world for the educational exchange program that bears his name. Each year, approximately 2,600 international students receive scholarships to study in the United States through the Fulbright program. Simultaneously, it provides about 1,200 American students the opportunity to study overseas. In addition, 1,000 American scholars and 700 international scholars teach and perform research each year under Fulbright grants. Since Senator Fulbright's legislation passed in 1946, the program has provided more than 290,000 participants the chance to study, teach, and conduct research in a foreign country. As Master McCallum declared in 1963, ''Fulbright is responsible for the greatest movement of scholars across the face of the earth since the fall of Constantinople in 1453.''

Fulbright students and scholars are selected according to academic achievement and leadership potential. Alumni of the program have received 35 Nobel Prizes, 65 Pulitzer Prizes, 22 MacArthur Foundation ''genius'' awards, and 15 U.S. Presidential Medals of Freedom.

The Fulbright Program's remarkable contributions to the development of the 290,000 participants provide ample justification for the program. But Senator Fulbright expected much more. He always was unabashed in his advocacy of the program as a foreign policy tool. For him, the Fulbright Program was not intended merely to benefit individual scholars, or more generally to advance human knowledge—though those goals have been fulfilled beyond his original expectations. The program was meant to expand ties between nations, improve international commerce, encourage cooperative solutions to global problems, and prevent war. In his book, The Price of Empire, he wrote: ''Educational exchange is not merely one of those nice but marginal activities in which we engage in international affairs, but rather, from the standpoint of future world peace and order, probably the most important and potentially rewarding of our foreign policy activities.'' He called the Fulbright Scholarship Program, ''a modest program with an immodest aim—the achievement in international affairs of a regime more civilized, rational, and humane than the empty system of power of the past.''

For Senator Fulbright, the program also was intended to give participants a chance to develop a sense of global service and responsibility. Alumni of the program are among the most visible leaders in their respective countries. Over the decades, they have explained to their fellow citizens why diplomacy and international cooperation are important. They have been advocates of international engagement within governments, corporations, schools, and communities that do not always recognize the urgency of solving global problems.

In August of this year, I traveled to Morocco, a key U.S. ally and a lynchpin in the development of democracy and liberalism in the Arab world. I was there following a humanitarian mission to finalize the release of the last 404 Moroccan POWs held by the Polisario Front since the Algerian-Moroccan conflict over the Western Sahara. While in Morocco, I asked our Embassy in Rabat to set up a meeting with Moroccan opinion leaders to discuss bilateral ties and regional issues. It has been my experience that in most nations, such groups of opinion leaders will contain Fulbright alumni. Sure enough, two of the seven guests had benefited from study in the United States through the Fulbright program—a college President who had done research at Princeton University and a law professor who had done research at George Washington University.

In my judgment, the impact of the Fulbright program as a foreign policy tool has extended well beyond the accomplishments and understanding of its own participants. It has been the most influential large-scale model for promoting the concept of international education, and it has been the primary validation of the American university system to the rest of the world.

In the United States, we have critiqued and even lamented some aspects of our public diplomacy since the end of the Cold War. But hosting foreign students has been an unqualified public diplomacy success. In numerous hearings and discussions on public diplomacy, the Foreign Relations Committee has heard reports of the impact of foreign exchanges. Of the 12.8 million students enrolled in higher education in the United States during the last academic year, almost 600,000—some 4.6 percent—were foreign undergraduate and graduate students. My home state of Indiana currently is the temporary home of about 13,500 foreign students. The success of American universities with foreign students would not have been as profound without the stimulation of foreign interest in American higher education provided by the Fulbright program.

Last year, I traveled to Georgia and met with its new president, Mikhail Saakashvili. President Saakashvili received his law degree from Columbia University, where he studied under the Muskie Fellowship program. In fact, almost every member of his cabinet had attended an American college or university during their academic careers.

The result was that the leadership of an important country had a personal understanding of the core elements of American society and governance. Perhaps more importantly, they had an understanding and appreciation of Americans themselves. These individuals were key participants in the ''Rose Revolution'' in Georgia, which is transforming that country.

NATIONAL PRIDE AND NATIONAL HUMILITY

Funding a great foreign exchange program is a sign of both national pride and national humility. Implicit in such a program is the audacious view that people from other nations view one's country and educational system as a beacon of knowledge—as a place where thousands of top international scholars would want to study and live. But it is also an admission that a nation does not have all the answers—that our national understanding of the world is incomplete. It is an admission that we are just a part of a much larger world that has intellectual, scientific, and moral wisdom that we need to learn.

In a speech on the Senate floor in 1966, during the Vietnam War, Senator Fulbright underscored his concern about our national humility by saying: ''Power tends to confuse itself with virtue and a great nation is particularly susceptible to the idea that its power is a sign of God's favor.''

Senator Fulbright understood that a great nation must continue to invest in its own wisdom and capabilities for human interaction. He understood that no amount of military strength or even skillful decision-making could make up for a lack of alliances, trading partners, diplomatic capabilities, and international respect. Maintaining alliances and friendships between nations is hard work. No matter how close allies become, centrifugal forces generated by basic differences in the size, location, wealth, histories, and political systems of nations tend to pull nations apart. Alliances work over long periods of time only when leaders and citizens continually reinvigorate the union and its purposes.

THE BUILDING BLOCKS OF FOREIGN POLICY

Often we need to pause to remember that the practice of foreign policy is not defined by a set of decisions. Unfortunately, reporters, politicians, and even most historians portray foreign policy as a geopolitical chess game or a series of great diplomatic events. This perception is reinforced by books and movies about dramatic moments in diplomatic history, like the Cuban Missile Crisis. These events capture our imagination, because we relive the struggles of leaders during times of great risk as they weigh the potential consequences of their actions. We ask whether Presidents and Prime Ministers were right or wrong in adopting a particular strategy.

But Senator Fulbright understood that crisis decision-making is a very small slice of a nation's foreign policy. He understood that a successful foreign policy depends much more on how well a nation prepares to avoid a crisis.

When a nation gets to the point of having to make tactical choices in a time of crisis—it almost always is choosing between a bad option and a worse option. Crisis decision-making is to foreign policy what a surgeon is to personal health. Whether a body will resist disease depends on good nutrition, consistent exercise, and other healthy preparations much more than the skill of a surgeon employed as a last resort after the body has broken down. The preparation for good health and for a strong foreign policy is the part that we can best control, and it is the part that must receive most of our energies and resources.

Earlier this week, I presided over a hearing of the Senate Foreign Relations Committee that was concerned with the potential threat from avian influenza. If the H5 N1 virus develops in a way that allows it to be efficiently transmissible between humans, tens of millions of lives worldwide will be at risk. No nation is likely to be spared the effects of such a pandemic. However, nations working together to detect the emergence of new strains and to contain quickly an outbreak could greatly mitigate the risk. In a very real and discernible way, our ability to communicate and work with each other across borders may well determine the fate of millions of people. The effectiveness of our response will depend on the investments we have made in knowledge, relationships, and communications.

The same can be said for cooperation in the disarmament arena. For fourteen years, I have been engaged in overseeing and expanding the Nunn- Lugar Cooperative Threat Reduction program. This is the U.S. effort to help the states of the former Soviet Union safeguard and destroy their vast stockpiles of nuclear, chemical, and biological weapons, so that they do not fall into the hands of terrorists. Just as Senator Fulbright counted scholars who benefited from his program, I have made a point of counting the weapons eliminated by the Nunn-Lugar program. Currently, almost 7,000 nuclear warheads have been safely dismantled, along with hundreds of missiles and bombers. We are in the process of destroying vast stockpiles of chemical weapons, safeguarding numerous biological weapons facilities, and providing employment to tens of thousands of weapons scientists. Each weapon that is disabled represents a small step toward security.

Explaining and promoting the Nunn-Lugar program has been complicated by the fact that most of its accomplishments have occurred outside the attention of the media. Although progress is measurable, it does not occur as dramatic events that make good news stories. At Surovatikha, for example, Russian solid fuel SS–18 and SS–19 missiles are being dismantled at a rate of four per month. This facility will grind on for years, until all the designated missiles are destroyed. At Shchuchye, the United States and Russia are building a chemical weapons destruction facility that will become operational in 2007. It will destroy about 4½ percent of Russia's currently declared chemical weapons stockpile per year. This is a painstaking business conducted far away from our shores outside the light of media interest.

The destruction of a decaying nuclear warhead, the links between international epidemiologists, and the training of an individual scholar appear to be small matters in the context of global affairs. But these are exactly the kinds of building blocks on which international security and human progress depend.

THE SOURCE OF NATIONAL POWER

Since September 11, 2001, the United States has been engaged in a debate over how to apply national power and resources most effectively to achieve the maximum degree of security. Recent foreign policy discussions have often focused on whether to make concessions to world opinion or whether to pursue perceived national security interests unencumbered by the need to seek the counsel and support of the international community. But this is a false choice. National security can rarely be separated from the support of the international community, if only because American resources and influence are finite.

Throughout this process, I have been making the point that we are not placing sufficient weight on the diplomatic and economic tools of national power. Even as we seek to capture key terrorists and destroy terrorist cells, we must be working with many nations to perfect a longer term strategy that reshapes the world in ways that are not conducive to terrorist recruitment and influence.

To survive and to prosper in this century, the United States must assign U.S. economic and diplomatic capabilities the same strategic priority that we assign to military capabilities. We must commit ourselves to the painstaking work of foreign policy day by day and year by year. We must commit ourselves to a sustained program of repairing and building alliances, expanding trade, fighting disease, pursuing resolutions to regional conflicts, fostering and supporting democracy and development worldwide, controlling weapons of mass destruction, and explaining ourselves to the world.

Very fortunately, leaders of the United Kingdom have been thinking with us and working with us during these years of worldwide terrorist threats and severe challenges to human values. Earlier this year, I enjoyed a breakfast meeting with Prime Minister Tony Blair at the British Embassy in Washington and later a second visit with him in his offices at 10 Downing Street. We discussed development assistance and debt forgiveness in Africa; democracy building in Iraq and the wider Middle East; terrorist threats to the United States, Great Britain, and many other places; and how to maintain U.S.-UK. solidarity, even in the midst of political partisanship in both the House of Commons and the U.S. Congress. Foreign Minister Jack Straw has been a frequent visitor to my Senate office, and I will enjoy additional visits with British officials in London in the next few days.

In addition to the vision of William Fulbright, which we celebrate today, I am certain he would join me in celebrating, again, the vision of Cecil Rhodes as he established the Rhodes scholarships, which brought us to Pembroke. In the years of our selection, Senator Fulbright and I were one of 32 young Americans who were given an extraordinary opportunity through the generosity of the Rhodes Trust to come to Oxford University.

We both chose Pembroke College and were admitted to this College. That opportunity changed the horizons of our lives, our expectations of what we might achieve, and our obligations to assume more risks and to undertake more challenges in the service of others.

One of my Rhodes Scholar selectors put it very bluntly when he asked, ''Why should we put Rhodes Trust money on you as opposed to any of the thousands of talented young Americans we could choose?

A host of circumstances finally made it possible for both of us to serve as a U.S. Senator and as Chairman of the Senate Foreign Relations Committee. In my case, I sincerely doubt that I would have enjoyed these opportunities without those remarkably formative two years at Pembroke College. I feel safe in saying that neither Senator Fulbright nor I would have approached international scholarships, international diplomacy, and a passionate quest for world peace with the same inspiration and tenacity without our Rhodes Scholar experiences at Pembroke College, Oxford University.

As Senator Fulbright explained in a 1945 Senate speech, just before the end of the war in Europe, ''Peace does not consist merely of a solemn declaration or a well-drafted Constitution. The making of peace is a continuing process that must go on from day to day, from year to year, so long as our civilization shall last.''

The success of such peacemaking will depend on our willingness to prepare for the long-term future as Senator Fulbright did—

through enlightened investments in people and relationships. And it will depend upon our devotion to movements exemplified by the Fulbright Program and the Rhodes Trust that reach out to the world with both pride and humility.

SOMALIA

Mr. FEINGOLD. Mr. President, I wish to express my deep concern regarding recent news reports about piracy off the coast of Somalia. As we all know, Somalia has been without a central, recognized government for well over a decade. It has been over 3 years since I chaired a series of hearings in the Foreign Relations African Affairs Subcommittee on weak and failing states in Africa, one of which focused on the dire situation in Somalia and inadequate U.S. policy there. Years later, U.S. policy is still stagnant, I am sorry to report, and the danger persists, as these news reports indicate. The time is long overdue for the U.S. to make a long-term commitment to addressing this potential trouble spot.

I have consistently urged the Administration to be vigilant in focusing on weak states as part of the global fight against terrorism. All the characteristics of some of Africa's weakest states—manifestations of lawlessness such as piracy, illicit air transport networks, and traffic in arms and gemstones and people—can make the region attractive to terrorists and international criminals. Regrettably, Somalia is still not on the administration's radar.

According to recent press reports, pirates off the coast of Somalia are building strength and growing comfortable in expanding their attacks. Despite a lull in pirate attacks over the last 2 years, in just the last 6 months there have been 25 attacks off the coast of Somalia, according to the International Maritime Bureau. Attacks are no longer confined to the coast but reportedly include raids on ships hundreds of miles from the coast of the Indian Ocean. The resources and the audacity of the pirates appear to be growing. The attacks pose a tremendous threat to stability and economic development in the region, including neighboring countries such as Kenya and Djibouti that rely on maritime trade and tourism. The more organized the pirates become, and the more lucrative their crimes, the more we are faced with another potential front in the fight against terrorism, one involving a state-less network of some of the worst international actors.

The State Department 2004 report on counter terrorism in Africa states that the Somalia-based al-Ittihad al-Islami, AIAI, ''has become highly factionalized and diffuse, and its membership is difficult to define'' and that ''some members are sympathetic to and maintain ties'' with al-Qaida. State Department officials also acknowledge that AIAI is financing basic civil society needs in Somalia, including schools and basic health care. The international community is failing to empower Somali civil society. Without our attention and support, how long do we expect this community to refuse basic human needs funded by terrorist organizations? And what are the consequences of groups like AIAI being perceived by the Somali people as generous benefactors? The U.S. must work harder at providing an alternative to such extremist influences in Somalia.

We can no longer insulate ourselves from weak states. We must engage. It is in our own national security interests that we work to strengthen institutions and empower civil society in weak and failing states in Africa in order to curtail opportunities for terrorists and other international criminals.

A multifaceted approach is necessary for the future of Somalia and for the future of our own campaign against terrorism. We cannot stand by as terrorist threats cross borders and destabilize the Horn of Africa. The international community must intensify its maritime vigilance. The U.S. long-term policy should include coordinating with regional actors in Africa and the international community to aid positive actors working in Somalia, build institutional capacity and legitimacy, promote national reconciliation, and sever community dependency on terrorist funding for basic services. These are difficult challenges, but Somalia is not hopeless. A transition government and opposing factions are requesting international mediation and attention. They are asking us to act, and we must answer the call, for their sake as well as ours.

CSBG

Mr. GRASSLEY. Mr. President, no one is more committed to the Community Services Block Grant than I am. The Community Services Block Grant program helps to strengthen communities through services for poor individuals and families, assisting these low-income individuals to become self-sufficient.

CSBG provides critical services to poor families throughout the country. Services offered by CSBG entities can help support these important social services programs such as: Head Start, Low Income Home Energy Assistance Programs, LIHEAP, weatherization, literacy and job training programs, child health care, after-school programs, housing and homeownership services, financial literacy and asset development, and food pantries and meal programs. In FY 2002, the 1,100 community action network served more than 13 million individuals in more than 4 million families nationwide.

Over the past few months, I have received dozens of letters from Community Action Agencies from across the country, thanking me for my efforts on behalf on the Community Services Block Grant. I, along with Senator Chris Dodd, spearheaded a letter, signed by 56 of our colleagues, Republicans and Democrats alike, urging Senate conferees to the Labor/HHS/Education Appropriations bill to uphold the Senate funding level of $637 million. I understand that the conference report on the Labor/HHS/Education Appropriations bill includes $637 million for CSBG.

I hope that the conference report on the Labor/HHS/Education Appropriations bill will be enacted soon and that these vital resources will be directed to important services for low income individuals.

However, I cannot support the Harkin amendment because if that amendment passed, it would result in an interruption of funding not only for CSBG, but for all the social spending programs that low income individuals depend upon. That is not a responsible course of action.

We should not make support for CSBG a partisan issue—we should work together to enact the Labor/HHS/Education Appropriations Conference Report so that money can be appropriately directed to fund these important services.

COMMERCE-JUSTICE-SCIENCE APPROPRIATIONS

Mr. FEINGOLD. Mr. President, I want to express my disappointment in the cuts that the conference report for H.R. 2862, the Departments of Commerce and Justice, Science, and Related Agencies Appropriations Act of 2006, made to important grant programs that assist State and local law enforcement agencies. I voted in favor of H.R. 2862 because of the other important programs that it funds, but I have grave concerns about these particular grant funding cuts.

I believe that Congress, in partnership with States and local communities, has an obligation to provide the tools, technology, and training that our Nation's law enforcement officers need in order to protect our communities. I have consistently supported a number of Federal grant programs, including the Community Oriented Policing Services, COPS, Program, which is instrumental in providing funding to train new officers and provide crime-fighting technologies. I also have long supported funding for the Byrne Grant Program, which provides funding to help fight violent and drug-related crime, including support to multijurisdictional drug task forces, drug courts, drug education and prevention programs, and many other efforts to reduce drug abuse and prosecute drug offenders. I know how important these programs have been to Wisconsin law enforcement efforts, in particular with regard to fighting the spread of methamphetamine abuse. Both of these programs suffered major funding cuts in the conference report for H.R. 2682, which the Senate passed on November 16, 2005.

Funding for the COPS Program has been reduced dramatically in recent years. In fiscal year 2003 the COPS Program received $929 million in Federal funding. In fiscal year 2004, that level was reduced to $756 million, only to drop again in fiscal year 2005 to $606 million. And now, for fiscal year 2006, the funding level has again been reduced to a mere $487.3 million, a dramatic decrease just over the last 3 fiscal years. This is unacceptable. Funding for these grant programs has continually dropped even as the needs of law enforcement officers, our first responders, grow.

Funding cuts like the ones to the COPS Program have been mirrored in cuts to Byrne grants. For fiscal year 2006, the administration's budget proposal would have completely eliminated this critical law enforcement program in full. Congress rightly rejected the administration's unjustified attempt to entirely do away with this important program, but unfortunately the funding level provided this year is inadequate. In fiscal year 2003, Byrne and the local law enforcement block grants, which have now been merged into one program, received a total of $900 million in Federal funding. By fiscal year 2005, that number was reduced to $634 million. This year, the Byrne program will receive a meager $416 million in Federal funding. It is irresponsible to habitually take the rug out from under our hard-working law enforcement officers by taking away their access to the funding they need to keep our communities across the country safe.

It is my hope that in the next fiscal year, the administration and Congress will work together to repair the damage done and increase critical funding to these and other programs that assist our State and local law enforcement officers on a daily basis.

THE KENNEDY CENTER HONORS TONY BENNETT

Mr. KENNEDY. Mr. President, I welcome the opportunity to join in commending one of America's greatest artists who will receive a Kennedy Center Honors Award next month. Tony Bennett is renowned and revered by millions because of his extraordinary talent and outstanding musical career which spans a half century, and he will always be a part of America's musical legacy. His performances are part of our national songbook—tunes each of us know by heart and love to hear time and again.

His distinctive voice and inspiring interpretations have set the standard for musical artists across the years. His signature song, ''I Left My Heart in San Francisco,'' was released over 40 years ago, but it is as fresh today as it was in 1962, the year it won three Grammy awards.

His album ''MTV Unplugged'' captured the hearts of a new generation and was awarded a Grammy for Album of the Year in 1994. It was also one of the most successful recordings in a career that includes countless other musical awards and achievements.

He has left his heart in communities far beyond San Francisco. Still today, he remains forever young at heart, as one of America's most beloved musical icons who continues to entertain us and enrich all our lives.

It is gratifying to know that his remarkable career will be recognized in the Honors Awards celebration at the Kennedy Center next month as a tribute to his enduring contributions to our national cultural heritage.

Countless lives have been touched by his artistry. This year at the Kennedy Center Honors, the country will have the opportunity to thank him for all that he has done so well for so long.

KENNEDY CENTER SALUTES ROBERT REDFORD

Mr. KENNEDY. Mr. President, each year the Kennedy Center pays tribute to distinguished artists who have made extraordinary contributions to the American cultural experience. The Nation will be delighted to know that this year Robert Redford will receive one of these prestigious awards.

Mr. Redford exemplifies the record of achievement and accomplishment that define the Kennedy Center Honors Awards. With special grace and great talent, he has become a legend in film. His roles as an actor are among the most memorable ever on screen. He can be charming, as he was in Butch Cassidy and the Sundance Kid, The Sting, and Barefoot in the Park. He can be serious, as he was in The Candidate and All the President's Men. And he is always compelling—never more so than in The Great Gatsby and A River Runs Through It.

Mr. Redford is equally accomplished as a director and producer. But whether he stars, directs, or produces—and sometimes all three—a Redford project is always remarkable for its integrity, beauty, and power.

In 2003, he was in Washington to deliver the annual Nancy Hanks Lecture on the role of the arts in public policy. This lecture is a tribute to the memory of Nancy Hanks, who served as the early chair of the National Endowment for the Arts, and Mr. Redford's lecture was especially fitting, because he believes so deeply in the fundamental importance of the arts in our public policy.

His passionate belief in arts education has been a continuing part of his outstanding career. He founded the Sundance Institute as part of his lifelong commitment to expand opportunities for new works and new artists to ensure a vigorous American cultural legacy for future generations.

I commend all that he has accomplished. It is a privilege to join in congratulating him on this well-deserved award from the Kennedy Center. I am sure my brother would be proud of him.

VOTE EXPLANATION

Mr. SHELBY. Mr. President, on rollcall vote No. 347, I was recorded as not voting. It was my intention to vote ''yea.''

TERRORISM RISK INSURANCE EXTENSION ACT

Mr. JOHNSON. Mr. President, this week the Senate Banking Committee reported out S. 467, the Terrorism Risk Insurance Extension Act of 2005 which will extend for 2 years the terrorism risk insurance program that is due to expire on December 31. I suspect the insurance industry is breathing a collective sigh of relief that this bill has finally passed in the Senate. All Americans concerned about economic growth should also feel some relief.

This bill represents a compromise between the very strong views of the administration and the approach originally set forth in the bill as introduced. I must commend Senators DODD and BENNETT and their staffs for their tireless work on this legislation, as well as Chairman SHELBY and Ranking Member SARBANES. I understand that getting to this point was not without its challenges. Nevertheless, we arrived at a bipartisan compromise.

There are still some who believe that we do not need a terrorism insurance program with a Federal backstop; that the capacity of the industry to provide this insurance has improved, and the program has achieved its goals. Frankly, I am not convinced. Because of the random and unpredictable nature of terrorism, I am not yet convinced that the private sector can adequately or accurately assess terrorism risk in the absence of a Federal backstop.

It has been 4 years since the September 11 attacks that prompted the passage of the Terrorism Risk Insurance Act. And while we have been fortunate here in the United States that no events have triggered the use of this Federal backstop, the bombings in London this summer, the Madrid train bombing last year, the nightclub bombing in Bali in 2002, and the alarming increase in suicide bombers in the Middle East serve as painful reminders of the reality of the ongoing war on terror, and the fact that attacks can happen anywhere at anytime.

Prior to September 11, the risk of terrorism was not a factor when insurers wrote policies. However, in the post-9/11 environment, the availability of affordable insurance for terrorism risks has become a necessity. The war on terror involves protecting our homeland and protecting our citizens. In light of the current environment, it would be both unrealistic and premature to conclude that a Federal backstop is no longer necessary. I think it was irresponsible for the administration to suggest that it is now appropriate to shift the burden of insuring against the risk of terrorist attacks solely to the private insurance market.

We accepted the recommendations of the administration by dropping several lines of insurance from the program. However, there is one very critical line that has never been included, and one that I am disappointed is not part of this compromise bill, and that is group life. As I have said on numerous occasions, it is critical that we create conditions that permit the private insurance markets to continue to offer group life insurance coverage to employees at high risk of attack.

Since 2002, I have fought to include group life insurance in the Terrorism Risk Insurance Program. I was disappointed, at that time, that the Bush administration chose to focus its efforts on insuring buildings against terrorism but was dismissive of the critical role that group life insurance plays for tens of thousands of families at the highest risk of terrorist attack.

We saw vividly, post-9/11, the suffering of so many families, and while the most immediate grieving was for the loss of human life, the harsh reality is that many families lost their livelihood as well. In a time of loss, a life insurance policy can mean the difference between having to sell the family home, pulling the kids out of college, or even, in some cases, having enough money to put food on the table.

Moreover, the lack of affordable reinsurance for group life products calls into question the administration's position that TRIA is crowding out innovation that would otherwise enable the industry to offer insurance for terrorism risk without a governmental backstop. Reinsurance has essentially evaporated for the group life sector, which Treasury specifically chose not to include in the Terrorism Risk Insurance Program, and thus was not hindered in its pursuit of market innovations. We ought to be working to create a marketplace where reinsurance can reemerge for group life products, rather than jeopardize the TRIA-facilitated appearance of reinsurance for products, like workers compensation, which are comparable to group life.

I certainly appreciate that innovations within the insurance industry may be part of the long-term solution, and we certainly must facilitate that as we go forward. The time has come for Congress to review the current regulatory landscape of the insurance industry to ensure that it does not unnecessarily restrict innovation. I believe that this legislation is consistent with that objective—extending TRIA for a period of time sufficient for Congress to begin looking at modernizing the regulatory scheme for insurance while it also reviews longer term solutions to the challenge of insuring against acts of terror.

I am pleased that this legislation requires the Presidential Working Group to do a study on the long-term viability and affordability of terrorism insurance and the affordability of inclusion of group life insurance. I look forward to reviewing the Presidential Working Group's recommendations, and it is my hope that it recommends inclusion of group life in the program.

Additionally, I am satisfied with the ''make available'' provisions in this bill. At the end of the day, this program is not about the profits of the insurance industry; it is about the ability of American businesses to have access to insurance protection. That should be the very minimum required of an industry that enjoys the type of protection we have provided.

Estimating the likelihood of attacks or the extent of loss is difficult, if not impossible. Now is not the time for the administration or Congress to leave the private insurers to go it alone. I am pleased that last night the Senate passed this important legislation. Doing nothing would not have been acceptable.

Mr. NELSON of Nebraska. Mr. President, although the Senate's passage of the Terrorism Risk Insurance Extension Act of 2005 is a good start to ensuring continuity within our financial markets in the event they are impacted by another terrorist attack, I am disappointed the Act failed to include group life insurance.

Over 160 million working Americans have coverage through a group life policy. For many, this coverage is their only form of life insurance. Loss of this benefit would threaten their families' financial stability.

Group life insurance poses unique risks to the carriers that provide it. Much like workers' compensation insurance, the high level of risk concentration by employer and worksite makes group life insurance particularly vulnerable to large-scale losses from events such as terrorist attacks.

Before the September 11 tragedy, group life insurers protected against large-scale losses through the purchase of catastrophe reinsurance. Since that time, group life insurers have experienced a decreased availability of catastrophe reinsurance coverage. At the same time, the cost of this limited coverage and its related deductible have increased to the point where the coverage is cost-prohibitive. Additionally, it is not uncommon for catastrophe reinsurers to exclude terrorism on most quotes.

Opponents of group life's inclusion argue that free market participants should be able to reach a price on any commodity. But this mindset ignores the fact that group life insurers do not operate in a truly free market. Even if group life insurers wanted to exclude coverage for terrorist acts—which many, for good public policy reasons, reject as an option—they currently are prohibited from doing so.

Ordinarily, insurers would control their risk exposure through the premiums they charge. However, in the context of terrorism, this mechanism also is no longer available for group life insurers. The lack of historical data on the incidence rate of terrorism in the United States prevents insurers from pricing for this risk. Moreover, the very nature of terrorism—a non natural event—makes it a risk for which actuaries have no basis to price.

The bill's required analysis of the long-term availability and affordability of insurance for terrorism risk, including group life coverage, simply offers the distant hope of a solution for group life insurers. Daily reminders of the continued threat of terrorism require an immediate solution.

For these reasons, I respectfully urge members of the conference committee to look beyond the buildings the act would protect and protect the people inside those buildings by including group life in the extension.

TAX RELIEF ACT OF 2005

Mr. KOHL. Mr. President, they say that timing is everything. And the timing of the Congress's actions these days is indicative of our priorities. Yesterday, the House rightly voted against the Labor, Health and Human Services and Education appropriations bill that under funded job training, education and health care. Last night, the House voted to pass a reconciliation spending package that would cut programs such as child support, food stamps, and Medicaid. Also last night, the Senate passed $60 billion worth of tax cuts.

What does that say to hard working Americans about the priorities of this Government? I want to make it clear to my colleagues that I support many of the provisions that are included in this legislation. I support tax provisions aimed at helping Gulf States recover from Hurricanes Katrina and Rita. I support extending the tuition deduction, the research and development tax credit, and a deduction for teacher expenses, among others. And I strongly support the extension of the increased exemption amounts for the alternative minimum tax.

In fact, I would support much broader reform of the AMT. More and more middle class individuals and families will find themselves impacted by this onerous tax if Congress does not act soon to correct it. I would also support some capital gains and dividend rate reform. I want to make it clear to my constituents that I am not opposed to tax cuts—when the time is right—when we are in surplus. In 2001, I supported the tax cut legislation, based on the fact that we were running a surplus. It stands to reason, then, that during these times of record deficits, that we can ill afford the tax package the Senate approved yesterday.

I want to repeat what I just said—I am not opposed to tax cuts. That is why I supported the alternative package of extensions offered by Senator CONRAD. This amendment contained nearly identical extension provisions. The amendment even went further on the AMT then the underlying bill, ensuring that no more taxpayers pay the tax over 2005. The difference? The alternative was fully paid for, through a series of offsets.

It remains a mystery to me why so many of my colleagues chose to add to the deficit rather than responsibly extend these important provisions. I would have hoped that more of my colleagues that voted against this alternative would have come to the floor to give their reasoning. Adding $60 billion to the deficit is not something any of us should take lightly. When we are cutting fundamental programs in order to reduce the deficit, when we are faced with continued costs associated with rebuilding after the hurricanes, when costs associated with Iraq and Afghanistan continue to mount—is that the time to extend tax cuts without paying for them?

For me, the answer is a resounding no. Timing is everything. When we were in surplus, I supported tax cuts. Times have changed, and we can no longer afford to adopt tax legislation without paying for it. Yesterday, the Senate had a chance to show our constituents that we can make difficult budget decisions, just as so many American families do every month. But instead, the Senate chose to pass the buck on that decision, and add $60 billion to our growing deficit.

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

Mr. INHOFE. With this week's consideration of the tax reconciliation act, the United States Senate engaged in a heated exchange over the reinstatement of the windfall profits tax on American oil. The key question in this debate, which my colleagues have not been able to answer, is how can a tax increase on oil and gas production reduce prices? It can't and history proves it.

First enacted under President Jimmy Carter in 1980, Congress imposed an excise levy on domestic oil production called the windfall profits tax. The result was inevitable. According to a 1990 report by the nonpartisan Congressional Research Service, the results of Carter's WPT were hugely counterproductive: ''The WPT reduced domestic oil production between 3 and 6 percent, and increased oil imports from between 8 and 16 percent . . . This made the U.S. more dependent upon imported oil.''

The stakes for Oklahoma are huge considering that oil and gas production is our largest single industry. During debate, Democrats filed amendment after amendment, nine in total, to penalize and to increase taxes by billions of dollars on one of America's most vital industries. To Oklahoma's good fortune, and that of the American consumer, each of these amendments was either soundly defeated or withdrawn.

Over the past few months, Democrats have fired a barrage of unfair rhetoric maligning all those who work in the oil and gas business. With one breath they demand Congress reign in the recent high oil prices, with the next they insist on tax increases to punish those who they claim are responsible. With so many friends, acquaintances, and constituents in the business, I find these reckless demands and accusations unfair and dangerous for Oklahoma.

As a teenager, I worked as a tool dresser on a drilling rig for a man by the name of A.W. Swift. Many in Oklahoma know his name, but few in this Chamber would. Like many who have operated in oil and gas, he ran a thrifty and tight operation but was eventually taxed out of business. This same man lost his son, Burt Swift, after a rig explosion claimed his life but spared mine. Sacrifices, such as his, are often a part of the harsh realities faced by many in the oil business.

Oklahoma would be especially hard hit by a WPT. Currently, well over two-thirds of the State's oil production comes from marginal wells. A marginal well is typically defined as one which produces less than 10 barrels of oil or 60 mcf of gas a day. They are called ''marginal'' because their profitability is at times just at the margin, depending upon production costs and current market prices.

As oil prices decrease many of these wells become uneconomical and are increasingly ''shut in'' or ''plugged and abandoned.'' However, as oil prices increase, Oklahoma's independents increasingly drill for and produce from marginal wells. The added cost of a windfall profits tax drastically harms the economic viability Oklahoma's marginal wells.

Outside of the damage a WPT would inflict upon Oklahoma, this tax would only further harm our Nation's shrinking energy independence. America's major oil companies already pay the second highest corporate tax rate in the industrialized world. How are they to compete internationally with an additional WPT tax? How could Conoco Phillips or Chevron Texaco compete with Total (French), BP (British), and Royal Dutch Shell (British/Dutch) not to mention government owned and operated oil giants like Saudi Aramco, NIOC (National Iran Oil Company), Petro China, CNOOC (China National Offshore Oil Corporation), Gazprom (Russia), and dozens more. With enactment of a WPT, American companies would be hard pressed to effectively compete in the competitive global market for exploration and production. The WPT gives all foreign owned oil companies a strong competitive advantage.

With more than 2,100 firms and 60,000 people the oil and gas industry is the most critical component of Oklahoma's economy. Many of those in the business have in the past lost their business, their savings and their livelihood. The industry is cyclical with booms followed by busts as we saw most poignantly in the 1980s. For the jobs in Oklahoma and the consumers at the pump, let's reject WPT.

Mrs. MURRAY. Mr. President, I rise to speak about the tax reconciliation bill before the Senate today.

Today, Americans are saddled with more than $8 trillion in national debt, an obligation being passed on to our children and grandchildren. And our Nation's expenditures—because of the War in Iraq, the global war on terrorism, Hurricane Katrina and other natural disasters, and countless other challenges our Nation is confronting are far outstripping our tax receipts.

The current administration has placed passing tax cuts for the few ahead of targeted tax cuts for the middle class and to grow business and has made us less able to address other important priorities, homeland security, paying for the war in Iraq, our nation's infrastructure, health care, and education.

I believe we need a tax system that is fiscally responsible, helps business grow, and provides maximum relief to the middle class. That is why I support tax policies that work to achieve those goals, and that is why I voted for the Conrad substitute amendment, which would have fully paid for the cost of targeted middle class tax relief.

Mr. President, I am deeply concerned about passing a $60 billion tax cut bill at a time when we are cutting Medicaid, food stamps, student loans, and other domestic programs that will spur economic growth and help all Americans. Just 2 weeks ago, the Senate Republican leadership brought a spending cut to the floor to cut $35 billion from areas like healthcare and education. The budget that passed this body contains the wrong priorities. It imposes painful cuts on working families, as I said at the time.

Mr. President, too many working families in American don't feel secure. They are worried about high gas prices and how they are going to heat their homes this winter. They are worried about how they will pay for their health insurance and their prescription drugs. And they are worried they won't be able to afford a home or college tuition for their children.

Given all this, why would the Congress pull the rug from under these working Americans at exactly the time they need our support? The answer is before us today to make room for more tax cuts. Now, some of the tax cuts contained in the tax reconciliation bill are certainly helpful. The research and development tax credit, the deduction of State and local sales tax, and the deduction for teacher's expenses are all important provisions and should be extended. I have voted for and cosponsored bills that extend or make permanent some of these provisions. In fact, I voted to extend these tax provisions and all those expiring at the end of the year when I voted for the Conrad substitute amendment. That amendment fully paid for the tax cut extensions and the Hurricane tax relief over 10 years and did not cost the Federal Treasury a dime.

I oppose cutting critical services to pass unbalanced tax cuts that primarily benefit the wealthy. The capital gains and dividend tax cut extensions, which primarily benefit those making

more than $1 million, are not in the current version of this bill. But I know that when the tax reconciliation bill comes back from conference, it will have those provisions. We all heard Senate Majority Leader FRIST when he said, and I quote ''I will not bring a conference report to the Senate floor that does not include this extension.''

So, Mr. President, we have a choice to make: will we invest in priorities like health care, education, transportation and job training that spur economic growth and keep families out of poverty, or will we continue to conduct business as usual and pass tax cuts in a fiscally irresponsible way? Based on the vote 2 weeks ago to cut $35 billion in critical help for Americans in the most need, it appears that the Republican-controlled Congress has chosen the latter.

I understand the importance of a responsible Federal budget. Our nation's annual deficit is more than $300 billion. Foreign owned debt has increased by more than 100 percent over the last 5 years, and we will soon be asked to increase the country's debt ceiling by another $781 billion. At a time when we are facing such tremendous spending pressures and an increasing deficit, I think it would be wise to heed the words of Federal Reserve Chairman Alan Greenspan, who said during testimony before the Budget Committee last year:

''If you are going to lower taxes, you should not be borrowing essentially the tax cut. That over the long run is not a stable fiscal situation.''

Unfortunately, the tax reconciliation bill before us will increase the deficit and borrow money to do so. The Senate was presented with the option to extend the tax provisions expiring at the end of this year and pass the hurricane tax relief in a fiscally responsible manner. Unfortunately, the sound Democratic alternative we offered failed on a party line vote.

Mr. President, these are very challenging times for our country and our people. Working families don't feel secure about their jobs, their health care, their pensions or their future. Many Americans are making tremendous sacrifices by serving in our military. We need to show that we are on their side. We need to help make America strong again. The way to do that is to invest in our people invest in their education, their job training, and their future. The Republican budget does just the opposite it cuts out those critical investments so that they can reduce taxes for a few at the top. Those are the wrong priorities. I believe America can do better, and America deserves better, and therefore I will vote against this misguided budget.

ADDITIONAL STATEMENTS

PROFESSORS OF THE YEAR

• Mr. BAUCUS. Mr. President, I rise today to congratulate the winners of the United States Professor of the Year Award. Since 1981, this prestigious honor has been awarded to professors who show an exceptional dedication to teaching. This year, professors from 40 States, the District of Columbia, and Guam are being honored with this award. Their disciplines are varied; they come from both private and public institutions. But they have one thing in common, and that is dedication to teaching.

These undergraduate professors do more than teach information. They impact their classes by inspiring students to excel. They think up new and inventive ways for their students to learn. They create programs that allow students to learn through working and teaching experience. Sometimes these professors go as far as establishing new departments in their institutions, broadening academic choices for undergraduates. College professors contribute so much to their institutions and surrounding communities, and often these vast contributions go unnoticed by society. I am proud that we are taking time today to honor these inspiring professors:

2005 U.S. PROFESSORS OF THE YEAR, NATIONAL AND STATE WINNERS

Outstanding Baccalaureate Colleges Professor, W.A. Hayden Schilling, Robert Critchfield Professor of English History, The College of Wooster, Wooster, Ohio.

Outstanding Community Colleges Professor, Katherine R. Rowell, Professor of Sociology, Sinclair Community College, Dayton, Ohio.

Outstanding Doctoral and Research Universities Professor, Buzz Alexander, Professor of English Language and Literature, University of Michigan, Ann Arbor, Michigan.

Outstanding Master's Universities and Colleges Professor, Carlos G. Gutierrez, Professor of Chemistry, California State University, Los Angeles, Los Angeles, California.

STATE WINNERS

Alabama: Guy A. Caldwell, Assistant Professor of Biological Sciences, University of Alabama.

Arkansas: Scott Roulier, Associate Professor of Political Science, Lyon College.

California: Philip R. Kesten, Associate Professor of Physics, Santa Clara University.

Colorado: Daniel J. Pack, Professor of Electrical Engineering, United States Air Force Academy.

Connecticut: Lawrence F. Roberge, Associate Professor & Chair, Department of Science, Goodwin College.

District of Columbia: Matthew O'Gara, Associate Professorial, Lecturer, Elliott School of International Affairs, George Washington University.

Florida: Ana M. Cruz, Professor of Accounting, Miami Dade College, Wolfson Campus.

Georgia: Julie K. Bartley, Associate Professor of Geosciences, University of West Georgia.

Guam: Kyle D. Smith, Professor of Psychology, University of Guam.

Idaho: Rhett Diessner, Professor of Education, Lewis-Clark State College.

Illinois: M. Vali Siadat, Professor & Chair, Department of Mathematics, Richard J. Daley College.

Indiana: John B. Iverson, Professor of Biology, Earlham College.

Iowa: James L. Brimeyer, Instructor of Composition & Literature, Northeast Iowa Community College.

Kansas: Elsie R. Shore, Professor of Psychology, Wichita State University.

Kentucky: Peggy Shadduck Palombi, Associate Professor of Biology, Transylvania University.

Louisiana: Roger White, Associate Professor of Political Science, Loyola University New Orleans.

Maryland: James M. Wallace, Professor of Mechanical Engineering, University of Maryland, College Park.

Massachusetts: Walter H. Johnson, Professor & Chair, Department of Physics, Suffolk University.

Michigan: Gary B. Gagnon, Assistant Professor of Marketing, Central Michigan University.

Minnesota: Mark Wallert, Professor of Biology, Minnesota State University Moorhead.

Missouri: Rebecca Kuntz Willits, Assistant Professor, Biomedical Engineering, Saint Louis University.

Montana: Jakki J. Mohr, Professor of Marketing, University of Montana.

Nebraska: Daniel G. Deffenbaugh, Associate Professor of Religion, Hastings College.

Nevada: Paul F. Starrs, Professor of Geography, University of Nevada, Reno.

New Hampshire: Debra S. Picchi, Professor of Anthropology, Franklin Pierce College.

New Jersey: Phyllis Owens, Associate Professor of Computer Graphics, Camden County College.

New Mexico: Elise Pookie Sautter, Professor of Marketing, New Mexico State University.

New York: Jo Beth Mertens, Assistant Professor of Economics, Hobart and William Smith Colleges.

North Carolina: Cindy C. Combs, Professor of Political Science, University of North Carolina at Charlotte.

North Dakota: Jim Coykendall, Associate Professor of Mathematics, North Dakota State University.

Ohio: Nathan W. Klingbeil, Associate Professor of Mechanical Engineering, Wright State University.

Oregon: Jerry D. Gray, Professor of Economics, Willamette University.

Pennsylvania: Jerome Zurek, Professor & Chair, Department of English & Communication, Cabrini College.

South Carolina: Norman M. Scarborough, Associate Professor of Information Science, Presbyterian College.

Tennessee: Jette Halladay, Professor of Speech and Theatre, Middle Tennessee State University.

Texas: Susan Edwards, Professor of History, Cy-Fair College.

Utah: Yasmen Simonian, Professor & Chair, Department of Clinical Laboratory Sciences, Weber State University.

Vermont: Sunhee Choi, Professor of Chemistry and Biochemistry, Middlebury College.

Virginia: John H. Roper, Professor of History, Emory & Henry College.

Washington: Bruce Palmquist, Associate Professor of Physics & Science Education, Central Washington University.

West Virginia: Carolyn Peluso Atkins, Professor of Speech Pathology & Audiology, West Virginia University.

Wisconsin: Jody M. Roy, Associate Professor & Chair, Department of Communication, Ripon College•

OF DUTY, HONOR AND SERVICE

• Mr. CRAPO. Mr. President, in the spring of this year, I had the remarkable experience of hosting a recording of a history for the Library of Congress Veterans History Project. A distinguished, elderly Idahoan recounted his

experiences as a supply officer during World War II, notably in one of the units that liberated the Nazi concentration camp, Dachau.

Ralph Leseburg is 86 years old and lives in St. Anthony, ID with his beloved wife of 66 years, Wanda. Before visiting my office, he returned to Dachau, Germany on the occasion of the 60th anniversary of the camp's liberation by the Americans. After taking part in the commemoration ceremony, he stopped in Washington, DC to visit the World War II Memorial and pay respects to his fallen comrades.

Ralph was drafted in 1944 when he was a young married man with three children living in Layton, UT. That young man was evident in the wizened gentleman who sat in my office some months ago, his experiences of those difficult times surprisingly vivid in his blue eyes. He spent time in France and then in Germany assigned to the 42nd Quartermaster Company of the Army. He remembers the bombings that cleared Wersberg, Germany, and bringing in supplies of food, clothing and ammunition for the soldiers.

Clearly, his most difficult time was to come, for it was just months later on April 29, 1945, around 6 or 7 p.m. in the evening that his company followed the troops into the liberated camps with two truckloads of food for the survivors. Up to this point in the interview, Ralph had shared his experiences in great detail, telling of dates, places and times with remarkable acuity. When asked about what he saw that night, Ralph paused for a long minute and said, ''Well, it's just something you don't like to talk about.'' At that moment, he was thousands of miles and many years away from my office in the Dirksen Building. His blue eyes, glinting with the shine of old tears, reflected the stark horror of that day, the memory too overwhelming to put to words.

Ralph continued to serve until 1946, when he returned to his wife and children and civilian life. Looking back, he said that he remembered paying attention to the lifestyle of the people in the countries where he served, and remarked that ''We are blessed to be in this nation, a nation of human rights and humanitarian service.'' When asked about serving his country, Ralph said only this: ''It wasn't easy to leave my wife and children, but I served my country when I was called, and I knew why I was called.'' I would like to offer my sincere thanks and gratitude for Ralph and his family for their sacrifice and service so many years ago. It was a tremendous honor for me to have this particular member of ''the greatest generation'' in my office that day.●

HONORING NATIONAL ADOPTION DAY

● Ms. LANDRIEU. Mr. President, I rise today in honor of National Adoption Day.

If the events of the last few months have done nothing else, they have reminded us of the importance of family, friends, and faith in a time of crisis. Not a moment has gone by without an image of a mother searching for her son or a daughter looking for her grandmother. Families bring people together and make it possible for them to make it through these times of uncertainty and hardship.

Now, more than ever, our focus is on bringing families together: we must rebuild, create, and transform these families. National Adoption Day is a way for this goal to be realized. It is in its sixth year and helps the dream of a permanent family come true through courts, judges, attorneys, and advocates who help to finalize adoptions.

On this day, I would like to paint two pictures for you all: In 227 cities and 45 States, at courthouses, churches, museums, parks, and beautiful public places all over the country, at least 4,000 children will find forever families, and dreams of thousands of adults will be realized. I want you to picture what happens on this fall day, children running, laughing, and playing with their new parent. Think about a girl or boy planning their special outfit and joyously awaiting the family celebration. Imagine the excitement welling up inside of a child as he or she looks into their new parent's eyes and knows they are finally part of a family. They will never dread the sound of a car coming to take them away again or wonder where they will lay their heads or which school they will be moved to. the other picture is dramatically different: In Louisiana alone, there are 4,424 children in foster care and 581,000 children nationwide waiting to be adopted. Only 10 percent of these children will ever be adopted. They have not had the luxury of their own room, a stable school environment, or a constant adult in their lives.

Most of these children entered into State custody because their parents were either unable or unwilling to care for them. What today is all about is transforming barriers into foundations. Tonight they will go home to their forever families. In speaking about forever families, I want to bring your attention to two of the many children in Louisiana that need forever families.

Many children in the foster care system are teenagers and have more difficulty being adopted. These beautiful children are just waiting to flourish with the right parent's guidance. Reva, for example, is a 15-year-old, reserved young woman who loves playing board games. She also is great at basketball and swimming. Reva does have a diagnosis of major depression and postraumatic stress disorder more than likely exacerbated by her time in foster care.

D'Vonte is a 13-year-old vivacious young man who loves to dance and listen to music on his CD player. His favorite activities are working on art projects and going swimming during the summer months. As a true Louisianan, he loves gumbo and is a caring and affectionate child.

I could stand here every day for the next month and talk about each child that needs to be adopted out of foster care. The bottom line is that each of these children, from 1 day old to 22 years old, needs permanency. They all need a loving, nurturing family that will help them to grow, bring out their unique personalities, and transform them into beautiful adults.

Today, on National Adoption Day, I have faith that this can be done and we must continue to be the catalysis. The miracle of adoption cannot be explained, but the loving parents that are holding their children for the first time today are living examples of how dreams can be realized. As an adoptive mother myself, I cannot really explain the miracle of it, but I can only take a moment to offer my most humble thanks, gratitude, and appreciation to all those across the Nation who have given their Saturday to help find waiting children safe and loving homes.

Let us continue to remember, when National Adoption Month and Day ends that there are still thousands of children like D'Vonte and Reva who need that sense of permanency. I challenge Congress to make these children their first priority and to help them to finally realize that dream.●

TRIBUTE TO HILTON A. WICK

● Mr. LEAHY. Mr. President, I rise today to speak about Hilton Wick, a great Vermonter who was recently honored at a dedication ceremony in Burlington, VT. As a token of thanks for his tireless fundraising efforts on behalf of Fletcher Allen Health Care, the plaza in front of Fletcher Allen's Ambulatory Care Center will now bear Hilton's name. For decades, Hilton Wick has committed his talents and energy to improving his community, raising awareness, and inspiring involvement on a wide variety of community development projects. Not only Burlington but all of Vermont can be grateful for his outstanding leadership and enormous generosity.

I would like to share with my colleagues an article from the October 29, 2005, edition of the Burlington Free Press which magnificently describes the contributions of Hilton Wick. I ask that the article be printed in the RECORD.

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

[From the Burlington Free Press, Oct. 29, 2005]

HILTON WICK GIVES HIS ALL TO COMMUNITY

It is a fitting tribute to Burlington's Hilton Wick that the plaza in front of Fletcher Allen Health Care's new Ambulatory Care Center is being named after him.

The dedication for the Hilton A. Wick Plaza on Sunday honors a man who has been one of the most generous and steadfast community builders Burlington has known.

When the hospital's Renaissance Project was in its darkest hours, Wick persevered with community fund-raising efforts despite the adversity, convinced that the goal of a

better hospital remained sound and that Vernmonters would benefit from it.

Through the years and with a broad array of causes, Wick's message has been ''get involved, get committed, do what you can to help achieve success and don't forget that little things do matter,'' according to his friend, Dan Feeney, who worked with Wick on several capital campaigns.

Burlington, and Vermont, have been the fortunate benefactors of Wick's remarkable ability to rally people around good causes, including the United Way, the American Cancer Society, the Intervale Foundation, the ECHO Center and the Community Health Center.

The health center, which serves underinsured and uninsured Vermonters, recognized Wick at its annual meeting this week as a kind of guru or ''professor'' of community fund-raisers in Burlington. ''To have Hilton as your friend is to have a mentor, a philanthropic advisor, social connector, politician and the best story teller,'' according to an announcement from the health center.

When people gather Sunday to honor wick, now 85, they will share stories of a man who leads by example, inspiring others to give back to the community—a commitment he has held deeply since escaping death in the South Pacific during World War II.

The son of a railroad worker and homemaker in rural Pennsylvania, Wick came to Vermont in 1949 after graduating from Harvard Law School the previous year. He practiced law and continues the practice with his son Jim at Wick & Maddocks in Burlington; he taught business law at the University of Vermont; and he was president and later chairman of the board of Chittenden Trust Co. He ran for governor in 1984 and served a term as a state senator in 1988.

His friends know him especially for his devotion to his family—his five children and his late wife Barbara, who died of breast cancer in 2001—and his community.

George Little, a former state senator who served with Wick on a number of fund-raising drives, said his longtime friend has raised more money for health care, education and other projects ''than I can possibly count.

''Hilton is an extraordinary human being who has made his life an example of thoughtful, unselfish generosity to his community,'' Little said.

Lois McClure said Wick encouraged her and her late husband, Mac, to give to a number of worthy projects including a building constructed in the 1980s at Fletcher Allen that bears the McClure name. ''Mac said, 'When someone like Hilton feels I should do it, I guess I had better do it.'" McClure recalled.

For Wick's daughter, Julia, her father is a kind-hearted role model with a unique sense of humor and a love of story-telling. He is dedicated, she said, to helping those in need, ''a quiet and determined leader who imparts his knowledge through inspiration.''

Wick, who now lives at Shelburne Bay Senior Living Community, said in an interview Friday that he has enjoyed helping Burlington, ''a great place to live''—and particularly the hospital, where ''the wonderful medical personnel have kept me alive, when I'm not sure I was entitled to it.''

Wick's countless hours of public service have been recognized with numerous accolades over the years, including several ''Man of the Year'' awards from organizations and ''Father of the Year'' from the Lund Family Center. But the real benefits are experienced every day in the community, which has been enriched and improved because of him.

Next time you walk across the plaza at Fletcher Allen Health Care, think of Hilton Wick and the many contributions he has made.●

CONGRATULATING SALYERSVILLE GRADE SCHOOL

● Mr. BUNNING. Mr. President, today I rise to congratulate Salyersville Grade School of Salyersville, KY. Salyersville Grade School is recognized as a 2005 No Child Left Behind Blue Ribbon School.

The Blue Ribbon Schools Program has been celebrating high achieving schools for over 20 years. Established in 1982 by the U.S. Department of Education, the program has recognized more than 3,000 schools since its inception. This year, six Kentucky schools join this distinguished list, and I am proud to say that Salyersville Grade School is one of the worthy recipients.

By demanding excellence from each and every student, Salyersville Grade School truly celebrates the blue ribbon standard of excellence that the No Child Left Behind Program strives to achieve. Salyersville Grade School is an example of what our Kentucky schools can achieve when we have enough faith in our students to challenge them to become the leaders this country so desperately needs.

I congratulate Salyersville Grade School on this achievement. The administrators, teachers, parents, and students of this school are an inspiration to the citizens of Kentucky. look forward to all that Salyersville Grade School accomplishes in the future.●

CONGRATULATING SAINT AGNES PARISH SCHOOL

● Mr. BUNNING. Mr. President, today I rise to congratulate Saint Agnes Parish School of Louisville, KY. Saint Agnes Parish School is recognized as a 2005 No Child Left Behind Blue Ribbon School.

The Blue Ribbon Schools Program has been celebrating high achieving schools for over 20 years. Established in 1982 by the U.S. Department of Education, the program has recognized more than 3,000 schools since its inception. This year, six Kentucky schools. join this distinguished list, and I am proud to say that Saint Agnes Parish School is one of the worthy recipients.

By demanding excellence from each and every student, Saint Agnes Parish School truly celebrates the blue ribbon standard of excellence that the No Child Left Behind Program strives to achieve. Saint Agnes Parish School is an example of how Kentucky's Catholic schools continue to inspire young minds by providing a caring, faith-based learning environment.

I congratulate Saint Agnes Parish School on this achievement. The administrators, teachers, parents, and students of this school are an inspiration to the citizens of Kentucky. look forward to all that Saint Agnes Parish School accomplishes in the future.●

CONGRATULATING CHRIST THE KING SCHOOL

● Mr. BUNNING. Mr. President, today I rise to congratulate Christ the King School of Lexington, KY. Christ the King School is recognized as a 2005 No Child Left Behind Blue Ribbon School.

The Blue Ribbon Schools Program has been celebrating high achieving schools for over 20 years. Established in 1982 by the U.S. Department of Education, the program has recognized more than 3,000 schools since its inception. This year, six Kentucky schools join this distinguished list, and I am proud to say that Christ the King School is one of the worthy recipients.

By demanding excellence from each and every student, Christ the King School truly celebrates the blue ribbon standard of excellence that the No Child Left Behind Program strives to achieve. Christ the King School is an example of how Kentucky's Catholic schools continue to inspire young minds by providing a caring, faith-based learning environment.

I congratulate Christ the King School on this achievement. The administrators, teachers, parents, and students of this school are an inspiration to the citizens of Kentucky. I look forward to all that Christ the King School accomplishes in the future.●

CONGRATULATING BRODHEAD ELEMENTARY SCHOOL

● Mr. BUNNING. Mr. President, today I rise to congratulate Brodhead Elementary School of Brodhead, KY. Brodhead Elementary School is recognized as a 2005 No Child Left Behind Blue Ribbon School.

The Blue Ribbon Schools Program has been celebrating high achieving schools for over 20 years. Established in 1982 by the U.S. Department of Education, the program has recognized more than 3,000 schools since its inception. This year, six Kentucky schools join this distinguished list, and I am proud to say that Brodhead Elementary School is one of the worthy recipients.

By demanding excellence from each and every student, Brodhead Elementary School truly celebrates the blue ribbon standard of excellence that the No Child Left Behind Program strives to achieve. Brodhead Elementary School is an example of what our Kentucky schools can achieve when we have enough faith in our students to challenge them to become the leaders this country so desperately needs.

I congratulate Brodhead Elementary School on this achievement. The administrators, teachers, parents, and students of this school are an inspiration to the citizens of Kentucky. look forward to all that Brodhead Elementary School accomplishes in the future.●

CONGRATULATING SOUTHERN ELEMENTARY SCHOOL

● Mr. BUNNING. Mr. President, today I rise to congratulate Southern Elementary School of Beaver Dam, KY. Southern Elementary School is recognized as

a 2005 No Child Left Behind Blue Ribbon School.

The Blue Ribbon Schools Program has been celebrating high achieving schools for over 20 years. Established in 1982 by the U.S. Department of Education, the program has recognized more than 3,000 schools since its inception. This year, six Kentucky schools join this distinguished list, and I am proud to say that Southern Elementary School is one of the worthy recipients.

By demanding excellence from each and every student, Southern Elementary School truly celebrates the blue ribbon standard of excellence that the No Child Left Behind Program strives to achieve. Southern Elementary School is an example of what our Kentucky schools can achieve when we have enough faith in our students to challenge them to become the leaders this country so desperately needs.

I congratulate Southern Elementary School on this achievement. The administrators, teachers, parents, and students of this school are an inspiration to the citizens of Kentucky. look forward to all that Southern Elementary School accomplishes in the future.●

CONGRATULATING LOST RIVER ELEMENTARY SCHOOL

● Mr. BUNNING. Mr. President, today I rise to congratulate Lost River Elementary School of Bowling Green, KY. Lost River Elementary School was recently recognized as a 2005 No Child Left Behind Blue Ribbon School.

The Blue Ribbon Schools Program has been celebrating high achieving schools for over 20 years. Established in 1982 by the U.S. Department of Education, the program has recognized more than 3,000 schools since its inception. This year, six Kentucky schools join this distinguished list, and I am proud to say that Lost River Elementary School is one of the worthy recipients.

By demanding excellence from each and every student, Lost River Elementary School truly celebrates the blue ribbon standard of excellence that the No Child Left Behind Program strives to achieve. Lost River Elementary School is an example of what our Kentucky schools can achieve when we have enough faith in our students to challenge them to become the leaders this country so desperately needs.

I congratulate Lost River Elementary School on this achievement. The administrators, teachers, parents, and students of this school are an inspiration to the citizens of Kentucky. look forward to all that Lost River Elementary School accomplishes in the future.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 9:29 a.m., a message from the House of Representatives, delivered by Ms. Chiappardi, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4145. An act to direct the Joint Committee on the Library to obtain a statue of Rosa Parks and to place the statue in the United States Capitol in National Statuary Hall, and for other purposes.

ENROLLED BILLS SIGNED

At 9:50 a.m., a message from the House of Representatives, delivered by Ms. Chiappardi, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 126. An act to amend Public Law 89–366 to allow for an adjustment in the number of free roaming horses permitted in Cape Lookout National Seashore.

H.R. 539. An act to designate certain National Forest System land in the Commonwealth of Puerto Rico as a component of the National Wilderness Preservation System.

H.R. 584. An act to authorize the Secretary of the Interior to recruit volunteers to assist with, or facilitate, the activities of various agencies and offices of the Department of the Interior.

H.R. 606. An act to authorize appropriations to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in the State of California.

H.R. 1101. An act to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California.

H.R. 1972. An act to direct the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of including in the National Park System certain sites in Williamson County, Tennessee, relating to the Battle of Franklin.

H.R. 1973. An act to make access to safe water and sanitation for developing countries a specific policy objective of the United States foreign assistance programs, and for other purposes.

S. 1234. An act to increase, effective as of December 1, 2005, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

The enrolled bills were signed subsequently by the President pro tempore (Mr. STEVENS).

At 11:30 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 307. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

At 1:35 p.m., a message from the House of Representatives, delivered by one of its clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

H.R. 4326. An act to authorize the Secretary of the Navy to enter into a contract for the nuclear refueling and complex overhaul of the U.S.S. Carl Vinson (CVN–70).

H.J. Res. 72. An act making further continuing appropriations for the fiscal year 2006, and for other purposes.

The enrolled bill and joint resolution were signed subsequently by the President pro tempore (Mr. STEVENS).

At 1:56 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 bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1932: An act to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95).

At 4:32 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2528) making appropriations for military quality of life functions of the Department of Defense, military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

MEASURES ORDERED HELD AT THE DESK

The following bill was discharged from the Committee on Finance, passed without amendment, and ordered held at the desk, by unanimous consent:

S. 632. A bill to authorize the extension of unconditional and permanent nondiscriminatory treatment (permanent normal trade relations treatment) to the products of Ukraine, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, November 18, 2005, she had presented to the President of the United States the following enrolled bill:

S. 1234. An act to increase, effective as of December 1, 2005, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

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–4705. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; BURKHART GROB LUFT—UND RAUMFAHRT GmbH and CO KG Models G103 TWIN ASTIR, G103A TWIN II ACRO, and G103C TWIN III ACRO Sailplanes'' ((RIN2120–AA64)(2005–0507)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4706. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A330–200 and –300 and A340–200 and –300 Series Airplanes'' ((RIN2120–AA64)(2005–0508)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4707. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 757–200, –200CB, and –200PF Series Airplanes'' ((RIN2120–AA64)(2005–0509)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4708. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 737–100, –200, –200C, –300, –400, and –500 Series Airplanes'' ((RIN2120–AA64)(2005–0510)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4709. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McDonnell Douglas Model DC–10–10 and DC–10–10F Airplanes; Model DC–10–15 Airplanes; Model DC–10–30 and DC–10–30F Airplanes; Model DC–10–40 and DC–10–40F Airplanes; Model MD–10–10F and MD–10–30F Airplanes; and Model MD–11 and MD–11F Airplanes'' ((RIN2120–AA64)(2005–0511)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4710. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 747–100, –200B, –200F, –200C, –100B, –300, –100B SUD, –400, –400D, and –400F Series Airplanes; and Model 747 SR Series Airplanes'' ((RIN2120–AA64)(2005–0500)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4711. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 757–200, –200PF, and –300 Series Airplanes, Powered by Pratt and Whitney PW2000 Series Engines'' ((RIN2120–AA64)(2005–0501)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4712. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. Model EMB–135BJ, –135ER, –135KE, –135KL, –135LR, –145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP Airplanes'' ((RIN2120–AA64)(2005–0502)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4713. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Rolls-Royce plc RB211 Trent 875, 877, 884, 884B, 892, 892B, and 895 Series Turbofan Engines'' ((RIN2120–AA64)(2005–0518)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4714. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A340–211, –212, –311, and –312 Airplanes'' ((RIN2120–AA64)(2005–0517)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4715. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Dowty Aerospace Propellers Type R321/4–82–F/8, R324/4–82–F/9, R333/4–82–F/12, and R334/4–82–F/13 Propeller Assemblies'' ((RIN2120–AA64)(2005–0516)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4716. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A319–100 Series Airplanes Model A320–111 Airplanes; Model A320–200 Series Airplanes, and Model A321–100 and –200 Series Airplanes'' ((RIN2120–AA64)(2005–0515)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4717. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 727 Airplanes'' ((RIN2120–AA64)(2005–0514)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4718. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A300 B4–620, A310–304, A310–324, and A310–325 Airplanes'' ((RIN2120–AA64)(2005–0512)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4719. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 737–100, –200, and –200C Series Airplanes'' ((RIN2120–AA64)(2005–0513)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4720. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McDonnell Douglas Model DC–9–14, DC–9–15, and DC–9–15F Airplanes; and McDonnell Douglas Model DC–9–20, DC–9–30, DC–9–40, and DC–9–50 Series Airplanes'' ((RIN2120–AA64)(2005–0522)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4721. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 747 Airplanes'' ((RIN2120–AA64)(2005–0521)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4722. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; British Aerospace Model HS 748 Airplanes'' ((RIN2120–AA64)(2005–0520)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4723. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; The Cessna Aircraft Company Models 401 401A, 401B, 402, 402A, 402B, 402C, 404, 411, 411A, 414, 414A, 421 421A, 421B, 421C, 425, and 441 Airplanes'' ((RIN2120–AA64)(2005–0519)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4724. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Rolls-Royce plc RB211 Trent 875, 877, 884, 884B, 892, 892B, and 895 Series Turbofan Engines'' ((RIN2120–AA64)(2005–0526)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4725. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Honeywell Flight Management System One Million Word Data Bases as Installed in, but Not Limited to McDonnell Douglas Model MD–11 and MD–11F Airplanes, Boeing Model 747–400 Series Airplanes, and Boeing Model 757 and 767 Airplanes'' ((RIN2120–AA64)(2005–0525)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4726. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bell Helicopter Textron Model 212, 412 and 412EP Helicopters'' ((RIN2120–AA64)(2005–0523)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4727. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Pratt and Whitney JT8D–200 Series Turbofan Engines'' ((RIN2120–AA64)(2005–0524)) received on November 15, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4728. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; GROB–WERKE Model G120A Airplanes'' ((RIN2120–AA64)(2005–0545)) received on November 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4729. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule

entitled ''Airworthiness Directives; Pratt and Whitney JT8D–200 Series Turbofan Engines'' ((RIN2120–AA64)(2005–0546)) received on November 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4730. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; General Electric Company CT7–5, –7, and –9 Series Turboprop Engines'' ((RIN2120–AA64)(2005–0547)) received on November 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4731. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Honeywell Flight Management System One Million Word Data Bases as Installed in, but Not Limited to, McDonnell Douglas Model MD–11 and MD–11F Airplanes, Boeing Model 747–400 Series Airplanes, and Boeing Model 757 and 767 Airplanes'' ((RIN2120–AA64)(2005–0548)) received on November 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4732. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A320–111 Airplanes, and Model A320–200 Series Airplanes'' ((RIN2120–AA64)(2005–0550)) received on November 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4733. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Mitsubishi Model YS–11 Airplanes, and Model YS–11A–200, YS–11A–300, YS–11A–500, and YS–11A–600 Series Airplanes'' ((RIN2120–AA64)(2005–0551)) received on November 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4734. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; General Electric Company CF6–80E1 Series Turbofan Engines'' ((RIN2120–AA64)(2005–0552)) received on November 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4735. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Area Navigation Instrument Flight Rules Terminal Transition Routes; Jacksonville, FL'' ((RIN2120–AA66)(2005–0255)) received on November 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4736. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (73)'' ((RIN2120–AA65)(2005–0032)) received on November 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4737. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, the Commission's Performance and Accountability Report for fiscal year 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–4738. A communication from the General Counsel, Office of Government Ethics, transmitting, pursuant to law, the Office's Performance Accountability Report for Fiscal Year 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–4739. A communication from the Railroad Retirement Board, transmitting, pursuant to law, the Board's Performance and Accountability Report for Fiscal Year 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–4740. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the Department's Performance and Accountability report for Fiscal Year 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–4741. A communication from the Chairman, International Trade Commission, transmitting, pursuant to law, the Commission's Performance and Accountability Report for Fiscal Year 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–4742. A communication from the Secretary of Transportation transmitting, pursuant to law, the Department's Performance and Accountability Report for Fiscal Year 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–4743. A communication from the Secretary of Labor, transmitting, pursuant to law, the Department's Performance and Accountability Report for Fiscal Year 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–4744. A communication from the General Counsel, Office of Government Ethics, transmitting, pursuant to law, the report of a rule entitled ''Additional Exemption'' (RIN3209–AA09) received on November 16, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–4745. A communication from the Secretary of Homeland Security, transmitting, pursuant to law, the Department's Performance and Accountability Report for Fiscal Year 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–4746. A communication from the Secretary of Education, transmitting, pursuant to law, the Department's Performance and Accountability Report for Fiscal Year 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–4747. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (9)'' ((RIN2120–AA65)(2005–0033)) received on November 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4748. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 727 Airplanes'' ((RIN2120–AA64)(2005–0549)) received on November 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4749. A communication from the Acting Chief, Publications and Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''CPI Adjustment for Section 1274A for 2006'' (Rev. Rul. 2005–76) received on November 18, 2005; to the Committee on Finance.

EC–4750. A communication from the Acting Chief, Publications and Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''CPI Adjustment for Section 7872(g) for 2006'' (Rev. Rul. 2005–75) received on November 18, 2005; to the Committee on Finance.

EC–4751. A communication from the Acting Chief, Publications and Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Bureau of Labor Statistics Price Indexes for Department Stores—September 2005'' (Rev. Rul. 2005–73) received on November 18, 2005; to the Committee on Finance.

EC–4752. A communication from the Acting Chief, Publications and Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Section 832 Discount Factors for 2005'' (Rev. Proc. 2005–73) received on November 18, 2005; to the Committee on Finance.

EC–4753. A communication from the Acting Chief, Publications and Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Section 846 Discount Factors for 2005'' (Rev. Proc. 2005–72) received on November 18, 2005; to the Committee on Finance.

EC–4754. A communication from the United States Trade Representative, Executive Office of the President, transmitting, pursuant to law, documents relating to the United States–Bahrain Free Trade Agreement; to the Committee on Finance.

EC–4755. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad to the United Kingdom; to the Committee on Foreign Relations.

EC–4756. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Kazakhstan; to the Committee on Foreign Relations.

EC–4757. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on the status of petitions for designating class of employees as members of the special cohort; to the Committee on Health, Education, Labor, and Pensions.

EC–4758. A communication from the Attorney, Office of Procurement and Assistance Policy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Assistance Regulations'' (RIN1991–AB72) received on November 18, 2005; to the Committee on Energy and Natural Resources.

EC–4759. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law the report of a rule entitled ''Civil Penalty Adjustments'' (RIN1029–AC48) received on November 17, 2005; to the Committee on Energy and Natural Resources.

EC–4760. A communication from the Director, Office of Hearings and Appeals, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Resource Agency Procedures for Conditions and Prescriptions in Hydropower Licenses'' (RIN0596–AC42, RIN1094–AA51, RIN0648–AU01) received on November 18, 2005; to the Committee on Energy and Natural Resources.

PETITIONS AND MEMORIALS

The following petition or memorial was laid before the Senate and was referred or ordered to lie on the table as indicated:

POM–221. A resolution adopted by the General Court of the Commonwealth of Massachusetts relative to the early termination

fees imposed by cellular telephone companies; to the Committee on Commerce, Science, and Transportation.

Whereas, the issue of early termination fees imposed by cellular phone companies is one of great importance to the citizens of the Commonwealth of Massachusetts; and

Whereas, lawsuits by customers adversely affected by early termination fees have been filed in courts in California, Florida and Illinois; and

Whereas, a ''petition of the Cellular Telecommunications and Internet Association for an expedited declaratory ruling'' has recently been filed with the Federal Communications Commission (FCC); and

Whereas, the major cellular phone companies are now mounting efforts to preempt strong State consumer protection statutes in an effort to circumvent legal challenges in a number of States by their petition to the FCC on March 15, 2005; and

Whereas, this petition from the cellular phone industry requests that early termination fees should not be defined as penalties designed to restrict consumer choice, but rather as part of the rates that the companies charge their customers for cellular phone services; and

Whereas, recent reports dispute the industry's claims and find that 89 per cent of consumers believe that early termination fees are used as penalties to prevent consumers from shopping for better, more fairly-priced service; now therefore be it

Resolved, that the Massachusetts General Court joins and asks the Federal Communications Commission to deny the ''petition of the cellular telecommunications and internet association for an expedited declaratory ruling'' and that the FCC not recognize early termination fees as part of a company's rate structure and allow for continued State action; and be it further

Resolved, that the Massachusetts Senate memorializes the Federal Communications Commission, the Bush Administration, and Congress of the United States not to take any steps requested by cellular phone companies of their industry representatives that are designed to prevent cellular phone companies from being held legally accountable at the local, State of Federal levels, for the negative impacts of early termination fees; and be it further

Resolved, that a copy of these resolutions be transmitted forthwith by the Clerk of the Senate to the Federal Communications Commission, President George W. Bush, and the members of the United States Congress from the Commonwealth of Massachusetts.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. COCHRAN, from the Committee on Appropriations:

Special Report entitled ''Further Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 2006'' (Rept. No. 109–184).

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. ENZI for the Committee on Health, Education, Labor, and Pensions.

*Bruce Cole, of Indiana, to be Chairperson of the National Endowment for the Humanities for a term of four years.

*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.

DISCHARGED NOMINATIONS

The Senate Committee on Foreign Relations was discharged from further consideration of the following nominations and the nominations were confirmed:

Ronald L. Schlicher, of Tennessee, to be Ambassador to the Republic of Cyprus.

Nominee: Ronald Lewis Schlicher.

Post: Cyprus.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: None.
2. Spouse: Not applicable.
3. Children and spouses: Not applicable.
4. Parents: Father, deceased; Mother, Thelma Schlicher, none.
5. Grandparents: Deceased.
6. Brothers and spouses: Brother, Michael Schlicher, none.
7. Sisters and spouses: Sister, Deborah Rankin, none.

Alejandro Daniel Wolff, of California, to be the Deputy Representative of the United States of America to the United Nations, with the rank and status of Ambassador, and the Deputy Representative of the United States of America in the Security Council of the United Nations.

Alejandro Daniel Wolff, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Representative of the United States of America to the Sessions of the General Assembly of the United Nations, during his tenure of service as Deputy Representative of the United States of America to the United Nations.

Nominee: Alejandro Daniel Wolff.

Post: USUN.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: Alejandro Wolff, none.
2. Spouse: Alexandra Wolff, none.
3. Children and spouses: Philip and Michael Wolff, none.
4. Parents: Gerard and Toni Wolff, none.
5. Grandparents: All deceased in Argentina, none.
6. Brothers and spouses: Claudio and Sarah Wolff, none; Richard and Susan Wolff, none.

Carol van Voorst, of Virginia, to be Ambassador to the Republic of Iceland.

Nominee: Carol van Voorst.

Post: Ambassador to Iceland.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: Carol van Voorst, none.
2. Spouse: William A. Garland, none.
3. Children and spouses (stepchildren): Judith Garland, none; Karen Garland Fructuoso, none; Bernard Fructuoso, none; Maura Garland, none; William Burns Garland, none.
4. Parents: Bruce van Voorst, Barbara van Voorst, (stepmother) (joint contributions): $100, 3/16/05, Friends of Hillary Rodham Clinton; $100, 7/11/05, Bill Nelson for Senate; $100, 2/11/04, Democratic Congressional Campaign Committee; $50, 2/11/04, Nelson for U.S. Senate; $500, 3/12/04, John Kerry for President; $1,000, 7/8/04, Kerry Victory 2004; $200, 6/27/03, Bob Graham for President; $500, 11/12/03, Dean for America; $100, 2/25/02, Democratic Senatorial Campaign Committee; $100, 5/7/01, Democratic Senatorial Campaign Committee; $100, 5/7/01, Democratic Congressional Campaign Committee.

Marilyn van Voorst, deceased.

5. Grandparents: Dorothy van Voorst, deceased; Jacob van Voorst, deceased; Martin Van Hekken, deceased; Minnie Van Hekken, deceased.
6. Brothers and spouses: Mark van Voorst, none; Cindi van Voorst, none.
7. Sisters and spouses: Susan Prins, none; Michael Prins, none.

Kathryn Marchmont Robinson, Hugh Marchmont Robinson (jointly): $300, 2000, Republican National Committee; $150, 2000, Republican National Committee.

Ross Wilson, of Maryland, to be Ambassador to the Republic of Turkey.

Nominee: Ross Wilson.

Post: Ankara

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: none.
2. Spouse: Marguerite H. Squire, none.
3. Children and Spouses: C. Blake Wilson, none; Grady S. Wilson, none.
4. Parents: Winnidell Wilson, John Wilson, deceased.
5. Grandparents: All deceased 1974 or earlier, none.
6. Brothers and Spouses: Murray Wilson, none; Rebecca Wilson, none.
7. Sisters and Spouses: Joanne Lindahl, none; Duane Lindahl, none.

Donald M. Payne, of New Jersey, to be a Representative of the United States of America to the Sixtieth Session of the General Assembly of the United Nations.

Edward Randall Royce, of California, to be a Representative of the United States of America to the Sixtieth Session of the General Assembly of the United Nations.

Foreign Service nominations beginning with R. Nicholas Burns and ending with Charles E. Wright, which nominations were received by the Senate and appeared in the Congressional Record on October 17, 2005.

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. ROBERTS (for himself, Mr. NELSON of Nebraska, Mr. ISAKSON, and Mr. SANTORUM):

S. 2052. A bill to amend the Internal Revenue Code of 1986 to provide a credit to certain agriculture-related businesses for the cost of protecting certain chemicals; to the Committee on Finance.

By Mrs. CLINTON (for herself, Mr. DEWINE, Mr. OBAMA, and Mr. SMITH):

S. 2053. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for property owners who remove lead-based paint hazards; to the Committee on Finance.

By Mr. JEFFORDS:

S. 2054. A bill to direct the Secretary of the Interior to conduct a study of water resources in the State of Vermont; to the Committee on Energy and Natural Resources.

By Mr. KERRY:

S. 2055. A bill to amend titles 10 and 14, United States Code to provide for the use of gold in the metal content of the Medal of Honor; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ALLEN (for himself and Mr. WARNER):

S. 2056. A bill to require the Secretary of the Treasury to redesign $1 Federal reserve notes so as to incorporate the preamble of the Constitution of the United States, a list describing the Articles of the Constitution, and a list describing the Amendments to the Constitution, on the reverse side of such note; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. CLINTON (for herself, Mr. HARKIN, Mr. DURBIN, Mr. KENNEDY, Mr. KERRY, Ms. LANDRIEU, Mr. LAUTENBERG, and Mr. INOUYE):

S. 2057. A bill to establish State infrastructure banks for education, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FEINGOLD:

S. 2058. A bill to promote transparency and reduce anti-competitive practices in the radio and concert industries; to the Committee on Commerce, Science, and Transportation.

By Mrs. CLINTON (for herself, Mr. LEAHY, Mr. SCHUMER, and Mr. JEFFORDS):

S. 2059. A bill to establish the Hudson-Fulton-Champlain 400th Commemoration Commission, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. VOINOVICH (for himself and Mr. AKAKA):

S. 2060. A bill to extend the District of Columbia College Access Act of 1999 and make certain improvements; to the Committee on Homeland Security and Governmental Affairs.

By Mr. NELSON of Nebraska (for himself, Mr. SESSIONS, and Mr. COBURN):

S. 2061. A bill to amend the Immigration and Nationality Act and other Act to provide for true enforcement and border security, and for other purposes; to the Committee on the Judiciary.

By Mr. VITTER:

S. 2062. A bill to amend the Internal Revenue Code of 1986 to provide that certain deductions of school bus owner-operators shall be allowable in computing adjusted gross income; to the Committee on Finance.

By Mr. VITTER:

S. 2063. A bill to amend the Higher Education Act of 1965 to require institutions of higher education to preserve the educational status and financial resources of military personnel called to active duty; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LUGAR (for himself and Mr. BAYH):

S. 2064. A bill to designate the facility of the United States Postal Service located at 122 South Bill Street in Francesville, Indiana, as the Malcolm Melville ''Mac'' Lawrence Post Office; to the Committee on Homeland Security and Governmental Affairs.

By Mr. ENZI (for himself, Mr. ISAKSON, Mr. CRAIG, Mr. BURR, Mr. ROBERTS, Mr. SESSIONS, Mr. WARNER, and Mr. GREGG):

S. 2065. A bill to amend the Occupational Safety and Health Act of 1970 to further improve the safety and health of working environments, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ENZI (for himself, Mr. ISAKSON, Mr. CRAIG, Mr. BURR, Mr. ROBERTS, Mr. SESSIONS, Mr. WARNER, Mr. GREGG, and Mr. DEMINT):

S. 2066. A bill to amend the Occupational Safety and Health Act of 1970 to further improve the safety and health of working environments, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ENZI (for himself, Mrs. MURRAY, Mr. ISAKSON, Mr. BURR, Mr. SESSIONS, and Mr. GREGG):

S. 2067. A bill to assist chemical manufacturers and importers in preparing material safety data sheets pursuant to the requirements of the Hazard Communication standard and to establish a Commission to study and make recommendations regarding the implementation of the Globally Harmonized System of Classification and Labeling of Chemicals; to the Committee on Health, Education, Labor, and Pensions.

By Ms. COLLINS (for herself, Mr. VOINOVICH, and Mr. AKAKA):

S. 2068. A bill to preserve existing judgeships on the Superior Court of the District of Columbia; to the Committee on Homeland Security and Governmental Affairs.

By Mr. COLEMAN (for himself, Mr. DAYTON, and Mr. DEWINE):

S. 2069. A bill to improve the safety of all-terrain vehicles in the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SCHUMER:

S. 2070. A bill to provide certain requirements for hydroelectric projects on the Mohawk River in the State of New York; to the Committee on Energy and Natural Resources.

By Ms. SNOWE (for herself, Mr. BINGAMAN, Ms. COLLINS, Mr. DORGAN, and Mr. ROCKEFELLER):

S. 2071. A bill to amend title XVIII of the Social Security Act to clarify congressional intent regarding the counting of residents in the nonhospital setting under the medicare program; to the Committee on Finance.

By Mr. REID:

S. 2072. A bill to provide for the conveyance of certain public lands in and around historic mining townsites in Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. CLINTON:

S. 2073. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for property owners who remove lead-based paint hazards; to the Committee on Finance.

By Mr. BINGAMAN (for himself, Mr. BAUCUS, Mr. DORGAN, Mrs. MURRAY, Ms. CANTWELL, and Mr. JOHNSON):

S. 2074. A bill to amend title XIX of the Social Security Act to provide for fair treatment of services furnished to Indians under the medicaid program, and for other purposes; to the Committee on Finance.

By Mr. DURBIN (for himself, Mr. HAGEL, Mr. LUGAR, Mr. KENNEDY, Mr. MCCAIN, Mr. LEAHY, Mr. COLEMAN, Mr. LIEBERMAN, Mr. CRAIG, Mr. FEINGOLD, Mr. DEWINE, Mr. OBAMA, and Mr. CRAPO):

S. 2075. A bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children, and for other purposes; to the Committee on the Judiciary.

By Mr. LEAHY (for himself, Mr. HATCH, Ms. MIKULSKI, Mr. DURBIN, Mr. DEWINE, Mr. BIDEN, Mrs. FEINSTEIN, Mr. FEINGOLD, Mr. SMITH, Mr. DODD, Mr. CHAMBLISS, Mr. ROCKEFELLER, Mr. LIEBERMAN, Mrs. BOXER, Mr. WYDEN, Mr. NELSON of Florida, and Mr. CORZINE):

S. 2076. A bill to amend title 5, United States Code, to provide to assistant United States attorneys the same retirement benefits as are afforded to Federal law enforcement officers; to the Committee on Homeland Security and Governmental Affairs.

By Mr. SESSIONS:

S. 2077. A bill to amend the Internal Revenue Code of 1986 to allow income averaging for private forest landowners; to the Committee on Finance.

By Mr. MCCAIN:

S. 2078. A bill to amend the Indian Gaming Regulatory Act to clarify the authority of the National Indian Gaming Commission to regulate class III gaming, to limit the lands eligible for gaming, and for other purposes; to the Committee on Indian Affairs.

By Mr. SMITH (for himself, Mr. THUNE, Mr. ALLARD, Mr. BURNS, and Mr. THOMAS):

S. 2079. A bill to improve the ability of the Secretary of Agriculture and the Secretary of the Interior to promptly implement recovery treatments in response to catastrophic events affecting the natural resources of Forest Service land and Bureau of Land Management land, respectively, to support the recovery of non-Federal land damaged by catastrophic events, to assist impacted communities, to revitalize Forest Service experimental forests, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ENSIGN (for himself and Mr. DURBIN):

S. Res. 320. A resolution calling the President to ensure that the foreign policy of the United States reflects appropriate understanding and sensitivity concerning issues related to human rights, ethnic cleansing, and genocide documented in the United States record relating to the Armenian Genocide; to the Committee on Foreign Relations.

By Mr. DEWINE (for himself and Mr. HARKIN):

S. Res. 321. A resolution commemorating the life, achievements, and contributions of Alan A. Reich; to the Committee on the Judiciary.

By Mr. BIDEN (for himself, Mr. MCCAIN, and Mr. OBAMA):

S. Res. 322. A resolution expressing the sense of the Senate on the trial, sentencing and imprisonment of Mikhail Khodorkovsky and Platon Lebedev; considered and agreed to.

By Mr. COLEMAN (for himself, Mr. WARNER, Mr. PRYOR, Mr. SMITH, Mr. DEMINT, Mr. BENNETT, Mr. NELSON of Florida, Mr. KYL, Mr. ALLEN, Mr. MARTINEZ, Mr. BUNNING, and Mr. CHAMBLISS):

S. Res. 323. A resolution expressing the sense of the Senate that the United Nations and other international organizations should not be allowed to exercise control over the Internet; considered and agreed to.

By Mr. MCCAIN (for himself, Mr. BIDEN, and Mr. LUGAR):

S. Res. 324. A resolution expressing support for the people of Sri Lanka in the wake of the tsunami and the assassination of the Sri Lankan Foreign Minister and urging support and respect for free and fair elections in Sri Lanka; considered and agreed to.

By Mr. LOTT:

S. Res. 325. A resolution to authorize the printing of a revised edition of the Senate Election Law Guidebook; considered and agreed to.

By Mr. CHAMBLISS (for himself, Mr. ISAKSON, and Mrs. LINCOLN):

S. Res. 326. A resolution designating November 27, 2005, as ''Drive Safer Sunday.''; considered and agreed to.

By Mr. FEINGOLD (for himself, Mr. DODD, and Mr. LEAHY):

S. Res. 327. A resolution remembering and commemorating the lives and work of Maryknoll Sisters Maura Clarke and Ita Ford, Ursuline Sister Dorothy Kazel, and Cleveland Lay Mission Team Member Jean Donovan, who were executed by members of the Armed Forces of El Salvador on December 2, 1980; to the Committee on Foreign Relations.

By Mr. ENZI (for himself, Mr. KENNEDY, Mr. ROBERTS, Mr. REED, Mr. BURR, Mr. JEFFORDS, Mr. GREGG, Mrs. MURRAY, Mr. HATCH, Mrs. CLINTON, Mr. DEWINE, Mr. BINGAMAN, Ms. MIKULSKI, Mr. HARKIN, and Mr. DODD):

S. Res. 328. A resolution recognizing the 30th anniversary of the enactment of the Education for All Handicapped Children Act of 1975 and reaffirming the commitment of Congress to the Individuals with Disabilities Education Act so that all children with disabilities receive a free appropriate public education in the least restrictive environment; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ROBERTS (for himself and Mr. BROWNBACK):

S. Res. 329. A resolution congratulating Coach Bill Snyder for his achievements during 17 years as the head football coach of the Kansas State University Wildcats; to the Committee on the Judiciary.

By Mr. COLEMAN:

S. Con. Res. 67. A concurrent resolution urging Japan to honor its commitments under the 1986 Market-Oriented Sector-Selective (MOSS) Agreement on Medical Equipment and Pharmaceuticals, and for other purposes; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 103

At the request of Mrs. FEINSTEIN, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 103, a bill to respond to the illegal production, distribution, and use of methamphetamine in the United States, and for other purposes.

S. 291

At the request of Mr. ENSIGN, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 291, a bill to require the withholding of United States contributions to the United Nations until the President certifies that the United Nations is cooperating in the investigation of the United Nations Oil-for-Food Program.

S. 333

At the request of Mr. SANTORUM, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 333, a bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

S. 418

At the request of Mr. ENZI, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 418, a bill to protect members of the Armed Forces from unscrupulous practices regarding sales of insurance, financial, and investment products.

S. 453

At the request of Mr. SMITH, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 453, a bill to amend section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide for an extension of eligibility for supplemental security income through fiscal year 2008 for refugees, asylees, and certain other humanitarian immigrants.

S. 633

At the request of Mr. JOHNSON, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 633, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 877

At the request of Mr. DOMENICI, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 877, a bill to provide for a biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government.

S. 1016

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of S. 1016, a bill to direct the Secretary of Energy to make incentive payments to the owners or operators of qualified desalination facilities to partially offset the cost of electrical energy required to operate the facilities, and for other purposes.

S. 1023

At the request of Mr. DODD, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1023, a bill to provide for the establishment of a Digital Opportunity Investment Trust.

S. 1120

At the request of Mr. DURBIN, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1120, a bill to reduce hunger in the United States by half by 2010, and for other purposes.

S. 1139

At the request of Mr. SANTORUM, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. DODD) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 1139, a bill to amend the Animal Welfare Act to strengthen the ability of the Secretary of Agriculture to regulate the pet industry.

S. 1151

At the request of Mr. MCCAIN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1151, a bill to provide for a program to accelerate the reduction of greenhouse gas emissions in the United States by establishing a market-driven system of greenhouse gas tradeable allowances, to limit greenhouse gas emissions in the United States and reduce dependence upon foreign oil, to support the deployment of new climate change-related technologies, and ensure benefits to consumers.

S. 1264

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 1264, a bill to provide for the provision by hospitals of emergency contraceptives to women, and post-exposure prophylaxis for sexually transmitted disease to individuals, who are survivors of sexual assault.

S. 1272

At the request of Mr. NELSON of Nebraska, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1272, a bill to amend title 46, United States Code, and title II of the Social Security Act to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II.

At the request of Mrs. CLINTON, her name was added as a cosponsor of S. 1272, supra.

S. 1504

At the request of Mr. ENSIGN, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1504, a bill to establish a market driven telecommunications marketplace, to eliminate government managed competition of existing communication service, and to provide parity between functionally equivalent services.

S. 1597

At the request of Mr. ENZI, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1597, a bill to award posthumously a Congressional gold medal to Constantino Brumidi.

S. 1719

At the request of Mr. INOUYE, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1719, a bill to provide for the preservation of the historic confinement sites where Japanese Americans were detained during World War II, and for other purposes.

S. 1779

At the request of Mr. AKAKA, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 1779, a bill to amend the Humane Methods of Livestock Slaughter Act of 1958 to ensure

the humane slaughter of nonambulatory livestock, and for other purposes.

S. 1780

At the request of Mr. SANTORUM, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 1780, a bill to amend the Internal Revenue Code of 1986 to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low-income Americans to gain financial security by building assets, and for other purposes.

S. 1841

At the request of Mr. NELSON of Florida, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Illinois (Mr. OBAMA) were added as cosponsors of S. 1841, a bill to amend title XVIII of the Social Security Act to provide extended and additional protection to Medicare beneficiaries who enroll for the Medicare prescription drug benefit during 2006.

S. 1969

At the request of Mr. BAUCUS, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1969, a bill to express the sense of the Senate regarding Medicaid reconciliation legislation to be reported by a conference committee during the 109th Congress.

S. 2006

At the request of Mr. INHOFE, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 2006, a bill to provide for recovery efforts relating to Hurricanes Katrina and Rita for Corps of Engineers projects.

S. 2019

At the request of Mr. SMITH, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2019, a bill to provide for a research program for remediation of closed methamphetamine production laboratories, and for other purposes.

S. 2046

At the request of Mr. DEWINE, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2046, a bill to establish a National Methamphetamine Information Clearinghouse to promote sharing information regarding successful law enforcement, treatment, environmental, social services, and other programs related to the production, use, or effects of methamphetamine and grants available for such programs, and for the other purposes.

S. RES. 302

At the request of Mr. BINGAMAN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. Res. 302, a resolution to express the sense of the Senate regarding the impact of medicaid reconciliation legislation on the health and well-being of children.

S. RES. 319

At the request of Ms. MIKULSKI, the names of the Senator from Maryland (Mr. SARBANES), the Senator from New Mexico (Mr. BINGAMAN) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. Res. 319, a resolution commending relief efforts in response to the earthquake in South Asia and urging a commitment by the United States and the international community to help rebuild critical infrastructure in the affected areas.

AMENDMENT NO. 2365

At the request of Mr. BINGAMAN, the names of the Senator from Wisconsin (Mr. KOHL) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of amendment No. 2365 proposed to S. 1932, an original bill to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95).

AMENDMENT NO. 2601

At the request of Mr. NELSON of Florida, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of amendment No. 2601 proposed to S. 2020, an original bill to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. CLINTON (for herself, Mr. DEWINE, Mr. OBAMA, and Mr. SMITH):

S. 2053. A bill to amend to amend the Internal Revenue Code of 1986 to provide a tax credit for property owners who remove lead-based paint hazards; to the Committee on Finance

Mrs. CLINTON. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2053

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

SECTION 1. SHORT TITLE; FINDINGS; PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the ''Home Lead Safety Tax Credit Act of 2005''.

(b) FINDINGS.—Congress finds that:

(1) Of the 98,000,000 housing units in the United States, 38,000,000 have lead-based paint.

(2) Of the 38,000,000 housing units with lead-based paint, 25,000,000 pose a hazard, as defined by Environmental Protection Agency and Department of Housing and Urban Development standards, due to conditions such as peeling paint and settled dust on floors and windowsills that contain lead at levels above Federal safety standards.

(3) Though the number of children in the United States ages 1 through 5 with blood levels higher than the Centers for Disease Control action level of 10 micrograms per deciliter has declined to 300,000, lead poisoning remains a serious, entirely preventable threat to a child's intelligence, behavior, and learning.

(4) The Secretary of Health and Human Services has established a national goal of ending childhood lead poisoning by 2010.

(5) Current Federal lead abatement programs, such as the Lead Hazard Control Grant Program of the Department of Housing and Urban Development, only have resources sufficient to make approximately 7,000 homes lead-safe each year. In many cases, when State and local public health departments identify a lead-poisoned child, resources are insufficient to reduce or eliminate the hazards.

(6) Old windows typically pose significant risks because wood trim is more likely to be painted with lead-based paint, moisture causes paint to deteriorate, and friction generates lead dust. The replacement of old windows that contain lead based paint significantly reduces lead poisoning hazards in addition to producing significant energy savings.

(7) Childhood lead poisoning can be dramatically reduced by the abatement or complete removal of all lead-based paint. Empirical studies also have shown substantial reductions in lead poisoning when the affected properties have undergone so-called ''interim control measures'' that are far less costly than abatement.

(c) PURPOSE.—The purpose of this section is to encourage the safe removal of lead hazards from homes and thereby decrease the number of children who suffer reduced intelligence, learning difficulties, behavioral problems, and other health consequences due to lead-poisoning.

SEC. 2. HOME LEAD HAZARD REDUCTION ACTIVITY TAX CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

''SEC. 30D. HOME LEAD HAZARD REDUCTION ACTIVITY.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the lead hazard reduction activity cost paid or incurred by the taxpayer during the taxable year for each eligible dwelling unit.

''(b) LIMITATION.—The amount of the credit allowed under subsection (a) for any eligible dwelling unit for any taxable year shall not exceed—

''(1) either—

''(A) $3,000 in the case of lead hazard reduction activity cost including lead abatement measures described in clauses (i), (ii), (iv) and (v) of subsection (c)(1)(A), or

''(B) $1,000 in the case of lead hazard reduction activity cost including interim lead control measures described in clauses (i), (iii), (iv), and (v) of subsection (c)(1)(A), reduced by

''(2) the aggregate lead hazard reduction activity cost taken into account under subsection (a) with respect to such unit for all preceding taxable years.

''(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

''(1) LEAD HAZARD REDUCTION ACTIVITY COST.—

''(A) IN GENERAL.—The term 'lead hazard reduction activity cost' means, with respect to any eligible dwelling unit—

''(i) the cost for a certified risk assessor to conduct an assessment to determine the presence of a lead-based paint hazard,

''(ii) the cost for performing lead abatement measures by a certified lead abatement supervisor, including the removal of paint and dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of painted surfaces, windows, or fixtures, or the removal or permanent covering of soil when lead-based paint hazards are present in such paint, dust, or soil,

''(iii) the cost for performing interim lead control measures to reduce exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards, and the establishment and operation of management and resident education programs, but only if such measures are evaluated and completed by a certified lead abatement supervisor using accepted methods, are conducted by a qualified contractor, and have an expected useful life of more than 10 years,

''(iv) the cost for a certified lead abatement supervisor, those working under the supervision of such supervisor, or a qualified contractor to perform all preparation, cleanup, disposal, and clearance testing activities associated with the lead abatement measures or interim lead control measures, and

''(v) costs incurred by or on behalf of any occupant of such dwelling unit for any relocation which is necessary to achieve occupant protection (as defined under section 35.1345 of title 24, Code of Federal Regulations).

''(B) LIMITATION.—The term 'lead hazard reduction activity cost' does not include any cost to the extent such cost is funded by any grant, contract, or otherwise by another person (or any governmental agency).

''(2) ELIGIBLE DWELLING UNIT.—

''(A) IN GENERAL.—The term 'eligible dwelling unit' means, with respect to any taxable year, any dwelling unit—

''(i) placed in service before 1960,

''(ii) located in the United States,

''(iii) in which resides, for a total period of not less than 50 percent of the taxable year, at least 1 child who has not attained the age of 6 years or 1 woman of child-bearing age, and

''(iv) each of the residents of which during such taxable year has an adjusted gross income of less than 185 percent of the poverty line (as determined for such taxable year in accordance with criteria established by the Director of the Office of Management and Budget).

''(B) DWELLING UNIT.—The term 'dwelling unit' has the meaning given such term by section 280A(f)(1).

''(3) LEAD-BASED PAINT HAZARD.—The term 'lead-based paint hazard' has the meaning given such term by section 745.61 of title 40, Code of Federal Regulations.

''(4) CERTIFIED LEAD ABATEMENT SUPERVISOR.—The term 'certified lead abatement supervisor' means an individual certified by the Environmental Protection Agency pursuant to section 745.226 of title 40, Code of Federal Regulations, or an appropriate State agency pursuant to section 745.325 of title 40, Code of Federal Regulations.

''(5) CERTIFIED INSPECTOR.—The term 'certified inspector' means an inspector certified by the Environmental Protection Agency pursuant to section 745.226 of title 40, Code of Federal Regulations, or an appropriate State agency pursuant to section 745.325 of title 40, Code of Federal Regulations.

''(6) CERTIFIED RISK ASSESSOR.—The term 'certified risk assessor' means a risk assessor certified by the Environmental Protection Agency pursuant to section 745.226 of title 40, Code of Federal Regulations, or an appropriate State agency pursuant to section 745.325 of title 40, Code of Federal Regulations.

''(7) QUALIFIED CONTRACTOR.—The term 'qualified contractor' means any contractor who has successfully completed a training course on lead safe work practices which has been approved by the Department of Housing and Urban Development and the Environmental Protection Agency.

''(8) DOCUMENTATION REQUIRED FOR CREDIT ALLOWANCE.—No credit shall be allowed under subsection (a) with respect to any eligible dwelling unit for any taxable year unless—

''(A) after lead hazard reduction activity is complete, a certified inspector or certified risk assessor provides written documentation to the taxpayer that includes—

''(i) evidence that—

''(I) the eligible dwelling unit passes the clearance examinations required by the Department of Housing and Urban Development under part 35 of title 40, Code of Federal Regulations,

''(II) the eligible dwelling unit does not contain lead dust hazards (as defined by section 745.227(e)(8)(viii) of such title 40), or

''(III) the eligible dwelling unit meets lead hazard evaluation criteria established under an authorized State or local program, and

''(ii) documentation showing that the lead hazard reduction activity meets the requirements of this section, and

''(B) the taxpayer files with the appropriate State agency and attaches to the tax return for the taxable year—

''(i) the documentation described in subparagraph (A),

''(ii) documentation of the lead hazard reduction activity costs paid or incurred during the taxable year with respect to the eligible dwelling unit, and

''(iii) a statement certifying that the dwelling unit qualifies as an eligible dwelling unit for such taxable year.

''(9) BASIS REDUCTION.—The basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit (determined without regard to subsection (d)).

''(10) NO DOUBLE BENEFIT.—Any deduction allowable for costs taken into account in computing the amount of the credit for lead-based paint abatement shall be reduced by the amount of such credit attributable to such costs.

''(d) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(2) the sum of the credits allowable under subpart A and sections 27, 29, 30, 30A, 30B, and 30C for the taxable year.

''(e) CARRYFORWARD ALLOWED.—

''(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (d) for such taxable year (referred to as the 'unused credit year' in this subsection), such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

''(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) of the Internal Revenue Code of 1986 is amended by striking ''and'' in paragraph (36), by striking the period and inserting '', and'' in paragraph (37), and by inserting at the end the following new paragraph:

''(38) in the case of an eligible dwelling unit with respect to which a credit for any lead hazard reduction activity cost was allowed under section 30D, to the extent provided in section 30D(c)(9).''.

(2) The table of sections for subpart B of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 30C the following new item:

''Sec. 30D. Home lead hazard reduction activity.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to lead hazard reduction activity costs incurred after December 31, 2005, in taxable years ending after that date.

Mr. OBAMA. Mr. President, today I rise in support of Senator CLINTON's bill which would provide tax credits of $1,000 to $3,000 to property owners who eliminate or contain lead-based paint hazards in homes where low-income young children or women of child-bearing age live.

Children who eat lead paint chips ingest a highly toxic substance that can produce a range of health effects including reduced IQ, reading and learning disabilities, reduced attention spans, kidney damage, and hyperactivity. The sad fact is that there are still over 400,000 children suffering from lead poisoning in this country, many of them poor and many of them minorities. My home State, Illinois, is the State with the highest number of these children.

The loss of IQ and ability to learn affects these children and their families for the rest of their lives and imposes an economic burden on the rest of us because of their reduced productivity.

I urge my colleagues to join Senators CLINTON, SMITH, DEWINE, and me in preventing future lead poisonings by giving property owners a tax incentive to eliminate this problem.

By Mr. KERRY:

S. 2055. A bill to amend titles 10 and 14, United States Code, to provide for the use of gold in the metal content of the Medal of Honor; to the Committee on Banking, Housing, and Urban Affairs.

Mr. KERRY. Mr. President, today I introduce a bill requiring that the Congressional Medal of Honor be made out of 90 percent gold instead of gold-plated brass as is currently the case.

The Congressional Medal of Honor is the highest award our country bestows for valor in action against an enemy force. Its recipients are ordinary Americans who perform extraordinary deeds in battle, often giving their lives.

This is the medal awarded posthumously to Sergeant First Class Paul R. Smith. Under attack at Baghdad International Airport, Sergeant Smith quickly organized the defense of his position, engaging a company-sized enemy force. He showed no concern for his own personal safety when in the face of hostile-fire he mounted an armored personnel carrier and manned a .50 caliber machine gun. As the citations accompanying his award put it, ''In total disregard for his own life, he maintained his exposed position in order to engage the attacking enemy force. During this action, he was mortally wounded. His courageous actions helped defeat the enemy attack, and resulted in as many as 50 enemy soldiers killed, while allowing the safe withdrawal of numerous wounded soldiers.''

This is the medal won by Captain Humbert Roque Versace. During an intense attack by the Viet Cong in the Xuyen Province, Captain Versace was wounded twice while engaging the enemy but continued to fight until exhaustion and lack of ammunition led to his capture. The citation accompanying his award reads: ''Taken prisoner by the Viet Cong, he exemplified the tenets of the Code of Conduct from the time he entered into Prisoner of War status. Captain Versace assumed command of his fellow American soldiers, scorned the enemy's exhaustive interrogation and indoctrination efforts, and made three unsuccessful attempts to escape, despite his weakened condition which was brought about by his wounds and the extreme privation and hardships he was forced to endure. During his captivity, Captain Versace was segregated in an isolated prisoner of war cage, manacled in irons for prolonged periods of time, and placed on extremely reduced ration. The enemy was unable to break his indomitable will, his faith in God, and his trust in the United States of America. Captain Versace, an American fighting man who epitomized the principles of his country and the Code of Conduct, was executed by the Viet Cong on 26 September 1965.''

This is the medal won by Marine Corps Second Lieutenant Robert Dale Reem, who on the night of November 6, 1950, after leading three separate assaults on an enemy position in the vicinity of Chinhung-ni, Korea, threw himself on top of an enemy grenade that landed amidst his men.

This is the medal won by Lieutenant, Junior Grade, Donald Gary, who, while serving aboard the U.S.S. *Franklin* on July 23, 1945, calmly led his crewmates to safety after their ship was attacked. His citation reads: ''Stationed on the third deck when the ship was rocked by a series of violent explosions set off in her own ready bombs, rockets, and ammunition by the hostile attack, Lt. (j.g.) Gary unhesitatingly risked his life to assist several hundred men trapped in a messing compartment filled with smoke, and with no apparent egress. As the imperiled men below decks became increasingly panic stricken under the raging fury of incessant explosions, he confidently assured them he would find a means of effecting their release and, groping through the dark, debris-filled corridors, ultimately discovered an escapeway. Staunchly determined, he struggled back to the messing compartment three times despite menacing flames, flooding water, and the ominous threat of sudden additional explosions, on each occasion calmly leading his men through the blanketing pall of smoke until the last one had been saved.''

As I have said previously, those who earned these medals are the stuff of legend. But they are more than legends. They are actual people whose deeds inspire humility and gratitude in all of us. In bestowing the Congressional Medal of Honor, the president enrolls the recipient in a sacred club of heroes.

The medal itself, however, while invaluable in significance and tribute, does not do enough to show our appreciation. The medal is gold in color but is actually brass plated with gold and only costs approximately $30 to produce. Other Congressional medals given to foreign dignitaries, famous entertainers, and other worthy citizens can cost $30,000 to produce. Now I will be the first to tell you that I believe the value of this medal is found in the deeds of every American who has earned it. But also believe that we can do better.

Put simply, this legislation will forge a medal more worthy of the esteem with which the Nation holds those few who have earned the Congressional Medal of Honor through valor and heroism beyond compare.

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. 2055

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

SECTION 1. GOLD CONTENT FOR MEDAL OF HONOR.

(a) REQUIREMENT FOR GOLD CONTENT.—Sections 3741, 6241, and 8741 of title 10, United States Code, and section 491 of title 14, United States Code, are each amended by inserting after ''appropriate design,'' the following: ''the metal content of which is 90 percent gold and 10 percent alloy and''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to any Medal of Honor awarded after the date of the enactment of this Act.

By Mr. ALLEN (for himself and Mr. WARNER):

S. 2056. A bill to require the Secretary of the Treasury to redesign $1 Federal reserve notes so as to incorporate the preamble of the Constitution of the United States, a list describing the Articles of the Constitution, and a list describing the amendments to the Constitution, on the reverse side of such note; to the Committee on Banking, Housing, and Urban Affairs.

Mr. ALLEN. Mr. President, I rise today to introduce a piece of legislation that is designed to honor the document allows us to all be here today. The document I am referring to is the Constitution of the United States of America, the greatest and longest lasting political document in the history of the world. Drafted in part by the great patriot Thomas Jefferson, this document sets forth both the structure of our government and the fundamental freedoms we enjoy every day. Ingenious by its simplicity, the Constitution is a living breathing document that has allowed our country to evolve from 13 colonies who banded together to win her independence from Great Britain to the most powerful Nation in the world. While this document has created a strong national government that is unrivaled in the world, it has also kept the power in the States to decide how to govern themselves. As governor of the Commonwealth of Virginia and now as United States Senator I have had the unique opportunity to experience how this ingenious system of federalism plays out in every action we take as leaders.

This legislation that I am introducing today will serve to remind all Americans of the freedoms embodied in the Constitution. For many of us, it has been a long time since we have had the opportunity to sit down and actually read this historic document. By placing the headings of the articles and the amendments on the back of the dollar bill, all people will have the chance to look at the provisions. I sincerely hope that when children take a look at the reverse side of a dollar bill, they will take the time to ask their parents about what they are reading so they can gain a better understanding of our great Nation and the principals our country was founded.

By looking at the order of the amendments to the constitution, students can also trace the history of our country. The amendments to the constitution embody the four pillars of a free and just society. The first of these pillars is freedom of religion, this important freedom is protected by the First Amendment which allows all people of all religions to freely practice their chosen religion without fear of government interference. The second pillar is the freedom of expression, which again is protected in the First Amendment. The third pillar is the private ownership of property. This important freedom is protected by the Fifth Amendment which limits the government's power to take private property. This freedom is also protected in the Third. The fourth Amendment which protects citizens from being forced to quarter solders in their homes and protects private property from unreasonable searches and seizures respectively. The fourth pillar is the rule of law. Protection of the rule of law runs throughout the Constitution, most notably in the Sixth Amendment which guarantees the right to a speedy trial and the Fifth and Fourteenth Amendments which require due process of law.

Looking at the remaining amendments one can trace the evolution of the Constitution and the United States from the Thirteenth Amendment prohibiting slavery, to the Fifteenth Amendment providing for the right to vote regardless of race, the Nineteenth Amendment granting women the right to vote and the Twenty Fourth Amendment prohibiting the poll tax.

Throughout our history, hundreds of thousands of brave men and women have laid down their lives protecting the freedoms granted to us in the constitution. Having it been Veterans Day a few days ago, I feel it is high time

that we do all we can to publicize what these freedom are that we hold so dearly.

Before I yield the floor I would like to recognize the contributions of one of my constituents, Mr. Randy Wright who teaches at Liberty Middle School in Hanover, VA. Mr. Wright brought this idea to my attention several years ago and he along with his students over the years have been instrumental is providing support for this piece of legislation. I therefore urge my colleagues to join me in support this legislation.

By Mrs. CLINTON (for herself, Mr. HARKIN, Mr. DURBIN, Mr. KENNEDY, Mr. KERRY, Ms. LANDRIEU, Mr. LAUTENBERG, and Mr. INOUYE):

S. 2057. A bill to establish State infrastructure banks for education, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. CLINTON. Mr. President, I rise today to introduce legislation co-sponsored with Senator HARKIN that would begin to rebuild America's schools. If approved, the Investing for Tomorrow's Schools Act would enable states to develop State Infrastructure Banks—a flexible and inexpensive way to finance school construction and renovation. This approach offers an innovative solution to the urgent problem of fixing deteriorating schools. Every dollar invested to create State Infrastructure Banks would be reused to support project after project in the form of loans and credit support.

According to the National Center for Education Statistics, three in four schools in America need assistance to come into ''good overall condition.'' Repairs and modernizations will cost, according to the National Education Association, $322 billion. New York State has a greater need than any other state—estimated at $51 billion. Just in New York City, schools are estimated to need $21 billion. The city's schools are so old that they would nearly qualify for social security, averaging 61-years-old.

Acute need for school repair and modernization exists nationwide. Need is estimated at $33 billion in California, $25 billion in Ohio, $22 billion in New Jersey, $13 billion in Texas, and $10 billion each in Illinois, Massachusetts, Michigan, Pennsylvania, and Utah. Nation-wide costs add up to $322 billion.

In 2005, an estimated $19.6 billion was spent nation-wide on school construction. At that rate, it will take more than 16 years to modernize school buildings. Last year in New York, $984 million was spent on school construction. At that rate, it will take more than 50 years to modernize New York's schools—and that's assuming that in the meantime we don't need to build more new schools and that no schools fall apart!

When students attend schools in disrepair, the consequences are all too clear.

An article from 2004 in the Poughkeepsie Journal described how, in Hyde Park, New York along the Hudson River, ventilation problems at the 45-year-old Franklin D. Roosevelt High School sickened students and staff causing watery eyes, headaches, nausea, and dizziness. I would like to include this article in the CONGRESSIONAL RECORD. State Infrastructure Banks would make funding available to address environmental hazards including poor ventilation and bad air quality. They would help more schools become healthy and high-performing.

An article in Newsday newspaper described how, in Hempstead New York, on Long Island, Prospect Elementary, a 100-year-old school, was closed in the fall of 2003 after administrators discovered a rodent problem, mold in the cafeteria, and a crumbling chimney in a classroom.

The Marguerite Golden Rhodes Elementary School was closed after state education officials found a gap between where the paint on the walls ended and where the ceiling began—an indication that either the wall or the ceiling was moving.

Hempstead High School was closed for a week, after a blackboard fell off a wall exposing asbestos left over from a botched cleanup in 1990. I'd like to include this article in the CONGRESSIONAL RECORD.

The school closures worsened overcrowding, as parents Celia Ridely and Olive Warner pointed out to Newsday and the New York Times. With schools in such poor condition, is it surprising that just 38 percent of students in Hempstead graduate from high school?

In Washingtonville, 54 miles north of New York City, the roof over a classroom in 44–year-old Taft Elementary collapsed. Fortunately the catastrophic collapse occurred in August of 2004, before the school year began, and no one was injured.

Unfortunately, the U-shaped joist which contributed to the collapse was popular in school construction across New York and throughout America from 1900 to the early 1970s. Many of these schools are still in operation. New York's Department of Education took the precaution of advising school districts to check similar joists to make sure they are in good condition.

The lack of funding for school construction can lead school districts to put off maintenance. Paul Abramson, a consultant based in Westchester County, New York told a school construction website, ''What happens, unfortunately, is [that] school districts cut down on maintenance.''

Barbara Knisely-Michelman of the American Association of School Administrators said, ''It comes down to the issue of resource. If school administrators had unlimited resources, [maintenance] would be at the top of the agenda.''

We can do better. Schoolchildren should not have to contend with falling-down schools. The lack of adequate school buildings hampers today' s most promising and innovative efforts to boost student achievement.

Charter schools hold the promise of expanding the supply of high-quality public schools, especially in disadvantaged communities. But most charter schools have limited credit histories and lack access to public school facilities or traditional funding streams such as bonds. One in three charter school operators report that school construction costs are a major obstacle to their schools' success.

The No Child Left Behind Act promised that children in underperforming schools would have the opportunity to transfer to better public schools. But in many communities, more students seek transfers than are spaces available. In New York City last year, 33,000 students applied to transfer out of underperforming schools but only 7,000 could be accommodated.

Charter school operators should have access to affordable financing for school construction. Schoolchildren promised public school choice should be able to exercise that right. Innovative reforms should not be blocked by inadequate school buildings.

In 2004, an editorialist for Newsday newspaper on Long Island wrote, ''School construction is one area where the federal government could do more. Little . . . has been heard on the subject since the late 90s—that's a shame. . . . Money must be found to keep schools safe, functional, and welcoming places.''

Senator HARKIN and I agree. That's why today we are introducing the Investing for Tomorrow's Schools Act. At the heart of our proposal is the creation of State Infrastructure Banks, which would improve financing for school construction. This financing mechanism has been used since the Reagan Administration to help local communities fund water treatment and clean water facilities and transportation projects. For example, my own State of New York received $2.48 billion in Federal support for its Clean Water State Revolving Fund between 1989 and 2004. It leveraged that money into more than $10 billion of loans to local communities.

For example, State Infrastructure Banks would offer school districts a flexible menu of loan and credit enhancement assistance, such as low interest loans, bond-financing security, loan guarantees, and credit support for financing projects, which result in lower interest rates.

State Infrastructure Banks would not strain Federal Treasury or the American taxpayer. After initial funding, they would require no ongoing federal appropriations. As each loan is repaid, the money can be offered as a new loan.

Passage of this bill would lay the groundwork for a robust system of State Infrastructure Banks that provide immediate aid to the neediest schools and help local communities

fund affordable construction far into the future.

This modest proposal is one piece of the school construction solution. I ask my Senate colleagues to join me today to pass this legislation without delay.

Mr. President, I ask unanimous consent that 2 articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From Poughkeepsie Journal, Dec. 9, 2004.]

VENTILATION BLAMED FOR FDR HIGH ILLNESSES

(By John Davis)

Ventilation problems were the cause of a rash of complaints about the air at Franklin D. Roosevelt High School in October and November, according to health officials.

After weeks of testing and monitoring conditions at the Hyde Park high school, Dutchess County Health Commissioner Dr. Michael Caldwell recently relayed his findings in a letter to Hyde Park schools Superintendent Carole Pickering.

''The reported symptoms and effects among students and staff in the school are consistent with those reported in a building with inadequate ventilation,'' Caldwell wrote.

In response to the complaints by students and staff reporting headaches, dizziness and watery eyes, the county health department considered a number of factors as being the source of the problem.

The health department has ruled out mold, toxic agents or germs as being the culprit.

''Recent modifications made to the school's ventilation system appear to have had a beneficial effect upon the FDR high school community,'' Caldwell noted in his letter.

Pickering expressed sympathy Wednesday for those who suffered during the period of the air problem.

''I regret that even one single person was ill due to the air quality problems over the last seven weeks,'' Pickering said in a prepared statement Wednesday. ''We will continue to monitor FDR and to proactively assess heating and ventilation systems in all our buildings.''

[From Daily News (New York), Nov. 21, 2004.]

IT'S A FOUL SCHOOL STEW—FIRINGS, PROBES AND LAWSUITS IN HEMPSTEAD

(By Laura Williams)

It already seemed more than the Hempstead School District could bear. Asbestos and mold forced school closings. The school board abruptly fired the superintendent. Board members were suing each other amid accusations of corruption.

Then last week came word that the State Education Department is launching an investigation into financial hanky-panky by school board members. That revelation, in fact, was welcome news to fed-up parents.

Board members ''cannot get through a school board meeting without arguing about which friend is going to benefit and how they're going to get money back from the district,'' said Ron Mazile, co-chairman of Hempstead Parents Community United.

The investigation will be conducted in addition to an in-depth audit of the district's books being done by State Controller Alan Hevesi.

As if all that weren't enough, a Hempstead High student was stabbed to death near the school Tuesday. A former gang member was arrested, and cops were seeking two more suspects last week.

And there's still more: the school district is facing $100 million worth of lawsuits, included in these are suits filed by school employees making charges of sexual harassment and discrimination. In addition, school board member Thomas Parsley is suing colleague Ralph Schneider over something personal.

Parsley himself was charged in September with stealing an ATM card from a principal, though he has said the charge was politically motivated.

Neither the district superintendent nor any of the five board members returned repeated calls.

The 6,800-student district is struggling with the problems that plague so many financially-strapped communities. Almost three-quarters of the Hempstead district's students qualify for free lunch.

Less than 40% of its high school students graduate, compared to wealthy next-door neighbor Garden City, where 99% graduate. Reading and math scores continue to lag behind the county average.

And school buildings have not been properly maintained.

Prospect Elementary was closed last year after mold was discovered in the cafeteria. Marguerite Golden Rhodes Elementary School also was closed after it appeared the building was shifting dangerously. Both schools' students are attending classes held in trailers.

Last year, a problem with the hot water heater sickened staffers and students at Alverta Bray Schultz Middle School, which also was found to be serving spoiled food in its cafeteria. And Hempstead High was shut down for a week last year after a chalkboard fell, exposing asbestos.

Amid all these problems, the school board last month fired Superintendent Nathaniel Clay, replacing him with Susan Johnson.

Johnson, who was fired as the district's director of personnel just two months before getting the top job, had launched her own lawsuit against the district, charging wrongful termination.

Parents are planning a Dec. 4 rally and march—from Village Hall to school district offices—in an attempt to get local school leaders to perform dutifully.

''Taxpayers, parents and students are fuming,'' Mazile said. ''We're going to hold their feet to fire.''

By Mr. FEINGOLD:

S. 2058. A bill to promote transparency and reduce anti-competitive practices in the radio and concert industries; to the Committee on Commerce, Science, and Transportation.

Mr. FEINGOLD. Mr. President, I am pleased to introduce legislation today that will promote openness and fair competition in the radio and concert industries.

I have followed the changes in the radio and concert industries since the 1996 Telecommunication Act with great concern. For years, I have heard complaints from my constituents about the increasing concentration of ownership in the radio and concert industries and, in turn, the increasingly uneven playing field for small radio stations and independent concert promoters. For consumers this has meant less diversity, less local content and growing dissatisfaction with the radio and concerts they are offered.

Most recently in the last Congress, I introduced broad legislation to address ownership consolidation and the anti-competitive practices common in the industry. These practices include tacit or explicit pay-for-play, or ''payola,'' payments, and corporate radio stations putting untoward pressure on artists to play at the same corporation's venues use affiliated concert promoters. While I continue to be concerned by consolidation and believe this centralization exacerbates the potential for abuse, the bill I introduce today focuses instead on the anti-competitive practices, whether they occur at a radio station group of a handful of stations or one that owns thousands of stations.

Some might question why we need added scrutiny and accountability for the radio and concert industries specifically. Besides the unique role radio plays for communication and entertainment in each American's life, radio also is, in a sense, a public-private partnership. With radio's use of the public airwaves, it also has a responsibility to serve the public good.

The abuses within the radio and concert industry are not entirely new. In fact, problems have occasionally sprung up almost throughout the entire history of the medium. There almost seems to be a cyclical pattern as the payola is rooted out and then several years later is reincarnated in slightly different form to grow to become pervasive again. So while the original payola practices predated the recent rapid consolidation in the industry, the concentration of power has made the problem more widespread and its effects possibly more severe on local stations, promoters, artists and consumers.

While paying a radio station or radio station employee to play a certain song without telling the audience has a long history in radio, this does not make the fraud and bribery any more acceptable. In the 1950s, the practice was relatively simple. Artists, their labels or managers would often directly bribe DJs to play their songs either in cash or through other consideration. When this practice became public, there were investigations and Congress and the Federal Communications Commission (FCC) took actions to block this payola.

The most recent incarnation of payola takes a more complicated and sophisticated—corporate, if you will—approach to skirt the current rules that prevent direct pay-for-play. Indirect payments through independent music promoters have been an open secret, as have more direct payments, as the ground-breaking investigation of New York Attorney General Eliot Spitzer demonstrates. While the Spitzer investigation is ongoing, he has already uncovered significant abuses and this summer reached a $10 million settlement with a record label.

While not traditionally considered payola, there are other abuses of power over airplay decisions by radio stations and their corporate parents, especially when the conglomerate also owns concert promoters and venues. This cross-

ownership sets up a situation where the same corporation that is negotiating a contract for an artist to perform at its concert also controls the lifeblood of that artist's success—airplay of his or her songs. The result can be intense pressure on artists to play radio station-promoted shows and, often, to do so for less than the normal rate. This practice hurts the artist, hurts competing independent stations and promoters and, ultimately, hurts the listening public, which ends up choosing from songs on the radio that have been selected based on where and for whom the artist is performing a concert, and for the songs' artistic merit. Moreover, for any artist who deigns to refuse the direct or implied extortion from the conglomerate, as Don Henley's courageous testimony in a 2003 Commerce Committee hearing clearly explained, there is the risk of retaliation—either immediately or by boycotting the next single or album the artist produces. And with the consolidation in the industry, that boycott might not just be in one station in one market; it could be forty stations in many markets. Facing this kind of potential threat, you can see why even the most popular acts are afraid to speak publicly.

The bill I introduce today proposes a multi-faceted approach to the various entrenched forms of payola. The bill would simultaneously strengthen the FCC's ability to prove and punish violators, close the loophole allowing indirect payola, prevent cross-ownership from hindering fair competition, and, perhaps most importantly, increase transparency through disclosure of the payments to radio stations from artists, labels, promoters and others who may have an interest in improperly influencing airplay decisions.

The bill improves the FCC's ability to enforce payola violations through several means. It requires radio stations to make transactions with entities like record labels that might have an interest in influencing airplay on an ''arm's length basis.'' Moreover the bill requires record-keeping of such transactions and makes the records available to the FCC in the event of an investigation. In addition, the bill significantly increases penalties for payola violations and allows the FCC to consider revoking a station's license. As we have seen in the realm of indecency, multimillion dollar companies do not blink at the current fines of $10,000 per violation, but the prospect of putting a license in jeopardy will get their attention.

As I've already mentioned, the current payola rules were put in place for an earlier, simpler incarnation of the practice—the direct bribing of DJs and stations. Payola has changed, often going through third parties such as independent music promoters or under the guise of a legitimate transaction. The bill broadens the current rules to include these indirect payments, so no matter what tortured path money or other consideration travels, if it is for airplay and not disclosed, it is payola.

Cross-ownership of radio stations and concert promoters or venues poses a serious problem for fair competition. Without controls, the relationship injects the profitability of a concert and not artistic merit into airplay decisions. The bill would either prohibit this, in the case of cross-ownership, or place controls to ensure fair competition in the concert promotion industry.

The final element of the bill—increased transparency—hopefully will have the biggest impact by deterring payola in all its past, present and future incarnations. The bill requires radio stations to disclose all receipts of payments or consideration that could be used as a front for payola along with a list of the songs played every month, broken down by label and artist. While corporations may not fear the current hard-to-prove $10,000 fines, they do understand public relations. The potential for consumers and the media to use these records to connect the dots should have a chilling effect on the practice and may mean that the FCC Enforcement Bureau will rarely even need to be involved. But if problems persist, this bill will provide the Bureau with better powers and evidence to combat payola in all its forms.

Finally let me put this in context and remind my colleagues that radio stations use a public resource, the airwaves, to reach their listeners. With this use comes a responsibility to the public and an understanding that they accept a degree of increased scrutiny. My legislation strives to ensure that the public knows when it hears a song on the radio that it is because the station, the DJ, the public, or even a focus group, believes it has artistic merit and that it is something the listeners will enjoy. Too often, today's radio listeners are left to wonder whether a song was played because the station manager got a new laptop or because the station's parent company is producing the artist's upcoming concert.

It boils down to choices. This bill will reinstate choices, the fundamental basis of competition; choice for the artists to pick which concerts to play and who they want to promote their concerts; choices for the radio stations to play songs based on merit, or at least not based on narrow financial interests; and ultimately choices for consumers as artistic merit instead of the ability to pay carefully disguised bribes broadens the field of artists who can compete.

I am pleased that my bill has been endorsed by the following groups, and I am grateful for the input they have provided about problems in the radio and concert industries: the American Association of Independent Music/A2IM; the American Federation of Television and Radio Artists; the American Federation of Musicians of the United States and Canada; Consumers Union; Free Press; the Future of Music Coalition; the National Academy of Recording Arts and Sciences, Inc.; and the Recording Artists' Coalition. I urge my colleagues to join me and support this legislation to promote fair competition in the radio and concert industries. I urge my colleagues to join me and support this legislation to promote fair competition in the radio and concert industries.

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. 2058

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 ''Radio and Concert Disclosure and Competition Act of 2005''.

SEC. 2. DISCLOSURE REGULATIONS.

(a) MODIFICATION OF REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Federal Communications Commission shall modify its regulations under sections 317 and 507 of the Communications Act of 1934 (47 U.S.C. 317 and 508), to prohibit the licensee or permittee of any radio station, including any employee or affiliate of such licensee or permittee, from receiving money, services, or other valuable consideration, whether directly or indirectly, from a record company, recording artist, concert promoter, music promoter, or music publisher, or an agent or representative thereof, unless the licensee or permittee discloses at least monthly the receipt of such money, services, or other consideration to the Federal Communications Commission (in this Act referred to as the ''Commission'') and the public in a manner that the Commission shall specify.

(2) EXCEPTION.—The Commission in modifying its regulations as required under paragraph (1) may create an exception to the prohibition described under paragraph (1) for—

(A) transactions provided at nominal cost; or

(B) paid broadcasting disclosed under section 317 of the Communications Act of 1934 (47 U.S.C. 317), if the monthly disclosure described in paragraph (1) includes the proportion of total airplay considered paid broadcasting.

(b) PLAYLIST.—The monthly disclosure by a radio station licensee or permittee required under subsection (a) shall include a list of songs and musical recordings aired during the disclosure period, indicating the artist, record label, and number of times the song was aired.

SEC. 3. ARM'S LENGTH TRANSACTIONS.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Federal Communications Commission shall modify its regulations under sections 317 and 507 of the Communications Act of 1934 (47 U.S.C. 317 and 508), to require that all transactions between a licensee or permittee of any radio station, including any employee or affiliate of such licensee or permittee, and a record company, recording artist, concert promoter, music promoter, or music publisher, or an agent or representative thereof, shall be conducted at an arm's length basis with any such transaction reduced to writing and retained by the licensee or permittee for the period of the license term or 5 years, whichever is greater.

(b) RECORDS.—A record of each transaction described under subsection (a) shall be—

(1) made available upon request to—

(A) the Commission; and

(B) any State enforcement agency; and

(2) subject to a random audit by the Commission to ensure compliance on a basis to be determined by the Commission.

(c) EXEMPTION.—The Commission may create an exemption to the record keeping requirement described in subsection (b)—

(1) for a transaction that is of a nominal value; and

(2) for a radio station that is a small business, as recognized by the Commission and established by the Small Business Administration under section 121 of title 13, Code of Federal Regulations, if the Commission determines that such record keeping poses an undue burden to that small business.

SEC. 4. COMPETITION REGULATIONS.

Not later than 1 year after the date of the enactment of this Act, the Federal Communications Commission shall modify its regulations under sections 317 and 507 of the Communications Act of 1934 (47 U.S.C. 317 and 508), to accomplish the following:

(1) GENERAL PROHIBITION.—To prohibit the licensee of any radio station, including any parent, subsidiary, or affiliated entity of such licensee, from using its control over any non-advertising matter broadcast by such licensee to extract or receive money or any other form of consideration, whether directly or indirectly, from a record company, artist, concert promoter, or any agent or representative thereof.

(2) RADIO STATION CONCERTS.—

(A) IN GENERAL.—To prohibit a licensee or permittee of a commercial radio station, or affiliate thereof, from—

(i) engaging, receiving, making an offer for, or directly profiting from concert services of any musician or recording artist unless the licensee or permittee does not discriminate, in whole or in part, about the broadcast of non-advertising matter, including any sound recording, by that particular artist upon whether or not that artist performs at the radio station affiliated concert; and

(ii) engaging or receiving concert services of any musician or recording artist unless the licensee or permittee provides the musician or recording artist with compensation for such services at the fair market value for the performance.

(B) DEFINITION.—For purposes of subparagraph (A), the term ''fair market value'' shall include such factors as—

(i) the rate typically charged by the musician or recording artist for a concert of the size being put on for the station;

(ii) the expenses of the musician or recording artist to travel to, and perform at, the concert location; and

(iii) the length of the performance in relation to the standard duration for a concert by the musician or recording artist.

(C) LIMITATIONS AND EXCLUSIONS.—The provisions of this paragraph shall not—

(i) prohibit consideration for the concert services being made in the form of promotional value, cash, or a combination of both; or

(ii) apply to—

(I) a radio station that is a small business, as recognized by the Commission and established by the Small Business Administration under section 121 of title 13, Code of Federal Regulations;

(II) in-studio live interviews and performances; or

(III) concerts whose proceeds are intended and provided for charitable purposes.

(3) RADIO AND CONCERT CROSS-OWNERSHIP.—

(A) IN GENERAL.—To prohibit a licensee or permittee of a radio station, or affiliate thereof, from owning or controlling a concert promoter or venue primarily used for live concert performances.

(B) WAIVER.—The Commission may waive the prohibition required under subparagraph (A) if—

(i) the Commission determines that because of the nature of the cross-ownership and market served—

(I) the affected radio station, concert promoter, or venue would be subjected to undue economic distress or would not be economically viable if such provisions were enforced; and

(II) the anti-competitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the needs of the community to be served; and

(ii) the affected radio station, concert promoter, or venue demonstrates to the Commission that decisions regarding the broadcast of matter, including any sound recording, will be made at arm's length and not based, in whole or in part, upon whether or not the creator, producer, or promoter of such matter engages the services of the licensee or permittee, or an affiliate thereof.

SEC. 5. REVIEW OF TRANSACTIONS.

(a) IN GENERAL.—Upon petition by a musician, recording artist, or interested party, the Commission shall review any transaction entered into under section 3 or section 4.

(b) COPY OF PETITION.—A copy of any petition submitted to Commission under subsection (a) shall be provided by the person filing such petition to the licensee or permittee, or musician or recording artist, as applicable.

(c) PUBLIC DISCLOSURE.—If the Commission, after reviewing a petition submitted under subsection (a) finds a transaction violated any provision of this paragraph or section 3, the Commission shall publicly, after all parties have had a reasonable opportunity to comment, disclose its finding and grant appropriate relief.

SEC. 6. PENALTIES.

The regulations promulgated under sections 2, 3 and 4 shall set forth appropriate penalties for violations including an immediate hearing before the Commission upon the issuance of a notice of apparent liability or violation, with possible penalties to include license revocation.

SEC. 7. REPORT.

Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, the Commission shall issue a report to Congress and the public that—

(1) summarizes the disclosures made by licensees and permittees as required under section 2;

(2) summarizes the audits conducted by the Commission as required under section 3(b)(2);

(3) summarizes the cross-ownership waivers, if any, awarded by the Commission under section 4(3)(B);

(4) evaluates ownership concentration and market power in the radio industry in a manner similar to the most recent in the discontinued series of FCC reports, ''Radio Industry Review 2002: Trends in Ownership, Format, and Finance''; and

(5) describes any violations of section 2, 3, or 4, and penalty proceedings under section 6, and includes recommendations for any additional statutory authority the Commission determines would improve compliance with regulations issued under this Act.

SEC. 8. LICENSE REVOCATION.

Section 312(a) of the Communications Act of 1934 (47 U.S.C. 312) is amended—

(1) in paragraph (6), by striking ''; or'' and inserting a semicolon;

(2) in paragraph (7), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(8) for violation of or failure to follow any regulation established in accordance with section 2, 3, 4, or 6 of the Radio and Concert Disclosure and Competition Act of 2005.''.

SEC. 9. INCREASED MAXIMUM PENALTIES.

(a) PENALTIES FOR DISCLOSURE OF PAYMENTS TO INDIVIDUALS CONNECTED WITH BROADCASTS.—Section 507(g)(1) of the Communications Act of 1934 (47 U.S.C. 508(g)(1)) is amended by striking ''$10,000'' and inserting ''$50,000''.

(b) PENALTIES FOR PROHIBITED PRACTICES IN CONTESTS OF KNOWLEDGE, SKILL, OR CHANCE.—Section 508(c)(1) of the Communications Act of 1934 (47 U.S.C. 509(c)(1)) is amended—

(1) by striking ''$10,000'' and inserting ''$50,000''; and

(2) by inserting '', for each violation'' before the period.

By Mr. VOINOVICH (for himself and Mr. AKAKA):

S. 2060. A bill to extend the District of Columbia College Access Act of 1999 and make certain improvements; to the Committee on Homeland Security and Governmental Affairs.

Mr. VOINOVICH. Mr. President, today I rise to introduce legislation to reauthorize the District of Columbia Tuition Assistance Grant (D.C. TAG) program for five additional years. This program has had a tremendously beneficial impact on promoting higher education for high school graduates in our Nation's capital.

The aim of this program is to assist District students, who do not have access to state-supported education systems, in attending college. D.C. TAG scholarships are used by District residents to pay the difference between in-State and out-of-State tuition at State universities nationwide, up to $10,000 per student per school year, with a cumulative cap of $50,000 per student. In addition, since March 2002, District students attending private institutions in Maryland and Virginia, as well as Historically Black Colleges and Universities nationwide, started receiving tuition grants under the program of $2,500 per student per school year, with a cumulative cap of $12,500 per student.

Since the first grants were awarded in 2000, the program has dispersed over $98 million to 8,454 District students; many are the first in their family to attend college. Moreover, District high school graduating seniors have seen a 28 percent increase in college attendance. Seventy five percent of District students said that D.C. TAG made a difference in their decision to continue their education beyond high school. Sixty five percent of District students have indicated that D.C. TAG has enabled them to choose a college that best suits their educational needs.

Because of the great success and positive impact of this program, I propose to expand the program to private schools nationwide, thereby creating greater equity between all private colleges, while establishing a cap on program funding at the current appropriation of $33.2 million annually. In addition, this legislation will require the Mayor of the District of Columbia to submit an annual report to Congress on the program's status.

As Chairman of the District of Columbia authorizing subcommittee, leveling the playing field for high school graduates in the District and enhancing their educational opportunities continues to be a top priority. I urge all of my colleagues to support this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2060

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

SECTION 1. 5-YEAR REAUTHORIZATION OF TUITION ASSISTANCE PROGRAMS.

(a) PUBLIC SCHOOL PROGRAM.—Section 3(i) of the District of Columbia College Access Act of 1999 (sec. 38–2702(i), D.C. Official Code) is amended by striking ''each of the 7 succeeding fiscal years'' and inserting ''each of the 11 succeeding fiscal years''.

(b) PRIVATE SCHOOL PROGRAM.—Section 5(f) of such Act (sec. 38–2704(f), D.C. Official Code) is amended by striking ''each of the 7 succeeding fiscal years'' and inserting ''each of the 11 succeeding fiscal years''.

SEC. 2. EXPANSION TO PRIVATE SCHOOLS NATIONWIDE.

Section 5(c)(1)(A)(i) of the District of Columbia College Access Act of 1999 (sec. 38–2704(c)(1)(A)(i); D.C. Official Code) is amended by striking ''the main campus'' through the end and inserting ''located in the United States;''.

SEC. 3. CAPPED FUNDING.

Section 7 of the District of Columbia College Access Act of 1999 (sec. 38–2706; D.C. Official Code) is amended—

(1) in paragraph (2), by striking ''or'' after the semicolon;

(2) in paragraph (3), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(4) $33,200,000, in the case of the aggregate amount for fiscal year 2006 and each succeeding fiscal year.''.

SEC. 4. MAYOR'S REPORT.

Section 3(g) of the District of Columbia College Access Act of 1999 (sec. 38–2703(g); D.C. Official Code) is amended to read as follows:

''(g) MAYOR'S REPORT.—Not later than August 1, the Mayor shall report to Congress annually regarding:

''(1) The number of students applying for the program and the number of students graduating from the program.

''(2) The number of eligible students attending each eligible institution and the amount of the grant awards paid to those institutions on behalf of the eligible students.

''(3) The extent, if any, to which a ratable reduction was made in the amount of tuition and fee payments made on behalf of eligible students.

''(4) The progress in obtaining recognized academic credentials of the cohort of eligible students for each year.''.

By Mr. ENZI (for himself, Mr. ISAKSON, Mr. CRAIG, Mr. BURR, Mr. ROBERTS, Mr. SESSIONS, Mr. WARNER, and Mr. GREGG):

S. 2065. A bill to amend the Occupational Safety and Health Act of 1970 to further improve the safety and health of working environments, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ENZI (for himself, Mr. ISAKSON, Mr. CRAIG, Mr. BURR, Mr. ROBERTS, Mr. SESSIONS, Mr. GREGG, Mr. WARNER, and Mr. DEMINT):

S. 2066. A bill to amend the Occupational Safety and Health Act of 1970 to further improve the safety and health of working environments, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ENZI (for himself, Mrs. MURRAY, Mr. ISAKSON, Mr. BURR, Mr. SESSIONS, and Mr. GREGG):

S. 2067. A bill to assist chemical manufacturers and importers in preparing material safety data sheets pursuant to the requirements of the Hazard Communication standard and to establish a Commission to study and make recommendations regarding the implementation of the Globally Harmonized System of Classification and Labeling of Chemicals; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, I am pleased today to announce the introduction of legislation designed to improve our workplace health and safety. The Senate Committee on Health, Education, Labor and Pensions, that I Chair, has a broad range of responsibilities. None of them is more important than the oversight of our occupational safety and health laws.

In the past decade or so we have witnessed steady progress toward safer and healthier workplaces. For example, in 1992, approximately 9 out of every 100 American workers suffered a workplace injury. By 2003, that injury rate had been cut nearly in half. Over the same period we have seen more than a 20 percent decline in the annual rate of fatalities from workplace injuries.

As encouraging as this progress is, however, it should not be cause for anyone to become complacent. The number of work-related deaths and injuries remains unacceptably high. For example, last year, despite the efforts of all concerned, some 4.4 million workers suffered work-related injuries, with 1.3 million of those injuries involving lost work days. Such workplace injuries continue to bring hardship to employees and their families and to impose significant burdens on our economy. We need to continue our efforts to improve workplace safety.

If we are to be successful in our efforts we must be prepared to cast aside old assumptions, be willing to embrace new ideas, and be candid enough to agree on some fundamental realities. First among these realities is that the overwhelming number of employers are concerned about the welfare of their employees and are fully prepared to comply with laws aimed at enhancing their safety on the job. The notion that employers care little about worker safety, or are prepared to sacrifice worker health in the pursuit of higher profits is a dangerously inaccurate myth. It is dangerous because it promotes and perpetuates an adversarial relationship between employers and government safety agencies at the very time that we need precisely the opposite. Cooperation, not confrontation is essential in making our workplaces safer.

It is fortunate that most employers want to do the right thing since without the cooperation of the employer community there is little realistic hope of continuing to improve workplace safety. That is the second fundamental reality we must accept. Where the vast majority of employers are committed to establishing and maintaining a safe workplace, it makes little sense to perpetuate a system built largely on a system of inspections and sanctions. Any system aimed at fostering workplace safety that relies principally on such measures is not only improperly focused; it cannot, as a practical matter, even hope to achieve its intended goal.

Simple mathematics makes it clear that we cannot inspect or sanction our way to greater job safety. Today, the total number of OSHA inspectors, including those employed by the states, as well as those employed by the Federal Government, is less than 2,400. Each of these individuals conducts an average of about 40 inspections a year. In other words, there will be less than 100,000 work sites inspected by State and Federal OSHA combined in any given year. At the present time, there are well over seven million worksites in the United States. At current inspection rates, we would need nearly 170,000 OSHA inspectors in order to inspect all U.S. work sites just once a year. In addition, since most industrial accidents occur in a split second, and since many are caused by unsafe acts rather than unsafe conditions, even an army of inspectors could not adequately address the issue.

It is my view that any practical approach to addressing the issue of workplace safety must recognize these realities and be designed to encourage and assist employers in achieving this end—not merely punish them for failing to do so. For these reasons, the legislation that I have introduced today contains a number of provisions designed to enhance voluntary compliance, and to provide technical assistance to the vast majority of employers that strive every day to ensure the health and safety of their employees. Thus, these bills contain provisions that encourage employers to engage the services of highly qualified third-party safety consultants to assist them in creating safer workplaces. The legislation also seeks to extend the benefits of such worthwhile initiatives as the current Voluntary Protection Plan to smaller employers; and it increases the level of government outreach and technical help to employers seeking assistance in making their workplaces safer. It also provides for increased training of OSHA personnel and fosters a greater understanding of specific workplace

safety issues through a unique cross-training and exchange program between OSHA and the business community. These last two initiatives are predicated on the common sense notion that the more we know and the more we collaborate toward a common goal, the more likely it is that we will achieve the desired result.

While I believe that the interests of workplace safety compel us to dramatically increase our efforts at encouraging voluntary compliance, we cannot be unmindful that the Occupational Safety and Health Act is a regulatory statute; and that, like all regulation, there are points at which the process becomes adversarial. I certainly believe there should be a less adversarial process, however, when it does occur I believe it needs to be fair and regular. In the regulatory context, the power and resources of the Federal Government can be overwhelming, particularly to small businesses. We need to make sure that the adversarial playing field is a level one, and that the legitimate expectations of fairness and regularity of process are adequately met. For this reason, the bills which I have introduced today contain a number of provisions aimed at ensuring this result. Thus, the bill provides for the recovery of attorney's fees by small businesses that prevail in litigation against the government in an OSHA claim, and codifies procedural flexibility and fairness in the issuance and processing of disputed claims. The legislation also recognizes that no one, least of all employees, are well served by lengthy delays in the resolution of contested claims by increasing the size of the Review Commission and making additional changes designed to insure the issuance of more timely decisions. The legislation also returns the Review Commission to the status of a fully independent adjudicatory body as envisioned in the original OSHA legislation by insuring that its decisions are accorded appropriate legal deference. The legislation also injects some much needed flexibility into the administration and enforcement of the statute by permitting the use of alternative, site-specific compliance methods, giving inspectors a degree of compliance discretion, and encouraging the prompt correction of certain non-serious violations.

In addition to these changes that are based upon procedural and regulatory fairness, the legislation also contains provisions designed to address the root cause of many industrial injuries, and others aimed at bringing a much-needed measure of simplicity and uniformity to our workplace safety laws.

In the first instance, for too long we have held the one-dimensional view that work conditions and employer practices are the principal, if not exclusive, factors in workplace safety. The reality is that unsafe individual behavior also has an extraordinary impact. For example, it is estimated that 47 percent of all serious workplace accidents, and 40 percent of all workplace fatalities involve drugs or alcohol. Some 38 to 50 percent of all workers' compensation claims are related to drug or alcohol abuse in the workplace. An industrial accident typically takes only a split second to occur. The safest conceivable conditions and systems can be rendered useless in that instant by an employee whose judgment or reactions are impaired.

Apart from substance abuse, we also cannot ignore the fact that any employer's safety policies and procedures can be rendered useless whenever someone breaks the rules.

If we are serious about workplace safety we have to understand that the employer is not the only factor in the equation. And, if we propose to achieve workplace safety solely by regulating employer conduct, then we fail to adequately address the entire issue. At a minimum, we need to provide employers some tools and encouragement to control the safety-related behavior of others. We cannot mandate that employers take disciplinary action against their employees who violate safety rules, but we can encourage them to enforce such rules appropriately and consistently. We likewise cannot compel employers to institute drug and alcohol testing programs, but we can remove the legal barriers to their doing so. Today's legislation, by codifying the third party misconduct defense, and authorizing the establishment of substance testing, provides exactly the type of tools and encouragement that are necessary.

It may be the employer's workplace, but workplace safety is everybody's job. We need laws that reflect the fact that a safer workplace is everybody's responsibility. For this reason today's legislation also contains a provision that allows OSHA to issue citations and impose limited fines on employees that violate rules and procedures regarding the use of company-supplied personal protective equipment. As noted, the authority here, although limited, is nonetheless intended to make clear the notion that safety is everybody's responsibility.

Lastly, our current law provides that employers must communicate workplace hazards to their employees. This is an important, and appropriate goal. ''Communication,'' however, requires the delivery of clear, and meaningful information to the recipient. Unfortunately, in many respects our hazard communication efforts have become so complicated that the complexity stands in the way of the original notion that employees need plain information about workplace hazards so that they can take adequate precautions to protect themselves. This process has become even more complicated by the globalization of our economy, and the fact that many hazardous substances routinely in use in our workplaces originate outside our borders. These are likewise realities that we must address, and that the legislation offered today does. Thus, the HazCom Simplification and Modernization Act that is a part of the legislative package introduced today provides for the simplification of current hazard communication standards and it creates a commission designed to review and make recommendations regarding the implementation of the global harmonization of chemical labeling, hazard communication and a variety of related issues. I am particularly proud of the fact that this bill is the product of considerable bi-partisan effort, and I am particularly pleased to have Senator MURRAY as its cosponsor. I am deeply grateful for all her efforts in bringing this legislation to this point.

It is my belief that the three bills introduced today reflect the correct and balanced approach to the goal of increased work place safety that all of us want to achieve.

I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2065

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

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the ''Occupational Safety Partnership Act''.

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

SEC. 2. PURPOSE.

Section 2(b) of the Act (29 U.S.C. 651(b)) is amended—

(1) in paragraph (13), by striking the period and inserting ''; and''; and

(2) by adding at the end the following:

''(14) by increasing the joint cooperation of employers, employees, and the Secretary of Labor in the effort to ensure safe and healthful working conditions for employees.''.

SEC. 3. THIRD PARTY CONSULTATION SERVICES PROGRAM.

(a) PROGRAM.—The Act (29 U.S.C. 651 et seq.) is amended by inserting after section 8 the following:

''SEC. 8A. THIRD PARTY CONSULTATION SERVICES PROGRAM.

''(a) PURPOSE.—It is the purpose of this section to encourage employers to conduct voluntary safety and health audits using the expertise of qualified safety and health consultants and to proactively seek individualized solutions to workplace safety and health concerns.

''(b) ESTABLISHMENT OF PROGRAM.—

''(1) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the Secretary shall establish and implement, by regulation, a program that qualifies individuals to provide consultation services to employers to assist employers in the identification and correction of safety and health hazards in the workplaces of employers.

''(2) ELIGIBILITY.—The following individuals shall be eligible to be qualified under this program as certified safety and health consultants:

''(A) An individual who is licensed by a State authority as a physician, industrial hygienist, professional engineer, safety engineer, safety professional, or registered nurse.

''(B) An individual who has been employed as an inspector for a State plan State or as a Federal occupational safety and health inspector for not less than a 5-year period.

''(C) An individual who is qualified in an occupational health or safety field by an organization whose program has been accredited by a nationally recognized private accreditation organization or by the Secretary.

''(D) An individual who has not less than 10 years experience in workplace safety and health.

''(E) Other individuals determined to be qualified by the Secretary.

''(3) GEOGRAPHICAL SCOPE OF CONSULTATION SERVICES.—A consultant qualified under this program may provide consultation services in any State.

''(4) LIMITATION BASED ON EXPERTISE.—A consultant qualified under this program may only provide consultation services to an employer with respect to a worksite if the work performed at that worksite coincides with the particular expertise of the individual.

''(c) SAFETY AND HEALTH REGISTRY.—The Secretary shall develop and maintain a registry that includes all consultants that are qualified under the program under subsection (b)(1) to provide the consultation services described in subsection (b) and shall publish and make such registry readily available to the general public.

''(d) DISCIPLINARY ACTIONS.—The Secretary may revoke the status of a consultant, or the participation of an employer in the third party consultation program, if the Secretary determines that the consultant or employer—

''(1) has failed to meet the requirements of the program; or

''(2) has committed malfeasance, gross negligence, collusion or fraud in connection with any consultation services provided by the qualified consultant.

''(e) PROGRAM REQUIREMENTS.—

''(1) GENERAL REQUIREMENTS.—The consultation services described in subsection (b), and provided by a consultant qualified under this program shall, at a minimum, consist of the following elements:

''(A) A comprehensive, on-site, survey and audit of the participating employer's workplace and operations by the consultant.

''(B) The preparation of a consultation report by the consultant.

The Secretary may, by regulation, prescribe additional requirements for qualifying services.

''(2) CONSULTATION REPORT.—

''(A) IN GENERAL.—Following the consultant's physical survey of the employer's workplace and operations, the consultant shall prepare and deliver to the employer a written report summarizing the consultant's health and safety findings and recommendations. Such consultation report shall, at a minimum, contain the following elements:

''(i) The findings of the consultant's health and safety audit, and, where applicable, appropriate remedial recommendations.

''(ii) A recommended health and safety program and an action plan as described in this paragraph.

The Secretary may, by regulation, prescribe additional required elements for qualifying reports.

''(B) AUDIT AND RECOMMENDATIONS.—The consultation report shall include an evaluation of the workplace of the participating employer to determine if the employer is in compliance with the requirements of this Act, including any regulations promulgated pursuant to this Act. The report shall identify any practice or condition the consultant believes to be a violation of this Act, and will set out any appropriate corrective measures to address such identified practice or condition.

''(C) SAFETY AND HEALTH PROGRAM.—The consultation report shall contain a recommended safety and health plan designed to reduce injuries, illness, and fatalities and to otherwise manage workplace health and safety. Such safety and health program shall—

''(i) be appropriate to the conditions of the workplace involved;

''(ii) be in writing, and contain policies, procedures, and practices designed to recognize and protect employees from occupational safety and health hazards, such procedures to include provisions for the identification, evaluation, and prevention or control of workplace hazards;

''(iii) be based upon the professional judgment of the consultant and include such elements as are necessary to the specific worksite involved as determined by the consultant and employer;

''(iv) contain provisions for the periodic review and modification of the program as circumstances warrant;

''(v) be developed and implemented with the participation of affected employees;

''(vi) make provision for the effective safety and health training of all personnel, and the dissemination of appropriate health and safety information to all personnel; and

''(vii) contain appropriate procedures for the reporting of potential hazards, accidents and near accidents

The Secretary may, by regulation, prescribe additional specific elements that may be required for any qualifying program.

''(D) ACTION PLAN.—The consultation report shall also contain a written action plan that shall—

''(i) outline the specific steps that must be accomplished by the employer prior to receiving a certificate of compliance;

''(ii) be established in consultation with the employer; and

''(iii) address in detail—

''(I) the employer's correction of all identified safety and health conditions or practices that are in violation of this Act, with applicable timeframes; and

''(II) the steps necessary for the employer to implement an effective safety and health program, with applicable timeframes.

''(3) CERTIFICATE OF COMPLIANCE.—Upon completion of the steps described in the Action Plan the qualified consultant shall issue to the employer a Certificate of Compliance in a form prescribed by the Secretary.

''(f) EXEMPTION FROM CIVIL PENALTIES FOR COMPLIANCE.—

''(1) IN GENERAL.—If an employer receives a certificate of compliance, the employer shall be exempt from the assessment of any civil penalty under section 17 for a period of 2 years after the date on which the employer receives such certificate.

''(2) EXCEPTIONS.—An employer shall not be exempt under paragraph (1)—

''(A) if the employer has not made a good faith effort to remain in compliance as required under the certificate of compliance; or

''(B) if there has been a fundamental change in the hazards of the workplace after the issuance of the certificate.

''(g) RIGHT TO INSPECT.—Nothing in this section shall be construed to affect the rights of the Secretary to inspect and investigate worksites covered by a certificate of compliance.

''(h) RENEWAL REQUIREMENTS.—An employer that is granted a certificate of compliance under this section may receive a 2 year renewal of the certificate if a qualified consultant conducts a complete onsite safety and health survey to ensure that the safety and health program has been effectively maintained or improved, workplace hazards are under control, and elements of the safety and health program are operating effectively.

''(i) NON-FIXED WORKSITES.—With respect to employer worksites that do not have a fixed location, a certificate of compliance shall only apply to that worksite which satisfies the criteria under this section and such certificate shall not be portable to any other worksite. This section shall not apply to employers that perform essentially the same work, utilizing the same equipment, at each non-fixed worksite.

''(j) ACCESS TO RECORDS.—Any records relating to consultation services provided by an individual qualified under this program, or records, reports, or other information prepared in connection with safety and health inspections, audits, or reviews conducted by or for an employer and not required under this Act, shall not be admissible in a court of law or administrative proceeding or enforcement proceeding against the employer except that such records may be used as evidence for purposes of a disciplinary action under subsection (d).''.

SEC. 4. PREVENTION OF ALCOHOL AND SUBSTANCE ABUSE.

The Act (29 U.S.C. 651 et seq.) is amended by adding at the end the following:

''SEC. 34. ALCOHOL AND SUBSTANCE ABUSE TESTING.

''(a) PROGRAM PURPOSE.—In order to secure a safe workplace, employers may establish and carry out an alcohol and substance abuse testing program in accordance with subsection (b).

''(b) FEDERAL GUIDELINES.—

''(1) REQUIREMENTS.—An alcohol and substance abuse testing program described in subsection (a) shall meet the following requirements:

''(A) SUBSTANCE ABUSE.—A substance abuse testing program shall permit the use of onsite or offsite testing.

''(B) ALCOHOL.—The alcohol testing component of the program shall take the form of alcohol breath analysis and shall conform to any guidelines developed by the Secretary of Transportation for alcohol testing of mass transit employees under the Department of Transportation and Related Agencies Appropriations Act, 1992.

''(2) DEFINITION.—For purposes of this section the term 'alcohol and substance abuse testing program' means any program under which test procedures are used to take and analyze blood, breath, hair, urine, saliva, or other body fluids or materials for the purpose of detecting the presence or absence of alcohol or a drug or its metabolites. In the case of urine testing, the confirmation tests must be performed in accordance with the mandatory guidelines for Federal workplace testing programs published by the Secretary of Health and Human Services on April 11, 1988, at section 11979 of title 53, Code of Federal Regulations (including any amendments to such guidelines). Proper laboratory protocols and procedures shall be used to assure accuracy and fairness, and, laboratories must be subject to the requirements of subpart B of the mandatory guidelines, State certification, the Clinical Laboratory Improvements Act of the College of American Pathologists.

''(c) TEST REQUIREMENTS.—This section shall not be construed to prohibit an employer from requiring—

''(1) an applicant for employment to submit to and pass an alcohol or substance abuse test before employment by the employer; or

''(2) an employee, including managerial personnel, to submit to and pass an alcohol or substance abuse test—

''(A) on a for-cause basis or where the employer has reasonable suspicion to believe

that such employee is using or is under the influence of alcohol or a controlled substance;

''(B) where such test is administered as part of a scheduled medical examination;

''(C) in the case of an accident or incident, involving the actual or potential loss of human life, bodily injury, or property damage;

''(D) during the participation of an employee in an alcohol or substance abuse treatment program, and for a reasonable period of time (not to exceed 5 years) after the conclusion of such program; or

''(E) on a random selection basis in work units, locations, or facilities.

''(d) CONSTRUCTION.—Nothing in this section shall be construed to require an employer to establish an alcohol and substance abuse testing program for applicants or employees or make employment decisions based on such test results.

''(e) PREEMPTION.—The provisions of this section shall preempt any provision of State law to the extent that such State law is inconsistent with this section.

''(f) INVESTIGATIONS.—The Secretary is authorized to conduct testing of employees (including managerial personnel) of an employer for use of alcohol or controlled substances during any investigations of a work-related fatality or serious injury. Such testing shall be done as soon as practicable after the incident giving rise to such work-related fatality or serious injury.''.

SEC. 5. VOLUNTARY PROTECTION PROGRAMS.

(a) COOPERATIVE AGREEMENTS.—The Secretary of Labor shall establish cooperative agreements with employers to encourage the establishment of comprehensive safety and health management systems that include—

(1) requirements for systematic assessment of hazards;

(2) comprehensive hazard prevention, mitigation, and control programs;

(3) active and meaningful management and employee participation in the voluntary program described in subsection (b); and

(4) employee safety and health training.

(b) VOLUNTARY PROTECTION PROGRAM.—

(1) IN GENERAL.—The Secretary of Labor shall establish and carry out a voluntary protection program (consistent with subsection (a)) to encourage excellence and recognize the achievement of excellence in both the technical and managerial protection of employees from occupational hazards.

(2) PROGRAM REQUIREMENT.—The voluntary protection program shall include the following:

(A) APPLICATION.—Employers who volunteer under the program shall be required to submit an application to the Secretary of Labor demonstrating that the worksite with respect to which the application is made meets such requirements as the Secretary of Labor may require for participation in the program.

(B) ONSITE EVALUATIONS.—There shall be onsite evaluations by representatives of the Secretary of Labor to ensure a high level of protection of employees. The onsite visits shall not result in enforcement of citations under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(C) INFORMATION.—Employers who are approved by the Secretary of Labor for participation in the program shall assure the Secretary of Labor that information about the safety and health program shall be made readily available to the Secretary of Labor to share with employees.

(D) REEVALUATIONS.—Periodic reevaluations by the Secretary of Labor of the employers shall be required for continued participation in the program.

(3) EXEMPTIONS.—A site with respect to which a program has been approved shall, during participation in the program be exempt from inspections or investigations and certain paperwork requirements to be determined by the Secretary of Labor, except that this paragraph shall not apply to inspections or investigations arising from employee complaints, fatalities, catastrophes, or significant toxic releases.

SEC. 6. EXPANDED ACCESS TO VVP FOR SMALL BUSINESSES.

The Secretary of Labor shall establish and implement, by regulation, a program to increase participation by small businesses (as the term is defined by the Administrator of the Small Business Administration) in the voluntary protection program through outreach and assistance initiatives and the development of program requirements that address the needs of small businesses.

SEC. 7. TECHNICAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 21(c) of the Act (29 U.S.C. 670(c)) is amended—

(1) by striking ''(c) The'' and inserting ''(c)(1) The'';

(2) by striking ''(1) provide'' and inserting ''(A) provide'';

(3) by striking ''(2) consult'' and inserting ''(B) consult''; and

(4) by adding at the end the following:

''(2)(A) The Secretary shall, through the authority granted under section 7(c) and paragraph (1), enter into cooperative agreements with States for the provision of consultation services by such States to employers concerning the provision of safe and healthful working conditions.

''(B)(i) As provided in clause (ii), the Secretary shall reimburse a State that enters into a cooperative agreement under subparagraph (A) in an amount that equals 90 percent of the costs incurred by the State for the provision of consultation services under such agreement.

''(ii) A State shall be reimbursed by the Secretary for 90 percent of the costs incurred by the State for the provision of—

''(I) training approved by the Secretary for State personnel operating under a cooperative agreement; and

''(II) specified out-of-State travel expenses incurred by such personnel.

''(iii) A reimbursement paid to a State under this subparagraph shall be limited to costs incurred by such State for the provision of consultation services under this paragraph and the costs described in clause (ii).''.

(b) PILOT PROGRAM.—Section 21 of the Act (29 U.S.C. 670) is amended by adding at the end the following:

''(e)(1) Not later than 90 days after the date of enactment of this subsection, the Secretary shall establish and carry out a pilot program in 3 States to provide expedited consultation services, with respect to the provision of safe and healthful working conditions, to employers that are small businesses (as the term is defined by the Administrator of the Small Business Administration). The Secretary shall carry out the program for a period not to exceed 2 years.

''(2) The Secretary shall provide consultation services under paragraph (1) not later than 4 weeks after the date on which the Secretary receives a request from an employer.

''(3) The Secretary may impose a nominal fee to an employer requesting consultation services under paragraph (1). The fee shall be in an amount determined by the Secretary. Employers paying a fee shall receive priority consultation services by the Secretary.

''(4) In lieu of issuing a citation under section 9 to an employer for a violation found by the Secretary during a consultation under paragraph (1), the Secretary shall permit the employer to carry out corrective measures to correct the conditions causing the violation. The Secretary shall conduct not more than 2 visits to the workplace of the employer to determine if the employer has carried out the corrective measures. The Secretary shall issue a citation as prescribed under section 5 if, after such visits, the employer has failed to carry out the corrective measures.

''(5) Not later than 90 days after the termination of the program under paragraph (1), the Secretary shall prepare and submit a report to the appropriate committees of Congress that contains an evaluation of the implementation of the pilot program.''.

SEC. 8. CONTINUING EDUCATION AND PROFESSIONAL CERTIFICATION FOR CERTAIN OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION PERSONNEL.

Section 8 of the Act (29 U.S.C. 657) is amended by adding at the end the following:

''(i) Any Federal employee responsible for enforcing this Act shall, not later than 2 years after the date of enactment of this subsection or 2 years after the initial employment of the employee involved, meet the eligibility requirements prescribed under subsection (b)(2) of section 8A.

''(j) The Secretary shall ensure that any Federal employee responsible for enforcing this Act who carries out inspections or investigations under this section, receive professional education and training at least every 5 years as prescribed by the Secretary.''.

SEC. 9. OSHA AND INDUSTRY TRAINING EXCHANGE DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary of Labor, acting through the Occupational Safety and Health Administration, is authorized to develop and implement at least one training and educational exchange program with a specialty trade in the construction industry for the purpose of—

(1) facilitating the exchange of expertise and ideas related to the interpretation, application, and implementation of Federal occupational safety and health standards and regulations applicable to the specialty trade involved (referred to in this section as ''OSHA Rules'');

(2) improving collaboration and coordination between the Occupational Safety and Health Administration and such specialty trade regarding OSHA Rules;

(3) identifying OSHA Rules which the specialty trade and Occupational Safety and Health Administration compliance officers have repeatedly found to be difficult to interpret, apply, or implement;

(4) allowing qualified safety directors from the specialty trade to train such compliance officers and others within the Administration responsible for writing and interpreting OSHA Rules, both on the jobsite and off, on the unique nature of the specialty trade and the difficulties contractors and safety directors encounter when attempting to comply with OSHA Rules as well as the best practices within the specialty trade;

(5) seeking the means to ensure greater compliance with the identified OSHA Rules, and reducing the number of citations based on any misunderstanding by such compliance officers as to the scope and application of an OSHA Rule or the unique nature of the workplace construction; and

(6) establishing within the Occupational Safety and Health Administration Training Institute a trade-specific curriculum to be taught jointly by qualified trade safety directors and compliance officers.

(b) INITIAL PROGRAM.—The initial training and educational exchange program shall be established under subsection (a) with the masonry construction industry.

(c) REPORTS.—Upon the expiration of the 2-year program under subsection (a), the Administrator of the Occupational Safety and Health Administration, jointly with specialty trades that participate in programs under such subsection, shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Workforce of the House of Representatives a report on the activities and results of the training and educational exchange program.

(d) DEFINITION.—In this section, the term ''qualified safety director'' means an individual who has, at a minimum, taken the 10-hour Occupational Safety and Health Administration course and been employed a minimum of 5 years as a safety director in the construction industry.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, such sums as may be necessary to carry out this section.

(f) TERMINATION.—The programs established under subsection (a) shall terminate on the date that is 2 years after the date on which the first program is so established.

S. 2066

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

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the ''Occupational Safety Fairness Act''.

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

SEC. 2. WORKSITE-SPECIFIC COMPLIANCE METHODS.

Section 9 of the Act (29 U.S.C. 658) is amended by adding at the end the following:

''(d) A citation issued under subsection (a) to an employer who violates section 5, any standard, rule, or order promulgated pursuant to section 6, or any regulation promulgated under this Act shall be vacated if such employer demonstrates that the employees of such employer were protected by alternative methods that are substantially equivalent or more protective of the safety and health of the employees than the methods required by such standard, rule, order, or regulation in the factual circumstances underlying the citation.

''(e) Subsection (d) shall not be construed to eliminate or modify other defenses that may exist to any citation.''.

SEC. 3. DISCRETIONARY COMPLIANCE ASSISTANCE.

Subsection (a) of section 9 of the Act (29 U.S.C. 658(a)) is amended—

(1) by striking the last sentence;

(2) by striking ''If, upon'' and inserting ''(1) If, upon''; and

(3) by adding at the end the following:

''(2) Nothing in this Act shall be construed as prohibiting the Secretary or the authorized representative of the Secretary from providing technical or compliance assistance to an employer in correcting a violation discovered during an inspection or investigation under this Act without issuing a citation, as prescribed in this section.

''(3) The Secretary or the authorized representative of the Secretary—

''(A) may issue a warning in lieu of a citation with respect to a violation that has no significant relationship to employee safety or health; and

''(B) may issue a warning in lieu of a citation in cases in which an employer in good faith acts promptly to abate a violation if the violation is not a willful or repeated violation.''.

SEC. 4. EXPANDED INSPECTION METHODS.

(a) PURPOSE.—It is the purpose of this section to empower the Secretary of Labor to achieve increased employer compliance by using, at the Secretary's discretion, more efficient and effective means for conducting inspections.

(b) GENERAL.—Section 8(f) of the Act (29 U.S.C. 657(f) is amended—

(1) by adding at the end the following:

''(3) The Secretary or an authorized representative of the Secretary may, as a method of investigating an alleged violation or danger under this subsection, attempt, if feasible, to contact an employer by telephone, facsimile, or other appropriate methods to determine whether—

''(A) the employer has taken corrective actions with respect to the alleged violation or danger; or

''(B) there are reasonable grounds to believe that a hazard exists.

''(4) The Secretary is not required to conduct an inspection under this subsection if the Secretary believes that a request for an inspection was made for reasons other than the safety and health of the employees of an employer or that the employees of an employer are not at risk.''.

SEC. 5. OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

(a) INCREASE IN NUMBER OF MEMBERS AND REQUIREMENT FOR MEMBERSHIP.—Section 12 of the Act (29 U.S.C. 661) is amended—

(1) in the second sentence of subsection (a)—

(A) by striking ''three members'' and inserting ''five members''; and

(B) by inserting ''legal'' before ''training'';

(2) in the first sentence of subsection (b), by striking ''except that'' and all that follows through the period and inserting the following: ''except that the President may extend the term of a member for no more than 365 consecutive days to allow a continuation in service at the pleasure of the President after the expiration of the term of that member until a successor nominated by the President has been confirmed to serve. Any vacancy caused by the death, resignation, or removal of a member before the expiration of a term for which a member was appointed shall be filled only for the remainder of such term.''; and

(3) by striking subsection (f), and inserting the following:

''(f) For purposes of carrying out its functions under this Act, two members of the Commission shall constitute a quorum and official action can be taken only on the affirmative vote of at least a majority of the members participating but in no case fewer than two.''.

(b) NEW POSITIONS.—Of the two vacancies for membership on the Occupational Safety and Health Review Commission created by subsection (a)(1)(A), one shall be appointed by the President for a term expiring on April 27, 2009, and the other shall be appointed by the President for a term expiring on April 27, 2011.

(c) EFFECTIVE DATE FOR LEGAL TRAINING REQUIREMENT.—The amendment made by subsection (a)(1)(B), requiring a member of the Commission to be qualified by reason of a background in legal training, shall apply beginning with the two vacancies referred to in subsection (b) and all subsequent appointments to the Commission.

SEC. 6. AWARD OF ATTORNEYS' FEES AND COSTS.

The Act (29 U.S.C. 651 et seq.) is amended by redesignating sections 32, 33, and 34 as sections 33, 34, and 35, respectively, and by inserting after section 31 the following new section:

''AWARD OF ATTORNEYS' FEES AND COSTS

''SEC. 32.

''(a) ADMINISTRATIVE PROCEEDINGS.—An employer who—

''(1) is the prevailing party in any adversary adjudication instituted under this Act, and

''(2) had not more than 100 employees and a net worth of not more than $7,000,000 at the time the adversary adjudication was initiated,

shall be awarded fees and other expenses as a prevailing party under section 504 of title 5, United States Code, in accordance with the provisions of that section, but without regard to whether the position of the Secretary was substantially justified or special circumstances make an award unjust. For purposes of this section the term 'adversary adjudication' has the meaning given that term in section 504(b)(1)(C) of title 5, United States Code.

''(b) PROCEEDINGS.—An employer who—

''(1) is the prevailing party in any proceeding for judicial review of any action instituted under this Act, and

''(2) had not more than 100 employees and a net worth of not more than $7,000,000 at the time the action addressed under subsection (1) was filed,

shall be awarded fees and other expenses as a prevailing party under section 2412(d) of title 28, United States Code, in accordance with the provisions of that section, but without regard to whether the position of the United States was substantially justified or special circumstances make an award unjust. Any appeal of a determination of fees pursuant to subsection (a) of this subsection shall be determined without regard to whether the position of the United States was substantially justified or special circumstances make an award unjust.

''(c) APPLICABILITY.—

''(1) COMMISSION PROCEEDINGS.—Subsection (a) shall apply to proceedings commenced on or after the date of enactment of this section.

''(2) COURT PROCEEDINGS.—Subsection (b) shall apply to proceedings for judicial review commenced on or after the date of enactment of this section.''.

SEC. 7. JUDICIAL DEFERENCE.

Section 11(a) of the Act (29 U.S.C. 660(a)) is amended in the sixth sentence by inserting before the period the following: '', and the conclusions of the Commission with respect to questions of law that are subject to agency deference under governing court precedent shall be given deference if reasonable''.

SEC. 8. CONTESTING CITATIONS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970.

(a) IN GENERAL.—Section 10 of the Act (29 U.S.C. 659) is amended—

(1) in the second sentence of subsection (a), by inserting after ''assessment of penalty'' the following: ''(unless such failure results from mistake, inadvertence, surprise, or excusable neglect)''; and

(2) in the second sentence of subsection (b), by inserting after ''assessment of penalty'' the following: ''(unless such failure results from mistake, inadvertence, surprise, or excusable neglect)''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to a citation or proposed assessment of penalty issued by the Occupational Safety and Health Administration that is issued on or after the date of the enactment of this Act.

SEC. 9. RIGHT TO CORRECT VIOLATIVE CONDITION.

Section 9 of the Act (29 U.S.C. 658), as amended by section 2, is amended by adding at the end the following:

''(f) The Commission may not assess a penalty under section 17(c) for a non-serious violation that is not repeated or willful if the

employer corrects the violative condition and provides the Secretary an abatement certification within 72 hours.''.

SEC. 10. WRITTEN STATEMENT TO EMPLOYER FOLLOWING INSPECTION.

Section 8 of the Act (29 U.S.C. 657) is amended by adding at the end the following:

''(i) At the closing conference after the completion of an inspection, the inspector shall—

''(1) inform the employer or a representative of the employer of the right of such employer to request a written statement described in paragraph (2); and

''(2) provide to the employer or a representative of the employer, upon the request of such employer or representative, with a written statement that clearly and concisely provides the following information:

''(A) The results of the inspection, including each alleged hazard, if any, and each citation that will be issued, if any.

''(B) The right of the employer to contest a citation, a penalty assessment, an amended citation, and an amended penalty assessment.

''(C) An explanation of the procedure to follow in order to contest a citation and a penalty assessment, including when and where to contest a citation and the required contents of the notice of intent to contest.

''(D) The Commission's responsibility to affirm, modify, or vacate the citation and proposed penalty, if any.

''(E) The informal review process.

''(F) The procedures before the Occupational Safety and Health Review Commission.

''(G) The right of the employer to seek judicial review.

''(j) No monetary penalty may be assessed with respect to any violation not identified in the written statement requested under subsection (i).''.

SEC. 11. TIME PERIODS FOR ISSUING CITATIONS.

Section—

(1) 9(a) of the Act (29 U.S.C. 658(a)) is amended—

(A) by striking ''upon inspection'' and inserting ''upon the initiation of inspection'';

(B) by striking ''with reasonable promptness'' and inserting ''within thirty working days''; and

(C) by inserting after the first sentence, the following: ''Such 30 day period may be waived by the Secretary for good cause shown, including, but not limited to, cases involving death, novel issues, large or complex worksites, or pursuant to an agreement by the parties to extend such period.''; and

(2) 10(a) of the Act (29 U.S.C. 659(a)) is amended—

(B) by striking ''within a reasonable time'' and inserting ''within thirty days''; and

(C) by inserting after the first sentence, the following: ''Such 30 days period may be waived by the Secretary for good cause shown, including, but not limited to, cases involving death, novel issues, large or complex worksites, or pursuant to an agreement by the parties to extend such period.''.

SEC. 12. TIME PERIODS FOR CONTESTING CITATIONS.

Section 10 of the Act (29 U.S.C. 659) is amended by striking ''fifteen'' each place it appears and inserting ''thirty''.

SEC. 13. PENALTIES.

Section 17 of the Act (29 U.S.C. 666) is amended by inserting the following:

''(m) The Secretary shall not use 'other than serious' citations as a basis for issuing repeat or willful citations.''.

SEC. 14. UNANTICIPATED CONDUCT.

Section 9 of the Act (29 U.S.C. 658) is amended by adding at the end the following:

''(d) No citation may be issued under this section for any violation that is the result of actions by any person that are contrary to established, communicated, and enforced work rules that would have prevented the violation. This subsection shall not be construed to eliminate or modify elements of proof currently required to support a citation.''.

SEC. 15. ADOPTION OF NON-GOVERNMENTAL STANDARDS.

The Act (29 U.S.C. 651 et seq.) is amended by adding after section 4 the following:

''SEC. 4A. ADOPTION OF NON-GOVERNMENTAL STANDARDS.

''The Secretary shall not promulgate or enforce any finding, guideline, standard, limit, rule, or regulation that is subject to incorporation by reference, or modification, as the result of a determination reached by any organization, unless the Secretary affirmatively finds that the determination has been made by an organization and procedure that complies with the requirements of section 3(9). Such finding and a summary of its basis shall be published in the Federal Register and shall be deemed a final agency action subject to review by a United States District Court in accordance with section 706 of title 5, United States Code.''.

SEC. 16. EMPLOYEE RESPONSIBILITY.

The Act (29 U.S.C. 651 et seq.) is amended by adding after section 9 the following:

''SEC. 9A. EMPLOYEE RESPONSIBILITY.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act, an employee who, with respect to employer-provided personal protective equipment, willfully violates any requirement of section 5 or any standard, rule, or order promulgated pursuant to section 6, or any regulation prescribed pursuant to this Act, may be assessed a civil penalty, as determined by the Secretary, but not to exceed $50 for each violation.

''(b) CITATIONS.—If, upon inspection or investigation, the Secretary or the authorized representative of the Secretary believes that an employee of an employer has, with respect to employer-provided personal protective equipment, violated any requirement of section 5 or any standard, rule, or order promulgated pursuant to section 6, or any regulation prescribed pursuant to this Act, the Secretary shall within 30 days issue a citation to the employee. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of this Act, standard, rule, regulation, or order alleged to have been violated. No citation may be issued under this section after the expiration of 6 months following the occurrence of any violation.

''(c) NOTIFICATION.—

''(1) IN GENERAL.—The Secretary shall notify an employee—

''(A) by certified mail of a citation under subsection (b) and the proposed penalty; and

''(B) that such employee has 30 working days within which to notify the Secretary that the employee wishes to contest the citation or proposed penalty.

''(2) FINAL ORDER.—If an employee does not file a notification described in paragraph (1)(B) with the Secretary within 30 working days, the citation and proposed penalty shall—

''(A) be deemed a final order of the Commission; and

''(B) not be subject to review by any court or agency.

''(d) CONTESTING OF CITATION.—

''(1) IN GENERAL.—If an employee files a notification described in paragraph (1)(B) with the Secretary within 30 working days, the Secretary shall immediately advise the Commission of such notification, and the Commission shall afford the employee an opportunity for a hearing in accordance with section 554 of title 5, United States Code.

''(2) ISSUANCE OF FINAL ORDER.—The Commission, after a hearing described in paragraph (1), shall issue an order, based on findings of fact, affirming, modifying, or vacating the Secretary's citation or proposed penalty, or directing other appropriate relief. Such order shall become final 30 days after issuance of the order.''.

S. 2067

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 ''HazCom Simplification and Modernization Act of 2005''.

SEC. 2. PURPOSE.

It is the purpose of this Act to assist chemical manufacturers and importers in preparing material safety data sheets pursuant to the requirements of the Hazard Communication standard published at section 1910.1200 of title 29, Code of Federal Regulations, and the Hazard Communication standard published at part 47 of title 30, Code of Federal Regulations, and to improve the accuracy, consistency, and comprehensibility of such material safety data sheets and to establish a Commission for the purpose of studying and making recommendations regarding the implementation of the United Nations' Globally Harmonized System of Classification and Labeling of Chemicals.

SEC. 3. HAZARD COMMUNICATION.

(a) IN GENERAL.—

(1) MODEL MATERIAL SAFETY DATA SHEETS FOR HIGHLY HAZARDOUS CHEMICALS.—The Secretary of Labor shall develop model material safety data sheets for the list of highly hazardous chemicals contained in Appendix A to the Process Safety Management of Highly Hazardous Chemicals standard published at section 1910.119 of title 29, Code of Federal Regulations. Such model material safety data sheets shall—

(A) comply with the requirements of the Hazard Communication standard published at section 1910.100 of such title 29 and the Hazard Communication standard published at part 47 of title 30, Code of Federal Regulations;

(B) be presented in a consistent format that enhances the reliability and comprehensibility of information about chemical hazards in the workplace and protective measures; and

(C) be made available to the public, including through posting on the Occupational Safety and Health Administration's website and the Mine Safety and Health Administration's website, within 18 months after the date of enactment of this Act.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed to—

(A) modify or amend the Hazard Communication standard published at section 1910.1200 of title 29, Code of Federal Regulations, the Process Safety Management of Highly Hazardous Chemicals standard published at section 1910.119 of such title 29, the Hazard Communication standard published at part 47 of title 30, Code of Federal Regulations, or any other provision of law; and

(B) authorize the Secretary of Labor to include in the model material safety data sheet developed under this subsection any suggestion or recommendation as to permissible or appropriate workplace exposure levels for these chemicals, except as required by the Hazard Communication standard published at section 1910.1200 of such title 29, and the Hazard Communication standard published at part 47 of title 30, Code of Federal Regulations.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to

the Department of Labor such sums as may be necessary to carry out this subsection.

(b) GLOBALLY HARMONIZED SYSTEM COMMISSION.—

(1) ESTABLISHMENT.—Not later than 6 months after the date of enactment of this Act, there shall be established a commission, to be known as the Global Harmonization Commission (referred to in this subsection as the ''Commission''), to consider the implementation of the United Nations Globally Harmonized System of Classification and Labeling of Chemicals to improve chemical hazard communication and to make recommendations to Congress.

(2) MEMBERSHIP.—The Commission shall be composed of 17 members of whom—

(A) 1 shall be the Secretary of Labor (referred to in this Act as the ''Secretary'');

(B) 1 shall be the Secretary of Transportation;

(C) 1 shall be the Secretary of Health and Human Services;

(D) 1 shall be the Administrator of the Environmental Protection Agency;

(E) 1 shall be the Chairman of the Consumer Product Safety Commission;

(F) 1 shall be the Chairman of the Chemical Safety and Hazard Investigation Board (or his or her designee);

(F) 11 shall be appointed by the Secretary of Labor, of whom—

(i) 2 shall be representatives of manufacturers of hazardous chemicals, including a representative of small businesses;

(ii) 2 shall be representatives of employers who are extensive users of hazardous chemicals supplied by others, including a representative of small businesses;

(iii) 2 shall be representatives of labor organizations;

(iv) 2 shall be individuals who are qualified in an occupational health or safety field by an organization whose program has been accredited by a nationally recognized private accreditation organization or by the Secretary, who have expertise in chemical hazard communications;

(v) 1 shall be a representative of mining industry employers;

(vi) 1 shall be a representative of mining industry employees; and

(vii) 1 shall be a safety and health professional with expertise in mining.

(3) CHAIR AND VICE-CHAIR.—The members of the Commission shall select a chair and vice-chair from among its members.

(4) DUTIES.—

(A) STUDY AND RECOMMENDATIONS.—The Commission shall conduct a thorough study of, and shall develop recommendations on, the following issues relating to the global harmonization of hazardous chemical communication:

(i) Whether the United States should adopt any or all of the elements of the United Nation's Globally Harmonized System of Classification and Labeling of Chemicals (referred to in this subsection and the ''Globally Harmonized System'').

(ii) How the Globally Harmonized System should be implemented by the Federal agencies with relevant jurisdiction, taking into consideration the role of the States acting under delegated authority.

(iii) How the Globally Harmonized System compares to existing chemical hazard communication laws and regulations, including the Hazard Communication standard published at section 1910.1200 of title 29, Code of Federal Regulations and the Hazard Communication standard published at part 47 of title 30, Code of Federal Regulations.

(iv) The impact of adopting the Globally Harmonized System on the consistency, effectiveness, comprehensiveness, timing, accuracy, and comprehensibility of chemical hazard communication in the United States.

(v) The impact of adopting the Globally Harmonized System on occupational safety and health in the United States.

(vi) The impact of adopting the Globally Harmonized System on tort, insurance, and workers compensation laws in the United States.

(vii) The impact of adopting the Globally Harmonized System on the ability to bring new products to the market in the United States.

(viii) The cost and benefits of adopting the Globally Harmonized System to businesses, including small businesses, in the United States.

(ix) How effective compliance assistance, training, and outreach can be used to help chemical manufacturers, importers, and users, particularly small businesses, understand and comply with the Globally Harmonized System.

(B) REPORT.—Not later than 18 months after the date of enactment of this Act, the Commission shall submit to the appropriate committees of Congress a report containing a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation as the Commission considers appropriate.

(5) POWERS.—

(A) HEARINGS.—The Commission shall hold at least one public hearing, and may hold additional hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this section. The Commission shall, to the maximum extent possible, use existing data and research to carry out this section.

(B) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this section. Upon request by the Commission, the head of such department or agency shall promptly furnish such information to the Commission.

(C) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(6) PERSONNEL MATTERS.—

(A) COMPENSATION; TRAVEL EXPENSES.—Each member of the Commission shall serve without compensation but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(B) STAFF AND EQUIPMENT.—The Department of the Labor shall provide all financial, administrative, and staffing requirements for the Commission including—

(i) office space;

(ii) furnishings; and

(iii) equipment.

(7) TERMINATION.—The Commission shall terminate on the date that is 90 days after the date on which the Commission submits the report required under paragraph (3)(B).

(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Labor, such sums as may be necessary to carry out this subsection.

(c) HAZARD COMMUNICATION DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—Section 20(a) of the Act (29 U.S.C. 670(a)) is amended by adding at the end the following:

''(8) Subject to the availability of appropriations, the Secretary, after consultation with others, as appropriate, shall award grants to one or more qualified applicants in order to carry out a demonstration project to develop, implement, or evaluate strategies or programs to improve chemical hazard communication in the workplace through the use of technology, which may include electronic or Internet-based hazard communication systems.''.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the amendment made by paragraph (1).

By Ms. COLLINS (for herself, Mr. VOINOVICH, and Mr. AKAKA):

S. 2068. A bill to preserve existing judgeships on the Superior Court of the District of Columbia; to the Committee on Homeland Security and Governmental Affairs.

Ms. COLLINS. Mr. President, today I am pleased to introduce legislation that would preserve existing seats on the District of Columbia Superior Court. I am pleased to be joined in this effort by Senators VOINOVICH and AKAKA.

The Superior Court is the trail court of general jurisdiction over local matters in the District of Columbia. The associate judges on the court are selected through a two-step review process. When a vacancy on the court occurs, usually because of a retiring judge, the District of Columbia Judicial Nominations Commission solicits applicants to fill the vacancy. The commission narrows the possible number of candidates to three and sends those three names to the President. The President then selects one of those three candidates and sends the nominee to the Senate for confirmation. Existing law caps the total number of judges on the superior court at 59.

Unfortunately, two nominees currently pending in the Committee on Homeland Security and Governmental Affairs and an additional candidate expected to be nominated in the coming months may not be able to be seated on the court even if they are confirmed by the Senate. The three seats that these candidates are intended to fill were left open by retiring judges, so they are not new seats on the court.

The cause of this unusual problem is the District of Columbia Family Court Act, enacted during the 107th Congress. That act created three new seats for the family court, which is a division of the superior court, but failed to increase the overall cap on the number of judges seated on the court. As a result, the Family Court Act effectively eliminated three existing seats in the other divisions of the court, including the criminal and civil divisions.

As a result of this situation, the Committee on Homeland Security and Governmental Affairs currently has two nominations pending for the superior court but no seats left to fill. I also understand that there is yet another nomination expected in the coming months. Since existing law sets strict requirements on both the DC Judicial Nominations Commission as well as the White House on how quickly they must process potential candidates and make a nomination, it is unclear whether they have legal grounds to halt their processes.

This is a highly unusual situation for this body to have nominations pending

before it for which there are no open positions. The bill I introduce today would rectify this problem by amending the District of Columbia Code to increase the cap on the number of associate judges on the superior court. This is not intended to create new seats on the Court; that was already done when the DC Family Court Act was enacted. Instead, this would preserve existing seats on the court and remedy a problem that is affecting not only the court but the Senate as well.

I believe that it is also important to not only remedy the immediate problem before the Senate but also to ensure that all of the divisions of the superior court are fully staffed. This is more than just a procedural issue. It is also important for the citizens of the District of Columbia to know that all of the divisions, including criminal and civil, are operating at full capacity. Eliminating existing seats in the criminal and civil divisions will not improve the administration of justice in the District, but can only result an increased judicial caseload and delays at the courthouse.

The legislation I introduce today is similar to legislation that was favorably reported by the Committee on Governmental Affairs and subsequently passed by the Senate by unanimous consent during the 108th Congress. I hope that my colleagues will join me in supporting this important legislation.

By Ms. SNOWE (for herself, Mr. BINGAMAN, Ms. COLLINS, Mr. DORGAN, and Mr. ROCKEFELLER):

S. 2071. A bill to amend title XVIII of the Social Security Act to clarify congressional intent regarding the counting of residents in the nonhospital setting under the medicare program; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce the Community and Rural Medical Residency Preservation Act of 2005, which will serve to ensure the continued viability of medical residency training programs in our local communities. I am particularly pleased to introduce this bill with several of my colleagues, Senators BINGAMAN, COLLINS, DORGAN, and ROCKEFELLER, who share my concerns about the need to clarify congressional intent so that teaching hospitals will be able to offer these essential residency training programs in the community and so that medical residents, as well as many who live in these communities, will be able to continue to benefit from these programs.

Many medical residency training programs have traditionally operated in sites located outside the hospital setting for their educational programs. These nonhospital settings are, in fact, where most of this type of physician training occurs. The community and rural sites which operate these programs include physician offices, nursing homes, and community health centers—cornerstones of ambulatory training for graduate medical education, GME, programs. These programs often rely upon volunteer physician faculty to provide educational opportunities in practice settings which are similar to those in which these physicians in training will ultimately practice.

Congress clearly stated support for this concept as part of the Balanced Budget Act of 1997, when they reformed the GME funding formulas to allow funding for residents training in nonhospital settings. However, recent rulemaking, agency interpretations, and guidance issued by the Centers for Medicare and Medicaid Services, CMS, are creating a chilling effect on these training programs. Teaching programs across the Nation are facing audits and scrutiny as a result of confusing and unclear CMS policies and guidance on this issue. This has happened in my State, as well as many others, and is posing a serious threat to our future physician workforce and to teaching hospitals and medical schools which offer these programs.

If these agency policies are not halted and reversed, teaching hospitals throughout the country will be forced to train all residents in the hospital setting or potentially eliminate their residency programs. Not only does this do a disservice to medical residents who are able to obtain practical experience and be exposed to settings where they may ultimately practice, but these programs provide individuals living in medically underserved and rural areas with access to health care which might otherwise not be available.

Training medical residents outside the hospital setting is sound educational policy and a worthwhile public policy goal that Congress clearly mandated in 1997. In an effort to preserve the utilization of nonhospital training sites, I am therefore introducing legislation today which would clarify the meaning of the term ''all, or substantially all, of the costs for the training program,'' a phrase which has been subject to differing, and confusing, interpretations by CMS.

My legislation would clarify that, for teaching hospitals and entities operating training programs outside the hospital setting, the teaching hospital shall not be required to pay the entity operating the nonhospital setting any amounts other than those determined by the hospital and the entity for the hospital to be considered to have incurred all, or substantially all, of the costs for the training program. Medical associations, teaching hospitals, and academic medicine all strongly support this legislation.

This language will also make clear that hospitals shall not be required to pay an entity operating a nonhospital setting for any actual or imputed costs of time voluntarily spent supervising interns or residents as a condition for computing residents for purposes of receiving either direct graduate medical education payments or indirect medical education payments.

We have received strong support from a number of organizations who are in the forefront of training America's future physicians and who have confirmed the critical need for this legislation, including the Association of American Medical Colleges, the Academic Family Medicine Advocacy Alliance, representing the Society of Teachers of Family Medicine, the Association of Departments of Family Medicine, the Association of Family Medicine Residency Directors, and the North American Primary Care Research Group, and the American Osteopathic Association.

I ask unanimous consent that the text of the bill and the letters of support from these organizations printed in the RECORD.

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

S. 2071

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 ''Community and Rural Medical Residency Preservation Act of 2005''.

SEC. 2. CLARIFICATION OF CONGRESSIONAL INTENT REGARDING THE COUNTING OF RESIDENTS IN A NONHOSPITAL SETTING.

(a) D–GME.—Section 1886(h)(4)(E) (42 U.S.C. 1395ww(h)(4)(E)) is amended by adding at the end the following new sentences: ''For purposes of the preceding sentence, the term 'all, or substantially all, of the costs for the training program' means the stipends and benefits provided to the resident and other amounts, if any, as determined by the hospital and the entity operating the nonhospital setting. The hospital is not required to pay the entity any amounts other than those determined by the hospital and the entity in order for the hospital to be considered to have incurred all, or substantially all, of the costs for the training program in that setting.''.

(b) IME.—Section 1886(d)(5)(B)(iv) (42 U.S.C. 1395ww(d)(5)(B)(iv)) is amended by adding at the end the following new sentences: ''For purposes of the preceding sentence, the term 'all, or substantially all, of the costs for the training program' means the stipends and benefits provided to the resident and other amounts, if any, as determined by the hospital and the entity operating the nonhospital setting. The hospital is not required to pay the entity any amounts other than those determined by the hospital and the entity in order for the hospital to be considered to have incurred all, or substantially all, of the costs for the training program in that setting.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2005.

AMERICAN OSTEOPATHIC ASSOCIATION,
DEPARTMENT OF GOVERNMENT RELATIONS,
Washington, DC, November 2, 2005.

Hon. OLYMPIA J. SNOWE,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR SNOWE: As President of the American Osteopathic Association (AOA), I write to express our strong support for the ''Community and Rural Medical Residency Preservation Act of 2005.'' On behalf of the

56,000 osteopathic physicians represented by the AOA, thank you for your tireless efforts to protect and promote quality graduate medical education.

A majority of osteopathic residency programs, in all specialties, use non-hospital settings in their educational programs. These non-hospital sites, which consist of physician offices, nursing homes, community health centers, and other ambulatory settings, provide resident physicians with valuable educational experiences in settings similar to those in which they ultimately will practice. This concept is a cornerstone of osteopathic graduate medical education.

The training of residents in non-hospital settings is sound educational policy and a worthwhile public policy goal that Congress clearly mandated in 1997. It continues to enjoy strong Congressional support. Congress endorsed this concept as part of the Balanced Budget Act of 1997, when the graduate medical education, GME, funding formulas were reformed to allow funding for residents training in non-hospital settings with volunteer faculty.

However, recent rule-making, agency interpretations, and guidance issued by the Centers for Medicare and Medicaid Services, CMS, create a chilling effect on residency training programs. If CMS policy is not halted, hospitals will be forced to train all residents in the hospital setting or potentially eliminate programs. Teaching programs across the nation face audits and scrutiny as a result of confusing and unclear CMS policy on this issue.

Your legislation establishes, in statute, clear and concise guidance on the use of ambulatory sites in teaching programs. If enacted, it will preserve the quality education of resident physicians originally envisioned by Congress in 1997. The AOA and our members stand ready to use all available resources to ensure enactment of this important legislation.

Sincerely,

PHILIP SHETTLE, D.O.,
President.

ASSOCIATION OF AMERICAN MEDICAL COLLEGES,
Washington, DC, November 18, 2005.

Hon. OLYMPIA SNOWE,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR SNOWE: On behalf of the Association of the American Medical Colleges, AAMC, I write to endorse the ''Community and Rural Medical Residency Preservation Act of 2005.'' The AAMC represents 125 accredited U.S. medical schools; approximately 400 major teaching hospitals and health systems, 94 academic and professional societies, representing 109,000 faculty members; and the nation's 67,000 medical students and 104,000 residents.

Your bill would ensure that CMS regulations and guidance no longer impede the ability of teaching programs to train resident physicians in ambulatory and rural settings. As you know, ambulatory training is a vital aspect of every resident's training and is designed to expose residents to a variety of rural, suburban and urban settings in which they ultimately choose to practice such as physicians offices, nursing homes, and community health centers. Such training is coordinated by program directors at teaching hospitals in conjunction with community physicians—many of whom volunteer their time as a professional commitment to train the next generation of physicians.

Specifically, your bill clarifies that supervising physicians in non-hospital settings would be allowed to volunteer their teaching time. It also ensures that any teaching costs associated with supervising physicians who are not volunteers would be based on negotiations between the hospital and the non-hospital setting, rather than a complicated formula requiring unreasonable administrative burdens on both the teaching programs and nonhospital training settings.

We appreciate your continued interest in this issue and your efforts to ensure the viability of community and rural residency training. The AAMC looks forward to continuing to work with you and your staff to advance this important legislation.

Sincerely,

JORDAN COHEN, M.D.

ACADEMIC FAMILY MEDICINE ADVOCACY ALLIANCE,
November 11, 2005.

Hon. OLYMPIA J. SNOWE,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR SNOWE: On behalf of the undersigned academic family medicine organizations I would like to commend you for introducing the ''Community and Rural Medical Residency Preservation Act of 2005'', legislation intended to solve a longstanding problem in Medicare regulations that deals with volunteer teachers of residents in non-hospital settings.

We have appreciated your support through the years on this issue, and value your continued efforts to find a solution to the problem. As you know, the Balanced Budget Act, BBA, included a change in statute that allowed forthe counting of training time in non-hospital settings to be included in Medicare cost reports forboth IME and DME FTE counts. As part of that change, the statute, stated that a hospital must incur ''all pr substantially all'' the costs ofthe training in that setting. In the implementing regulations CMS (then HCFA) added the faculty costs to the already included residents' salary and benefits, and required a written agreement between the hospital and the non hospital site.

This change in regulation, and the interpretations of it that CMS has used during audits have caused many hospitals to lose the ability to count residents that train in non-hospital settings, and required them to refund large sums of IMEand DME money to CMS.

Congress made the change in statute. to encourage training in rural and underserved settings. Unfortunately. CMS's, actions have had just the opposite effect. It has had a dampening effect on training in the non-hospital setting—including rural rotations. It has resulted in much training being brought back into the hospital, ironically both at a time when accrediting bodies are requiring more training outside the hospital, and contrary to the wishes of Congress.

As you are well aware, several of the Family Medicine residency programs in Maine are at risk of closing due to the financial implications of CMS's interpretations. We are also aware of similar situations throughout the United States. For example, if the current situation continues, we have heard that in Iowa, four of the eight Family Medicine training programs are at risk of closing in the next couple of years. In Oregon, several residencies are at risk of losing many FTE's, including Internal Medicine, Surgery, OB-Gyn, and Emergency Medicine. In Montana, the only Family Medicine residency program in the state is in danger of losing funding oJ all it's outside rotations due to CMS's unreasonable requirements related to non-hospital rotations. Across the country, residency programs are at risk. CMS has had several years to solve the problem. The report of the Office of Inspector General (OIG) that was required by Congress in the MMA has given CMS several options, and yet nothing has been done.

We appreciate your efforts to put an end to this war of attrition. Please count on us to support your efforts at resolving this situation legislatively. Thank you for your help in this area. We look forward to your moving this legislation forward.

Sincerely,

WILLIAM K. MYGDAL, EdD,
President, Society of Teachers of Family Medicine.

PENNY TENZER, MD,
President, Association of Family Practice Residency Directors.

WARREN NEWTON, MD,
President, Association of Departments of Family Medicine.

PERRY DICKINSON, MD,
President, North American Primary Care Research Group.

By Mr. REID:

S. 2072. A bill to provide for the conveyance of certain public lands in and around historic mining townsites in Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, I rise today to introduce the Nevada Mining Townsite Conveyance Act, which addresses an important public land issue in rural Nevada. As you may know, the Federal Government controls more than 87 percent of the land in Nevada. That is more than 61 million acres of land. This fact makes it necessary for our State and our communities to pursue Federal remedies for problems that in other States can be handled in a much more expeditious manner.

The residents of Ione and Gold Point in Nevada have asked for our help in settling longstanding trespass issues that affect these historic mining communities. These communities have been continuously occupied for over 100 years. Many residents live on land that their families have ostensibly owned for several decades. These citizens have paid their property taxes and made improvements to their properties, rehabilitated historic structures and built new ones.

The documents by which many of these people claim possession of the properties date back many years. In fact, some of the deeds are historic documents themselves. Yet because many of these documents do not satisfy modern requirements for demonstrating land title, they have been deemed invalid. In other words, the Bureau of Land Management has determined that some of the residents of Ione and Gold Point are trespassing on Federal land. This unfortunate situation puts the BLM at odds with the local residents and county governments and is hampering efforts to improve basic community services such as fire protection, and water supply and treatment facilities.

Nye County, Esmeralda County, and the BLM have worked together for nearly a decade to solve this problem. All of these parties support the legislation that we offer today as a solution to these land ownerships conflicts, and

as a means of promoting responsible resource management. All of the land included in this bill has been identified by the BLM for disposal.

This legislation represents the first of a two-part solution. Under this bill, specified lands within the historic mining townsites of Ione and Gold Point would be conveyed to the respective counties. Under the provisions of a State law passed several years ago in Nevada, the counties will then reconvey the land to these people or entities who can demonstrate ownership or longstanding occupancy of specific land parcels.

My bill conveys, for no consideration, approximately 760 acres in the communities of Ione and Gold Point from the BLM to Nye and Esmeralda Counties. As a condition of the conveyance, all historic and cultural resources contained in the townsites shall be preserved and protected under applicable Federal and State law. It should also be noted that approximately 145 acres of the total land conveyed to Nye County will stay in county hands in order to simplify management of a cemetery, a landfill and an airstrip. These conveyances will benefit the agencies that manage Nevada's vast Federal lands as well as the proud citizens of our rural communities.

I sincerely hope that my colleagues will support this legislation. It is a practical solution that deserves swift passage. We salute the Bureau of Land Management, the counties, and the local residents for their cooperation and hard work in crafting a reasonable solution to this problem.

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. 2072

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 ''Nevada Mining Townsite Conveyance Act''.

SEC. 2. DISPOSAL OF PUBLIC LANDS IN MINING TOWNSITES, ESMERALDA AND NYE COUNTIES, NEVADA.

(a) FINDINGS.—Congress finds the following:

(1) The Federal Government owns real property in and around historic mining townsites in the counties of Esmeralda and Nye in the State of Nevada.

(2) While the real property is under the jurisdiction of the Secretary of the Interior, acting through the Bureau of Land Management, some of the real property land has been occupied for decades by persons who took possession by purchase or other documented and putatively legal transactions, but whose continued occupation of the real property constitutes a ''trespass'' upon the title held by the Federal Government.

(3) As a result of the confused and conflicting ownership claims, the real property is difficult to manage under multiple use policies and creates a continuing source of friction and unease between the Federal Government and local residents.

(4) All of the real property is appropriate for disposal for the purpose of promoting administrative efficiency and effectiveness, and the Bureau of Land Management has already identified certain parcels of the real property for disposal.

(5) Some of the real property contains historic and cultural values that must be protected.

(6) To promote responsible resource management of the real property, certain parcels should be conveyed to the county in which the property is situated in accordance with land use management plans of the Bureau of Land Management so that the county can, among other things, dispose of the property to persons residing on or otherwise occupying the property.

(b) MINING TOWNSITE DEFINED.—In this section, the term ''mining townsite'' means real property in the counties of Esmeralda and Nye, Nevada, that is owned by the Federal Government, but upon which improvements were constructed because of a mining operation on or near the property and based upon the belief that—

(1) the property had been or would be acquired from the Federal Government by the entity that operated the mine; or

(2) the person who made the improvement had a valid claim for acquiring the property from the Federal Government.

(c) CONVEYANCE AUTHORITY.—

(1) IN GENERAL.—Notwithstanding sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713), the Secretary of the Interior, acting through the Bureau of Land Management, shall convey, without consideration, all right, title, and interest of the United States in and to mining townsites (including improvements thereon) identified for conveyance on the maps entitled ''Original Mining Townsite, Ione, Nevada'' and ''Original Mining Townsite, Gold Point, Nevada'' and dated October 17, 2005.

(2) AVAILABILITY OF MAPS.—The maps referred to in paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Secretary of the Interior, including the office of the Bureau of Land Management located in the State of Nevada.

(d) RECIPIENTS.—

(1) ORIGINAL RECIPIENT.—Subject to paragraph (2), the conveyance of a mining townsite under subsection (c) shall be made to the county in which the mining townsite is situated.

(2) RECONVEYANCE TO OCCUPANTS.—In the case of a mining townsite conveyed under subsection (c) for which a valid interest is proven by one or more persons, under the provisions of Nevada Revised Statutes Chapter 244, the county that received the mining townsite under paragraph (1) shall reconvey the property to that person or persons by appropriate deed or other legal conveyance as provided in that State law. The county is not required to recognize a claim under this paragraph submitted more than 10 years after the date of the enactment of this Act.

(e) PROTECTION OF HISTORIC AND CULTURAL RESOURCES.—As a condition on the conveyance or reconveyance of a mining townsite under subsection (c), all historic and cultural resources (including improvements) on the mining townsite shall be preserved and protected in accordance with applicable Federal and State law.

(f) VALID EXISTING RIGHTS.—The conveyance of a mining townsite under this section shall be subject to valid existing rights, including any easement or other right-of-way or lease in existence as of the date of the conveyance. All valid existing rights and interests of mining claimants shall be maintained, unless those rights or interests are deemed abandoned and void or null and void under—

(1) section 2320 of the Revised Statutes (30 U.S.C. 21 et seq.);

(2) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); or

(3) subtitle B of title X of the Omnibus Budget Reconciliation Act of 1993 (30 U.S.C. 28(f)–(k)), including regulations promulgated under section 3833.1 of title 43, Code of Federal Regulations or any successor regulation.

(g) SURVEY.—A mining townsite to be conveyed by the United States under this section shall be sufficiently surveyed to legally describe the land for patent conveyance.

(h) RELEASE.—On completion of the conveyance of a mining townsite under subsection (c), the United States shall be relieved from liability for, and shall be held harmless from, any and all claims arising from the presence of improvements and materials on the conveyed property.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Interior such amounts as may be necessary to carry out the conveyances required by this section, including funds to cover the costs of cadastral and mineral surveys, mineral potential reports, hazardous materials, biological, cultural and archaeological clearances, validity examinations and other expenses incidental to the conveyances.

By Mrs. CLINTON:

S. 2073. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for property owners who remove lead-based paint hazards; to the Committee on Finance.

Mrs. CLINTON. Mr. President, I rise today to discuss a serious, persistent, and entirely preventable threat to the health and well-being of our children.

Lead is highly toxic and continues to be a major environmental health problem in the United States, especially for infants, children, and pregnant women. A CDC survey conducted between 1999–2002, estimated that 310,000 American children under 6 were at risk for exposure to harmful lead levels in United States. Childhood lead poisoning has been linked to impaired growth and function of vital organs and problems with intellectual and behavioral development. A study from the New England Journal of Medicine also found that children suffered up to a 7.4-percent decrease in IQ at lead levels that CDC considers safe. At very high levels, lead poisoning can cause seizures, coma, and even death.

The most common source of lead exposure for children today is lead paint in older housing and the contaminated lead dust it generates. Despite a ban on lead paint in 1978, there are still over 24 million housing units in the United States that have lead paint hazards, with about 1.2 million in New York State alone. According to 2000 census data, New York State has over 37 percent of homes that were built prior to 1950 and more pre-1950 housing units available for occupancy than any other State.

Though New York State has made considerable progress in prevention and early identification of childhood lead poisoning, more needs to be done to minimize the risk of lead exposure in the home, by our kids. About 5 percent of New York children screened for lead

poisoning at age 2 were found to have elevated levels of lead in the blood, more than twice the national average. Minority and poor children are disproportionately at risk, as these groups are more likely to live in older housing with poor building maintenance, where the risk of lead paint hazards are greater. Low-income children are eight times more likely to develop lead poisoning than more affluent children, and African-American and Mexican-American children are five and two times more likely, respectively, to have toxic blood lead levels than white children. In New York City, about 95 percent of children with elevated blood levels were African American, Hispanic or Asian.

I am glad that the U.S. Department of Health and Human Services considers lead poisoning to be a priority, and established a national goal of ending childhood lead poisoning by 2010. However, Federal programs only have resources to remove lead-based paint hazards from less than 0.1 percent of the 24 million housing units that have these hazards. At this pace, we will not be able to end childhood lead poisoning by 3010, let alone 2010.

We will never stop childhood lead poisoning unless we get lead out of the buildings in which children live, work, and play. In Brooklyn, more than a third of the buildings in one community have a lead-based paint hazard. Parents of children with lead poisoning are being told that nothing can be done until their children's lead poisoning becomes worse. How can we ask parents to watch and wait while their sons and daughters suffer from lead poisoning before we remove the lead from their homes?

That is why today, I am proud to introduce the Home Lead Safety Tax Credit Act of 2005 with my colleagues, Senators DEWINE, OBAMA, and SMITH. This legislation would provide a tax credit to aide and encourage homeowners and landlords to engage in the safe removal of lead-based paint hazards from their homes and rental units. Specifically, it would change the IRS Code of 1986 to provide a tax credit for 50 percent of the allowable costs paid by the taxpayer, up to a maximum of $3000 and $1000 for lead abatement and interim control measures, respectively. Interim control measures, which can include replacement of windows, specialized maintenance, safe repainting and renovation work practices to eliminate lead hazards, are a cost-effective means of protecting the largest number of children in the near term. While total elimination of lead paint in housing is the most desirable, interim control measures typically cost three to nine times less and can be equally effective at removing the lead hazard.

The credit is targeted to homes that contain children less than 6 years of age or a woman of childbearing age, low-income residents, and to buildings built before 1960, as these include more than 96 percent of all units where lead-based paint is prevalent. In Massachusetts, a similar tax credit helped reduce the number of new cases of childhood lead poisoning by almost two-thirds in a decade.

The Home Lead Safety Tax Credit Act of 2005 would help homeowners make over 80,000 homes each year safe from lead, which is more than 10 times the number of homes made lead safe by current Federal programs. It would greatly accelerate our progress in ridding our Nation of the significant problem of childhood lead poisoning. I ask my colleagues to join me in supporting this legislation, which will provide needed incentives for property owners to ensure that our homes are safeguarded against environmental hazards that detrimentally affect the health and safety of our children.

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. 2073

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

SECTION 1. SHORT TITLE; FINDINGS; PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the ''Home Lead Safety Tax Credit Act of 2005''.

(b) FINDINGS.—Congress finds that:

(1) Of the 98,000,000 housing units in the United States, 38,000,000 have lead-based paint.

(2) Of the 38,000,000 housing units with lead-based paint, 25,000,000 pose a hazard, as defined by Environmental Protection Agency and Department of Housing and Urban Development standards, due to conditions such as peeling paint and settled dust on floors and windowsills that contain lead at levels above Federal safety standards.

(3) Though the number of children in the United States ages 1 through 5 with blood levels higher than the Centers for Disease Control action level of 10 micrograms per deciliter has declined to 300,000, lead poisoning remains a serious, entirely preventable threat to a child's intelligence, behavior, and learning.

(4) The Secretary of Health and Human Services has established a national goal of ending childhood lead poisoning by 2010.

(5) Current Federal lead abatement programs, such as the Lead Hazard Control Grant Program of the Department of Housing and Urban Development, only have resources sufficient to make approximately 7,000 homes lead-safe each year. In many cases, when State and local public health departments identify a lead-poisoned child, resources are insufficient to reduce or eliminate the hazards.

(6) Old windows typically pose significant risks because wood trim is more likely to be painted with lead-based paint, moisture causes paint to deteriorate, and friction generates lead dust. The replacement of old windows that contain lead based paint significantly reduces lead poisoning hazards in addition to producing significant energy savings.

(7) Childhood lead poisoning can be dramatically reduced by the abatement or complete removal of all lead-based paint. Empirical studies also have shown substantial reductions in lead poisoning when the affected properties have undergone so-called ''interim control measures'' that are far less costly than abatement.

(c) PURPOSE.—The purpose of this section is to encourage the safe removal of lead hazards from homes and thereby decrease the number of children who suffer reduced intelligence, learning difficulties, behavioral problems, and other health consequences due to lead-poisoning.

SEC. 2. HOME LEAD HAZARD REDUCTION ACTIVITY TAX CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30D. HOME LEAD HAZARD REDUCTION ACTIVITY.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the lead hazard reduction activity cost paid or incurred by the taxpayer during the taxable year for each eligible dwelling unit.

''(b) LIMITATION.—The amount of the credit allowed under subsection (a) for any eligible dwelling unit for any taxable year shall not exceed—

''(1) either—

''(A) $3,000 in the case of lead hazard reduction activity cost including lead abatement measures described in clauses (i), (ii), (iv) and (v) of subsection (c)(1)(A), or

''(B) $1,000 in the case of lead hazard reduction activity cost including interim lead control measures described in clauses (i), (iii), (iv), and (v) of subsection (c)(1)(A), reduced by

''(2) the aggregate lead hazard reduction activity cost taken into account under subsection (a) with respect to such unit for all preceding taxable years.

''(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

''(1) LEAD HAZARD REDUCTION ACTIVITY COST.—

''(A) IN GENERAL.—The term 'lead hazard reduction activity cost' means, with respect to any eligible dwelling unit—

''(i) the cost for a certified risk assessor to conduct an assessment to determine the presence of a lead-based paint hazard,

''(ii) the cost for performing lead abatement measures by a certified lead abatement supervisor, including the removal of paint and dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of painted surfaces, windows, or fixtures, or the removal or permanent covering of soil when lead-based paint hazards are present in such paint, dust, or soil,

''(iii) the cost for performing interim lead control measures to reduce exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards, and the establishment and operation of management and resident education programs, but only if such measures are evaluated and completed by a certified lead abatement supervisor using accepted methods, are conducted by a qualified contractor, and have an expected useful life of more than 10 years,

''(iv) the cost for a certified lead abatement supervisor, those working under the supervision of such supervisor, or a qualified contractor to perform all preparation, cleanup, disposal, and clearance testing activities associated with the lead abatement measures or interim lead control measures, and

''(v) costs incurred by or on behalf of any occupant of such dwelling unit for any relocation which is necessary to achieve occupant protection (as defined under section 35.1345 of title 24, Code of Federal Regulations).

''(B) LIMITATION.—The term 'lead hazard reduction activity cost' does not include any cost to the extent such cost is funded by any grant, contract, or otherwise by another person (or any governmental agency).

''(2) ELIGIBLE DWELLING UNIT.—

''(A) IN GENERAL.—The term 'eligible dwelling unit' means, with respect to any taxable year, any dwelling unit—

''(i) placed in service before 1960,

''(ii) located in the United States,

''(iii) in which resides, for a total period of not less than 50 percent of the taxable year, at least 1 child who has not attained the age of 6 years or 1 woman of child-bearing age, and

''(iv) each of the residents of which during such taxable year has an adjusted gross income of less than 185 percent of the poverty line (as determined for such taxable year in accordance with criteria established by the Director of the Office of Management and Budget).

''(B) DWELLING UNIT.—The term 'dwelling unit' has the meaning given such term by section 280A(f)(1).

''(3) LEAD-BASED PAINT HAZARD.—The term 'lead-based paint hazard' has the meaning given such term by section 745.61 of title 40, Code of Federal Regulations.

''(4) CERTIFIED LEAD ABATEMENT SUPERVISOR.—The term 'certified lead abatement supervisor' means an individual certified by the Environmental Protection Agency pursuant to section 745.226 of title 40, Code of Federal Regulations, or an appropriate State agency pursuant to section 745.325 of title 40, Code of Federal Regulations.

''(5) CERTIFIED INSPECTOR.—The term 'certified inspector' means an inspector certified by the Environmental Protection Agency pursuant to section 745.226 of title 40, Code of Federal Regulations, or an appropriate State agency pursuant to section 745.325 of title 40, Code of Federal Regulations.

''(6) CERTIFIED RISK ASSESSOR.—The term 'certified risk assessor' means a risk assessor certified by the Environmental Protection Agency pursuant to section 745.226 of title 40, Code of Federal Regulations, or an appropriate State agency pursuant to section 745.325 of title 40, Code of Federal Regulations.

''(7) QUALIFIED CONTRACTOR.—The term 'qualified contractor' means any contractor who has successfully completed a training course on lead safe work practices which has been approved by the Department of Housing and Urban Development and the Environmental Protection Agency.

''(8) DOCUMENTATION REQUIRED FOR CREDIT ALLOWANCE.—No credit shall be allowed under subsection (a) with respect to any eligible dwelling unit for any taxable year unless—

''(A) after lead hazard reduction activity is complete, a certified inspector or certified risk assessor provides written documentation to the taxpayer that includes—

''(i) evidence that—

''(I) the eligible dwelling unit passes the clearance examinations required by the Department of Housing and Urban Development under part 35 of title 40, Code of Federal Regulations,

''(II) the eligible dwelling unit does not contain lead dust hazards (as defined by section 745.227(e)(8)(viii) of such title 40), or

''(III) the eligible dwelling unit meets lead hazard evaluation criteria established under an authorized State or local program, and

''(ii) documentation showing that the lead hazard reduction activity meets the requirements of this section, and

''(B) the taxpayer files with the appropriate State agency and attaches to the tax return for the taxable year—

''(i) the documentation described in subparagraph (A),

''(ii) documentation of the lead hazard reduction activity costs paid or incurred during the taxable year with respect to the eligible dwelling unit, and

''(iii) a statement certifying that the dwelling unit qualifies as an eligible dwelling unit for such taxable year.

''(9) BASIS REDUCTION.—The basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit (determined without regard to subsection (d)).

''(10) NO DOUBLE BENEFIT.—Any deduction allowable for costs taken into account in computing the amount of the credit for lead-based paint abatement shall be reduced by the amount of such credit attributable to such costs.

''(d) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(2) the sum of the credits allowable under subpart A and sections 27, 29, 30, 30A, 30B, and 30C for the taxable year.

''(e) CARRYFORWARD ALLOWED.—

''(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (d) for such taxable year (referred to as the 'unused credit year' in this subsection), such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

''(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) of the Internal Revenue Code of 1986 is amended by striking ''and'' in paragraph (36), by striking the period and inserting '', and'' in paragraph (37), and by inserting at the end the following new paragraph:

''(38) in the case of an eligible dwelling unit with respect to which a credit for any lead hazard reduction activity cost was allowed under section 30D, to the extent provided in section 30D(c)(9).''.

(2) The table of sections for subpart B of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 30C the following new item:

''Sec. 30D. Home lead hazard reduction activity.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to lead hazard reduction activity costs incurred after December 31, 2005, in taxable years ending after that date.

By Mr. BINGAMAN (for himself, Mr. BAUCUS, Mr. DORGAN, Mrs. MURRAY, Ms. CANTWELL, and Mr. JOHNSON):

S. 2074. A bill to amend title XIX of the Social Security Act to provide for fair treatment of services furnished to Indians under the medicaid program, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I am pleased to be introducing the Indian Medicaid Health Act of 2005 with Senators BAUCUS, DORGAN, MURRAY, CANTWELL and JOHNSON.

This legislation addresses a number of technical but critically important provisions within the Medicaid Program that devote special attention to Native Americans, the Indian Health Service, IHS, tribal health organizations, and urban Indian health organizations. These provisions would:

No. 1, codify protections that American Indians and Alaska Natives have obtained over the years in the Medicaid program, such as the requirement that states consult with tribes and tribal health organizations prior to seeking a federal Medicaid waiver;

No. 2, clarify that American Indians and Alaska Natives are not subject to additional cost sharing or benefit limitations within Medicaid that will result in nothing more than a cost-shift from the Medicaid program to IHS or tribal health providers;

No. 3, codify critically important provisions that provide protections against states or the federal government taking Indian property or tribal lands in exchange for medical services delivered through Medicaid; and,

No. 4, eliminate certain inequities such as the lack of 100 percent federal matching payments within Medicaid for care delivered to Native Americans at urban Indian health clinics.

American Indians and Alaska Natives continue to suffer enormous disparities in the health and medical care they receive. It should not come as a surprise to anyone at the Federal level that health care funding for American Indians and Alaska Natives, AI/AN, is well below what it should be and, consequently, Native Americans received rationed health care services that deny them access to the quality and medically necessary health care services.

However, year after year, budget and appropriations amendments are offered to more fully fund health care for Native Americans but both the administration and Congress routinely fail to provide adequate funding. The result is a continued and growing divide between the health of American Indians and Alaska Natives compared to that of the general population.

The U.S. Commission on Civil Rights, USCCR, held meetings in Albuquerque, NM, and visited the Gallup Indian Medical Center in 2003 as part of a fact-finding mission to review the current disparities in the health status and outcomes of Native Americans. What they found served as a basis for the release of their report in September 2004 entitled Broken Promises: Evaluating the Native American Health Care System. The opening line in that report reads, ''Today, in Indian Country, health-related problems and the lack of adequate health care are the enemy.''

This is in large part due to the fact that the IHS operates on just 57 percent of the budget it needs and had more than $3 billion in unmet needs in 2003. USCCR cites estimates by the Department of Health and Human Services, HHS, that per capita health spending for all Americans at $4,065, while IHS spent about $1,914 per person and average spending on Navajo patients is just $1,187.

The USCCR adds, ''In fact, the federal government spends nearly twice as much money for a federal prisoner's health care than it does for an American Indian or Alaska Native.''

Consequently and not surprisingly, this disparity in funding translates into severe health disparities for Native Americans. For example, life expectancy is 6 years less than the rest of the U.S. citizens. Tuberculosis rates are four times the national average. Complications due to diabetes are almost three times the national average and death rates exceed the Healthy People 2010 targets by 233 percent. Infant mortality rates are 1.7 times higher than the rate for white infants.

In recognition of these facts, the National Indian Health Board has said, ''The travesty in looking at the deplorable health of American Indians and Alaska Natives is recognizing that the poor health indicators could be improved if funding was available to provide even a basic level of care.''

The U.S. Commission on Civil Rights adds, ''In this light, this report should be considered a clarion call to those who inexplicably fail to acknowledge the present state of Native American health care and to those who lack a commitment necessary to address the overwhelming need for clear and decisive action. Such a call is certainly appropriate for our political leadership and the message is clear—it is finally time to honor our nation's commitment to protecting the health of Native Americans.''

Such an agenda is actually a fairly simple one. It would include:

No. 1, full funding for the Indian Health Service and tribal health organizations, which should include conversion of IHS into an entitlement program;

No. 2, increased numbers and funding of urban Indian health organizations;

No. 3, reauthorization of the Indian Health Care Improvement Act;

No. 4, coverage of as many American Indians and Alaska Natives who qualify for federal health programs, such as Medicare and Medicaid, as possible to ensure they are enrolled and receiving benefits in order to augment funding to IHS facilities; and,

No. 5, targeted efforts to address health disparities in Indian Country, such as diabetes.

For this reason, I strongly support the annual budget and appropriations efforts, which have been led by Senator Daschle in the past and Senator DORGAN this year, to increase funding for the Indian Health Service. Unfortunately, those efforts continue to be voted down in the Congress.

I also strongly support reauthorization of the Indian Health Care Improvement Act, IHCIA, which is led by Senators MCCAIN and DORGAN. This effort has been ongoing for 6 years and it is long past time for the Congress to take up and pass IHCIA. Unfortunately, due to continued opposition to certain provisions by the administration, the legislation continues to be bottled up in the Congress and has not even been reintroduced in the House of Representatives.

As a member of the Senate Finance Committee, one area that I have been able to focus on in recent years is to improve coverage for Native Americans in both Medicare and Medicaid. I was able to pass legislation, the Native American Breast and Cervical Cancer Treatment Technical Amendment Act of 2001 or Public Law 107–121, to correct problems whereby Native American women had previously been wrongly denied coverage under Medicaid's breast and cervical cancer treatment option. After a year of work, we were able to pass legislation to correct that outrageous and discriminatory error.

I was also able to pass two provisions in 2003 from my bill, the Medicare Indian Health Fairness Act of 2003, that expanded reimbursement to IHS and tribal health providers for all Medicare Part B services and limited the amount that providers outside the IHS system can charge for services delivered to Native Americans through the contract health services, CHS, program. As with anything related to Native Americans in this Administration, the Department of Health and Human Services, HHS, continues to fail to publish regulations necessary to implement the latter provision, even though the law required publishing of those regulations in December 2004.

Although most involved in Indian health feel frustrated and argue that we are taking one step forward and two steps back with respect to Indian health care policy, it is in the area of Medicare, Medicaid and the State Children's Health Insurance Program, SCHIP, policy that we have been making some progress. The legislation I am introducing today, the Medicaid Indian Health Care Act of 2005, seeks to protect the gains that have been made and to take another few steps forward.

For one, while IHS funding continues to fall further and further behind what is needed, the one bright spot is that collections from third party payers has increased over time with Medicaid playing a fundamental role in that growth.

IHS was first authorized to seek Medicaid payment for services delivered in Indian health facilities, whether operated by the IHS directly or by tribes as part of the Indian Health Care Improvement Act of 1976 or Public Law 94–437.

As Indian health experts Mim Dixon and Kris Locke said, ''This entitlement funding was expected to provide critical resources to improve the quality of health care for AI/AN and to reduce the health status disparities. To support this outcome, there is an additional provision in the IHCIA that Medicaid and Medicare revenues shall not offset Congressional appropriations for the IHS, so that the total amount of funding for Indian health care would increase and not merely be shifted from one funding stream to another.''

With regard to that requirement, however, the U.S. Commission on Civil Rights adds, ''. . . Congress included language to articulate the express intent that increased collections not be used to justify lower appropriations levels. Congress has failed to abide by this clear mandate. Only enhanced collection efforts have made up for shortfalls created by inflation and population growth, and prevented a continuous decline from 1991 until today.''

Growth in Medicaid collections has been used to partially offset the dramatic decline in IHS purchasing power over the years, despite the Federal provision stating that such revenues should not reduce overall IHS spending.

The U.S. Commission on Civil Rights noted that '' . . . collections from third parties increased 453 percent from 1991 to 2003.'' Without that increase, the fate of IHS and health care services for Native Americans would even be more severe.

According to the Government Accountability Office, GAO, in its August 2005 report entitled ''Indian Health Service: Health Care Services Are Not Always Available to Native Americans'', ''In fiscal year 2004, IHS-funded facilities obtained approximately $628 million in reimbursements, with 92 percent collected from Medicare and Medicaid and 8 percent from private insurance.''

Medicaid collections, alone, have by 2004 ''grown to $446 million, which is 71 percent of the total third party collections reported by IHS In FY 2004, . . . Medicaid collections provided about 16.8 percent of the IHS budget for clinical services,'' according to Dixon and Locke.

Consequently, the administration's own congressional justification document for its IHS budget proposes just a 2.1-percent increase, or $62.9 million, in additional IHS funding in fiscal year 2006 while noting that the IHS will increase their Medicare and Medicaid collections by another $8.4 million in fiscal year 2006. The Northwest Portland Area Indian Health Board estimates it will take $371 million to maintain current services for IHS and tribally operated health programs. Therefore, the administration's ridiculously low proposed increase for IHS combined with their estimated increase in Medicare and Medicaid collections will still fall $300 million short of providing current services.

Whether intentional or not, as direct IHS funding continues to fail to cover inflation or population growth year after year, Medicaid collections are now a growing and critical component to providing basic health care services by IHS and tribal health organizations. Yet, while Medicaid has become critically important to the health of American Indians and Alaska Natives, Native Americans constitute a small share of overall Medicaid costs. As the Northwest Portland Area Indian Health Board has found, Medicaid accounts for almost 20 percent of the IHS

budget but less than 0.5 percent of Medicaid expenditures go to Indian health.

Consequently, the legislation I am introducing today with Senators Baucus, Dorgan, Murray, Cantwell, and Johnson entitled the ''Medicaid Indian Health Act of 2005'' is primarily an attempt to prevent the Federal Government and States from inflicting harm on the health and well-being of American Indians and Alaska Natives, but it also seeks to take a few steps forward as well.

What is at stake? First, from the ''do no harm'' prescriptive, both the National Governors' Association, NGA, and the House of Representatives budget reconciliation legislation contemplate major changes to the Medicaid program to achieve $10 billion or more in proposed budget cuts to Medicaid and Medicare. Unfortunately, it is clear that neither the NGA nor the House of Representatives considered the tremendous impact that the cuts they are proposing will have on the health and well-being of Native Americans across this Nation.

For example, both the NGA and the House budget reconciliation package provide for States being able to impose additional premiums, copayments, and other forms of cost-sharing on low-income Medicaid beneficiaries, including Native Americans. Such changes can have enormous consequences for AI/ANs as well as the Indian Health Service, tribal, and urban Indian, I/T/U providers from whom many Native Americans receive health services.

As Andy Schneider of Medicaid Policy, LLC, stated at a meeting in August of this year on Medicaid and Indian health care, ''Regrettably, the NGA recommendations [which have been adopted as part of the House budget reconciliation package] could well make matters even worse for AI/ANs and the I/T/U providers that serve them. The NGA proposal to increase beneficiary cost-sharing could impose additional financial burdens on IHS and tribal health budgets. The NGA proposal for more benefits package 'flexibility' could result in significant reimbursement losses to I/T/U providers.''

How would this occur? With respect to additional cost sharing, evidence shows that additional cost sharing either results in reduced use of medical services, which could result in further a decline in the health status of AI/ANs, or that the I/T/U providers will pick up the added cost sharing burden. As Schneider points out, ''These costs include not only the amounts of the copayments and deductibles but also the administrative expense of processing them and tracking the cumulative out-of-pocket payments, particularly if the services subject to cost-sharing are delivered by a non-I/T/U provider.''

Even if you subscribe to the ideology that Medicaid beneficiaries should pay more for their health care, as Dixon and Locke point out, ''The intended outcome of enrollee cost sharing is not achieved in the Indian health system and actually acts to further deplete funding.''

Put simply, added copayments in Medicaid would result in the unintended effect of shifting Medicaid costs directly upon the already horribly underfunded IHS system. In other words, the imposition of consumer cost-sharing provisions by Medicaid on Native American populations would effectively reduce the level and quality of health care services in Indian communities.

With respect to benefit flexibility as proposed by NGA and adopted in the House budget reconciliation package, according to Schneider, ''The effect of reducing Medicaid coverage will be to reduce Medicaid revenues to the I/T/U providers that furnish covered services to this population. Services for which the I/T/U could previously collect Medicaid revenues will no longer be reimburseable because the patient is no longer eligible for Medicaid.''

To address these concerns, the Northwest Portland Area Indian Health Board has recommended, ''The Medicaid program could be a more effective means of financial Indian health programs if it would exempt American Indians and Alaska Natives from cost sharing including co-pays, premiums and any form of cost sharing. It makes little sense to Indian people to sign up for a health program that charges them for health care services that their tribe gave up lands and others considerations to secure for all generations. The practical effect is that they will not sign up for Medicaid and the IHS funded programs will end up paying all the costs of their health care. If this becomes the case, CMS will save the federal government millions of dollars, but renege on rights guaranteed by law and treaties.''

In order to address these important points, one need look no further than the State Children's Health Insurance Program, SCHIP, rules and regulations. As Schneider adds, ''Federal regulations prohibit states from imposing premiums, deductibles, coinsurance, or copayments or AI/AN children enrolled in their SCHIP programs. There is no comparable regulatory protection for AI/AN children or adults enrolled in Medicaid.''

Consequently, to prevent harm to the health and well-being of Native Americans, section 3 of the Medicaid Indian Health Act of 2005 would explicitly prohibit imposing such things as premiums or other forms of cost sharing on Native Americans within Medicaid, just as SCHIP already does. Section 4 adds a prohibition on the recovery of the estates of AI/AN Medicaid beneficiaries or tribal property by States through the Medicaid Program. Furthermore, section 8 of the legislation allows States to include special provisions exempting Native Americans from additional cost sharing or from benefit reductions in recognition of the special circumstances of Native Americans in the Medicaid Program.

In light of the failure of the NGA to consider the special circumstances of American Indians and Alaska Natives with respect to Medicaid policy, section 5 of the legislation recognizes the Federal trust responsibility and requires the Secretary, prior to the approval of any State Medicaid waivers, to assure that there has been consultation with tribes whose members or tribal health programs could be adversely affected by the waiver. Otherwise, the current waiver process can result in the approval of waivers that may include reductions in Medicaid eligibility, benefits and/or reimbursement or increases in cost sharing that can have a negative impact on Native Americans or tribal health programs.

In short, sections 3, 4, 5, and 8 seek to adopt a policy of ''do no harm'' by preventing changes in Medicaid policy from having negative consequences for Native Americans. Meanwhile, sections 2, 6, and 7 in the bill seek to make some additional progress on behalf of Native Americans through the Medicaid Program.

Foremost among those provisions in section 2, which provides for 100 percent Federal Medicaid matching funds for services delivered to AI/AN Medicaid beneficiaries at urban Indian health programs. Although the Medicaid statute currently provides for 100 percent Federal Medicaid matching funds for Medicaid services delivered to AI/ANs through IHS facilities and a subsequent Memorandum of Agreement, MOA, in 1996 clarified those payments also apply to services provided through tribally owned facilities, the 100 Percent Federal Medical Assistance Percentage, FMAP, does not apply to urban Indian clinics.

In short, if an AI/AN Medicaid beneficiary received services from an IHS or tribal facility, the Federal Government is paying 100 percent of the cost, but if the same individual received the same services from an urban Indian health program funded by the IHS, the Federal Government shifts part of the costs of that care to the State in proportion to the State's share of the FMAP. There is no justification for this cost shift. Just as IHS and tribal facilities are part of the I/T/U delivery system for Native Americans, so are urban Indian health programs and, as part of the ''Federal trust responsibility,'' States should not be required to subsidize any element of this system.

Section 6 of the legislation would simply ensure that I/T/U providers that do not have the status of federally qualified health centers, FQHCs, receive the same level of reimbursement from Medicaid managed care organizations, MCOs, as they would if they were a FQHC. If Medicaid MCOs are continued to be allowed to pay I/T/U providers less for the same services that they pay other network providers, the I/T/U providers will, effectively, be subsidizing the MCO or other network providers, which is not an appropriate use of limited federal IHS resources.

And finally, section 7 of the Medicaid Indian Health Act of 2005 ensures that IHS spending on behalf of a Native American does not disqualify them for Medicaid coverage under the ''medically needy option.'' Current policy prohibits such care from counting toward the ''spend down'' requirements for qualifying as ''medically needy'' in Medicaid. Receiving services at an IHS facility should certainly not disqualify anybody from Medicaid coverage and, once again, IHS should not be subsidizing the Medicaid program.

In total, the provisions in the Medicaid Indian Health Act of 2005 might at first glance appear to be a hodge podge set of provisions related to both Medicaid and Indian health. However, they are not. They reflect a concerted effort on behalf of Native American people to protect the gains that have already been made within the Medicaid Program for American Indians and Alaska Natives and the need to make additional strides to improve the delivery of health services throughout to Native people, including those in urban areas, through Medicaid.

Furthermore, this is just the first in a series of bills addressing Indian issues within the Medicaid and Medicare Programs. The next two will focus, respectively, on improving the Medicare Program and fixing problems with respect to the Medicare prescription drug program for Native Americans and Indian health providers.

As part of the Indian Health Care Improvement Act of 1976 report, the Congress said, ''The most basic human right must be the right to enjoy decent health. Certainly, any effort to fulfill Federal responsibilities to the Indian people must begin with the provision of health services. In fact, health services must be the cornerstone upon which rest all the other Federal programs for the benefit of Indians. Without a proper health status, the Indian people will be unable to fully avail themselves of the many economic, educational, and social programs already directed to them or which this Congress and future Congresses will provide them.''

The Federal Government has a ''Federal trust responsibility'' to Indian people that it is simple not fulfilling. This administration and this Congress can and simply must do better. Part of that multipronged agenda should include passage of the Medicaid Indian Health Act of 2005.

This could occur in a variety of ways. First, the provision from this bill could be incorporated in any budget reconciliation conference report package. Consequently, during Finance Committee consideration of the Senate's version of the budget reconciliation package on October 25, 2005, I offered an amendment that included a number of the provisions from this bill. Opponents of the amendment, which failed on a 9-to-11 party-line vote with Democrats in favor and Republicans opposing it, argued at the time that the budget reconciliation package was not the right vehicle but that we should look to the reauthorization bill for the Indian Health Care Improvement Act to attach these provisions instead.

Two days later, on October 27, 2005, the Committee on Indian Affairs took up and passed S. 1057, the Indian Health Care Improvement Act Amendments of 2005, but did not include any of the Medicaid provisions I have been discussing as part of this bill. They were told that inclusion of Medicaid provisions within IHCIA was objected to by both the administration and the Senate Finance Committee. However, in light of the Senate Finance Committee's failure to take up the amendment earlier this month, another possible vehicle should be the reauthorization bill for the Indian Health Care Improvement Act when it comes to the Senate floor.

And finally, if we fail to get these provisions included in either of those legislative vehicles, we will push to get the Medicaid Indian Health Act of 2005 passed as a free standing piece of legislation. Medicaid has become such a crucial and necessary piece in maintaining and improving the health and well-being of American Indians and Alaska Natives that it is unacceptable that the various Senate committees point to each other as being in charge while not taking the necessary responsibility to get this important protections for Native Americans passed into law.

The Federal Government and the States also point figures at each other as to who is in charge. As Jim Crouch, executive director of the California Rural Indian Health Board, has said, ''The joint operation of the Medicaid program by federal and state authorities often ignores the governmental status of Tribes and the unique needs of Tribal citizens. It is always appropriate for the federal government to establish special provisions that are in the best interest of Tribes and American Indians due to the governmental status of federally recognized tribes.''

Mr. President, it is well past time to enact legislative initiatives such as the Medicaid Indian Health Act of 2005 and reauthorization of IHCIA. Years of broken promises to Indian Country must come to an end. Passage of the provisions in both the Medicaid Indian Health Act of 2005 and IHCIA reauthorization are just two of the pieces that the Federal Government must take in order to fulfill the Federal trust responsibility and make real progress at providing the full array of medically necessary health services that have been long promised to American Indians.

I ask unanimous consent that the text of the bill and a fact sheet describing the various provisions in the bill be printed in the RECORD.

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

S. 2074

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 ''Medicaid Indian Health Act of 2005''.

SEC. 2. APPLICATION OF 100 PERCENT FMAP FOR SERVICES FURNISHED TO AN INDIAN BY AN URBAN INDIAN HEALTH PROGRAM.

(a) IN GENERAL.—The third sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)), is amended by inserting before the period at the end the following: '', or through an urban Indian health program receiving funds under title V of the Indian Health Care Improvement Act''.

(b) CONFORMING AMENDMENT.—Section 1911(c) of such Act (42 U.S.C. 1396j(c)), is amended by inserting '', or through an urban Indian health program receiving funds under title V of the Indian Health Care Improvement Act'' after ''facilities''.

SEC. 3. PROHIBITION ON IMPOSITION OF PREMIUMS, DEDUCTIBLES, COPAYMENTS, AND OTHER COST-SHARING ON INDIANS.

Section 1916 of the Social Security Act (42 U.S.C. 1396o) is amended—

(1) in subsection (a)(3), by inserting ''(other than such individuals who are Indians (as defined in section 4 of the Indian Health Care Improvement Act)'' after ''other such individuals'';

(2) in subsection (b), in the matter preceding paragraph (1), by inserting ''or who are Indians (as defined in section 4 of the Indian Health Care Improvement Act)'' after ''section 1902(a)(10)''; and

(3) in subsection (c)(1), by inserting ''(other than such an individual who is an Indian (as defined in section 4 of the Indian Health Care Improvement Act))'' after ''section 1902(l)(1)''.

SEC. 4. PROHIBITION ON RECOVERY AGAINST ESTATES OF INDIANS.

Section 1917(b)(1) of the Social Security Act (42 U.S.C. 1396p(b)(1)) is amended, in the matter preceding subparagraph (A), by inserting '' who is not an Indian (as defined in section 4 of the Indian Health Care Improvement Act)'' after ''an individual'' the second place it appears.

SEC. 5. REQUIREMENT FOR CONSULTATION WITH INDIAN TRIBES PRIOR TO APPROVAL OF SECTION 1115 WAIVERS.

Section 1115 of the Social Security Act (42 U.S.C. 1315) is amended by adding at the end the following:

''(g) In the case of an application for a waiver of compliance with the requirements of section 1902 (or a renewal or extension of such a waiver) that is likely to affect members of an Indian tribe (as defined in section 4 of the Indian Health Care Improvement Act) or a tribal health program (whether operated by an Indian tribe or a tribal organization (as so defined) serving such members, the Secretary shall, prior to granting such a waiver under subsection (a) or renewing or extending such a waiver under subsection (e), consult with each such Indian tribe.''.

SEC. 6. REQUIREMENT FOR FAIR PAYMENT BY MEDICAID MANAGED CARE ENTITIES TO INDIAN HEALTH PROGRAM PROVIDERS.

Section 1903(m)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1396b(m)(2)(A)(ii)) is amended to read as follows:

''(ii) such contract provides, in the case of entity that has entered into a contract for the provision of services with a facility or program of the Indian Health Service, whether operated by the Service or an Indian tribe or tribal organization (as defined in

section 4 of the Indian Health Care Improvement Act) or an urban Indian health program receiving funds under title V of the Indian Health Care Improvement Act , that is not a Federally-qualified health center or a rural health clinic, that the entity shall provide payment that is not less than the highest level and amount of payment that the entity would make for the services if the services were furnished by a provider that is not a facility or program of the Indian Health Service;''.

SEC. 7. TREATMENT OF MEDICAL EXPENSES PAID BY OR ON BEHALF OF AN INDIAN BY AN INDIAN HEALTH PROGRAM AS COSTS INCURRED FOR MEDICAL CARE FOR PURPOSES OF DETERMINING MEDICALLY NEEDY ELIGIBILITY.

Section 1902(a)(17)(D) of the Social Security Act (42 U.S.C. 1396a(a)(17)(D)) is amended by inserting ''or by the Indian Health Service or an Indian tribe or tribal organization (as defined in section 4 of the Indian Health Care Improvement Act)'' after ''political subdivision thereof''.

SEC. 8. STATE OPTION TO EXEMPT INDIANS FROM REDUCTIONS IN ELIGIBILITY OR BENEFITS.

Section 1902 of the Social Security Act (42 U.S.C. 1396a)) is amended by inserting after subsection (j) the following:

''(k) The Secretary shall not disapprove a State plan amendment, or deny a State request for a waiver under section 1115 (or a renewal or extension of such a waiver), on the grounds that the amendment or waiver would exempt Indians (as defined in section 4 of the Indian Health Care Improvement Act) eligible for medical assistance from—

''(1) any restriction on eligibility for medical assistance under this title that would otherwise apply under the amendment or waiver;

''(2) any imposition of premiums, deductibles, copayments, or other cost-sharing that would otherwise apply under the amendment or waiver; or

''(3) any reduction in covered services or supplies that would otherwise apply under the amendment or waiver.''.

SEC. 9. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act apply to items or services furnished on or after January 1, 2006.

(b) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by a provision of this Act, the State plan shall not be regarded as failing to comply with the requirements of this Act solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session shall be considered to be a separate regular session of the State legislature.

FACT SHEET—''MEDICAID INDIAN HEALTH ACT OF 2005''

Senators Bingaman, Baucus, Dorgan, Murray, Cantwell, and Johnson are introducing legislation entitled the ''Medicaid Indian Health Act of 2005'' that would make technical but important changes to the Medicaid program to address the unique issues confronting Native Americans and Indian Health Service (IHS) providers within that program.

The provisions within this legislation are as follows:

SEC. 2. 100% FMAP FOR SERVICES TO AI/AN MEDICAID PATIENTS OF URBAN INDIAN HEALTH PROGRAMS

Current Law

The cost of covered services to AI/AN Medicaid beneficiaries is matched by the federal government at a 100% rate if the services are received through an IHS facility, whether operated by the IHS or a tribe or tribal organization. However, the federal government matches the cost of covered services furnished to AI/AN Medicaid beneficiaries by urban Indian health programs funded by the IHS only at a state's regular federal matching rate, which varies from 50% to 77%. Thus, states must pay a share of the cost of Medicaid services furnished to AI/AN beneficiaries by urban Indian health programs.

Proposed Change

Extend the 100% federal matching rate to services received through an urban Indian health program receiving funds under Title V of the Indian Health Care Improvement Act.

Justification

Under current policy, if an AI/AN Medicaid beneficiary receives covered services from an IHS or tribal hospital or clinic, the federal government pays 100% of the cost, but if the same individual receives covered services from an urban Indian health program funded by the IHS, the federal government shifts part of the costs to the state in proportion to the state's share of Medicaid spending generally. There is no principled justification for this cost shift. Just as IHS and tribal facilities receive IHS funds, so do urban Indian health programs. The urban Indian health programs are part of the same ''I/T/U'' delivery system as are IHS and tribal facilities. States should not be required to subsidize any element of this system.

SEC. 3. PROHIBITING IMPOSITION OF MEDICAID PREMIUMS ON AI/AN MEDICAID BENEFICIARIES

Current Law

State Medicaid programs are allowed to impose premiums only on certain categories of Medicaid beneficiaries—principally those who qualify as ''medically needy'' by incurring high medical expenses that, when applied against their income, enable them to ''spend down'' into eligibility. Any premiums imposed on this group must be income-related, as specified in federal regulations. In contrast, State SCHIP programs are prohibited by regulation from imposing premiums on AI/AN beneficiaries.

Proposed Change

Prohibit states from imposing any premiums, enrollment fees, or similar charges in any amount on AI/AN beneficiaries, regardless of the basis of eligibility for Medicaid.

Justification

The Federal government, through the IHS, has the responsibility for providing health care free of charge to AI/ANs eligible for its services. Thus, if a state imposes a premium requirement as a condition of Medicaid enrollment, in the case of an AI/AN the premium must be paid by the IHS or the contracting tribe from the limited federal funds allocated to it. The effect is to reduce the appropriated funds available to the IHS or tribal facility for serving patients who are eligible for IHS services but are not eligible for Medicaid. In this respect, Medicaid policy should be conformed to SCHIP policy.

SEC. 3. PROHIBITING IMPOSITION OF MEDICAID COPAYMENTS OR OTHER COST-SHARING ON AI/AN MEDICAID BENEFICIARIES

Current Law

States Medicaid programs may impose deductibles, copayments, or co-insurance requirements on certain services with respect to certain populations. Any cost-sharing imposed must be ''nominal'' in amount, as defined in federal regulations. States are prohibited from imposing any cost-sharing, nominal or otherwise, on certain services (e.g., emergency services and family planning services and supplies) and certain populations (e.g., children under 18). In contrast, State SCHIP programs are prohibited by regulation from imposing deductibles, copayments, or co-insurance requirements on AI/AN beneficiaries.

Proposed Change

Prohibit states from imposing deductibles, copayments, or co-insurance requirements in any amount on AI/AN Medicaid beneficiaries.

Justification

The Federal government, through the IHS, has the responsibility for providing health care free of charge to AI/ANs eligible for its services. Thus, if a state imposes deductibles, copayments, or co-insurance requirements, in the case of an AI/AN beneficiary cost-sharing amount must be paid by the IHS or the contracting tribe from the limited federal funds allocated to it. The effect is to reduce the appropriated funds available to the IHS or tribal facility for serving patients who are eligible for IHS services but are not eligible for Medicaid. In this respect, Medicaid policy should be conformed to SCHIP policy.

SEC. 4. PROHIBITING RECOVERY AGAINST THE ESTATES OF AI/AN MEDICAID BENEFICIARIES

Current Law

States are required to recover from the estates of deceased Medicaid beneficiaries the costs of long-term care services (nursing facility services, home and community-based services, and related hospital services and prescription drugs) paid for by Medicaid when the individual was age 55 or over. The state may not recover against an individual's estate until the death of any surviving spouse and so long as there is not a child under 21 or an adult child who is blind or disabled. Under federal administrative guidance, certain AI/AN property is exempt from estate recovery.

Proposed Change

Exempt the property/estates of deceased AI/AN beneficiaries from recovery for costs correctly paid by Medicaid.

Justification

The Federal government, through the IHS, has the responsibility for providing health care to AI/ANs eligible for its services. Because the IHS, due to funding limitations, generally does not have the capacity to furnish long-term care services, low-income AI/ANs who are eligible for IHS services must turn to Medicaid for coverage for this care. To recover Medicaid costs correctly paid from the estates of these individuals violates the Federal government's responsibility to them. Tribal lands and property should not be threatened by federal or state governments.

SEC. 5. REQUIRING TRIBAL CONSULTATION PRIOR TO APPROVAL OF SECTION 1115 WAIVERS

Current Law

Under section 1115 of the Social Security Act, the Secretary of HHS has the authority to waive certain requirements of federal Medicaid law to enable states to conduct demonstrations that, in his judgment, ''is likely to assist in promoting the objectives of'' the Medicaid program. Section 1115 contains no requirement that the Secretary consult with Indian tribes prior to approval of Medicaid demonstration waivers that may adversely affect their members or their tribal health programs. The January 2005 HHS

tribal consultation policy does not specify that consultation is required in these specific circumstances, although the previous July 2001 guidance had.

Proposed Change

Require the Secretary, prior to approval of any new section 1115 waiver or renewal of any existing section 1115 waiver to consult with tribes whose members or tribal health programs could be affected by the waiver.

Justification

Section 1115 waivers are commonly negotiated by the Secretary (acting through CMS) and the Governor of the state seeking the waiver (through his Medicaid or Budget director). Affected Indian tribes have no formal role in these negotiations, even when those negotiations result in reductions in Medicaid eligibility, benefits, and/or reimbursement or increases in premiums and cost-sharing that have an adverse impact on tribal members or tribal health programs.

SEC. 6. REQUIRE FAIR PAYMENT BY MEDICAID MCOS TO I/T/U PROVIDERS

Current Law

Managed care organizations (MCOs) contracting with Medicaid on a risk basis are required to pay health care providers, whether in- or out-of-network, on a timely basis for covered services furnished to Medicaid beneficiaries. Although there are generally no minimum payment requirements, in the case of federally qualified health centers (FQHCs) and rural health clinics (RHCs), MCOs are required to pay the same amount for a covered service as they would if the provider were not an FQHC or RHC. In addition, the State Medicaid agency is required to pay the difference, if any, between: (1) the MCO's payment to the FQHC or RHC; and, (2) the prospective payment amount to which the FQHC or RHC is entitled under Medicaid law. There is no similar protection for I/T/U providers that are not FQHCs or RHCs.

Proposed Change

Require that MCOs to pay I/T/U providers that are not FQHCs or RHCs the same amount that the MCO would pay for the same service to a non-I/T/U provider.

Justification

Current law protects I/T/U providers that are FQHCs or Rural Health Clinics against underpayment by Medicaid MCOs. This provision extends some of these protections to other I/T/U providers. If Medicaid MCOs are allowed to pay I/T/U providers less for the same services than they pay other network providers, the I/T/U providers will, in effect, be subsidizing the MCO or other network providers. This is not an appropriate use of limited federal IHS resources.

SEC. 7. TREATMENT OF IHS OR TRIBAL PAYMENTS AS INCURRED MEDICAL EXPENSES

Current Law

States have the option of extending Medicaid coverage to individuals who are ''medically needy''—that is, individuals who ''spend-down'' by incurring high medical expenses that, when subtracted from their incomes, reduce their incomes to below the state eligibility threshold. If the IHS or a Tribe pays the health care costs of an AI/AN, that individual is not considered to have ''incurred'' the cost for purposes of meeting the ''spend-down'' requirements for qualifying as ''medically needy.''

Proposal

Allow medical expenses paid by the IHS or a Tribe or tribal organization on behalf of an AI/AN to count as costs ''incurred'' for medical care for purposes of establishing eligibility for Medicaid in states with ''medically needy'' programs.

Justification

Current policy has the effect of disqualifying AI/ANs from Medicaid eligibility as ''medically needy'' individuals. This, in turn, results in IHS, Tribes, and tribal organizations paying for services that Medicaid would otherwise cover once these individuals established ''medically needy'' eligibility. Subsidizing Medicaid is not an appropriate use of limited IHS and Tribal resources.

SEC. 8. OPTION FOR STATES TO EXEMPT INDIANS FROM REDUCTIONS IN ELIGIBILITY OR BENEFITS

Current Law

CMS policy has been to acknowledge the federal government's unique responsibilities under the trust obligation and to take into account special circumstances of American Indians and Alaska Natives in Medicaid and SCHIP programs. As such, states have historically been allowed to include special provisions with respect to Tribes and Indian people in their Medicaid and SCHIP programs. However, in 2004, CMS informed Oregon and Washington that it would not approve waiver amendments containing special provisions for Indian participation in the Medicaid program.

Proposed Change

Secretary shall not disapprove a state Plan amendment, or deny a state request for a waiver under section 1115, on the grounds that the amendment or waiver would exempt eligible Indians (as defined in section 4 of the Indian Health Care Improvement Act) from:

(1) any restriction on eligibility for medical assistance under this Title that would otherwise apply under the amendment or waiver;

(2) any imposition of premiums, deductibles, copayments or other cost-sharing that would otherwise apply under the amendment or waiver; or

(3) any reduction in covered services or supplies that would otherwise apply under the amendment or waiver.''

Justification

The federal government should continue to acknowledge the federal government's unique responsibilities under the trust obligation and to take into account and allow states to take into account the special circumstances of American Indians and Alaska Natives in Medicaid and SCHIP programs.

By Mr. DURBIN (for himself, Mr. HAGEL, Mr. LUGAR, Mr. KENNEDY, Mr. MCCAIN, Mr. LEAHY, Mr. COLEMAN, Mr. LIEBERMAN, Mr. CRAIG, Mr. FEINGOLD, Mr. DEWINE, Mr. OBAMA, and Mr. CRAPO):

S. 2075. A bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children, and for other purposes; to the Committee on the Judiciary.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2075

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 ''Development, Relief, and Education for Alien Minors Act of 2005'' or the ''DREAM Act of 2005''.

SEC. 2. DEFINITIONS.

In this Act:

(1) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(2) UNIFORMED SERVICES.—The term ''uniformed services'' has the meaning given that term in section 101(a) of title 10, United States Code.

SEC. 3. RESTORATION OF STATE OPTION TO DETERMINE RESIDENCY FOR PURPOSES OF HIGHER EDUCATION BENEFITS.

(a) IN GENERAL.—Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1623) is repealed.

(b) EFFECTIVE DATE.—The repeal under subsection (a) shall take effect as if included in the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

SEC. 4. CANCELLATION OF REMOVAL AND ADJUSTMENT OF STATUS OF CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

(a) SPECIAL RULE FOR CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.—

(1) IN GENERAL.—Notwithstanding any other provision of law and except as otherwise provided in this Act, the Secretary of Homeland Security may cancel removal of, and adjust to the status of an alien lawfully admitted for permanent residence, subject to the conditional basis described in section 5, an alien who is inadmissible or deportable from the United States, if the alien demonstrates that—

(A) the alien has been physically present in the United States for a continuous period of not less than 5 years immediately preceding the date of enactment of this Act, and had not yet reached the age of 16 years at the time of initial entry;

(B) the alien has been a person of good moral character since the time of application;

(C) the alien—

(i) is not inadmissible under paragraph (2), (3), (6)(B), (6)(C), (6)(E), (6)(F), or (6)(G) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), or, if inadmissible solely under subparagraph (C) or (F) of paragraph (6) of such subsection, the alien was under the age of 16 years at the time the violation was committed; and

(ii) is not deportable under paragraph (1)(E), (1)(G), (2), (3)(B), (3)(C), (3)(D), (4), or (6) of section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a)), or, if deportable solely under subparagraphs (C) or (D) of paragraph (3) of such subsection, the alien was under the age of 16 years at the time the violation was committed;

(D) the alien, at the time of application, has been admitted to an institution of higher education in the United States, or has earned a high school diploma or obtained a general education development certificate in the United States; and

(E) the alien has never been under a final administrative or judicial order of exclusion, deportation, or removal, unless the alien has remained in the United States under color of law or received the order before attaining the age of 16 years.

(2) WAIVER.—The Secretary of Homeland Security may waive the grounds of ineligibility under section 212(a)(6) of the Immigration and Nationality Act and the grounds of deportability under paragraphs (1), (3), and (6) of section 237(a) of that Act for humanitarian purposes or family unity or when it is otherwise in the public interest.

(3) PROCEDURES.—The Secretary of Homeland Security shall provide a procedure by

regulation allowing eligible individuals to apply affirmatively for the relief available under this subsection without being placed in removal proceedings.

(b) TERMINATION OF CONTINUOUS PERIOD.—For purposes of this section, any period of continuous residence or continuous physical presence in the United States of an alien who applies for cancellation of removal under this section shall not terminate when the alien is served a notice to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)).

(c) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—

(1) IN GENERAL.—An alien shall be considered to have failed to maintain continuous physical presence in the United States under subsection (a) if the alien has departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days.

(2) EXTENSIONS FOR EXCEPTIONAL CIRCUMSTANCES.—The Secretary of Homeland Security may extend the time periods described in paragraph (1) if the alien demonstrates that the failure to timely return to the United States was due to exceptional circumstances. The exceptional circumstances determined sufficient to justify an extension should be no less compelling than serious illness of the alien, or death or serious illness of a parent, grandparent, sibling, or child.

(d) EXEMPTION FROM NUMERICAL LIMITATIONS.—Nothing in this section may be construed to apply a numerical limitation on the number of aliens who may be eligible for cancellation of removal or adjustment of status under this section.

(e) REGULATIONS.—

(1) PROPOSED REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall publish proposed regulations implementing this section. Such regulations shall be effective immediately on an interim basis, but are subject to change and revision after public notice and opportunity for a period for public comment.

(2) INTERIM, FINAL REGULATIONS.—Within a reasonable time after publication of the interim regulations in accordance with paragraph (1), the Secretary of Homeland Security shall publish final regulations implementing this section.

(f) REMOVAL OF ALIEN.—The Secretary of Homeland Security may not remove any alien who has a pending application for conditional status under this Act.

SEC. 5. CONDITIONAL PERMANENT RESIDENT STATUS.

(a) IN GENERAL.—

(1) CONDITIONAL BASIS FOR STATUS.—Notwithstanding any other provision of law, and except as provided in section 6, an alien whose status has been adjusted under section 4 to that of an alien lawfully admitted for permanent residence shall be considered to have obtained such status on a conditional basis subject to the provisions of this section. Such conditional permanent resident status shall be valid for a period of 6 years, subject to termination under subsection (b).

(2) NOTICE OF REQUIREMENTS.—

(A) AT TIME OF OBTAINING PERMANENT RESIDENCE.—At the time an alien obtains permanent resident status on a conditional basis under paragraph (1), the Secretary of Homeland Security shall provide for notice to the alien regarding the provisions of this section and the requirements of subsection (c) to have the conditional basis of such status removed.

(B) EFFECT OF FAILURE TO PROVIDE NOTICE.—The failure of the Secretary of Homeland Security to provide a notice under this paragraph—

(i) shall not affect the enforcement of the provisions of this Act with respect to the alien; and

(ii) shall not give rise to any private right of action by the alien.

(b) TERMINATION OF STATUS.—

(1) IN GENERAL.—The Secretary of Homeland Security shall terminate the conditional permanent resident status of any alien who obtained such status under this Act, if the Secretary determines that the alien—

(A) ceases to meet the requirements of subparagraph (B) or (C) of section 4(a)(1);

(B) has become a public charge; or

(C) has received a dishonorable or other than honorable discharge from the uniformed services.

(2) RETURN TO PREVIOUS IMMIGRATION STATUS.—Any alien whose conditional permanent resident status is terminated under paragraph (1) shall return to the immigration status the alien had immediately prior to receiving conditional permanent resident status under this Act.

(c) REQUIREMENTS OF TIMELY PETITION FOR REMOVAL OF CONDITION.—

(1) IN GENERAL.—In order for the conditional basis of permanent resident status obtained by an alien under subsection (a) to be removed, the alien must file with the Secretary of Homeland Security, in accordance with paragraph (3), a petition which requests the removal of such conditional basis and which provides, under penalty of perjury, the facts and information so that the Secretary may make the determination described in paragraph (2)(A).

(2) ADJUDICATION OF PETITION TO REMOVE CONDITION.—

(A) IN GENERAL.—If a petition is filed in accordance with paragraph (1) for an alien, the Secretary of Homeland Security shall make a determination as to whether the alien meets the requirements set out in subparagraphs (A) through (E) of subsection (d)(1).

(B) REMOVAL OF CONDITIONAL BASIS IF FAVORABLE DETERMINATION.—If the Secretary determines that the alien meets such requirements, the Secretary shall notify the alien of such determination and immediately remove the conditional basis of the status of the alien.

(C) TERMINATION IF ADVERSE DETERMINATION.—If the Secretary determines that the alien does not meet such requirements, the Secretary shall notify the alien of such determination and terminate the conditional permanent resident status of the alien as of the date of the determination.

(3) TIME TO FILE PETITION.—An alien may petition to remove the conditional basis to lawful resident status during the period beginning 180 days before and ending 2 years after either the date that is 6 years after the date of the granting of conditional permanent resident status or any other expiration date of the conditional permanent resident status as extended by the Secretary of Homeland Security in accordance with this Act. The alien shall be deemed in conditional permanent resident status in the United States during the period in which the petition is pending.

(d) DETAILS OF PETITION.—

(1) CONTENTS OF PETITION.—Each petition for an alien under subsection (c)(1) shall contain information to permit the Secretary of Homeland Security to determine whether each of the following requirements is met:

(A) The alien has demonstrated good moral character during the entire period the alien has been a conditional permanent resident.

(B) The alien is in compliance with section 4(a)(1)(C).

(C) The alien has not abandoned the alien's residence in the United States. The Secretary shall presume that the alien has abandoned such residence if the alien is absent from the United States for more than 365 days, in the aggregate, during the period of conditional residence, unless the alien demonstrates that alien has not abandoned the alien's residence. An alien who is absent from the United States due to active service in the uniformed services has not abandoned the alien's residence in the United States during the period of such service.

(D) The alien has completed at least 1 of the following:

(i) The alien has acquired a degree from an institution of higher education in the United States or has completed at least 2 years, in good standing, in a program for a bachelor's degree or higher degree in the United States.

(ii) The alien has served in the uniformed services for at least 2 years and, if discharged, has received an honorable discharge.

(E) The alien has provided a list of all of the secondary educational institutions that the alien attended in the United States.

(2) HARDSHIP EXCEPTION.—

(A) IN GENERAL.—The Secretary of Homeland Security may, in the Secretary's discretion, remove the conditional status of an alien if the alien—

(i) satisfies the requirements of subparagraphs (A), (B), and (C) of paragraph (1);

(ii) demonstrates compelling circumstances for the inability to complete the requirements described in paragraph (1)(D); and

(iii) demonstrates that the alien's removal from the United States would result in exceptional and extremely unusual hardship to the alien or the alien's spouse, parent, or child who is a citizen or a lawful permanent resident of the United States.

(B) EXTENSION.—Upon a showing of good cause, the Secretary of Homeland Security may extend the period of the conditional resident status for the purpose of completing the requirements described in paragraph (1)(D).

(e) TREATMENT OF PERIOD FOR PURPOSES OF NATURALIZATION.—For purposes of title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.), in the case of an alien who is in the United States as a lawful permanent resident on a conditional basis under this section, the alien shall be considered to have been admitted as an alien lawfully admitted for permanent residence and to be in the United States as an alien lawfully admitted to the United States for permanent residence. However, the conditional basis must be removed before the alien may apply for naturalization.

SEC. 6. RETROACTIVE BENEFITS UNDER THIS ACT.

If, on the date of enactment of this Act, an alien has satisfied all the requirements of subparagraphs (A) through (E) of section 4(a)(1) and section 5(d)(1)(D), the Secretary of Homeland Security may adjust the status of the alien to that of a conditional resident in accordance with section 4. The alien may petition for removal of such condition at the end of the conditional residence period in accordance with section 5(c) if the alien has met the requirements of subparagraphs (A), (B), and (C) of section 5(d)(1) during the entire period of conditional residence.

SEC. 7. EXCLUSIVE JURISDICTION.

(a) IN GENERAL.—The Secretary of Homeland Security shall have exclusive jurisdiction to determine eligibility for relief under this Act, except where the alien has been placed into deportation, exclusion, or removal proceedings either prior to or after filing an application for relief under this Act, in which case the Attorney General shall have exclusive jurisdiction and shall assume all the powers and duties of the Secretary

until proceedings are terminated, or if a final order of deportation, exclusion, or removal is entered the Secretary shall resume all powers and duties delegated to the Secretary under this Act.

(b) STAY OF REMOVAL OF CERTAIN ALIENS ENROLLED IN PRIMARY OR SECONDARY SCHOOL.—The Attorney General shall stay the removal proceedings of any alien who—

(1) meets all the requirements of subparagraphs (A), (B), (C), and (E) of section 4(a)(1);

(2) is at least 12 years of age; and

(3) is enrolled full time in a primary or secondary school.

(c) EMPLOYMENT.—An alien whose removal is stayed pursuant to subsection (b) may be engaged in employment in the United States, consistent with the Fair Labor Standards Act (29 U.S.C. 201 et seq.), and State and local laws governing minimum age for employment.

(d) LIFT OF STAY.—The Attorney General shall lift the stay granted pursuant to subsection (b) if the alien—

(1) is no longer enrolled in a primary or secondary school; or

(2) ceases to meet the requirements of subsection (b)(1).

SEC. 8. PENALTIES FOR FALSE STATEMENTS IN APPLICATION.

Whoever files an application for relief under this Act and willfully and knowingly falsifies, misrepresents, or conceals a material fact or makes any false or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false or fraudulent statement or entry, shall be fined in accordance with title 18, United States Code, or imprisoned not more than 5 years, or both.

SEC. 9. CONFIDENTIALITY OF INFORMATION.

(a) PROHIBITION.—No officer or employee of the United States may—

(1) use the information furnished by the applicant pursuant to an application filed under this Act to initiate removal proceedings against any persons identified in the application;

(2) make any publication whereby the information furnished by any particular individual pursuant to an application under this Act can be identified; or

(3) permit anyone other than an officer or employee of the United States Government or, in the case of applications filed under this Act with a designated entity, that designated entity, to examine applications filed under this Act.

(b) REQUIRED DISCLOSURE.—The Attorney General or the Secretary of Homeland Security shall provide the information furnished under this section, and any other information derived from such furnished information, to—

(1) a duly recognized law enforcement entity in connection with an investigation or prosecution of an offense described in paragraph (2) or (3) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), when such information is requested in writing by such entity; or

(2) an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).

(c) PENALTY.—Whoever knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.

SEC. 10. EXPEDITED PROCESSING OF APPLICATIONS; PROHIBITION ON FEES.

Regulations promulgated under this Act shall provide that applications under this Act will be considered on an expedited basis and without a requirement for the payment by the applicant of any additional fee for such expedited processing.

SEC. 11. HIGHER EDUCATION ASSISTANCE.

Notwithstanding any provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), with respect to assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), an alien who adjusts status to that of a lawful permanent resident under this Act shall be eligible only for the following assistance under such title:

(1) Student loans under parts B, D, and E of such title IV (20 U.S.C. 1071 et seq., 1087a et seq., 1087aa et seq.), subject to the requirements of such parts.

(2) Federal work-study programs under part C of such title IV (42 U.S.C. 2751 et seq.), subject to the requirements of such part.

(3) Services under such title IV (20 U.S.C. 1070 et seq.), subject to the requirements for such services.

SEC. 12. GAO REPORT.

Seven years after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Committees on the Judiciary of the Senate and the House of Representatives setting forth—

(1) the number of aliens who were eligible for cancellation of removal and adjustment of status under section 4(a);

(2) the number of aliens who applied for adjustment of status under section 4(a);

(3) the number of aliens who were granted adjustment of status under section 4(a); and

(4) the number of aliens whose conditional permanent resident status was removed under section 5.

By Mr. LEAHY (for himself, Mr. HATCH, Ms. MIKULSKI, Mr. DURBIN, Mr. DEWINE, Mr. BIDEN, Mrs. FEINSTEIN, Mr. FEINGOLD, Mr. SMITH, Mr. DODD, Mr. CHAMBLISS, Mr. ROCKEFELLER, Mr. LIEBERMAN, Mrs. BOXER, Mr. WYDEN, Mr. NELSON of Florida, and Mr. CORZINE):

S. 2076. A bill to amend title 5, United States Code, to provide to assistant United States attorneys the same retirement benefits as are afforded to Federal law enforcement officers; to the Committee on Homeland Security and Governmental Affairs.

Mr. LEAHY. I am pleased to join with Senator HATCH in introducing the Assistant United States Attorney Retirement Benefit Equity Act of 2005. This bill was previously introduced in the 107th and 108th Congresses. A House companion bill, H.R. 3183, has already been introduced and currently has 43 bipartisan cosponsors.

Fairness is the driving force behind this legislation. The bill would correct an inequity that exists under current law, whereby AUSAs receive substantially less favorable retirement benefits than nearly all other people involved in the Federal criminal justice system. The bill would increase the retirement benefits given to AUSAs, as well as other designated attorneys employed by DOJ who act primarily as criminal prosecutors, by including them in the Civil Service Retirement System. This change would bring their retirement benefits inline with thousands of other employees involved in the Federal criminal justice system.

Enhanced retirement benefits will allow us to attract and retain the best and the brightest for these vital positions in Government. As a former prosecutor, I know that experienced prosecutors are needed to bring ever more sophisticated cases under increasingly complex federal criminal laws. The Government's success in combating the threats posed by organized crime, drug cartels, terrorist groups, and other sophisticated criminals depends upon representation by skilled, experienced litigators.

Because of the lure of higher salaries and benefits, the average assistant U.S. attorney remains with the Department of Justice only 8 years. The hours are long, the pay is low, and they place themselves in harm's way by prosecuting criminals. Surveys of assistant U.S. attorneys have shown that a fair retirement benefit is the foremost incentive that would increase their tenure with the Department of Justice. Creating an enticement for them to remain with the Department of Justice for the length of their careers would be a tremendous victory for the American people. This legislation would improve public safety for us all by ensuring a strong, knowledgeable, and experienced crop of prosecutors at the federal level.

I want to thank Senators HATCH, MIKULSKI, DURBIN, DEWINE, BIDEN, FEINSTEIN, FEINGOLD, SMITH, DODD, CHAMBLISS, ROCKEFELLER, LIEBERMAN, BOXER, WYDEN, NELSON, AND CORZINE, for cosponsoring 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. 2076

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 ''Assistant United States Attorney Retirement Benefit Equity Act of 2005''.

SEC. 2. RETIREMENT TREATMENT OF ASSISTANT UNITED STATES ATTORNEYS.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) ASSISTANT UNITED STATES ATTORNEY DEFINED.—Section 8331 of title 5, United States Code, is amended—

(A) in paragraph (28), by striking ''and'' at the end;

(B) in the first paragraph (29), by striking the period and inserting a semicolon;

(C) in the second paragraph (29)—

(i) by striking ''(29)'' and inserting ''(30)''; and

(ii) by striking the period and inserting ''; and''; and

(D) by adding at the end the following:

''(31) 'assistant United States attorney' means—

''(A) an assistant United States attorney under section 542 of title 28; and

''(B) any other attorney employed by the Department of Justice occupying a position designated by the Attorney General upon finding that the position—

''(i) involves routine employee responsibilities that are substantially similar to those of assistant United States attorneys; and

''(ii) is critical to the Department's successful accomplishment of an important mission.''.

(2) RETIREMENT TREATMENT.—Chapter 83 of title 5, United States Code, is amended by adding after section 8351 the following:

"§ 8352. Assistant United States attorneys

''Except as provided under the Assistant United States Attorneys Retirement Benefit Equity Act of 2005 (including the provisions relating to the non-applicability of mandatory separation requirements under section 8335(b) and 8425(b) of this title), an assistant United States attorney shall be treated in the same manner and to the same extent as a law enforcement officer for purposes of this chapter.''.

(3) TECHNICAL AND CONFORMING AMENDMENTS.—(A) The table of sections for chapter 83 of title 5, United States Code, is amended by inserting after the item relating to section 8351 the following:

''8352. Assistant United States attorneys.''

(B) Section 8335(a) of such title is amended by striking ''8331(29)(A)'' and inserting ''8331(30)(A)''.

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—

(1) ASSISTANT UNITED STATES ATTORNEY DEFINED.—Section 8401 of title 5, United States Code, is amended—

(A) in paragraph (34), by striking ''and'' at the end;

(B) in paragraph (35), by striking the period and inserting ''; and'' ; and

(C) by adding at the end the following:

''(36) 'assistant United States attorney' means—

''(A) an assistant United States attorney under section 542 of title 28; and

''(B) any other attorney employed by the Department of Justice occupying a position designated by the Attorney General upon finding that the position—

''(i) involves routine employee responsibilities that are substantially similar to those of assistant United States attorneys; and

''(ii) is critical to the Department's successful accomplishment of an important mission.''.

(2) RETIREMENT TREATMENT.—Section 8402 of title 5, United States Code, is amended by adding at the end the following:

''(h) Except as provided under the Assistant United States Attorneys Retirement Benefit Equity Act of 2005 (including the provisions relating to the non-applicability of mandatory separation requirements under section 8335(b) and 8425(b) of this title), an assistant United States attorney shall be treated in the same manner and to the same extent as a law enforcement officer for purposes of this chapter.''.

(c) MANDATORY SEPARATION.—Sections 8335(b) and 8425(b) of title 5, United States Code, are amended by adding at the end the following: ''The preceding provisions of this subsection shall not apply in the case of an assistant United States attorney as defined under section 8331(31) or 8401(36).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period beginning on or after 120 days after the date of enactment of this Act.

SEC. 3. PROVISIONS RELATING TO INCUMBENTS.

(a) DEFINITIONS.—In this section—

(1) the term ''assistant United States attorney'' means—

(A) an assistant United States attorney under section 542 of title 28, United States Code; and

(B) any other attorney employed by the Department of Justice occupying a position designated by the Attorney General upon finding that the position—

(i) involves routine employee responsibilities that are substantially similar to those of assistant United States attorneys; and

(ii) is critical to the Department's successful accomplishment of an important mission; and

(2) the term ''incumbent'' means an individual who is serving as an assistant United States attorney on the effective date of this section.

(b) DESIGNATED ATTORNEYS.—If the Attorney General makes any designation of an attorney to meet the definition under subsection (a)(1)(B) for purposes of being an incumbent under this section—

(1) such designation shall be made before the effective date of this section; and

(2) the Attorney General shall submit to the Office of Personnel Management before that effective date—

(A) the name of the individual designated; and

(B) the period of service performed by that individual as an assistant United States attorney before that effective date.

(c) NOTICE REQUIREMENT.—Not later than 9 months after the date of enactment of this Act, the Department of Justice shall take measures reasonably designed to provide notice to incumbents on—

(1) their election rights under this Act; and

(2) the effects of making or not making a timely election under this Act.

(d) ELECTION AVAILABLE TO INCUMBENTS.—

(1) IN GENERAL.—An incumbent may elect, for all purposes, to be treated—

(A) in accordance with the amendments made by this Act; or

(B) as if this Act had never been enacted.

(2) FAILURE TO ELECT.—Failure to make a timely election under this subsection shall be treated in the same way as an election under paragraph (1)(A), made on the last day allowable under paragraph (3).

(3) TIME LIMITATION.—An election under this subsection shall not be effective unless the election is made not later than the earlier of—

(A) 120 days after the date on which the notice under subsection (c) is provided; or

(B) the date on which the incumbent involved separates from service.

(e) LIMITED RETROACTIVE EFFECT.—

(1) EFFECT ON RETIREMENT.—In the case of an incumbent who elects (or is deemed to have elected) the option under subsection (d)(1)(A), all service performed by that individual as an assistant United States attorney and, with respect to (B) below, including any service performed by such individual pursuant to an appointment under sections 515, 541, 543, and 546 of title 28, United States Code, shall—

(A) to the extent performed on or after the effective date of that election, be treated in accordance with applicable provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code, as amended by this Act; and

(B) to the extent performed before the effective date of that election, be treated in accordance with applicable provisions of subchapter III of chapter 83 or chapter 84 of such title, as if the amendments made by this Act had then been in effect.

(2) NO OTHER RETROACTIVE EFFECT.—Nothing in this Act (including the amendments made by this Act) shall affect any of the terms or conditions of an individual's employment (apart from those governed by subchapter III of chapter 83 or chapter 84 of title 5, United States Code) with respect to any period of service preceding the date on which such individual's election under subsection (d) is made (or is deemed to have been made).

(f) INDIVIDUAL CONTRIBUTIONS FOR PRIOR SERVICE.—

(1) IN GENERAL.—An individual who makes an election under subsection (d)(1)(A) shall, with respect to prior service performed by such individual, deposit, with interest, to the Civil Service Retirement and Disability Fund the difference between the individual contributions that were actually made for such service and the individual contributions that would have been made for such service if the amendments made by section 2 of this Act had then been in effect.

(2) EFFECT OF NOT CONTRIBUTING.—If the deposit required under paragraph (1) is not paid, all prior service of the incumbent shall remain fully creditable as law enforcement officer service, but the resulting annuity shall be reduced in a manner similar to that described in section 8334(d)(2)(B) of title 5, United States Code. This paragraph shall not apply in the case of a disability annuity.

(3) PRIOR SERVICE DEFINED.—For purposes of this section, the term ''prior service'' means, with respect to any individual who makes an election (or is deemed to have made an election) under subsection (d)(1)(A), all service performed as an assistant United States attorney, but not exceeding 20 years, performed by such individual before the date as of which applicable retirement deductions begin to be made in accordance with such election.

(g) REGULATIONS.—Except as provided under section 4, the Office of Personnel Management shall prescribe regulations necessary to carry out this Act, including provisions under which any interest due on the amount described under subsection (e) shall be determined.

(h) EFFECTIVE DATE.—This section shall take effect 120 days after the date of enactment of this Act.

SEC. 4. DEPARTMENT OF JUSTICE ADMINISTRATIVE ACTIONS.

(a) REGULATIONS.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Attorney General, in consultation with the Office of Personnel Management, shall promulgate regulations for designating attorneys described under section 3(a)(1)(B).

(2) CONTENTS.—Any regulation promulgated under paragraph (1) shall ensure that attorneys designated as assistant United States attorneys described under section 3(a)(1)(B) have routine employee responsibilities that are substantially similar to those of assistant United States attorneys.

(b) DESIGNATIONS.—The designation of any attorney as an assistant United States attorney described under section 3(a)(1)(B) shall be at the discretion of the Attorney General.

By Mr. MCCAIN:

S. 2078. A bill to amend the Indian Gaming Regulatory Act to clarify the authority of the National Indian Gaming Commission to regulate class III gaming, to limit the lands eligible for gaming, and for other purposes; to the Committee on Indian Affairs.

Mr. MCCAIN. Mr. President, I am introducing today a bill to amend regulatory provisions of the Indian Gaming Regulatory Act (IGRA). The bill clarifies that the National Indian Gaming Commission (NIGC) has authority to promulgate and enforce Minimum Internal Control Standards as to Class III gaming; grants the NIGC Chairman authority to approve contracts, and expands contract approval to include contracts not only for management contracts but also for gaming operation development contracts and consulting services, as well as for any contract the fees for which are to be paid as a percentage of gaming revenue; tightens restrictions on off-reservation gaming;

gives the NIGC authority to issue complaints against any individual or entity, not just against tribes or management contractors, that violate IGRA or federal regulations; and requires all tribes to pay fees to the NIGC.

When IGRA was enacted in 1988, Indian gaming was a $200 million dollar industry. Today, the industry earns $19 billion a year and is spread throughout the nation. The amendments reflect the need to re-evaluate what constitutes appropriate regulation of this vastly changed enterprise. I have always been and continue to be a supporter of the rights of Indian tribes to conduct gaming, a right guaranteed by the Supreme Court in the California v. Cabazon decision and codified in IGRA, but I also continue to believe that effective regulation of these enterprises are critical to tribes' continued success.

Ensuring that the NIGC is able to continue its oversight of Class ill gaming is necessary to this effective regulation. On August 24, 2005, the U.S. District Court for the District of Columbia issued its decision in Colorado River Indian Tribes v. NIGC (''CRIT''), ruling that the National Indian Gaming Commission (NIGC) did not have jurisdiction to issue Class ill Minimum Internal Controls Standards (MICS). These standards regulate day-to-day operations of gaming operations. Specifically, they provide rules that designate how cash is handled by the gaming operation, prescribe surveillance over game play, and provide auditing procedures.

Until the Court's decision, the NIGC had been regulating Class ill gaming through MICS since 1999. The regulations applied both to Class II gaming—that is, bingo and games similar to bingo—and to Class III gaming—including slot machines and table games—which represents the largest source of revenue in Indian gaming. Following to CRIT decision this summer, however, some tribes have challenged NIGC's authority to issue or enforce the MICS. Although without NIGC authority, oversight of Class ill gaming may be provided by tribal-State compacts, States' roles in enforcement varies widely and many have left such regulation to NIGC. In a Nationwide industry, uniform federal minimum internal control standards are appropriate. This amendment makes clear that NIGC continues to have the authority it has exercised until now to issue and enforce MICS, including the ability to inspect facilities and audit premises in order to assure compliance.

Protecting the integrity of Indian gaming also requires that the NIGC's authority to review manager contracts be expanded. IGRA originally identified only one kind of contract that was subject to NIGC approval: management contracts. History has shown, however, that in order to avoid NIGC review, some contracts have been fashioned as ''consulting'' contracts or ''development'' contracts, i.e., something other than ''management'' contracts that require NIGC review. In these cases, tribes run the risk that contractors will enforce unfair contract terms, and tribes and patrons run the risk that the tribe will contract with unsuitable partners. This amendment extends NIGC approval to all significant gaming operation related contracts so that the Indian gaming industry remains, as far as possible, free from unscrupulous and unsuitable contractors.

Related to protecting the integrity of Indian gaming is the issue of off-reservation gaming. When enacted in 1988, IGRA generally banned Indian gaming that was not located on reservations, however, in the interest of fairness, several exceptions to this ban were provided. Exploitation of these exceptions, not anticipated at the time IGRA was enacted, has led to a burgeoning practice by unscrupulous developers seeking to profit off Indian tribes desperate for economic development. Predictably, these ill-advised deals have invited a backlash against Indian gaming generally. These amendments to IGRA will put an end to the most troublesome of these proposals by eliminating the authority of the Secretary to take land into trust off-reservation pursuant to the so-called ''two-part determination'' provisions of Section 20.

In addressing concerns about other exceptions in Section 20 for land claims, initial reservations and restored reservations, these amendments strike a balance by curbing potential abuses of these exceptions, while not unfairly penalizing those who lost their lands through no fault of their own, or even had them taken illegally—often by force. Thus, newly recognized and restored tribes may still obtain lands, and conduct gaming on them, but such lands must be in the area where the particular tribe has its most significant ties. This has been the case for most newly recognized and restored tribes, and surely is not unfair to impose on all similarly situated tribes. For tribes that successfully reclaim lands taken illegally and want to conduct gaming on them, these amendments will require congressional confirmation and the lands must be within the state where the tribe has or had its last reservation. This provision does not impair any tribe's legal rights to reclaim lands, but will discourage attempts by creative non-Indian developers to turn a tribe's legal rights into a form of extortion.

Ensuring that penalties are appropriate and can be brought against the responsible party is another means of protecting the integrity of Indian gaming. To this end the bill clarifies that civil penalties can be imposed on any violator of IGRA, not just Indian tribes or management contractors.

Finally, this bill will ensure fairness in the regulation of Indian gaming by assuring that all tribes bear their appropriate share of the cost of regulation so that the industry, as a whole, continues to prosper. 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. 2078

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 ''Indian Gaming Regulatory Act Amendments of 2005''.

SEC. 2. DEFINITIONS.

Section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703) is amended—

(1) in paragraph (7)(E), by striking ''of the Indian Gaming Regulatory Act (25 U.S.C. 2710(d)(3))''; and

(2) by adding at the end the following:

''(11) GAMING-RELATED CONTRACT.—The term 'gaming-related contract' means—

''(A) a contract or other agreement relating to the management and operation of an Indian tribal gaming activity, including a contract for services under which the gaming-related contractor—

''(i) exercises material control over the gaming activity (or any part of the gaming activity); or

''(ii) advises or consults with a person that exercises material control over the gaming activity (or any part of the gaming activity);

''(B) an agreement relating to the development or construction of a facility to be used for an Indian tribal gaming activity (including a facility that is ancillary to such an activity) the cost of which is greater than $250,000; or

''(C) an agreement that provides for compensation or fees based on a percentage of the net revenues of an Indian tribal gaming activity.

''(12) GAMING-RELATED CONTRACTOR.—The term 'gaming-related contractor' means an entity or an individual, including an individual who is an officer, or who serves on the board of directors, of an entity, or a stockholder that directly or indirectly holds at least 5 percent of the issued and outstanding stock of an entity, that enters into a gaming-related contract with—

''(A) an Indian tribe; or

''(B) an agent of an Indian tribe.

''(13) MATERIAL CONTROL.—The term 'material control', with respect to a gaming activity, means the exercise of authority or supervision over a matter that substantially affects a financial or management aspect of an Indian tribal gaming activity.''.

SEC. 3. NATIONAL INDIAN GAMING COMMISSION.

Section 5 of the Indian Gaming Regulatory Act (25 U.S.C. 2704) is amended—

(1) in subsection (c)—

(A) by striking ''(c) Vacancies'' and inserting the following:

''(c) VACANCIES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a vacancy'';

(B) by striking the second sentence and inserting the following:

''(3) EXPIRATION OF TERM.—Unless a member has been removed for cause under subsection (b)(6), the member may—

''(A) serve after the expiration of the term of office of the member until a successor is appointed; or

''(B) be reappointed to serve on the Commission.''; and

(C) by inserting after paragraph (1) (as designated by subparagraph (A)) the following:

''(2) VICE CHAIRMAN.—The Vice Chairman shall act as Chairman in the absence or disability of the Chairman.''; and

(2) in subsection (e), in the second sentence, by inserting ''or disability'' after ''in the absence''.

SEC. 4. POWERS OF THE CHAIRMAN.

Section 6 of the Indian Gaming Regulatory Act (25 U.S.C. 2705) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by striking ''and'' at the end;

(B) by striking paragraph (4) and inserting the following:

''(4) approve gaming-related contracts for class II gaming and class III gaming under section 12; and''; and

(C) by adding at the end the following:

''(5) conduct a background investigation and make a determination with respect to the suitability of a gaming-related contractor, as the Chairman determines to be appropriate.''; and

(2) by adding at the end the following:

''(c) DELEGATION OF AUTHORITY.—

''(1) IN GENERAL.—The Chairman may delegate any authority under this section to any member of the Commission, as the Chairman determines to be appropriate.

''(2) REQUIREMENT.—In carrying out an activity pursuant to a delegation under paragraph (1), a member of the Commission shall be subject to, and act in accordance with—

''(A) the general policies formally adopted by the Commission; and

''(B) the regulatory decisions, findings, and determinations of the Commission pursuant to Federal law.''.

SEC. 5. POWERS OF THE COMMISSION.

Section 7(b) of the Indian Gaming Regulatory Act (25 U.S.C. 2706(b)) is amended—

(1) in paragraphs (1) and (4), by inserting ''and class III gaming'' after ''class II gaming'' each place it appears;

(2) in paragraph (2), by inserting ''or class III gaming'' after ''class II gaming''; and

(3) in paragraph (10), by inserting '', including regulations addressing minimum internal control standards for class II gaming and class III gaming activities'' before the period at the end.

SEC. 6. COMMISSION STAFFING.

(a) GENERAL COUNSEL.—Section 8(a) of the Indian Gaming Regulatory Act (25 U.S.C. 2707(a)) is amended by striking ''basic'' and all that follows through the end of the subsection and inserting the following: ''pay payable for level IV of the Executive Schedule under chapter 11 of title 2, United States Code, as adjusted by section 5318 of title 5, United States Code.''.

(b) OTHER STAFF.—Section 8(b) of the Indian Gaming Regulatory Act (25 U.S.C. 2707(b)) is amended by striking ''basic'' and all that follows through the end of the subsection and inserting the following: ''pay payable for level IV of the Executive Schedule under chapter 11 of title 2, United States Code, as adjusted by section 5318 of title 5, United States Code.''.

(c) TEMPORARY AND INTERMITTENT SERVICES.—Section 8(c) of the Indian Gaming Regulatory Act (25 U.S.C. 2707(c)) is amended by striking ''basic'' and all that follows through the end of the subsection and inserting the following: ''pay payable for level IV of the Executive Schedule under chapter 11 of title 2, United States Code, as adjusted by section 5318 of title 5, United States Code.''.

SEC. 7. TRIBAL GAMING ORDINANCES.

Section 11 of the Indian Gaming Regulatory Act (25 U.S.C. 2710) is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A), by striking '', and'' and inserting ''; and'';

(B) in paragraph (2)(F)—

(i) by striking clause (i) and inserting the following:

''(i) ensures that background investigations and ongoing oversight activities are conducted with respect to—

''(I) tribal gaming commissioners and key tribal gaming commission employees, as determined by the Chairman;

''(II) primary management officials and other key employees of the gaming enterprise, as determined by the Chairman; and

''(III) any person that is a party to a gaming-related contract; and''; and

(ii) in clause (ii)(I), by striking ''primary'' and all that follows through ''with'' and inserting ''the individuals and entities described in clause (i), including'';

(C) in paragraph (3)—

(i) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(ii) by striking subparagraph (B) and inserting the following:

''(B) the plan is approved by the Secretary after the Secretary determines that—

''(i) the plan is consistent with the uses described in paragraph (2)(B);

''(ii) the plan adequately addresses the purposes described in clauses (i) and (iii) of paragraph (2)(B); and

''(iii) a per capita payment is a reasonable method of providing for the general welfare of the Indian tribe and the members of the Indian tribe;

''(C) the Secretary determines that the plan provides an adequate mechanism for the monitoring and enforcement, by the Secretary and the Chairman, of the compliance of the plan (including any amendment, revision, or rescission of any part of the plan);''; and

(D) in paragraph (4)(B)(i)—

(i) in subclause (I), by striking ''of the Act,'' and inserting a semicolon;

(ii) in subclause (II), by striking ''of this subsection'' and inserting a semicolon;

(iii) in subclause (III), by striking '', and'' and inserting ''; and''; and

(iv) in subclause (IV), by striking ''National Indian Gaming'';

(2) in subsection (d)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) in clause (i), by striking ''lands,'' and inserting ''lands;'';

(II) in clause (ii), by striking '', and'' and inserting ''; and''; and

(III) in clause (iii), by striking the comma at the end and inserting a semicolon; and

(ii) in subparagraph (B), by striking '', and'' and inserting ''; and'';

(B) in paragraph (2)—

(i) in subparagraph (B)(i), by striking '', or'' and inserting ''; or''; and

(ii) in subparagraph (D)(iii)(I), by striking '', and'' and inserting ''; and'';

(C) in paragraph (7)(B)—

(i) in clause (ii)(I), by striking '', and'' and inserting ''; and'';

(ii) in clause (iii)(I), by striking '', and'' and inserting ''; and''; and

(iii) in clause (vii)(I), by striking '', and'' and inserting ''; and'';

(D) in paragraph (8)(B)—

(i) in clause (i), by striking the comma at the end and inserting a semicolon; and

(ii) in clause (ii), by striking '', or'' and inserting ''; or''; and

(E) by striking paragraph (9); and

(3) by adding at the end the following:

''(f) PROVISION OF INFORMATION TO CHAIRMAN.—Immediately after approving a plan (including any amendment, revision, or recision of any part of a plan) under subsection (b)(3), the Secretary shall provide to the Chairman—

''(1) a notice of the approval; and

''(2) any information used by the Secretary in approving the plan.''.

SEC. 8. GAMING-RELATED CONTRACTS.

Section 12 of the Indian Gaming Regulatory Act (25 U.S.C. 2711) is amended to read as follows:

''SEC. 12. GAMING-RELATED CONTRACTS.

''(a) IN GENERAL.—To be enforceable under this Act, a gaming-related contract shall be—

''(1) in writing; and

''(2) approved by the Chairman under subsection (c).

''(b) CONTRACT REQUIREMENTS.—

''(1) IN GENERAL.—A gaming-related contract under this Act shall provide for the Indian tribe, at a minimum, provisions relating to—

''(A) accounting and reporting procedures, including, as appropriate, provisions relating to verifiable financial reports;

''(B) the access required to ensure proper performance of the gaming-related contract, including access to, with respect to a gaming activity—

''(i) daily operations;

''(ii) real property;

''(iii) equipment; and

''(iv) any other tangible or intangible property used to carry out the activity;

''(C) assurance of performance of each party to the gaming-related contract, including the provision of bonds under subsection (d), as the Chairman determines to be necessary; and

''(D) the reasons for, and method of, terminating the gaming-related contract.

''(2) TERM.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term of a gaming-related contract shall not exceed 5 years.

''(B) EXCEPTION.—Notwithstanding subparagraph (A), a gaming-related contract may have a term of not to exceed 7 years if—

''(i) the Indian tribal party to the gaming-related contract submits to the Chairman a request for such a term; and

''(ii) the Chairman determines that the term is appropriate, taking into consideration the circumstances of the gaming-related contract.

''(3) FEES.—

''(A) IN GENERAL.—Notwithstanding the payment terms of a gaming-related contract, and except as provided in subparagraph (B), the fee of a gaming-related contractor or beneficiary of a gaming-related contract shall not exceed an amount equal to 30 percent of the net revenues of the gaming operation that is the subject of the gaming-related contract.

''(B) EXCEPTION.—The fee of a gaming-related contractor or beneficiary of a gaming-related contract may be in an amount equal to not more than 40 percent of the net revenues of the gaming operation that is the subject of the gaming-related contract if the Chairman determines that such a fee is appropriate, taking into consideration the circumstances of the gaming-related contract.

''(c) APPROVAL BY CHAIRMAN.—

''(1) GAMING-RELATED CONTRACTS.—

''(A) IN GENERAL.—An Indian tribe shall submit each gaming-related contract of the tribe to the Chairman for approval by not later than the earlier of—

''(i) the date that is 90 days after the date on which the gaming-related contract is executed; or

''(ii) the date that is 90 days before the date on which the gaming-related contract is scheduled to be completed.

''(B) FACTORS FOR CONSIDERATION.—In determining whether to approve a gaming-related contract under this subsection, the Chairman may take into consideration any information relating to the terms, parties, and beneficiaries of—

''(i) the gaming-related contract; and

''(ii) any other agreement relating to the Indian gaming activity, as determined by the Chairman.

''(C) DEADLINE FOR DETERMINATION.—

''(i) IN GENERAL.—The Chairman shall approve or disapprove a gaming-related contract under this subsection by not later than 90 days after the date on which the Chairman makes a determination regarding the suitability of each gaming-related contractor under paragraph (2).

''(ii) EXPEDITED REVIEW.—

''(I) IN GENERAL.—If each gaming-related contractor has been determined by the Chairman to be suitable under paragraph (2) on or before the date on which the gaming-related contract is submitted to the Chairman, the Chairman shall approve or disapprove the gaming-related contract by not later than 30 days after the date on which the gaming-related contract is submitted.

''(II) FAILURE TO DETERMINE.—If the Chairman fails to make a determination by the date described in subclause (I), a gaming-related contract described in that subclause shall be considered to be approved.

''(III) AMENDMENTS.—The Chairman may require the parties to a gaming-related contract considered to be approved under subclause (II) to amend the gaming-related contract, as the Chairman considers to be appropriate to meet the requirements under subsection (b).

''(iii) EARLY OPERATION.—

''(I) IN GENERAL.—On approval of the Chairman under subclause (II), a gaming-related contract may be carried out before the date on which the gaming-related contract is approved by the Chairman under clause (i).

''(II) APPROVAL BY CHAIRMAN.—The Chairman may approve the early operation of a gaming-related contract under subclause (I) if the Chairman determines that—

''(aa) adequate bonds have been provided under paragraph (2)(G)(iii) and subsection (d); and

''(bb) the gaming-related contract will be amended as the Chairman considers to be appropriate to meet the requirements under subsection (b).

''(D) REQUIREMENTS FOR DISAPPROVAL.—The Chairman shall disapprove a gaming-related contract under this subsection if the Chairman determines that—

''(i) the gaming-related contract fails to meet any requirement under subsection (b);

''(ii) a gaming-related contractor is unsuitable under paragraph (2);

''(iii) a gaming-related contractor or beneficiary of the gaming-related contract—

''(I) unduly interfered with or influenced, or attempted to interfere with or influence, a decision or process of an Indian tribal government relating to the gaming activity for the benefit of the gaming-related contractor or beneficiary; or

''(II) deliberately or substantially failed to comply with—

''(aa) the gaming-related contract; or

''(bb) a tribal gaming ordinance or resolution adopted and approved pursuant to this Act;

''(iv) the Indian tribe with jurisdiction over the Indian lands on which the gaming activity is located will not receive the primary benefit as sole proprietor of the gaming activity, taking into consideration any agreement relating to the gaming activity;

''(v) a trustee would disapprove the gaming-related contract, in accordance with the duties of skill and diligence of the trustee, because the compensation or fees under the gaming-related contract do not bear a reasonable relationship to the cost of the goods or the benefit of the services provided under the gaming-related contract; or

''(vi) a person or an Indian tribe would violate this Act—

''(I) on approval of the gaming-related contract; or

''(II) in carrying out the gaming-related contract.

''(2) GAMING-RELATED CONTRACTORS.—

''(A) IN GENERAL.—Not later than 90 days after the date on which the Chairman receives a gaming-related contract, the Chairman shall make a determination regarding the suitability of each gaming-related contractor to carry out any gaming activity that is the subject of the gaming-related contract.

''(B) REQUIREMENTS.—The Chairman shall make a determination under subparagraph (A) that a gaming-related contractor is unsuitable if, as determined by the Chairman—

''(i) the gaming-related contractor—

''(I) is an elected member of the governing body of an Indian tribe that is a party to the gaming-related contract;

''(II) has been convicted of—

''(aa) a felony; or

''(bb) any offense relating to gaming;

''(III)(aa) knowingly and willfully provided any materially important false statement or other information to the Commission or an Indian tribe that is a party to the gaming-related contract; or

''(bb) failed to respond to a request for information under this Act;

''(IV) poses a threat to the public interest or the effective regulation or conduct of gaming under this Act, taking into consideration the behavior, criminal record, reputation, habits, and associations of the gaming-related contractor;

''(V) unduly interfered, or attempted to unduly interfere, with any determination or governing process of the governing body of an Indian tribe relating to a gaming activity, for the benefit of the gaming-related contractor; or

''(VI) deliberately or substantially failed to comply with the terms of—

''(aa) the gaming-related contract; or

''(bb) a tribal gaming ordinance or resolution approved and adopted under this Act; or

''(ii) a trustee would determine that the gaming-related contractor is unsuitable, in accordance with the duties of skill and diligence of the trustee.

''(C) FAILURE TO DETERMINE.—If the Chairman fails to make a suitability determination with respect to a gaming-related contractor by the date described in subparagraph (A), each gaming-related contractor shall be considered to be suitable to carry out the gaming activity that is the subject of the applicable gaming-related contract.

''(D) REVOCATION.—At any time, based on a showing of good cause, the Chairman may—

''(i) make a determination that a gaming-related contractor is unsuitable under this subsection; or

''(ii) revoke a suitability determination under this subsection.

''(E) TEMPORARY SUITABILITY.—

''(i) IN GENERAL.—For purposes of meeting a deadline under paragraph (1)(C), the Chairman may determine that a gaming-related contractor is temporarily suitable if—

''(I) the Chairman determined the gaming-related contractor to be suitable with respect to another gaming-related contract being carried out on the date on which the Chairman makes a determination under this paragraph; and

''(II) the gaming-related contractor has not otherwise been determined to be unsuitable by the Chairman.

''(ii) FINAL DETERMINATION.—The Chairman shall make a suitability determination with respect to a gaming-related contractor that is the subject of a temporary suitability determination under clause (i) by the date described in subparagraph (A), in accordance with subparagraph (F).

''(F) UPDATING DETERMINATIONS.—The Chairman, as the Chairman determines to be appropriate, may limit an investigation of the suitability of a gaming-related contractor that—

''(i) has been determined to be suitable by the Chairman with respect to another gaming-related contract being carried out on the date on which the Chairman makes a determination under this paragraph; and

''(ii) certifies to the Chairman that the information provided during a preceding suitability determination has not materially changed.

''(G) RESPONSIBILITY OF GAMING-RELATED CONTRACTOR.—A gaming-related contractor shall—

''(i) pay the costs of any investigation activity of the Chairman in carrying out this paragraph;

''(ii) provide to the Chairman a notice of any change in information provided during a preceding investigation on discovery of the change; and

''(iii) during an investigation of suitability under this paragraph, provide to the Chairman such bonds under subsection (d) as the Chairman determines to be appropriate to shield an Indian tribe from liability resulting from an action of the gaming-related contractor.

''(H) REGISTRY.—The Chairman shall establish and maintain a registry of each suitability determination made under this paragraph.

''(3) ADDITIONAL REVIEWS.—Notwithstanding an approval under paragraph (1), or a determination of suitability under paragraph (2), if the Chairman determines that a gaming-related contract, or any party to such a contract, is in violation of this Act, the Chairman may—

''(A) suspend performance under the gaming-related contract;

''(B) require the parties to amend the gaming-related contract; or

''(C) revoke a determination of suitability under paragraph (2)(D).

''(4) TERMINATION.—Termination of a gaming-related contract shall not require the approval of the Chairman.

''(d) BONDS.—

''(1) IN GENERAL.—The Chairman may require a gaming-related contractor to provide to the Chairman a bond to ensure the performance of the gaming-related contractor under a gaming-related contract.

''(2) REGULATIONS.—The Chairman, by regulation, shall establish the amount of a bond required under this subsection.

''(3) METHOD OF PAYMENT.—A bond under this subsection may be provided—

''(A) in cash or negotiable securities;

''(B) through a surety bond guaranteed by a guarantor acceptable to the Chairman; or

''(C) through an irrevocable letter of credit issued by a banking institution acceptable to the Chairman.

''(4) USE OF BONDS.—The Chairman shall use a bond provided under this subsection to pay the costs of a failure of the gaming-related contractor that provided the bond to perform under a gaming-related contract.

''(e) APPEAL OF DETERMINATION.—

''(1) IN GENERAL.—An Indian tribe or a gaming-related contractor may submit to the Commission a request for an appeal of a determination of the Chairman under subsection (c) or (d).

''(2) DETERMINATION OF COMMISSION.—

''(A) HEARINGS.—The Commission shall schedule a hearing relating to an appeal under paragraph (1) by not later than 30 days after the date on which a request for the appeal is received.

''(B) DEADLINE FOR DETERMINATION.—The Commission shall make a determination, by majority vote of the Commission, relating to an appeal under this subsection by not later than 5 days after the date of the hearing relating to the appeal under subparagraph (A).

''(C) CONCURRENCE.—If the Commission concurs with a determination of the Chairman under this subsection, the determination shall be considered to be a final agency action.

''(D) DISSENT.—

''(i) IN GENERAL.—If the Commission dissents from a determination of the Chairman under this subsection, the Chairman may—

''(I) rescind the determination of the Chairman; or

''(II) on a finding of immediate and irreparable harm to the Indian tribe that is the subject of the determination, maintain the determination.

''(ii) FINAL AGENCY ACTION.—A decision by the Chairman to maintain a determination under clause (i)(II) shall be considered to be a final agency action.

''(3) APPEAL OF COMMISSION DETERMINATION.—An Indian tribe, a gaming-related contractor, or a beneficiary of a gaming-related contract may appeal a determination of the Commission under paragraph (2) to the United States District Court for the District of Columbia.

''(f) CONVEYANCE OF REAL PROPERTY.—No gaming-related contract under this Act shall transfer or otherwise convey any interest in land or other real property unless the transfer or conveyance—

''(1) is authorized under law; and

''(2) is specifically described in the gaming-related contract.

''(g) CONTRACT AUTHORITY.—The authority of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81) relating to contracts under this Act is transferred to the Commission.

''(h) NO EFFECT ON TRIBAL AUTHORITY.—This section does not expand, limit, or otherwise affect the authority of any Indian tribe or any party to a Tribal-State compact to investigate, license, or impose a fee on a gaming-related contractor.''.

SEC. 9. CIVIL PENALTIES.

Section 14 of the Indian Gaming Regulatory Act (25 U.S.C. 2713) is amended—

(1) by striking the section designation and heading and all that follows through subsection (a) and inserting the following:

''SEC. 14. CIVIL PENALTIES.

''(a) PENALTIES.—

''(1) VIOLATION OF ACT.—

''(A) IN GENERAL.—An Indian tribe, individual, or entity that violates any provision of this Act (including any regulation of the Commission and any Indian tribal regulation, ordinance, or resolution approved under section 11 or 13) in carrying out a gaming-related contract may be subject to, as the Chairman determines to be appropriate—

''(i) an appropriate civil fine, in an amount not to exceed $25,000 per violation per day; or

''(ii) an order of the Chairman for an accounting and disgorgement, including interest.

''(B) APPLICATION TO INDIAN TRIBES.—An Indian tribe shall not be subject to disgorgement under subparagraph (A)(ii) unless the Chairman determines that the Indian tribe grossly violated a provision of this Act.

''(2) APPEALS.—The Chairman shall provide, by regulation, an opportunity to appeal a determination relating to a violation under paragraph (1).

''(3) WRITTEN COMPLAINTS.—

''(A) IN GENERAL.—If the Commission has reason to believe that an Indian tribe or a party to a gaming-related contract may be subject to a penalty under paragraph (1), the final closure of an Indian gaming activity, or a modification or termination order relating to the gaming-related contract, the Chairman shall provide to the Indian tribe or party a written complaint, including—

''(i) a description of any act or omission that is the basis of the belief of the Commission; and

''(ii) a description of any action being considered by the Commission relating to the act or omission.

''(B) REQUIREMENTS.—A written complaint under subparagraph (A)—

''(i) shall be written in common and concise language;

''(ii) shall identify any statutory or regulatory provision relating to an alleged violation by the Indian tribe or party; and

''(iii) shall not be written only in statutory or regulatory language.'';

(2) in subsection (b)—

(A) by striking ''(b)(1) The Chairman'' and inserting the following:

''(b) TEMPORARY CLOSURES.—

''(1) IN GENERAL.—The Chairman'';

(B) in paragraph (1)—

(i) by striking ''Indian game'' and inserting ''Indian gaming activity, or any part of such a gaming activity,''; and

(ii) by striking ''section 11 or 13 of this Act'' and inserting ''section 11 or 13''; and

(C) in paragraph (2)—

(i) by striking ''(2) Not later than thirty'' and inserting the following:

''(2) HEARINGS.—

''(A) IN GENERAL.—Not later than 30'';

(ii) in subparagraph (A) (as designating by clause (i))—

(I) by striking ''management contractor'' and inserting ''party to a gaming-related contract''; and

(II) by striking ''permanent'' and inserting ''final''; and

(iii) in the second sentence—

(I) by striking ''Not later than sixty'' and inserting the following:

''(B) DETERMINATION OF COMMISSION.—Not later than 60''; and

(II) by striking ''permanent'' and inserting ''final'';

(3) in subsection (c), by striking ''(c) A decision'' and inserting the following:

''(c) APPEAL OF FINAL DETERMINATIONS.—A determination''; and

(4) in subsection (d), by striking ''(d) Nothing'' and inserting the following:

''(d) EFFECT ON REGULATORY AUTHORITY OF INDIAN TRIBES.—Nothing''.

SEC. 10. GAMING ON LATER-ACQUIRED LAND.

Section 20(b) of the Indian Gaming Regulatory Act (25 U.S.C. 2719(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking '' (A) the Secretary, after consultation'' and inserting the following:

''(A)(i) before November 18, 2005, the Secretary reviewed, or was in the process of reviewing, at the Central Office of the Bureau of Indian Affairs, Washington, DC, the petition of an Indian tribe to have land taken into trust for purposes of gaming under this Act; and

''(ii) the Secretary, after consultation''; and

(B) in subparagraph (B)—

(i) in clause (i), by striking the comma at the end and inserting the following: ''under Federal statutory law, if the land is within a State in which is located—

''(I) the reservation of such Indian tribe; or

''(II) the last recognized reservation of such Indian tribe;'';

(ii) in clause (ii), by striking '', or'' and inserting ''if, as determined by the Secretary, the Indian tribe has a temporal, cultural, and geographic nexus to the land; or''; and

(iii) in clause (iii), by inserting before the period at the end the following: ''if, as determined by the Secretary, the Indian tribe has a temporal, cultural, and geographic nexus to the land''; and

(2) by adding at the end the following:

''(4) EFFECT OF SUBSECTION.—Notwithstanding any other provision of this subsection, land that, before the date of enactment of the Indian Gaming Regulatory Act Amendments of 2005, was determined by the Secretary or the Chairman to be eligible to be used for purposes of gaming shall continue to be eligible for those purposes.''.

SEC. 11. CONFORMING AMENDMENT.

(a) IN GENERAL.—Section 123(a)(2) of the Department of the Interior and Related Agencies Appropriations Act, 1998 (Public Law 105–83; 111 Stat. 1566) is amended—

(1) in subparagraph (A), by adding ''and'' at the end;

(2) in subparagraph (B), by striking ''; and'' and inserting a period; and

(3) by striking subparagraph (C).

(b) APPLICABILITY.—Notwithstanding any other provision of law, section 18(a) of the Indian Gaming Regulatory Act (25 U.S.C. 2717(a)) shall apply to all Indian tribes.

By Mr. SMITH (for himself, Mr. THUNE, Mr. ALLARD, Mr. BURNS, and Mr. THOMAS):

S. 2079. A bill to improve the ability of the Secretary of Agriculture and the Secretary of the Interior to promptly implement recovery treatments in response to catastrophic events affecting the natural resources of Forest Service land and Bureau of Land Management Land, respectively, to support the recovery of non-Federal land damaged by catastrophic events, to assist impacted communities, to revitalize Forest Service experimental forests, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BURNS. Mr. President, I rise today in support of the Forests for Future Generations Act, because it addresses a very serious problem in our National Forests. I am not sure how many people in this body have witnessed the devastation of a catastrophic wildfire, but I recommend that everyone tour a burned over forest. It is a sobering reality, often resembling a moonscape.

The worst fire year in recent Montana history was the summer of 2000, when we burned 945,000 acres of productive Montana land. After months of smoke-filled air, we were left with decimated wildlife habitat, charred hillsides, sediment-filled streams, and millions of board feet of dead, standing timber. Active forest management would require that restoration of these fragile soils and ecosystems begin as soon as possible, but that is almost never the case on national forest land. Instead, we spend millions of dollars and thousands of hours writing a plan to restore the burned area, which is inevitably appealed, challenged, and litigated by an environmental group. We end up arguing in the courtroom when we should be working in the forest.

I have seen side-by-side sections of land where private landowners or even the State of Montana has taken quick action and removed some dead or dying timber then replanted the forest. News are growing on the private land before any of the Federal timber is even harvested. It is amazing to me, and it makes absolutely no sense. For that

reason I am happy to cosponsor this bill, because it is time to reintroduce some common sense into a system that has gone far off the tracks.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 320—CALLING ON THE PRESIDENT TO ENSURE THAT THE FOREIGN POLICY OF THE UNITED STATES REFLECTS APPROPRIATE UNDERSTANDING AND SENSITIVITY CONCERNING ISSUES RELATED TO HUMAN RIGHTS, ETHNIC CLEANSING, AND GENOCIDE DOCUMENTED IN THE UNITED STATES RECORD RELATING TO THE ARMENIAN GENOCIDE

Mr. ENSIGN (for himself and Mr. DURBIN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES 320

Whereas the Armenian Genocide was conceived and carried out by the Ottoman Empire from 1915 to 1923, resulting in the deportation of nearly 2,000,000 Armenians, of whom 1,500,000 men, women, and children were killed, 500,000 survivors were expelled from their homes, and which succeeded in the elimination of more than 2,500-year presence of Armenians in their historic homeland;

Whereas, on May 24, 1915, the Allied Powers issued the joint statement of England, France, and Russia that explicitly charged, for the first time ever, another government of committing ''a crime against humanity'';

Whereas that joint statement stated ''the Allied Governments announce publicly to the Sublime Porte that they will hold personally responsible for these crimes all members of the Ottoman Government, as well as those of their agents who are implicated in such massacres'';

Whereas the post-World War I Turkish Government indicted the top leaders involved in the ''organization and execution'' of the Armenian Genocide and in the ''massacre and destruction of the Armenians'';

Whereas in a series of courts-martial, officials of the Young Turk Regime were tried and convicted on charges of organizing and executing massacres against the Armenian people;

Whereas the officials who were the chief organizers of the Armenian Genocide, Minister of War Enver, Minister of the Interior Talaat, and Minister of the Navy Jemal, were tried by military tribunals, found guilty, and condemned to death for their crimes, however, the punishments imposed by the tribunals were not enforced;

Whereas the Armenian Genocide and the failure to carry out the death sentence against Enver, Talaat, and Jemal are documented with overwhelming evidence in the national archives of Austria, France, Germany, Russia, the United Kingdom, the United States, the Vatican, and many other countries, and this vast body of evidence attests to the same facts, the same events, and the same consequences;

Whereas the National Archives and Records Administration of the United States holds extensive and thorough documentation on the Armenian Genocide, especially in its holdings for the Department of State under Record Group 59, files 867.00 and 867.40, which are open and widely available to the public and interested institutions;

Whereas the Honorable Henry Morgenthau, United States Ambassador to the Ottoman Empire from 1913 to 1916, organized and led protests by officials of many countries, among them the allies of the Ottoman Empire, against the Armenian Genocide;

Whereas Ambassador Morgenthau explicitly described to the Department of State the policy of the Government of the Ottoman Empire as ''a campaign of race extermination'', and was instructed on July 16, 1915, by Secretary of State Robert Lansing that the ''Department approves your procedure . . . to stop Armenian persecution'';

Whereas Senate Concurrent Resolution 12, 64th Congress, agreed to July 18, 1916, resolved that ''the President of the United States be respectfully asked to designate a day on which the citizens of this country may give expression to their sympathy by contributing funds now being raised for the relief of the Armenians'', who, at that time, were enduring ''starvation, disease, and untold suffering'';

Whereas President Woodrow Wilson agreed with such Concurrent Resolution and encouraged the formation of the organization known as Near East Relief, which was incorporated by the Act of August 6, 1919, 66th Congress (41 Stat. 273, chapter 32);

Whereas, from 1915 through 1930, Near East Relief contributed approximately $116,000,000 to aid survivors of the Armenian Genocide, including aid to approximately 132,000 Armenian orphans;

Whereas Senate Resolution 359, 66th Congress, agreed to May 11, 1920, stated in part, ''the testimony adduced at the hearings conducted by the subcommittee of the Senate Committee on Foreign Relations have clearly established the truth of the reported massacres and other atrocities from which the Armenian people have suffered'';

Whereas such Senate Resolution followed the report to the Senate of the American Military Mission to Armenia, which was led by General James Harbord, dated April 13, 1920, that stated ''[m]utilation, violation, torture, and death have left their haunting memories in a hundred beautiful Armenian valleys, and the traveler in that region is seldom free from the evidence of this most colossal crime of all the ages'';

Whereas, as displayed in the United States Holocaust Memorial Museum, Adolf Hitler, on ordering his military commanders to attack Poland without provocation in 1939, dismissed objections by saying ''[w]ho, after all, speaks today of the annihilation of the Armenians?'' and thus set the stage for the Holocaust;

Whereas Raphael Lemkin, who coined the term ''genocide'' in 1944, and who was the earliest proponent of the Convention on the Prevention and Punishment of Genocide, invoked the Armenian case as a definitive example of genocide in the 20th century;

Whereas the first resolution on genocide adopted by the United Nations, United Nations General Assembly Resolution 96(1), dated December 11, 1946, (which was adopted at the urging of Raphael Lemkin), and the Convention on the Prevention and Punishment of Genocide, done at Paris December 9, 1948, recognized the Armenian Genocide as the type of crime the United Nations intended to prevent and punish by codifying existing standards;

Whereas, in 1948, the United Nations War Crimes Commission invoked the Armenian Genocide as ''precisely . . . one of the types of acts which the modern term 'crimes against humanity' is intended to cover'' and as a precedent for the Nuremberg tribunals;

Whereas such Commission stated that ''[t]he provisions of Article 230 of the Peace Treaty of Sevres were obviously intended to cover, in conformity with the Allied note of 1915 . . . offenses which had been committed on Turkish territory against persons of Turkish citizenship, though of Armenian or Greek race. This article constitutes therefore a precedent for Article 6c and 5c of the Nuremberg and Tokyo Charters, and offers an example of one of the categories of 'crimes against humanity' as understood by these enactments'';

Whereas House Joint Resolution 148, 94th Congress, adopted by the House of Representatives on April 8, 1975, resolved that ''April 24, 1975, is hereby designated as 'National Day of Remembrance of Man's Inhumanity to Man', and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day as a day of remembrance for all the victims of genocide, especially those of Armenian ancestry'';

Whereas Proclamation 4838 of April 22, 1981 (95 Stat. 1813) issued by President Ronald Reagan, stated, in part, that ''[l]ike the genocide of the Armenians before it, and the genocide of the Cambodians which followed it—and like too many other persecutions of too many other people—the lessons of the Holocaust must never be forgotten'';

Whereas House Joint Resolution 247, 98th Congress, adopted by the House of Representatives on September 10, 1984, resolved that ''April 24, 1985, is hereby designated as 'National Day of Remembrance of Man's Inhumanity to Man', and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day as a day of remembrance for all the victims of genocide, especially the one and one-half million people of Armenian ancestry'';

Whereas, in August 1985, after extensive study and deliberation, the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities voted 14 to 1 to accept a report entitled ''Study of the Question of the Prevention and Punishment of the Crime of Genocide'', which stated ''[t]he Nazi aberration has unfortunately not been the only case of genocide in the 20th century. Among other examples which can be cited as qualifying are . . . the Ottoman massacre of Armenians in 1915–1916'';

Whereas such report also explained that ''[a]t least 1,000,000, and possibly well over half of the Armenian population, are reliably estimated to have been killed or death marched by independent authorities and eyewitnesses and this is corroborated by reports in United States, German, and British archives and of contemporary diplomats in the Ottoman Empire, including those of its ally Germany'';

Whereas the United States Holocaust Memorial Council, an independent Federal agency that serves as the board of trustees of the United States Holocaust Memorial Museum pursuant to section 2302 of title 36, United States Code, unanimously resolved on April 30, 1981, that the Museum would exhibit information regarding the Armenian Genocide and the Museum has since done so;

Whereas, reviewing an aberrant 1982 expression by the Department of State (which was later retracted) that asserted that the facts of the Armenian Genocide may be ambiguous, the United States Court of Appeals for the District of Columbia in 1993, after a review of documents pertaining to the policy record of the United States, noted that the assertion on ambiguity in the United States record about the Armenian Genocide ''contradicted longstanding United States policy and was eventually retracted'';

Whereas, on June 5, 1996, the House of Representatives adopted an amendment to H.R. 3540, 104th Congress (the Foreign Operations,

Export Financing, and Related Programs Appropriations Act, 1997), to reduce aid to Turkey by $3,000,000 (an estimate of its payment of lobbying fees in the United States) until the Turkish Government acknowledged the Armenian Genocide and took steps to honor the memory of its victims;

Whereas President William Jefferson Clinton, on April 24, 1998, stated, ''[t]his year, as in the past, we join with Armenian-Americans throughout the nation in commemorating one of the saddest chapters in the history of this century, the deportations and massacres of a million and a half Armenians in the Ottoman Empire in the years 1915–1923'';

Whereas President George W. Bush, on April 24, 2004, stated, ''[o]n this day, we pause in remembrance of one of the most horrible tragedies of the 20th century, the annihilation of as many as 1,500,000 Armenians through forced exile and murder at the end of the Ottoman Empire''; and

Whereas, despite the international recognition and affirmation of the Armenian Genocide, the failure of the domestic and international authorities to punish those responsible for the Armenian Genocide is a reason why similar genocides have recurred and may recur in the future, and that a just resolution will help prevent future genocides: Now, therefore, be it

Resolved, That the Senate—

(1) calls on the President to ensure that the foreign policy of the United States reflects appropriate understanding and sensitivity concerning issues related to human rights, ethnic cleansing, and genocide documented in the United States record relating to the Armenian Genocide and the consequences of the failure to realize a just resolution; and

(2) calls on the President, in the President's annual message commemorating the Armenian Genocide issued on or about April 24 to accurately characterize the systematic and deliberate annihilation of 1,500,000 Armenians as genocide and to recall the proud history of United States intervention in opposition to the Armenian Genocide.

Mr. DURBIN. Mr. President, I rise today to recall and to honor the 1.5 million Armenians killed by the Ottoman government between 1915 and 1923. Genocides claimed the lives of some 60 million people in the century just past, 16 million after the end of the Second World War, when we told ourselves, ''Never again.'' The Armenian Genocide was the 20th century's first genocide, a vicious, organized crime against humanity that included murder, deportation, torture, and slave labor.

Some would ignore the Armenian victims and forget how they died. We need to fight against such forgetfulness.

An Armenian named Vahram Dadrian was a survivor of the genocide and wrote about his experiences in a moving memoir. But by the 1940s, he had begun to lose hope. ''Everything has been forgotten,'' he wrote, ''our . . . dead could never have imagined, even for a fraction of a moment, that they would have been forgotten so soon.''

We must restore that lost hope. We must not forget. To do so would dishonor the memories of the dead and send a message to the world that we might tolerate genocide.

We will not tolerate the intolerable. We will remember, and in doing so, cultivate the knowledge—and the wisdom—necessary to act to prevent a repetition of these terrible crimes. Because the problem isn't simply a matter of knowing, but about knowing when and how to act.

Senator ENSIGN and I have submitted a resolution that acknowledges the suffering of those destroyed by the Armenian genocide.

It calls on the President to remember the hard lessons of the Armenian genocide in the conduct of U.S. foreign policy and to assure that our knowledge of this terrible crime informs our human rights policies.

As I said, the Armenian genocide was the first genocide of the 20th century. It was also the first time that the American public found itself confronting such a cruel, man-made catastrophe.

America closely followed the crisis. In 1915, the New York Times alone published 145 articles on the Armenian massacres, roughly one every 2½ days.

Dedicated and courageous American diplomats tried to end the carnage. Our ambassador to Constantinople, Henry Morgenthau, played an important role in bringing the massacres to the attention of the outside world.

Americans, such as Mark Twain, Henry Adams, and Clara Barton, spoke out against the massacres and a broad-based American humanitarian movement sought to provide relief to the desperate Armenians and pushed the U.S. Government to protect the victims from further violence. It was the birth of the American international human rights movement.

The Near East Relief Organization, founded in 1919 to assist Armenian refugees, provided more than $116 million for the cause during its 10-year lifetime—the equivalent of more than $1 billion in today's money.

We need to recapture that energy and determination because the best way to honor those who died is to recognize their suffering and dedicate ourselves to preventing such a destruction of entire communities in the future.

Recognizing the Armenian genocide takes on added importance in the face of the genocide occurring right now in the Darfur region of Sudan. As we pause to reflect upon this grievous example of man's inhumanity to man, let us honor the victims of the Armenian genocide and all crimes against humanity not only by acknowledging their suffering, but also by acting to halt similar atrocities that are occurring now before our very eyes.

SENATE RESOLTUION 321—COMMEMORATING THE LIFE, ACHIEVEMENTS, AND CONTRIBUTIONS OF ALAN A. REICH

Mr. DEWINE (for himself and Mr. HARKIN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 321

Whereas Alan Reich devoted his life to civic involvement and efforts to improve the quality of life for individuals with disabilities;

Whereas Alan Reich was born in Pearl River, New York, was a well-respected and beloved member of his family, and served as an inspirational figure in the disability community;

Whereas Alan Reich—

(1) graduated from Dartmouth College in 1952, where he was an all-American track and field athlete;

(2) received a Master's degree in Russian literature from Middlebury College in 1953;

(3) was awarded a diploma in Slavic languages and Eastern European studies from the University of Oxford;

(4) received an M.B.A. from Harvard University in 1959; and

(5) was a brilliant linguist who spoke 5 languages;

Whereas Alan Reich served in the Army from 1953 to 1957 as an infantry officer and Russian language interrogation officer in Germany, and was named as a member of the United States Army Infantry Officer Candidate School Hall of Fame;

Whereas Alan Reich married Gay Forsythe Reich, and shared with her 50 years of marriage and a deep commitment to each other and their three children, James, Jeffery, and Elizabeth;

Whereas from 1960 to 1970, Alan Reich was employed as an executive at Polaroid Corporation when, at age 32, he became a quadriplegic due to a swimming accident, and used a wheelchair as a result of his injury;

Whereas although Alan Reich was told he would not drive or write again, he relearned both skills and returned to work at Polaroid Corporation;

Whereas Alan Reich—

(1) served in the Department of State from 1970 to 1975 as a Deputy Assistant Secretary for Educational and Cultural Affairs;

(2) later served as Director of the Bureau of East-West Trade for the Department of Commerce;

(3) was named the President of the United States Council for the International Year of Disabled Persons in 1978; and

(4) was the first person to address the United Nations General Assembly from a wheelchair when the United Nations opened the International Year of the Disabled in 1981;

Whereas in 1982, Alan Reich transformed the Council for the International Year of Disabled Persons into the National Organization on Disability, an organization that actively seeks on national, State, and local levels full and equal participation for individuals with disabilities in all aspects of life;

Whereas Alan Reich—

(1) founded the Bimillennium Foundation in 1984 to encourage national leaders to set goals aimed at improving the lives of people with disabilities for the year 2000;

(2) served as past Chairman of the People-to-People Committee on Disability; and

(3) worked to advance research in regeneration of the central nervous system as Chairman of the Paralysis Cure Research Foundation and as President of the National Paraplegia Foundation;

Whereas Alan Reich, who used a wheelchair for 43 years, led an effort that raised $1,650,000 to add the statue of Franklin Delano Roosevelt in a wheelchair to the memorial of the former President in Washington, D.C.;

Whereas Alan Reich stated in 2001, ''The unveiling is a major national moment, the removal of the shroud of shame that cloaks disability. The statue will become a shrine to people with disabilities, but it will also inspire everyone to overcome obstacles. When you see the memorial that follows the statue, what will be in your mind is that he did all this from a wheelchair.'';

Whereas in July 2005, Alan Reich received the George H. W. Bush Medal, an award established to honor outstanding service under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

Whereas Alan Reich is survived by his wife, partner, and best friend, Gay, their 2 sons James and Jeffery, their daughter Elizabeth, and 11 grandchildren; and

Whereas Alan Reich passed away on November 8, 2005, and the contributions he made to his family, his community, and his Nation will not be forgotten: Now, therefore, be it

Resolved, That the Senate—

(1) honors the life, achievements, and contributions of Alan Reich;

(2) extends its deepest sympathies to the family of Alan Reich for their loss of this great and generous man; and

(3) respectfully requests the Secretary of the Senate to transmit a copy of this resolution to the family of Alan Reich.

Mr. DEWINE. Mr. President, I am pleased today join with Senator HARKIN to submit a resolution commemorating the many contributions and achievements of Alan Reich, who was an inspirational figure in the disability community. Alan Reich devoted his own life to the improving the quality of life for so many others—especially individuals with disabilities. He recently passed away on November 8, 2005, at the age of 75.

Alan Reich was the founder of the National Organization on Disability. This organization is active on a local, State, and national level in efforts to seek full and equal participation for people with disabilities in all aspects of life. You see, at the young age of 32, Alan became a quadriplegic following a swimming accident. He used a wheelchair as a result of this injury. While Alan was told he would not drive or write again, he relearned both skills and went on to become an inspiration for all those in the disability community. In 1990, he received the George H.W. Bush Medal for outstanding service under the Americans with Disabilities Act.

Alan Reich is probably best known for leading an effort that raised $1.65 million to add the statue of FOR in a wheelchair to the former President's memorial here in Washington, DC. As Alan said in 2001:

The unveiling is a major national moment, the removal of the shroud of shame that cloaks disability. The statue will become a shrine to people with disabilities, but it will also inspire everyone to overcome obstacles. When you see the memorial that follows the statue, what will be in your mind is that he did all this from a wheelchair.

Alan Reich married his best friend and partner in life, Gay Forsythe Reich. They shared 50 years of marriage and were deeply committed to each other and to their 3 children—James, Jeffery, and Elizabeth–as well as their 11 grandchildren.

Alan Reich's contributions to his family, his community, and to this Nation will never be forgotten. As Chesterton said many years ago, ''Great men do great things even when they're gone.'' That is certainly true of Alan Reich. His legacy will live on always.

My wife Fran and I extend our deepest sympathy to Alan Reich's family for their loss.

Mr. HARKIN. Mr. President, I am honored to be the lead Democratic cosponsor of this resolution to commemorate the life, achievements and contributions of Alan Reich.

I was greatly saddened, last week, to hear about the passing of this great and passionate advocate for the rights of people with disabilities. As many Senators know very well, Alan was the founder and president emeritus of the National Organization on Disability. Over the past 25 years, both he and the National Organization on Disability have been tremendously effective advocates for the full and equal participation of persons with disabilities in all aspects of American life.

The achievements of Alan Reich, and the sheer breadth of his activism and leadership, are simply remarkable. While president of the National Organization on Disability, he built a broad coalition of disability groups that successfully fought for the inclusion of a statue of President Roosevelt in a wheelchair at the FDR Memorial. He spearheaded critical research to track the progress of Americans with disabilities in key areas of life. He founded and chaired the Paralysis Cure Research Foundation; was president of what became the National Spinal Cord Injury Association; and he founded the National Task Force on Disability. Alan also led the way in taking the disability rights movement into the international arena. He chaired the World Committee on Disability, and was the first individual using a wheelchair to address the United Nations General Assembly. For these and many other achievements, Alan was awarded the George Bush Medal this past July.

I want to express my own profound respect for this remarkable individual and for all that he accomplished in his life. He played a pivotal role in the disability rights revolution that has transformed this country in important ways in recent decades. He improved the lives of countless individuals with disabilities, both in this country and throughout the world. And, perhaps best of all, he has left a living legacy in the form of the advocacy organizations he founded, which will now continue his work into the future.

Alan Reich was a wonderful advocate and a great American. He fought with all his heart to win equity, access, and opportunity for people with disabilities. He changed countless lives, and made America a much better and fairer society. For all these reasons, the United States Senate honors Alan Reich, today, with this resolution expressing our respect and appreciation.

SENATE RESOLUTION 322—EXPRESSING THE SENSE OF THE SENATE ON THE TRIAL, SENTENCING, AND IMPRISONMENT OF MIKHAIL KHODORKOVSKY AND PLATON LEBEDEV

Mr. BIDEN (for himself, Mr. MCCAIN, and Mr. OBAMA) submitted the following resolution; which was considered and agreed to:

S. RES. 322

Whereas the United States supports the development of democracy, civil society, and the rule of law in the Russian Federation;

Whereas the rule of law and the guarantee of equal justice under the law are fundamental attributes of democratic societies;

Whereas the trial, sentencing, and imprisonment of Mikhail Khodorkovsky and Platon Lebedev have raised troubling questions about the impartiality and integrity of the judicial system in Russia;

Whereas the Department of State 2004 Country Report on Human Rights Practices in Russia stated that the arrest of Mr. Khodorkovsky was ''widely believed to have been prompted, at least in part, by the considerable financial support he provided to opposition groups;''

Whereas Secretary of State Condoleezza Rice has remarked that the arrest of Mr. Khodorkovsky and the dismantling of his company have ''raised significant concerns'' about the independence of the judiciary in Russia;

Whereas the independent non-governmental organization Freedom House has asserted that the conviction of Mr. Khodorkovsky ''underscores the serious erosion of the rule of law and growing intolerance for political dissent in Russia'';

Whereas upon concluding an investigation of the facts surrounding the case of Mr. Khodorkovsky and Mr. Lebedev, the Human Rights Committee of the Parliamentary Assembly of the Council of Europe determined that the two men were ''arbitrarily singled out'' by the Russia authorities, violating the principle of equality before the law;

Whereas in May 2005, a Moscow court sentenced Mr. Khodorkovsky to serve 9 years in prison;

Whereas Article 73 of the Russian Criminal Penitentiary Code stipulates that except under extraordinary circumstances, prisoners serve their terms of deprivation of liberty on the territory of subjects of the Russian Federation where they reside or were convicted;

Whereas on or about October 16, 2005, Mr. Khodorkovsky was sent to prison camp YG 14/10 in the Chita Region of Siberia;

Whereas on or about October 16, 2005, Mr. Lebedev was sent to penal camp number 98/3 in the arctic region of Yamal-Nenets;

Whereas the transfer of Mr. Khodorkovsky and Mr. Lebedev constitutes an apparent violation of Russia law and hearkens back to the worst practices and excesses of the Soviet era;

Whereas a broad coalition of human rights advocates and intellectuals in Russia have appealed to Vladimir Lukin, the Human Rights Commissioner of the Russian Federation, to investigate and rectify any abuse of Russia law associated with the transfer of Mr. Khodorkovsky and Mr. Lebedev; and

Whereas the selective disregard for the rule of law by officials of the Russian Federation further undermines the standing and status of the Russian Federation among the democratic nations of the world: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the criminal justice system in Russia has not accorded Mikhail Khodorkovsky and Platon Lebedev fair, transparent, and impartial treatment under the laws of the Russian Federation;

(2) the standing and status of the Russian Federation among the democratic nations of the world would be greatly enhanced if the authorities of the Russian Federation were to take the necessary actions to dispel widespread concerns that—

(A) the criminal cases against Mr. Khodorkovsky, Mr. Lebedev, and their associates are politically motivated;

(B) the transfer of Mr. Khodorkovsky and Mr. Lebedev to prison camps thousands of kilometers from their homes and families represents a violation of the norms and practices of Russia law; and

(C) in cases dealing with perceived political threats to the authorities, the judiciary of Russia is an instrument of the Kremlin and such judiciary is not truly independent; and

(3) notwithstanding any other disposition of the cases of Mr. Khodorkovsky and Mr. Lebedev, and without prejudice to further disposition of same, Mr. Khodorkovsky and Mr. Lebedev should be transferred to penal facilities with locations that are consonant with the norms and general practices of Russia law.

SENATE RESOLUTION 323—EXPRESSING THE SENSE OF THE SENATE THAT THE UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS SHOULD NOT BE ALLOWED TO EXERCISE CONTROL OVER THE INTERNET

Mr. COLEMAN (for himself, Mr. WARNER, Mr. PRYOR, Mr. SMITH, Mr. DEMINT, Mr. BENNETT, Mr. NELSON of Florida, Mr. KYL, Mr. ALLEN, Mr. MARTINEZ, Mr. BUNNING, and Mr. CHAMBLISS) submitted the following resolution; which was considered and agreed to:

S. RES. 323

Whereas market-based policies and private sector leadership have given the Internet the flexibility to evolve;

Whereas given the importance of the Internet to the global economy, it is essential that the underlying domain name system and technical infrastructure of the Internet remain stable and secure;

Whereas the Internet was created in the United States and has flourished under United States supervision and oversight, and the Federal Government has followed a path of transferring Internet control from the defense sector to the civilian sector, including the Internet Corporation for Assigned Names and Numbers (ICANN) with the goal of full privatization;

Whereas the developing world deserves the access to knowledge, services, commerce, and communication, the accompanying benefits to economic development, education, and health care, and the informed discussion that is the bedrock of democratic self-government that the Internet provides;

Whereas the explosive and hugely beneficial growth of the Internet did not result from increased government involvement but from the opening of the Internet to commerce and private sector innovation;

Whereas on June 30, 2005, President George W. Bush announced that the United States intends to maintain its historic role over the master ''root zone'' file of the Internet, which lists all authorized top-level Internet domains;

Whereas the recently articulated principles of the United States on the domain name and addressing system of the Internet (DNS) are that—

(1) the Federal Government will—

(A) preserve the security and stability of the DNS;

(B) take no action with the potential to adversely affect the effective and efficient operation of the DNS; and

(C) maintain the historic role of the United States regarding modifications to the root zone file;

(2) governments have a legitimate interest in the management of country code top level domains (ccTLD);

(3) the United States is committed to working with the international community to address the concerns of that community in accordance with the stability and security of the DNS;

(4) ICANN is the appropriate technical manager of the Internet, and the United States will continue to provide oversight so that ICANN maintains focus and meets its core technical mission; and

(5) dialogue relating to Internet governance should continue in multiple relevant fora, and the United States encourages an ongoing dialogue with all stakeholders and will continue to support market-based approaches and private sector leadership;

Whereas the final report issued by the Working Group on Internet Governance (WGIG), established by the United Nations Secretary General in accordance with a mandate given during the first World Summit on the Information Society, and comprised of 40 members from governments, private sector, and civil society, issued 4 possible models, 1 of which envisages a Global Internet Council that would assume international Internet governance;

Whereas that report contains recommendations for relegating the private sector and nongovernmental organizations to an advisory capacity;

Whereas the European Union has also proposed transferring control of the Internet, including the global allocation of Internet Protocol number blocks, procedures for changing the root zone file, and rules applicable to DNS, to a ''new model of international cooperation'' which could confer significant leverage to the Governments of Iran, Cuba, and China, and could impose an undesirable layer of politicized bureaucracy on the operations of the Internet that could result in an inadequate response to the rapid pace of technological change;

Whereas some nations that advocate radical change in the structure of Internet governance censor the information available to their citizens through the Internet and use the Internet as a tool of surveillance to curtail legitimate political discussion and dissent, and other nations operate telecommunications systems as state-controlled monopolies or highly-regulated and highly-taxed entities;

Whereas some nations in support of transferring Internet governance to an entity affiliated with the United Nations, or another international entity, might seek to have such an entity endorse national policies that block access to information, stifle political dissent, and maintain outmoded communications structures;

Whereas the structure and control of Internet governance has profound implications for homeland security, competition and trade, democratization, free expression, access to information, privacy, and the protection of intellectual property, and the threat of some nations to take unilateral actions that would fracture the root zone file would result in a less functional Internet with diminished benefits for all people;

Whereas in the Declaration of Principles of the First World Summit on the Information Society, held in Geneva in 2003, delegates from 175 nations declared the ''common desire and commitment to build a people-centered, inclusive and development oriented Information Society, where everyone can create, access, utilize and share information and knowledge'';

Whereas delegates at the First World Summit also reaffirmed, ''as an essential foundation of the Information Society, and as outlined in Article 19 of the Universal Declaration of Human Rights, that everyone has the right to freedom of opinion and expression'' and that ''this right includes freedom to hold opinions without interference and to seek, receive and import information and ideas through any media and regardless of frontiers'';

Whereas the United Nations Secretary General has stated the objective of the 2005 World Summit on the Information Society in Tunis is to ensure ''benefits that new information and communication technologies, including the Internet, can bring to economic and social development'' and that ''to defend the Internet is to defend freedom itself''; and

Whereas discussions at the November 2005 World Summit on the Information Society may include discussion of transferring control of the Internet to a new intergovernmental entity, and could be the beginning of a prolonged international debate regarding the future of Internet governance: Now, therefore, be it

Resolved, That the Senate—

(1) calls on the President to continue to oppose any effort to transfer control of the Internet to the United Nations or any other international entity;

(2) applauds the President for—

(A) clearly and forcefully asserting that the United States has no present intention of relinquishing the historic leadership role the United States has played in Internet governance; and

(B) articulating a vision of the future of the Internet that places privatization over politicization with respect to the Internet; and

(3) calls on the President to—

(A) recognize the need for, and pursue a continuing and constructive dialogue with the international community on, the future of Internet governance; and

(B) advance the values of an open Internet in the broader trade and diplomatic conversations of the United States.

SENATE RESOLUTION 324—EXPRESSING SUPPORT FOR THE PEOPLE OF SRI LANKA IN THE WAKE OF THE TSUNAMI AND THE ASSASSINATION OF THE SRI LANKAN FOREIGN MINISTER AND URGING SUPPORT AND RESPECT FOR FREE AND FAIR ELECTIONS IN SRI LANKA

Mr. MCCAIN (for himself, Mr. BIDEN, and Mr. LUGAR) submitted the following resolution; which was considered and agreed to

S. RES. 324

Whereas, on December 26, 2004, Sri Lanka was struck by a tsunami that left some 30,000 dead and hundreds of thousands of people homeless;

Whereas the United States and the world community recognized the global importance of preventing that tragedy from spiraling into an uncontrolled disaster and sent aid to Sri Lanka to provide immediate relief;

Whereas the massive tsunami reconstruction effort in Sri Lanka creates significant challenges for the country;

Whereas the democratic process in Sri Lanka is further challenged by the refusal of the Liberation Tigers of Tamil Eelam, a group that the Secretary of State has designated as a Foreign Terrorist Organization, to renounce violence as a means of effecting political change;

Whereas, on August 12, 2005, the Sri Lankan Foreign Minister Lakhsman Kadirgamar was assassinated at his home in Colombo in a brutal terrorist act that has been widely attributed to the Liberation Tigers of Tamil Eelam by officials in Sri Lanka, the United States, and other countries;

Whereas democratic elections are scheduled to be held in Sri Lanka on November 17, 2005; and

Whereas the United States has an interest in a free and fair democratic process in Sri Lanka, and the peaceful resolution of the insurgency that has afflicted Sri Lanka for more than two decades: Now, therefore, be it

Resolved, That the Senate—

(1) expresses its support for the people of Sri Lanka as they recover from the devastating tsunami that occurred on December 26, 2004, and the assassination of the Sri Lankan Foreign Minister Lakhsman Kadirgamar on August 12, 2005;

(2) expresses its support for the courageous decision by the democratically-elected Government of Sri Lanka, following the assassination of Foreign Minister Kadirgamar, to remain in discussions with the Liberation Tigers of Tamil Eelam in an attempt to resolve peacefully the issues facing the people of Sri Lanka; and

(3) urges all parties in Sri Lanka to remain committed to the negotiating process and to make every possible attempt at national reconciliation.

SENATE RESOLUTION 325—TO AUTHORIZE THE PRINTING OF A REVISED EDITION OF THE SENATE ELECTION LAW GUIDEBOOK

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 325

Resolved, That the Committee on Rules and Administration shall prepare a revised edition of the Senate Election Law Guidebook, Senate Document 106-14 , and that such document shall be printed as a Senate document.

SEC. 2. There shall be printed, beyond the usual number, 500 additional copies of the document specified in the first section for the use of the Committee on Rules and Administration.

SENATE RESOLUTION 326—DESIGNATING NOVEMBER 27, 2005, AS ''DRIVE SAFER SUNDAY''

Mr. CHAMBLISS (for himself, Mr. ISAKSON, and Mrs. LINCOLN) submitted the following resolution; which was considered and agreed to:

S. RES. 326

Whereas motor vehicle travel is the primary means of transportation in the United States;

Whereas everyone on the roads and highways needs to drive more safely to reduce deaths and injuries resulting from motor vehicle accidents;

Whereas the death of almost 43,000 people a year in more than 6 million highway crashes in America has been called an epidemic by Transportation Secretary Norman Mineta;

Whereas according to the National Highway Transportation Safety Administration, wearing a seat belt saved 15,434 lives in 2004; and

Whereas the Sunday after Thanksgiving is the busiest highway traffic day of the year: Now, therefore, be it

Resolved, That the Senate—

(1) encourages—

(A) high schools, colleges, universities, administrators, teachers, primary schools, and secondary schools to launch campus-wide educational campaigns to urge students to be careful about safety when driving;

(B) national trucking firms to alert their drivers to be especially focused on driving safely during the heaviest traffic day of the year, and to publicize the importance of the day using Citizen's band (CB) radios and in truck stops across the Nation;

(C) clergy to remind their members to travel safely when attending services and gatherings;

(D) law enforcement personnel to remind drivers and passengers to drive particularly safely on the Sunday after Thanksgiving; and

(E) everyone to use the Sunday after Thanksgiving as an opportunity to educate themselves about highway safety; and

(2) designates November 27, 2005, as ''Drive Safer Sunday''.

SENATE RESOLUTION 327—REMEMBERING AND COMMEMORATING THE LIVES AND WORK OF MARYKNOLL SISTERS MAURA CLARKE AND ITA FORD, URSULINE SISTER DOROTHY KAZEL, AND CLEVELAND LAY MISSION TEAM MEMBER JEAN DONOVAN, WHO WERE EXECUTED BY MEMBERS OF THE ARMED FORCES OF EL SALVADOR ON DECEMBER 2, 1980

Mr. FEINGOLD (for himself, Mr. DODD, and Mr. LEAHY) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 326

Whereas on December 2, 1980, 4 churchwomen from the United States, Maryknoll Sisters Maura Clarke and Ita Ford, Ursuline Sister Dorothy Kazel, and Cleveland Lay Mission Team Member Jean Donovan, were violated and executed by members of the National Guard of El Salvador;

Whereas in 1980, Maryknoll Sisters Maura Clarke and Ita Ford were working in the parish of the Church of San Juan Bautista in Chalatenango, El Salvador, providing food, transportation, and other assistance to refugees and Ursuline Sister Dorothy Kazel and Cleveland Lay Mission Team Member Jean Donovan were working in the parish of the Church of the Immaculate Conception in La Libertad, El Salvador, providing assistance and support to refugees and other victims of violence;

Whereas these 4 churchwomen from the United States dedicated their lives to working with the poor of El Salvador, especially women and children left homeless, displaced, and destitute by the Salvadoran civil war;

Whereas these 4 churchwomen from the United States joined the more than 70,000 civilians who were murdered during the course of the Salvadoran civil war;

Whereas on May 23 and May 24, 1984, 5 members of the National Guard of El Salvador, including Subsergeant Luis Antonio Colindres Aleman, Daniel Canales Ramirez, Carlos Joaquin Contreras Palacios, Francisco Orlando Contreras Recinos, and Jose Roberto Moreno Canjura, were found guilty by the Salvadoran courts of the executions of the churchwomen and were sentenced to 30 years in prison, marking the first case in the history of El Salvador where a member of the Salvadoran Armed Forces was convicted of murder by a Salvadoran judge;

Whereas the United Nations Commission on the Truth for El Salvador was established under the terms of the historic January 1992 Peace Accords that ended El Salvador's 12 years of civil war and was charged to investigate and report to the Salvadoran people on human rights crimes committed by all sides during the course of the civil war;

Whereas in March 1993, the United Nations Commission on the Truth for El Salvador found that the execution of the 4 churchwomen from the United States was planned and that Subsergeant Luis Antonio Colindres Aleman carried out orders from a superior to execute them, and that then Colonel Carlos Eugenio Vides Casanova, then Director-General of the National Guard and his cousin, Lieutenant Colonel Oscar Edgardo Casanova Vejar, then Commander of the Zacatecoluca military detachment where the murders were committed, and other military personnel knew that members of the National Guard had committed the murders pursuant to orders of a superior and that the subsequent coverup of the facts adversely affected the judicial investigation into the murders of the 4 churchwomen from the United States;

Whereas the United Nations Commission on the Truth for El Salvador determined that General Jose Guillermo Garcia, then Minister of Defense, made no serious effort to conduct a thorough investigation of responsibility for the murders of the churchwomen;

Whereas the families of the 4 churchwomen from the United States continue their efforts to determine the full truth surrounding the murders of their loved ones, appreciate the cooperation of United States Government agencies in disclosing and providing documents relevant to the churchwomen's murders, and pursue requests to release to the family members the few remaining undisclosed documents and reports pertaining to this case;

Whereas the families of the 4 churchwomen from the United States appreciate the ability of those harmed by violence to bring suit against Salvadoran military officers in United States courts under the Torture Victim Protection Act of 1991 (28 U.S.C. 1350 note);

Whereas the lives of these 4 churchwomen from the United States have, for the past 25 years, served as inspiration for and continue to inspire Salvadorans, Americans, and people throughout the world to answer the call to service and to pursue lives dedicated to addressing the needs and aspirations of the poor, the vulnerable, and the disadvantaged, especially among women and children;

Whereas the lives of the 4 churchwomen from the United States have also inspired numerous books, plays, films, music, religious events, and cultural events;

Whereas schools, libraries, research centers, spiritual centers, health clinics, women's and children's programs in the United States and in El Salvador have been named after or dedicated to Sisters Maura Clarke, Ita Ford, Dorothy Kazel, and lay missionary Jean Donovan;

Whereas the Maryknoll Sisters, headquartered in Ossining, New York, the Ursuline Sisters, headquartered in Cleveland, Ohio, numerous religious task forces in the United States, and the Salvadoran and

international religious communities based in El Salvador annually commemorate the lives and martyrdom of the 4 churchwomen from the United States;

Whereas the historic January 1992 Peace Accords ended 12 years of civil war and have allowed the Government and the people of El Salvador to achieve significant progress in creating and strengthening democratic, political, economic, and social institutions; and

Whereas December 2, 2005, marks the 25th anniversary of the deaths of these 4 spiritual, courageous, and generous churchwomen from the United States: Now, therefore, be it

Resolved, That the Senate—

(1) remembers and commemorates the lives and work of Sisters Maura Clarke, Ita Ford, and Dorothy Kazel and lay missionary Jean Donovan;

(2) extends sympathy and support for the families, friends, and religious communities of the 4 churchwomen from the United States;

(3) continues to find inspiration in the lives and work of these 4 churchwomen from the United States;

(4) calls upon the people of the United States and religious congregations to participate in local, national, and international events commemorating the 25th anniversary of the martyrdom of the 4 churchwomen from the United States;

(5) recognizes that while progress has been made during the post-war period, the work begun by the 4 churchwomen from the United States remains unfinished and social and economic hardships persist among many sectors of Salvadoran society; and

(6) calls upon the President, the Secretary of State, the Administrator of the United States Agency for International Development, and the heads of other Government departments and agencies to continue to support and collaborate with the Government of El Salvador and with private sector, nongovernmental, and religious organizations in their efforts to reduce poverty and hunger and to promote educational opportunity, health care, and social equity for the people of El Salvador.

SENATE RESOLUTION 328—RECOGNIZING THE 30TH ANNIVERSARY OF THE ENACTMENT OF THE EDUCATION FOR ALL HANDICAPPED CHILDREN ACT OF 1975 AND REAFFIRMING THE COMMITMENT OF CONGRESS TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT SO THAT ALL CHILDREN WITH DISABILITIES RECEIVE A FREE APPROPRIATE PUBLIC EDUCATION IN THE LEAST RESTRICTIVE ENVIRONMENT

Mr. ENZI (for himself, Mr. KENNEDY, Mr. ROBERTS, Mr. REED, Mr. BURR, Mr. JEFFORDS, Mr. GREGG, Mrs. MURRAY, Mr. HATCH, Mrs. CLINTON, Mr. DEWINE, Mr. BINGAMAN, Ms. MIKULSKI, Mr. HARKIN, and Mr. DODD) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 328

Whereas the Education for All Handicapped Children Act of 1975 (Public Law 94–142) was signed into law 30 years ago on November 29, 1975, and amended the State grant program under part B of the Education of the Handicapped Act;

Whereas the Education for All Handicapped Children Act of 1975 established the Federal priority of ensuring that all children, regardless of the nature or severity of their disability, have available to them a free appropriate public education in the least restrictive environment;

Whereas the Education of the Handicapped Act was further amended by the Education of the Handicapped Act Amendments of 1986 (Public Law 99–457) to create a preschool grant program for children with disabilities aged 3 through 5 and an early intervention program for infants and toddlers with disabilities under 3 years of age and their families;

Whereas the Education of the Handicapped Act Amendments of 1990 (Public Law 101–476) renamed the Education of the Handicapped Act as the Individuals with Disabilities Education Act (referred to in this resolution as ''IDEA'') (20 U.S.C. 1400 et seq.);

Whereas IDEA currently serves an estimated 269,000 infants and toddlers, 679,000 preschoolers, and 6,000,000 children aged 6 to 21;

Whereas IDEA has helped reduce the number of children with developmental disabilities who must live in State institutions away from their families;

Whereas the number of children with disabilities who complete high school with standard diplomas has grown significantly since the enactment of IDEA;

Whereas more students with disabilities are participating in national and State testing programs, and graduation rates for students with disabilities are continuously rising, since the enactment of IDEA;

Whereas the number of children with disabilities who enroll in college as freshmen has more than tripled since the enactment of IDEA;

Whereas IDEA promotes partnerships between parents of children with disabilities and education professionals in the design and implementation of the special education and related services provided to children with disabilities;

Whereas the integration of students with disabilities in the classroom, learning alongside their peers without disabilities, has heightened the Nation's awareness of the needs and capabilities of students with disabilities;

Whereas the Individuals with Disabilities Education Improvement Act of 2004 (Public Law 108–446) reauthorizes IDEA and ensures that children with disabilities are guaranteed a quality education based on the high academic standards required under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), as amended by the No Child Left Behind Act of 2001 (Public Law 107–110);

Whereas the Individuals with Disabilities Education Improvement Act of 2004 strengthens IDEA's focus on the educational results of children with disabilities and better prepares those children for further education beyond high school or employment;

Whereas the Individuals with Disabilities Education Improvement Act of 2004 further enables special education teachers, related services providers, other educators, and State and local educational agencies to focus on promoting the academic and functional achievement of children with disabilities;

Whereas the Individuals with Disabilities Education Improvement Act of 2004 places a new priority on providing students with disabilities with positive behavioral supports through school-wide interventions;

Whereas the Individuals with Disabilities Education Improvement Act of 2004 enables students with disabilities, through the power of technology, to achieve better educational outcomes and enhance independent living skills;

Whereas the Individuals with Disabilities Education Improvement Act of 2004 protects the procedural safeguards that guarantee the rights of children with disabilities to a free and appropriate public education while establishing mechanisms for parents and schools to resolve disagreements about educational planning and the implementation of such planning, thus reducing unnecessary litigation;

Whereas the Individuals with Disabilities Education Improvement Act of 2004 continues to ensure that all students with disabilities receive the services and supports necessary in order to achieve positive educational outcomes in both public and private educational settings;

Whereas the Individuals with Disabilities Education Improvement Act of 2004 ensures that the vast majority of IDEA funds will go directly to the classroom and provides States and local educational agencies additional flexibility to provide for the costs of educating high need children with disabilities;

Whereas IDEA has supported, through its discretionary programs, 3 decades of research, demonstration, and personnel preparation in effective practices for educating children with disabilities, enabling teachers, related services providers, and other educators to effectively meet the educational and developmental needs of all children;

Whereas Federal and State governments support effective, research-based practices in the classroom to ensure appropriate services and supports for children with disabilities; and

Whereas IDEA continues to marshal the resources of this Nation to implement the promise of full participation in society for children with disabilities: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the 30th anniversary of the enactment of the Education for All Handicapped Children Act of 1975 (Public Law 94–142);

(2) acknowledges the many and varied contributions of children with disabilities and their parents, teachers, related services providers, and other educators; and

(3) reaffirms the commitment of Congress to the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) so that all children with disabilities receive a free appropriate public education.

Mr. ENZI. Mr. President, I rise today to introduce a resolution that recognizes the 30th anniversary of the enactment of the predecessor to the Individuals with Disabilities Education Act, IDEA, to commemorate its passage, commend its many authors, and suggest some actions we should take to protect, preserve, and advance its legacy as a vital component of our laws on education and civil rights.

On November 29, 1975, President Gerald Ford signed into law the Education for All Handicapped Children Act, a landmark piece of legislation that reflected America's fundamental and continuing concern for education and human rights. This legislation reaffirmed the most basic values of our democracy by extending education and civil rights protections to individuals with disabilities. As we celebrate the anniversary of the IDEA's enactment, it is, like all anniversaries, an appropriate time to both recount the past and contemplate the future.

Before 1700, there was little toleration for anyone who was different. Persons with disabilities were often abused, condemned as incapable of being able to participate in social activities, and simply forgotten. In 1817, Thomas Hopkins Gallaudet, a teacher of individuals who are deaf, opened a school for people who are deaf in Connecticut. This was the first school in America designed to serve individuals with disabilities. In 1850, at a time when most caregivers believed that persons with disabilities needed to live in institutions apart from their families, a school for youth with cognitive disabilities was opened in Massachusetts.

In the late 1800s, the number of children with disabilities attending public schools increased dramatically due to education and child labor laws. Many public schools developed special education for children with disabilities, however, this usually involved creating separate classes. In 1899, Michigan was the first State to introduce these classes statewide, and by the 1920s, special education had become well established throughout the Nation.

For the next 50 years, special education took place mostly in isolated classrooms where children with disabilities seldom mixed with their nondisabled peers. It is against this backdrop that advocates in the disability community worked tirelessly to affect the passage of the Individuals with Disabilities Education Act. It is also against this backdrop that this Congress had the wisdom and understanding to fully comprehend the nature of the problem and the resolve and determination to act. Similar to May 17, 1954, when the U.S. Supreme Court announced the Brown v. the Board of Education decision that ''separate educational facilities are inherently unequal'' with the signing of the Education for All Handicapped Children Act, families, Congress, and the President believed that a segregated form of education for students with disabilities was inappropriate and narrowed what children with disabilities could learn and become in society.

As President Ford noted when he signed the Education for the Handicapped Act into law: ''Everyone can agree with the objective stated in the title of this bill—educating all handicapped children in our Nation.'' IDEA was advanced on the equally simple and equally compelling notion that segregation was not the answer and all people should have the opportunity to receive a free and appropriate public education. It is therefore fitting that we take a moment to remember all those men and women who worked with such purposefulness and passion to ensure that such a simple yet enduring value of our culture was properly reflected in our education laws.

Since the passage of the IDEA, we have seen significant improvements in the educational employment and economic well-being of citizens with disabilities. According to the Department of Education, IDEA currently serves almost 7 million schoolchildren, preschoolers, and infants and toddlers with disabilities along side their counterparts without disabilities. What was unheard of 30 years ago is now a reality for millions of students with disabilities across the Nation: a right to receiving a free and appropriate education in their neighborhood school. Because of IDEA and other similar laws, the education that students with disabilities are receiving is providing such individuals with the skills necessary to succeed in postsecondary environments, work, pay taxes, live independently, and pursue the American dream.

However, anniversaries are not just for looking back, and celebrating the achievements of the past. They must also be an occasion for looking forward in anticipation of the challenges that still lie before us. All involved should be proud of the accomplishments embodied in the Individuals with Disabilities Education Act, but no one should believe our work is done. Indeed, there is still more to do.

A report issued by the Institute for Higher Education Policy in 2004 focusing on the education level of students with disabilities in the United States contains some disturbing data. It notes that while 91 percent of the general adult population has a high school diploma, only 78 percent of adults with disabilities do. Even more disturbing is the fact that only 57 percent of youths with disabilities received standard high school diplomas. Although the 78 percent graduation rate represents a significantly higher rate than 15 years ago, it remains inadequate, and significantly behind the rate for individuals without disabilities.

The National Educational Longitudinal Study reported in 2000 that 73 percent of high school graduates with disabilities enrolled in some form of postsecondary education compared to 84 percent of their peers without disabilities. However, students with disabilities who were highly qualified academically enrolled in 4-year colleges at the same rate, 79 percent, as their peers without disabilities.

The lesson here is a simple one. When we believe in and have high expectations for all Americans, Americans with disabilities can compete at the same level as Americans without disabilities. With the passage of the No Child Left Behind Act, the Individuals with Disabilities Education Act, and possibilities available within the soon to be reauthorized Higher Education Act, we have the opportunity to make significant strides and further level the playing field. As elected officials, it is our responsibility to ensure that students, teachers, school systems, and teacher education programs are all held to high standards, improving the education levels, graduation rates, and postsecondary achievements of all students, including students with disabilities.

It is fitting that today, in this place, we recognize and celebrate the anniversary of legislation that says so much about who we are as a people and what we stand for as a nation when it comes to educating all of our citizens. It is the responsibility of those of us who follow to ensure that the brightness never fades, the promise of opportunity never wanes, and our rights to education, life, liberty, and the pursuit of happiness apply equally and fully to all Americans, including those with disabilities.

SENATE RESOLUTION 329—CONGRATULATING COACH BILL SNYDER FOR HIS ACHIEVEMENTS DURING 17 YEARS AS THE HEAD FOOTBALL COACH OF THE KANSAS STATE UNIVERSITY WILDCATS

Mr. ROBERTS (for himself and Mr. BROWNBACK) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 329

Whereas, on November 30, 1998, Bill Snyder was named as the 32nd football coach at Kansas State University;

Whereas upon his hiring, Kansas State had experienced years of unsuccessful seasons and in the 52 years prior to his hiring, the Kansas State University football team had a combined record of only 134 wins;

Whereas Bill Snyder directed and orchestrated a football program success and turnaround that is now considered by many to be the greatest in the history of collegiate athletics;

Whereas Bill Snyder coached the Kansas State Wildcats to 11 consecutive postseason bowl appearances;

Whereas the teams coached by Bill Snyder became the second program in college football history to win 11 games, 6 times in a 7 year time span;

Whereas the teams coached by Bill Snyder won the Big 12 North Division title on 4 occasions and appeared in 3 Big 12 Championship games;

Whereas the 2003 team coached by Bill Snyder was crowned the Big 12 Champion;

Whereas Bill Snyder coached 42 National Football League draft picks, 45 All-America selections, and 68 first team all-conference honorees at Kansas State University;

Whereas Bill Snyder was named National Coach of the year in 1991, 1994, and 1998;

Whereas Bill Snyder was named the Bear Bryant and Football Writers Association of America National Coach of the year in 1998;

Whereas in the best sense of collegiate athletics, Bill Snyder has been a mentor and, through his own actions, taught leadership and personal responsibility to young men;

Whereas Bill Snyder has changed the course of history at Kansas State University, including contributing to an increased enrollment from 18,120 at his hiring in 1988 to nearly 24,000 in 2005;

Whereas Bill Snyder and his family have given of themselves and contributed numerous hours and resources to charitable causes throughout the State of Kansas to the betterment of numerous individuals and the State as a whole;

Whereas Bill Snyder has instilled a new sense of pride in the State for all current and native Kansans;

Whereas Bill Snyder currently ranks as the most successful coach in Kansas State University history with 135 wins;

Whereas the Kansas State Board of Regents has recognized the contributions of Coach Bill Snyder and his family to the State of Kansas and Kansas State University by renaming the football stadium ''Bill Snyder Family Football Stadium''; and

Whereas the contributions of Bill Snyder to Kansas State University, the State of Kansas, and countless young adults are worthy of honor and recognition: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates Coach Bill Snyder and his family upon his planned retirement on November 19, 2005, as the most successful coach in Kansas State University history with a current record of 135 wins;

(2) commends Coach Bill Snyder for his mentoring and teaching of leadership and values to young men;

(3) commends Coach Bill Snyder and his family for their selfless support of Kansas State University and their charitable activities throughout the State of Kansas, while displaying the heartland values of honesty, integrity, and humility; and

(4) respectfully directs the Enrolling Clerk of the Senate to transmit an enrolled copy of this resolution to—

(A) Bill Snyder and his family; and

(B) Kansas State University President Jon Wefald.

Mr. ROBERTS. Mr. President, today I am submitting a Senate Resolution commending the contributions and record of a most unique and deserving man, the retiring football coach of Kansas State University Wildcats, Bill Snyder.

I suppose some, especially non sports fans, might raise an eyebrow or question a Senate Resolution congratulating a football coach, no matter how successful in wins and losses—after all, as some have said, ''it's only a game.'' But in the case of Coach Bill Snyder his contributions transcend his outstanding record of wins and losses; they represent being a mentor and teacher of leadership and values to young men during a time when collegiate athletics and sports in general face challenge after challenge involving unbecoming conduct and worse. Coach Snyder's contribution—football is a game of course but in the case of Bill Snyder one of his greatest contributions has been to enable young men to win in the game of life by being responsible citizens.

And, this unique ability on the athletic field became a catalyst for alumni interest and a renewal of financial support throughout the university enabling all students in all academic fields to benefit.

Much has been said in Kansas and throughout the football sports world about the amazing turnaround Coach Snyder achieved at K-State; directing and orchestrating a football program success story that is now considered by many to be the greatest in the history of collegiate athletics.

The record in the resolution I have introduced speaks for itself; three time national coach of the year, 11 post season bowl games, only the second program in college football history to win 11 games, 6 times in a 7-year time span, 42 NFL draft picks, 45 All America selections, and 68 first team all conference players. That is quite a record.

The coaches that first started their careers at K-State under Coach Snyder now read like a ''Who's Who'' in college football.

But great as those and the rest of the records are, that does not really tell the Bill Snyder story. Simply put, this is a man who restored and instilled a new sense of pride in a university and throughout our State. This is a man and his family who have given of themselves and contributed countless hours and resources to charitable causes throughout Kansas.

With all of his successes and attributes, this is a man who is humble, self effacing, soft spoken, and who knows you can get a lot more done if you don't care who gets the credit.

In many ways, Bill Snyder is a private man who has God given ability to inspire others in the public arena. He has taught his players that in the games of football and life, success is never final, failure is never fatal and that in the end its courage that counts. By his example, he showed them the attributes of honesty, character and reputation are not old fashioned. On the playing field and in life he instilled the truism that if you don't drop the ball you won't have to complain about the way the ball bounces. The same is true regarding his individual player marching orders, never say bad things about your opponent win or lose, take care of your self, conduct yourself in your best interests and that of your university and teammates. A coach on the field and a coach in life.

I want to get back and emphasize this restoring pride achievement on a more personal basis. I know my example is replete with similar experiences with the thousands of families who make up what is now referred to in the sports pages as the ''Wildcat Nation.''

My Dad was a proud graduate of Kansas State as I was and my son attended Kansas State—three generations. Sports fans and devoted K-State alumni all, we went through what many loyal K-Stater's call the decades of Death Valley Days, seasons of defeat, seasons of eternal optimism always tempered, if not shattered by the reality of yet another loss. There were some average seasons, a few good seasons, but ''depths of despair'' would not be an understatement for many of the faithful who endured and endured and endured. And, the defeats somehow became interwoven with the fabric of our alma mater and apologies for psychological exaggeration but even into the psyche of being a K-State graduate and our self worth.

And then came President Jon Wefald and then came Bill Snyder and both men grabbed K-State by the collar and said: Enough, we're going to win both academically and on the athletic field. And, wonder of wonders, they did just that.

Sports writers have called it a miracle. To many diehard K-State fans that was not an understatement. Winning season followed winning season and generations of alumni witnessed this success story took it to heart, loved it and lived it. It has been a grand experience. When K-State goes to a bowl game, 25,000 to 30,000 diehard fans are in attendance, win or lose.

Bill Snyder and his wife Sharon and their family gave K-State their all and Coach Snyder has given us all pride, self esteem, and confidence. It has been one heck of a trail ride for me and my family as I know it has been for countless others.

I just don't know of anyone in their chosen profession who has made more of a difference in so many people's lives than Coach Snyder. Simply put, Bill Snyder has been a class act and then some and collegiate sports, Kansas State University, the State of Kansas and his players and fans have been the beneficiaries.

Thanks Coach. ''Every Man A Wildcat!''

SENATE CONCURRENT RESOLUTION 67—URGING JAPAN TO HONOR ITS COMMITMENTS UNDER THE 1986 MARKET-ORIENTED SECTOR-SELECTIVE (MOSS) AGREEMENT ON MEDICAL EQUIPMENT AND PHARMACEUTICALS, AND FOR OTHER PURPOSES

Mr. COLEMAN submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 67

Whereas the revolution in medical technology has improved our ability to respond to emerging threats and prevent, identify, treat, and cure a broad range of diseases and disabilities, and has the proven potential to bring even more valuable advances in the future;

Whereas medical technology has driven dramatic productivity gains for the benefit of patients, providers, employers, and our economy;

Whereas investment from the United States medical technology industry produces the majority of the $220,000,000,000 global business in development of medical devices, diagnostic products, and medical information systems, allowing patients to lead longer, healthier, and more productive lives;

Whereas the United States medical technology industry supports almost 350,000 Americans in high-value jobs located in every State, and was historically a key industry, as it was a net contributor to the United States balance of trade with Japan, which was a trade surplus of over $7,000,000,000 in 2001, and continued to be a surplus until 2005, when the trade balance became a trade deficit of $1,300,000,000, due in part to changes in the policies of Japan that impact medical devices;

Whereas Japan is one of the most important trading partners of the United States;

Whereas United States products account for roughly ½ of the global market, but garner only a ¼ share of Japan's market;

Whereas Japan has made little progress in implementing its commitments to cut product review times and improve their reimbursement system in bilateral consultations on policy changes under the Market-Oriented Sector-Selective (MOSS) Agreement on Medical Equipment and Pharmaceuticals, signed

on January 9, 1986, between the United States and Japan;

Whereas, although regulatory reviews in Japan remain among the lengthiest in the world and Japan needs to accelerate patient access to safe and beneficial medical technologies, recently adopted measures actually increase regulatory burdens on manufacturers and delay access without enhancing patient safety;

Whereas the general cost of doing business in Japan is the highest in the world and is driven significantly higher by certain factors in the medical technology sector, and inefficiencies in Japanese distribution networks and hospital payment systems and unique regulatory burdens drive up the cost of bringing innovations to Japanese consumers and impede patient access to life-saving and life-enhancing medical technologies;

Whereas artificial government price caps such as the foreign average price policy adopted by the Government of Japan in 2002 restrict patient access and fail to recognize the value of innovation;

Whereas less than 1/10 of 1 percent of the tens of thousands of medical technologies introduced in Japan in the last 10 years received new product pricing;

Whereas the Government of Japan has adopted artificial price caps that are targeted toward technologies predominately marketed by companies from the United States and is considering further cuts to these products; and

Whereas these discriminatory pricing policies will allow the Japanese Government to take advantage of research and development from the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) urges Japan to honor its commitments under the Market-Oriented Sector-Selective (MOSS) Agreement on Medical Equipment and Pharmaceuticals, signed on January 9, 1986, between the United States and Japan (in this resolution referred to as the ''MOSS Agreement''), by—

(A) reducing regulatory barriers to the approval and adoption of new medical technologies; and

(B) meeting or exceeding agency performance goals for premarket approvals and adopting an appropriate, risk-based postmarket system consistent with globally accepted practices;

(2) urges Japan to honor its commitments under the MOSS Agreement to improve the reimbursement environment for medical technologies by actively promoting pricing policies that encourage innovation for the benefit of Japanese patients and the Japanese economy and eliminating reimbursement policies based on inappropriate comparisons to markets outside Japan; and

(3) urges Japan to honor its commitments under the MOSS Agreement by—

(A) implementing fair and open processes and rules that do not disproportionately harm medical technology products from the United States; and

(B) providing opportunities for consultation with trading partners.

Mr. COLEMAN. Mr. President, we share a strategic and important relationship with Japan. A relationship that has proven to be vital for both countries, as we enhance our collaboration on everything from economic pursuits to our joint national security interests. On all of these fronts Japan has demonstrated that it is both a committed partner of the U.S. as well as a global leader in its own right. It is because Japan has demonstrated its leadership on the global stage that I support its bid to become a member of the U.N. Security Council.

As with any partnership, the U.S. and Japan face the occasional challenges to this cooperation. One might argue this is an opportunity for the U.S. and Japan to strengthen their partnership and increase collaboration and trade. The time is now to push this cooperation. However, I am concerned about a threat to our trade relationship with Japan based on our medical technology industry's market access in Japan. It is crucial to my State of Minnesota that we have access to this market and to our country.

Last Congress, I submitted a resolution in the Senate expressing my concern that discriminatory practices and systematic barriers have limited the ability of the U.S. medical device industry to introduce new technologies into the Japanese healthcare system. Today, I am resubmitting similar resolution. I am concerned that insufficient progress has been made by the Japanese to address policies that penalize American companies and ultimately prevent Japanese citizens from receiving the most advanced healthcare.

This resolution recognizes that medical technology has driven dramatic productivity gains for the benefit of patients, providers, employers and our economy. It also states that Japan is one of the most important trading partners of the U.S., and urges Japan to honor its commitments under the Market-Oriented, Sector Specific, MOSS Agreement. This agreement calls on the Japanese to improve the reimbursement environment for medical technologies by actively promoting pricing policies that encourage innovation and eliminating policies based on inappropriate comparisons to markets outside Japan.

Discriminatory practices targeting the medical device industry directly affect my state and many of my constituents. This is due to the fact that Minnesota is the proud home to a thriving medical technology industry. Minnesota's medical alley is a rich corridor of more than 8,000 medical-related companies—12 percent of our workforce—and is home to over 520 FDA-registered medical technology manufacturers. Employment in the industry increased 33 percent from 1991 to 2001, adding over 23,000 jobs to the State of Minnesota. The jobs produced by the medical technology industry represent a lucrative opportunity for my constituents, as the aggregate figure for wages exceeds $1.3 billion an average of over $56,000 per employee.

The benefits that Minnesota has derived from being home to a flourishing medical technology industry are well-deserved and a product of hard work. Minnesota ranks second only to California in device companies, and our State is home to many technology firsts: the first implantable cardiac pacemaker, artificial heart valve, implantable drug transfusion pump, wireless cardiac monitoring system, blood pump, anesthesia monitor and many more examples. The success we have had in Minnesota is also indicative of the positive trends that have been experienced by the entire industry throughout the U.S.

The positive trends of American medical technology companies' performance in domestic and international markets are not reflected in their experience with the Japanese market. The fact of the matter is that U.S. medical technology companies are discriminated by Japanese policies. There are numerous examples of these policies, but I will only briefly mention a few.

Japan has adopted a foreign reference pricing system to reduce reimbursement prices in Japan's health system, a tool long opposed by the U.S. Government and the medical technology industry. This system calls for the establishment and revision of reimbursement rates on the basis of prices paid for medical technology products in the U.S., France, Germany, and the U.K. This pricing policy therefore fails to account for the high costs of bringing advanced technologies to the Japanese market, and instead bases prices on arbitrary conditions that exist outside of Japan.

In addition, Japan's system for approving the use of new medical technologies is the slowest and most costly in the developed world. The backlog in processing applications for medical technology products is staggering, and may be primarily related to the lack of staff dedicated towards the review of applications. Importantly, the end result has been that the medical technologies used to treat patients in Japan are often several generations behind the products utilized in the U.S.

These and other regulatory hurdles embedded in the Japanese medical technology industry conflict with regulatory commitments made to the U.S. under the MOSS trade agreement. They also contradict the philosophy underpinning the Global Harmonization Task Force, to which the U.S., Europe and Japan are a party. Even our friends need to be held accountable to the agreements they sign, otherwise they become less valuable than the paper they are printed on.

I urge our friends in the Japanese Government to take aggressive action to remedy this clearly unfavorable situation. Non-tariff regulatory and reimbursement policies discriminate U.S. manufacturers. While these policies hurt U.S. manufacturers' economically, ultimately the biggest losers of these policies are Japanese patients. Innovative medical technologies offer the possibility of key health solutions to all nations, including those that face severe health care budget constraints and the demands of aging populations. Past experience has demonstrated that the U.S. and Japan are able to overcome challenges that arise in our relationship, thus making it stronger. I think that both countries

stand to gain significantly if the principles of the resolution I am presenting today are upheld.

I urge my fellow colleagues to join me in Japan to honor its commitments under the 1986 Market-Oriented Sector-Selective, MOSS, Agreement on Medical Equipment and Pharmaceuticals by supporting this resolution.

S. CON. RES. 67

Whereas the revolution in medical technology has improved our ability to respond to emerging threats and prevent, identify, treat, and cure a broad range of diseases and disabilities, and has the proven potential to bring even more valuable advances in the future;

Whereas medical technology has driven dramatic productivity gains for the benefit of patients, providers, employers, and our economy;

Whereas investment from the United States medical technology industry produces the majority of the $220,000,000,000 global business in development of medical devices, diagnostic products, and medical information systems, allowing patients to lead longer, healthier, and more productive lives;

Whereas the United States medical technology industry supports almost 350,000 Americans in high-value jobs located in every State, and was historically a key industry, as it was a net contributor to the United States balance of trade with Japan, which was a trade surplus of over $7,000,000,000 in 2001, and continued to be a surplus until 2005, when the trade balance became a trade deficit of $1,300,000,000, due in part to changes in the policies of Japan that impact medical devices;

Whereas Japan is one of the most important trading partners of the United States;

Whereas United States products account for roughly ½ of the global market, but garner only a ¼ share of Japan's market;

Whereas Japan has made little progress in implementing its commitments to cut product review times and improve their reimbursement system in bilateral consultations on policy changes under the Market-Oriented Sector-Selective (MOSS) Agreement on Medical Equipment and Pharmaceuticals, signed on January 9, 1986, between the United States and Japan;

Whereas, although regulatory reviews in Japan remain among the lengthiest in the world and Japan needs to accelerate patient access to safe and beneficial medical technologies, recently adopted measures actually increase regulatory burdens on manufacturers and delay access without enhancing patient safety;

Whereas the general cost of doing business in Japan is the highest in the world and is driven significantly higher by certain factors in the medical technology sector, and inefficiencies in Japanese distribution networks and hospital payment systems and unique regulatory burdens drive up the cost of bringing innovations to Japanese consumers and impede patient access to life-saving and life-enhancing medical technologies;

Whereas artificial government price caps such as the foreign average price policy adopted by the Government of Japan in 2002 restrict patient access and fail to recognize the value of innovation;

Whereas less than 1/10 of 1 percent of the tens of thousands of medical technologies introduced in Japan in the last 10 years received new product pricing;

Whereas the Government of Japan has adopted artificial price caps that are targeted toward technologies predominately marketed by companies from the United States and is considering further cuts to these products; and

Whereas these discriminatory pricing policies will allow the Japanese Government to take advantage of research and development from the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) urges Japan to honor its commitments under the Market-Oriented Sector-Selective (MOSS) Agreement on Medical Equipment and Pharmaceuticals, signed on January 9, 1986, between the United States and Japan (in this resolution referred to as the "MOSS Agreement"), by—

(A) reducing regulatory barriers to the approval and adoption of new medical technologies; and

(B) meeting or exceeding agency performance goals for premarket approvals and adopting an appropriate, risk-based postmarket system consistent with globally accepted practices;

(2) urges Japan to honor its commitments under the MOSS Agreement to improve the reimbursement environment for medical technologies by actively promoting pricing policies that encourage innovation for the benefit of Japanese patients and the Japanese economy and eliminating reimbursement policies based on inappropriate comparisons to markets outside Japan; and

(3) urges Japan to honor its commitments under the MOSS Agreement by—

(A) implementing fair and open processes and rules that do not disproportionately harm medical technology products from the United States; and

(B) providing opportunities for consultation with trading partners.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2672. Mr. HARKIN (for himself, Mr. JEFFORDS, Mr. KENNEDY, Mr. BINGAMAN, Ms. STABENOW, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. ROCKEFELLER, Mr. AKAKA, Mr. KERRY, Mr. PRYOR, Mr. CARPER, Mr. KOHL, Mr. LEAHY, and Mr. LEVIN) proposed an amendment to the joint resolution H.J. Res. 72, Official Title Not Available.

SA 2673. Mrs. HUTCHISON (for Mr. SHELBY) proposed an amendment to the bill H.R. 4133, to temporarily increase the borrowing authority of the Federal Emergency Management Agency for carrying out the national flood insurance program.

SA 2674. Mr. MCCONNELL (for Mr. BROWNBACK) proposed an amendment to the bill S. 1462, to promote peace and accountability in Sudan, and for other purposes.

SA 2675. Mr. MCCONNELL (for Mr. PRYOR) proposed an amendment to the bill H.R. 358, to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the desegregation of the Little Rock Central High School in Little Rock, Arkansas, and for other purposes.

SA 2676. Mr. MCCONNELL (for Mr. SUNUNU) proposed an amendment to the bill S. 1047, 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.

TEXT OF AMENDMENTS

SA 2672. Mr. HARKIN (for himself, Mr. JEFFORDS, Mr. KENNEDY, Mr. BINGAMAN, Ms. STABENOW, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. ROCKEFELLER, Mr. AKAKA, Mr. KERRY, Mr. PRYOR, Mr. CARPER, Mr. KOHL, Mr. LEAHY, and Mr. LEVIN) proposed an amendment to the joint resolution H.J. Res. 72, Official Title Not Available; as follows:

At the end of the resolution, insert the following:

SEC. 2. COMMUNITY SERVICES BLOCK GRANT ACT.

Notwithstanding section 101 of Public Law 109–77, for the period beginning on October 1, 2005 and ending on December 17, 2005, the amount appropriated under that Public Law to carry out the Community Services Block Grant Act shall be based on a rate for operations that is not less than the rate for operations for activities carried out under such Act for fiscal year 2005.

SA 2673. Mrs. HUTCHISON (for Mr. SHELBY) proposed an amendment to the bill H.R. 4133, to temporarily increase the borrowing authority of the Federal Emergency Management Agency for carrying out the national flood insurance program; as follows:

On page 2 line 12, strike "8,500,000,000" and insert "18,500,000,000".

At the end insert the following:

"SEC. 3 EMERGENCY SPENDING.

"The Amendment made under section 2 is designated as emergency spending, as provided under section 402 of H. Con. Res. 95 (109th Congress)."

SA 2674. Mr. MCCONNELL (for Mr. BROWNBACK) proposed an amendment to the bill S. 1462, to promote peace and accountability in Sudan, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Darfur Peace and Accountability Act of 2005".

SEC. 2. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) GOVERNMENT OF SUDAN.—

(A) IN GENERAL.—The term "Government of Sudan" means the National Congress Party, formerly known as the National Islamic Front, government in Khartoum, Sudan, or any successor government formed on or after the date of the enactment of this Act (including the coalition National Unity Government agreed upon in the Comprehensive Peace Agreement for Sudan), except that such term does not include the regional Government of Southern Sudan.

(B) OFFICIALS OF THE GOVERNMENT OF SUDAN.—The term "Government of Sudan", when used with respect to an official of the Government of Sudan, does not include an individual—

(i) who was not a member of such government prior to July 1, 2005; or

(ii) who is a member of the regional Government of Southern Sudan.

(3) COMPREHENSIVE PEACE AGREEMENT FOR SUDAN.—The term "Comprehensive Peace Agreement for Sudan" means the peace agreement signed by the Government of Sudan and the Sudan People's Liberation Movement/Army (SPLM/A) in Nairobi, Kenya, on January 9, 2005.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) On July 22, 2004, the House of Representatives and the Senate declared that

the atrocities occurring in the Darfur region of Sudan are genocide.

(2) On September 9, 2004, Secretary of State Colin L. Powell stated before the Committee on Foreign Relations of the Senate, ''genocide has been committed in Darfur and... the Government of Sudan and the [Janjaweed] bear responsibility—and genocide may still be occurring''.

(3) On September 21, 2004, in an address before the United Nations General Assembly, President George W. Bush affirmed the Secretary of State's finding and stated, ''[a]t this hour, the world is witnessing terrible suffering and horrible crimes in the Darfur region of Sudan, crimes my government has concluded are genocide''.

(4) On July 30, 2004, the United Nations Security Council passed Security Council Resolution 1556, calling upon the Government of Sudan to disarm the Janjaweed militias and to apprehend and bring to justice Janjaweed leaders and their associates who have incited and carried out violations of human rights and international humanitarian law, and establishing a ban on the sale or supply of arms and related materiel of all types, including the provision of related technical training or assistance, to all nongovernmental entities and individuals, including the Janjaweed.

(5) On September 18, 2004, the United Nations Security Council passed Security Council Resolution 1564, determining that the Government of Sudan had failed to meet its obligations under Security Council Resolution 1556, calling for a military flight ban in and over the Darfur region, demanding the names of Janjaweed militiamen disarmed and arrested for verification, establishing an International Commission of Inquiry on Darfur to investigate violations of international humanitarian and human rights laws, and threatening sanctions should the Government of Sudan fail to fully comply with Security Council Resolutions 1556 and 1564, including such actions as to affect Sudan's petroleum sector or individual members of the Government of Sudan.

(6) The Report of the International Commission of Inquiry on Darfur established that the ''Government of the Sudan and the Janjaweed are responsible for serious violations of international human rights and humanitarian law amounting to crimes under international law,'' that ''these acts were conducted on a widespread and systematic basis, and therefore may amount to crimes against humanity,'' and that Sudanese officials and other individuals may have acted with ''genocidal intent''.

(7) The Report of the International Commission of Inquiry on Darfur further notes that, pursuant to its mandate and in the course of its work, the Commission had collected information relating to individual perpetrators of acts constituting ''violations of international human rights law and international humanitarian law, including crimes against humanity and war crimes'' and that a sealed file containing the names of those individual perpetrators had been delivered to the United Nations Secretary-General.

(8) On March 24, 2005, the United Nations Security Council passed Security Council Resolution 1590, establishing the United Nations Mission in Sudan (UNMIS), consisting of up to 10,000 military personnel and 715 civilian police and tasked with supporting implementation of the Comprehensive Peace Agreement for Sudan and ''closely and continuously liais[ing] and coordinat[ing] at all levels with the African Union Mission in Sudan (AMIS) with a view towards expeditiously reinforcing the effort to foster peace in Darfur''.

(9) On March 29, 2005, the United Nations Security Council passed Security Council Resolution 1591, extending the military embargo established by Security Council Resolution 1556 to all the parties to the N'djamena Ceasefire Agreement and any other belligerents in the states of North Darfur, South Darfur, and West Darfur, calling for an asset freeze and travel ban against those individuals who impede the peace process, constitute a threat to stability in Darfur and the region, commit violations of international humanitarian or human rights law or other atrocities, are responsible for offensive military overflights, or violate the military embargo, and establishing a Committee of the Security Council and a Panel of Experts to assist in monitoring compliance with Security Council Resolutions 1556 and 1591.

(10) On March 31, 2005, the United Nations Security Council passed Security Council Resolution 1593, referring the situation in Darfur since July 1, 2002, to the prosecutor of the International Criminal Court and calling on the Government of Sudan and all parties to the conflict to cooperate fully with the Court.

(11) In remarks before the G–8 Summit on June 30, 2005, President Bush reconfirmed that ''the violence in Darfur is clearly genocide'' and ''the human cost is beyond calculation''.

(12) On July 30, 2005, Dr. John Garang de Mabior, the newly appointed Vice President of Sudan and the leader of the Sudan People's Liberation Movement/Army (SPLM/A) for the past 21 years, was killed in a tragic helicopter crash in southern Sudan, sparking riots in Khartoum and challenging the commitment of all the people of Sudan to the Comprehensive Peace Agreement for Sudan.

SEC. 4. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the genocide unfolding in the Darfur region of Sudan is characterized by atrocities directed against civilians, including mass murder, rape, and sexual violence committed by the Janjaweed and associated militias with the complicity and support of the National Congress Party-led faction of the Government of Sudan;

(2) all parties to the conflict in the Darfur region have continued to violate the N'djamena Ceasefire Agreement of April 8, 2004, and the Abuja Protocols of November 9, 2004, and violence against civilians, humanitarian aid workers, and personnel of the African Union Mission in Sudan (AMIS) is increasing;

(3) the African Union should rapidly expand the size and amend the mandate of the African Union Mission in Sudan (AMIS) to authorize such action as may be necessary to protect civilians and humanitarian operations, and deter violence in the Darfur region without delay;

(4) the international community, including the United Nations, the North Atlantic Treaty Organization (NATO), the European Union, and the United States, should immediately act to mobilize sufficient political, military, and financial resources to support the expansion of the African Union Mission in Sudan so that it achieves the size, strength, and capacity necessary for protecting civilians and humanitarian operations, and ending the continued violence in the Darfur region;

(5) if an expanded and reinforced African Union Mission in Sudan fails to stop genocide in the Darfur region, the international community should take additional, dispositive measures to prevent and suppress acts of genocide in the Darfur region;

(6) acting under Article 5 of the Charter of the United Nations, the United Nations Security Council should call for suspension of the Government of Sudan's rights and privileges of membership by the General Assembly until such time as the Government of Sudan has honored pledges to cease attacks upon civilians, demobilize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance in the Darfur region, and allow for safe, unimpeded, and voluntary return of refugees and internally displaced persons;

(7) the President should use all necessary and appropriate diplomatic means to ensure the full discharge of the responsibilities of the Committee of the United Nations Security Council and the Panel of Experts established pursuant to section 3(a) of Security Council Resolution 1591 (March 29, 2005);

(8) the United States should not provide assistance to the Government of Sudan, other than assistance necessary for the implementation of the Comprehensive Peace Agreement for Sudan, the support of the regional Government of Southern Sudan and marginalized areas in northern Sudan (including the Nuba Mountains, Southern Blue Nile, Abyei, Eastern Sudan (Beja), Darfur, and Nubia), as well as marginalized peoples in and around Khartoum, or for humanitarian purposes in Sudan, until such time as the Government of Sudan has honored pledges to cease attacks upon civilians, demobilize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance in the Darfur region, and allow for safe, unimpeded, and voluntary return of refugees and internally displaced persons;

(9) the President should seek to assist members of the Sudanese diaspora in the United States by establishing a student loan forgiveness program for those individuals who commit to return to southern Sudan for a period of not less than 5 years for the purpose of contributing professional skills needed for the reconstruction of southern Sudan;

(10) the President should appoint a Presidential Envoy for Sudan to provide stewardship of efforts to implement the Comprehensive Peace Agreement for Sudan, seek ways to bring stability and peace to the Darfur region, address instability elsewhere in Sudan and northern Uganda, and pursue a truly comprehensive peace throughout the region;

(11) in order to achieve the goals specified in paragraph (10) and to further promote human rights and civil liberties, build democracy, and strengthen civil society, the Presidential Envoy for Sudan should be empowered to promote and encourage the exchange of individuals pursuant to educational and cultural programs, including programs funded by the United States Government;

(12) the international community should strongly condemn attacks against humanitarian workers and demand that all armed groups in the Darfur region, including the forces of the Government of Sudan, the Janjaweed, associated militias, the Sudan Liberation Movement/Army (SLM/A), the Justice and Equality Movement (JEM), and all other armed groups to refrain from such attacks;

(13) the United States should fully support the Comprehensive Peace Agreement for Sudan and urge rapid implementation of its terms; and

(14) the new leadership of the Sudan People's Liberation Movement (SPLM) should—

(A) seek to transform the SPLM into an inclusive, transparent, and democratic political body;

(B) reaffirm the commitment of the SPLM to bringing peace not only to southern Sudan, but also to the Darfur region, eastern Sudan, and northern Uganda; and

(C) remain united in the face of potential efforts to undermine the SPLM.

SEC. 5. SANCTIONS IN SUPPORT OF PEACE IN DARFUR.

(a) BLOCKING OF ASSETS AND RESTRICTION ON VISAS.—Section 6 of the Comprehensive Peace in Sudan Act of 2004 (Public Law 108–497; 50 U.S.C. 1701 note) is amended—

(1) in the heading of subsection (b), by inserting ''OF APPROPRIATE SENIOR OFFICIALS OF THE SUDANESE GOVERNMENT'' after ''ASSETS'';

(2) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively; and

(3) by inserting after subsection (b) the following new subsection:

''(c) BLOCKING OF ASSETS AND RESTRICTION ON VISAS OF CERTAIN INDIVIDUALS IDENTIFIED BY THE PRESIDENT.—

''(1) BLOCKING OF ASSETS.—Beginning on the date that is 30 days after the date of the enactment of the Darfur Peace and Accountability Act of 2005, and in the interest of contributing to peace in Sudan, the President shall, consistent with the authorities granted in the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), block the assets of any individual who the President determines is complicit in, or responsible for, acts of genocide, war crimes, or crimes against humanity in Darfur, including the family members or any associates of such individual to whom assets or property of such individual was transferred on or after July 1, 2002.

''(2) RESTRICTION ON VISAS.—Beginning on the date that is 30 days after the date of the enactment of the Darfur Peace and Accountability Act of 2005, and in the interest of contributing to peace in Sudan, the President shall deny visas and entry to any individual who the President determines is complicit in, or responsible for, acts of genocide, war crimes, or crimes against humanity in Darfur, including the family members or any associates of such individual to whom assets or property of such individual was transferred on or after July 1, 2002.''.

(b) WAIVER.—Section 6(d) of the Comprehensive Peace in Sudan Act of 2004 (as redesignated by subsection (a)) is amended by adding at the end the following new sentence: ''The President may waive the application of paragraph (1) or (2) of subsection (c) with respect to an individual if—

''(1) the President determines that such a waiver is in the national interest of the United States; and

''(2) prior to exercising the waiver, the President transmits to the appropriate congressional committees a notification of the waiver that includes the name of the individual and the reasons for the waiver.''.

(c) SANCTIONS AGAINST CERTAIN JANJAWEED COMMANDERS AND COORDINATORS.—The President should immediately consider imposing the sanctions described in section 6(c) of the Comprehensive Peace in Sudan Act of 2004 (as added by subsection (a)) against the Janjaweed commanders and coordinators identified by former United States Ambassador-at-Large for War Crimes before the Subcommittee on Africa of the Committee on International Relations of the House of Representatives on June 24, 2004.

SEC. 6. ADDITIONAL AUTHORITIES TO DETER AND SUPPRESS GENOCIDE IN DARFUR.

(a) UNITED STATES ASSISTANCE TO SUPPORT AMIS.—Section 7 of the Comprehensive Peace in Sudan Act of 2004 (Public Law 108–497; 50 U.S.C. 1701 note) is amended—

(1) by striking ''Notwithstanding'' and inserting ''(a) GENERAL ASSISTANCE.—Notwithstanding''; and

(2) by adding at the end the following new subsection:

''(b) ASSISTANCE TO SUPPORT AMIS.—Notwithstanding any other provision of law, the President is authorized to provide assistance, on such terms and conditions as the President may determine and in consultation with the appropriate congressional committees, to reinforce the deployment and operations of an expanded African Union Mission in Sudan (AMIS) with the mandate, size, strength, and capacity to protect civilians and humanitarian operations, stabilize the Darfur region of Sudan and dissuade and deter air attacks directed against civilians and humanitarian workers, including but not limited to providing assistance in the areas of logistics, transport, communications, materiel support, technical assistance, training, command and control, aerial surveillance, and intelligence.''.

(b) NATO ASSISTANCE TO SUPPORT AMIS.—The President should instruct the United States Permanent Representative to the North Atlantic Treaty Organization (NATO) to use the voice, vote, and influence of the United States at NATO to advocate NATO reinforcement of the African Union Mission in Sudan (AMIS), upon the request of the African Union, including but not limited to the provision of assets to dissuade and deter offensive air strikes directed against civilians and humanitarian workers in the Darfur region of Sudan and other logistical, transportation, communications, training, technical assistance, command and control, aerial surveillance, and intelligence support.

(c) DENIAL OF ENTRY AT UNITED STATES PORTS TO CERTAIN CARGO SHIPS OR OIL TANKERS.—

(1) IN GENERAL.—The President should take all necessary and appropriate steps to deny the Government of Sudan access to oil revenues, including by prohibiting entry at United States ports to cargo ships or oil tankers engaged in business or trade activities in the oil sector of Sudan or involved in the shipment of goods for use by the armed forces of Sudan, until such time as the Government of Sudan has honored its commitments to cease attacks on civilians, demobilize and demilitarize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance, and allow for the safe and voluntary return of refugees and internally displaced persons.

(2) EXCEPTION.—Paragraph (1) shall not apply with respect to cargo ships or oil tankers involved in an internationally-recognized demobilization program or the shipment of non-lethal assistance necessary to carry out elements of the Comprehensive Peace Agreement for Sudan.

(d) PROHIBITION ON ASSISTANCE TO COUNTRIES IN VIOLATION OF UNITED NATIONS SECURITY COUNCIL RESOLUTIONS 1556 AND 1591.—

(1) PROHIBITION.—Amounts made available to carry out the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) may not be used to provide assistance to the government of a country that is in violation of the embargo on military assistance with respect to Sudan imposed pursuant to United Nations Security Council Resolutions 1556 (July 30, 2004) and 1591 (March 29, 2005).

(2) WAIVER.—The President may waive the application of paragraph (1) if the President determines and certifies to the appropriate congressional committees that it is in the national interests of the United States to do so.

SEC. 7. MULTILATERAL EFFORTS.

The President shall direct the United States Permanent Representative to the United Nations to use the voice and vote of the United States to urge the adoption of a resolution by the United Nations Security Council which—

(1) supports the expansion of the African Union Mission in Sudan (AMIS) so that it achieves the mandate, size, strength, and capacity needed to protect civilians and humanitarian operations, and dissuade and deter fighting and violence in the Darfur region of Sudan, and urges member states of the United Nations to accelerate political, material, financial, and other assistance to the African Union toward this end;

(2) reinforces efforts of the African Union to negotiate peace talks between the Government of Sudan, the Sudan Liberation Movement/Army (SLM/A), the Justice and Equality Movement (JEM), and associated armed groups in the Darfur region, calls on the Government of Sudan, the SLM/A, and the JEM to abide by their obligations under the N'Djamena Ceasefire Agreement of April 8, 2004 and subsequent agreements, urges all parties to engage in peace talks without preconditions and seek to resolve the conflict, and strongly condemns all attacks against humanitarian workers and African Union personnel in the Darfur region;

(3) imposes sanctions against the Government of Sudan, including sanctions against individual members of the Government of Sudan, and entities controlled or owned by officials of the Government of Sudan or the National Congress Party in Sudan until such time as the Government of Sudan has honored its commitments to cease attacks on civilians, demobilize and demilitarize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance, and allow for the safe and voluntary return of refugees and internally displaced persons;

(4) extends the military embargo established by United Nations Security Council Resolutions 1556 (July 30, 2004) and 1591 (March 29, 2005) to include a total prohibition on the sale or supply of offensive military equipment to the Government of Sudan, except for use in an internationally-recognized demobilization program or for non-lethal assistance necessary to carry out elements of the Comprehensive Peace Agreement for Sudan;

(5) calls upon those member states of the United Nations that continue to undermine efforts to foster peace in Sudan by providing military assistance and equipment to the Government of Sudan, the SLM/A, the JEM, and associated armed groups in the Darfur region in violation of the embargo on such assistance and equipment, as called for in United Nations Security Council Resolutions 1556 and 1591, to immediately cease and desist; and

(6) acting under Article 5 of the Charter of the United Nations, calls for suspension of the Government of Sudan's rights and privileges of membership by the General Assembly until such time as the Government of Sudan has honored pledges to cease attacks upon civilians, demobilize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance in the Darfur region, and allow for safe, unimpeded, and voluntary return of refugees and internally displaced persons.

SEC. 8. CONTINUATION OF RESTRICTIONS.

Restrictions against the Government of Sudan that were imposed or are otherwise applicable pursuant to Executive Order 13067 of November 3, 1997 (62 Federal Register 59989), title III and sections 508, 512, 527, and 569 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447), or any other similar provision of law, should remain in effect and should not be lifted pursuant to such provisions of law until the President transmits to the appropriate congressional committees a certification that the Government of Sudan is acting in good faith—

(1) to peacefully resolve the crisis in the Darfur region of Sudan;

(2) to disarm, demobilize, and demilitarize the Janjaweed and all government-allied militias;

(3) to adhere to United Nations Security Council Resolutions 1556 (2004), 1564 (2004), 1591 (2005), and 1593 (2005);

(4) to negotiate a peaceful resolution to the crisis in eastern Sudan;

(5) to fully cooperate with efforts to disarm, demobilize, and deny safe haven to members of the Lords Resistance Army; and

(6) to fully implement the Comprehensive Peace Agreement for Sudan without manipulation or delay, including by—

(A) implementing the recommendations of the Abyei Commission Report;

(B) establishing other appropriate commissions and implementing and adhering to the recommendations of such commissions consistent with the terms of the Comprehensive Peace Agreement for Sudan;

(C) adhering to the terms of the Wealth Sharing Agreement; and

(D) withdrawing government forces from southern Sudan consistent with the terms of the Comprehensive Peace Agreement for Sudan.

SEC. 9. ASSISTANCE EFFORTS IN SUDAN.

(a) ADDITIONAL AUTHORITIES.—Section 501(a) of the Assistance for International Malaria Control Act (Public Law 106–570; 114 Stat. 350; 50 U.S.C. 1701 note) is amended—

(1) by striking ''Notwithstanding any other provision of law'' and inserting the following:

''(1) IN GENERAL.—Notwithstanding any other provision of law'';

(2) by inserting ''civil administrations,'' after ''indigenous groups,'';

(3) by striking ''areas outside of control of the Government of Sudan'' and inserting ''southern Sudan, southern Kordofan/Nuba Mountains State, Blue Nile State, and Abyei'';

(4) by inserting before the period at the end the following: '', including the Comprehensive Peace Agreement for Sudan''; and

(5) by adding at the end the following new paragraph:

''(2) CONGRESSIONAL NOTIFICATION.—Assistance may not be obligated under this subsection until 15 days after the date on which the President has provided notice thereof to the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1) in accordance with the procedures applicable to reprogramming notifications under such section.''.

(b) EXCEPTION TO PROHIBITIONS IN EXECUTIVE ORDER NO. 13067.—Subsection (b) of such section is amended—

(1) in the heading, by striking ''EXPORT PROHIBITIONS'' and inserting ''PROHIBITIONS IN EXECUTIVE ORDER NO. 13067'';

(2) by striking ''shall not'' and inserting ''should not'';

(3) by striking ''any export from an area in Sudan outside of control of the Government of Sudan, or to any necessary transaction directly related to that export'' and inserting ''activities or related transactions with respect to southern Sudan, southern Kordofan/Nuba Mountains State, Blue Nile State, or Abyei''; and

(4) by striking ''the export or related transaction'' and all that follows and inserting ''such activities or related transactions would directly benefit the economic recovery and development of those areas and people.''.

SEC. 10. REPORTS.

(a) REPORT ON AFRICAN UNION MISSION IN SUDAN (AMIS) .—Section 8 of the Sudan Peace Act (Public Law 107–245; 50 U.S.C. 1701 note) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

''(c) REPORT ON AFRICAN UNION MISSION IN SUDAN (AMIS).—In conjunction with reports required under subsections (a) and (b) of this section thereafter, the Secretary of State shall submit to the appropriate congressional committees a report, to be prepared in conjunction with the Secretary of Defense, on—

''(1) efforts to fully deploy the African Union Mission in Sudan (AMIS) with the size, strength, and capacity necessary to stabilize the Darfur region of Sudan and protect civilians and humanitarian operations;

''(2) the needs of AMIS to ensure success, including in the areas of housing, transport, communications, equipment, technical assistance, training, command and control, intelligence, and such assistance as is necessary to dissuade and deter attacks, including by air, directed against civilians and humanitarian operations;

''(3) the current level of United States assistance and other assistance provided to AMIS, and a request for additional United States assistance, if necessary;

''(4) the status of North Atlantic Treaty Organization (NATO) plans and assistance to support AMIS; and

''(5) the performance of AMIS in carrying out its mission in the Darfur region.''.

(b) REPORT ON SANCTIONS IN SUPPORT OF PEACE IN DARFUR.—Section 8 of the Sudan Peace Act (Public Law 107–245; 50 U.S.C. 1701 note), as amended by subsection (a), is further amended—

(1) by redesignating subsection (d) (as redesignated) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

''(d) REPORT ON SANCTIONS IN SUPPORT OF PEACE IN DARFUR.—In conjunction with reports required under subsections (a), (b), and (c) of this section thereafter, the Secretary of State shall submit to the appropriate congressional committees a report regarding sanctions imposed under subsections (a) through (d) of section 6 of the Comprehensive Peace in Sudan Act of 2004, including—

''(1) a description of each sanction imposed under such provisions of law; and

''(2) the name of the individual or entity subject to the sanction, if applicable.''.

(c) REPORT ON INDIVIDUALS IDENTIFIED BY THE UNITED NATIONS IN CONNECTION WITH GENOCIDE, WAR CRIMES, AND CRIMES AGAINST HUMANITY OR OTHER VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW IN DARFUR.—Section 8 of the Sudan Peace Act (Public Law 107–245; 50 U.S.C. 1701 note), as amended by subsections (a) and (b), is further amended—

(1) by redesignating subsection (e) (as redesignated) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

''(e) REPORT ON INDIVIDUALS IDENTIFIED BY THE UNITED NATIONS IN CONNECTION WITH GENOCIDE, WAR CRIMES, AND CRIMES AGAINST HUMANITY OR OTHER VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW IN DARFUR.—Not later than 30 days after the date on which the United States has access to any of the names of the individuals identified by the International Commission of Inquiry on Darfur (established pursuant to United Nations Security Council Resolution 1564 (2004)), or the names of the individuals designated by the Committee of the United Nations Security Council (established pursuant to United Nations Security Council Resolution 1591 (2005)), the Secretary of State shall submit to the appropriate congressional committees a report containing an assessment as to whether such individuals may be subject to sanctions under section 6 of the Comprehensive Peace in Sudan Act of 2004 (as amended by the Darfur Peace and Accountability Act of 2005) and the reasons for such determination.''.

SA 2675. Mr. MCCONNELL (for Mr. PRYOR) proposed an amendment to the bill H.R. 358, to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the desegregation of the Little Rock Central High School in Little Rock, Arkansas, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Little Rock Central High School Desegregation 50th Anniversary Commemorative Coin Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) September 2007, marks the 50th anniversary of the desegregation of Little Rock Central High School in Little Rock, Arkansas.

(2) In 1957, Little Rock Central High was the site of the first major national test for the implementation of the historic decision of the United States Supreme Court in *Brown, et al. v. Board of Education of Topeka, et al.*, 347 U.S. 483 (1954).

(3) The courage of the ''Little Rock Nine'' (Ernest Green, Elizabeth Eckford, Melba Pattillo, Jefferson Thomas, Carlotta Walls, Terrence Roberts, Gloria Ray, Thelma Mothershed, and Minnijean Brown) who stood in the face of violence, was influential to the Civil Rights movement and changed American history by providing an example on which to build greater equality.

(4) The desegregation of Little Rock Central High by the 9 African American students was recognized by Dr. Martin Luther King, Jr. as such a significant event in the struggle for civil rights that in May 1958, he attended the graduation of the first African American from Little Rock Central High School.

(5) A commemorative coin will bring national and international attention to the lasting legacy of this important event.

SEC. 3. COIN SPECIFICATIONS.

(a) DENOMINATIONS.—The Secretary of the Treasury (hereinafter in this Act referred to as the ''Secretary'') shall mint and issue not more than 500,000 $1 coins each of which shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches; and

(3) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5136 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 4. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—The design of the coins minted under this Act shall be emblematic of the desegregation of the Little Rock Central High School and its contribution to civil rights in America.

(b) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(1) a designation of the value of the coin;

(2) an inscription of the year ''2007''; and

(3) inscriptions of the words ''Liberty'', ''In God We Trust'', ''United States of America'', and ''E Pluribus Unum''.

(c) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with the Commission of Fine Arts; and

(2) reviewed by the Citizens Coinage Advisory Committee established under section 5135 of title 31, United States Code.

SEC. 5. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) COMMENCEMENT OF ISSUANCE.—The Secretary may issue coins minted under this Act beginning January 1, 2007, except that the Secretary may initiate sales of such coins, without issuance, before such date.

(c) TERMINATION OF MINTING AUTHORITY.—No coins shall be minted under this Act after December 31, 2007.

SEC. 6. SALE OF COINS.

(a) SALE PRICE.—Notwithstanding any other provision of law, the coins issued under this Act shall be sold by the Secretary at a price equal to the sum of the face value of the coins, the surcharge required under section 7(a) for the coins, and the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, and marketing).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS AT A DISCOUNT.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

SEC. 7. SURCHARGES.

(a) SURCHARGE REQUIRED.—All sales shall include a surcharge of $10 per coin.

(b) DISTRIBUTION.—Subject to section 5134(f) of title 31, United States Code, and subsection (d), all surcharges which are received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Secretary of the Interior for the protection, preservation, and interpretation of resources and stories associated with Little Rock Central High School National Historic Site, including the following:

(1) Site improvements at Little Rock Central High School National Historic Site.

(2) Development of interpretive and education programs and historic preservation projects.

(3) Establishment of cooperative agreements to preserve or restore the historic character of the Park Street and Daisy L. Gatson Bates Drive corridors adjacent to the site.

(c) LIMITATION.—Notwithstanding subsection (a), no surcharge may be included with respect to the issuance under this Act of any coin during a calendar year if, as of the time of such issuance, the issuance of such coin would result in the number of commemorative coin programs issued during such year to exceed the annual 2 commemorative coin program issuance limitation under section 5112(m)(1) of title 31, United States Code (as in effect on the date of the enactment of this Act). The Secretary of the Treasury may issue guidance to carry out this subsection.

(d) CREDITABLE FUNDS.—Notwithstanding any other provision of the law and recognizing the unique partnership nature of the Department of Interior and the Little Rock School District at the Little Rock Central High School National Historic Site and the significant contributions made by the Little Rock School District to preserve and maintain the historic character of the high school, any non-Federal funds expended by the school district (regardless of the source of the funds) for improvements at the Little Rock Central High School National Historic Site, to the extent such funds were used for the purposes described in paragraph (1), (2), or (3) of subsection (b), shall be deemed to meet the requirement of funds from private sources of section 5134(f)(1)(A)(ii) of title 31, United States Code, with respect to the Secretary of the Interior.

SA 2676. Mr. MCCONNELL (for Mr. SUNUNU) proposed an amendment to the bill S. 1047, 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; as follows:

On page 6, strike lines 6 through 11, and insert the following:

''(B) CONTINUITY PROVISIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A), the Secretary shall continue to mint and issue $1 coins which bear any design in effect before the issuance of coins as required under this subsection (including the so-called 'Sacagawea-design' $1 coins).

''(ii) CIRCULATION QUANTITY.—Beginning January 1, 2007, and ending upon the termination of the program under paragraph (8), the Secretary annually shall mint and issue such 'Sacagawea-design' $1 coins for circulation in quantities of no less than ⅓ of the total $1 coins minted and issued under this subsection.''.

On page 17, lines 6 and 7, strike ''transportation and''.

On page 17, line 7, strike ''and entities''.

On page 17, line 18, strike ''1-year'' and insert ''2-year''.

On page 17, line 24, strike ''prominently''.

On page 23, line 18, strike ''$20'' and insert ''$50''.

On page 24, line 2, strike ''$20'' and insert ''$50''.

On page 24, line 3, insert ''and proof'' after ''bullion''.

On page 24, line 4, strike ''not to exceed 500,000 in any year'' and insert ''in such quantities, as the Secretary, in the Secretary's discretion, may prescribe''.

On page 25, line 23, strike ''the face value of the coins; and'' and insert ''the market value of the bullion at the time of sale; and''.

On page 26, between lines 9 and 10, insert the following:

''(8) PROTECTIVE COVERING.—

''(A) IN GENERAL.—Each bullion coin having a metallic content as described in subsection (a)(11) and a design specified in paragraph (2) shall be sold in an inexpensive covering that will protect the coin from damage due to ordinary handling or storage.

''(B) DESIGN.—The protective covering required under subparagraph (A) shall be readily distinguishable from any coin packaging that may be used to protect proof coins minted and issued under this subsection.''.

AUTHORITIES FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Friday, November 18, 2005, at 10 a.m., on Future of Science.

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

COMMITTEE ON FINANCE

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open Executive Session during the session on Friday, November 18, 2005, immediately following a vote on the Senate Floor (tentatively scheduled to occur at 9:30 a.m.), in the President's Room, S–216 of the Capitol, to consider favorably reporting S. 2027, the U.S.-Bahrain Free Trade Agreement Implementation Act.

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

The PRESIDING OFFICER. The minority leader is recognized.

MISPLACED PRIORITIES

Mr. REID. Mr. President, as elected representatives of the American people, we have a responsibility to work with each other and to focus on their needs. This is an obligation that Democratic Senators have not taken lightly.

We have spent the last 11 months trying to make a difference for each American citizen. Democrats fought to protect Social Security when those in the majority, the Republicans, tried to destroy it through their risky privatization scheme. Democrats fought for a budget that honors America's values. When Republicans passed a terrible budget, leading religious leaders called it immoral. They called it immoral because of its deep cuts and irresponsible tax breaks. Why did they do that? One only needs to look at the Old Testament or the New Testament to find why.

In the 112th Psalm we are told that: He hath given to the poor; his righteousness will endure forever. In the New Testament, in the Book of Galatians, second chapter, 10th verse: Only that we should remember the poor. That is why leading religious leaders of this country have called the budget an immoral one.

We moved quickly to help Katrina's victims, when that storm exposed the Bush administration's incompetence. It became clear that Republicans were going to sit on their hands. Democrats tried to help families with energy prices, when prices spiked and congressional Republicans only seemed to care about their friends in the oil industry.

We stood for the troops, veterans, and a success story in Iraq, when it became clear that the White House was more interested in launching vicious attacks than providing the leadership America needs.

Democrats know that we are sent here to do a job on behalf of the American people. We understand that together we can do better. Unfortunately, in most all instances, those in the majority have shunned our efforts. Instead of joining us in helping every American, they have blocked our efforts and decided to focus on the narrow interests of a special few. In fact, if you want to see the misplaced priorities of the Republican Party, look no further than the agenda they set for the Senate.

If the Senate could spend over 30 days debating extreme judges and devote days to the tragic affairs of the Schiavo family, Republicans should have been able to find a few days to help millions of Americans with health care, education, and, of course, the skyrocketing cost of gasoline, heating oil, and natural gas.

While some of the work we have done this year is important, more important is the work that we have missed. Consider the latest example: Katrina relief. Democrats introduced a comprehensive Katrina relief package. It was a good package. It was done hours after the storm had passed. The legislation, S. 1637, included proposals to ensure that displaced families received the health care, housing, and financial relief they needed. Republicans talked a good game about helping victims. Yet over 2 months later, you only have to pick up any newspaper to know that tens of thousands of Americans still need housing, health care, and financial help. Democrats have tried to act on these families' behalf, but every time Republicans have found something better to do.

Of course, this is a pattern all too familiar. When Democrats wanted to discuss health care and education, Republicans decided to debate changing Senate rules so they could pack the courts with some extreme nominees. When Democrats wanted to help families struggling with rising oil prices, Republicans gave billions in tax breaks to oil companies that are already making obscene profits. And when Democrats wanted to help the neediest among us, Republicans decided to make deep cuts to programs working families depend on so they could give tax breaks to special interests and the very elite of our country.

America can do better than these misplaced priorities. Whether it is supporting our troops or providing relief for rising health and energy costs, it is time for the Senate to get its priorities straight. The Democratic agenda is one that deals with health care, energy costs, and, in effect, getting our priorities straight.

When we return next session, we should not waste more time putting the needs of the special few ahead of the priorities of the American people. Let's pass fiscally responsible tax relief to help middle-class families being squeezed between declining wages and rising prices. The rich are getting richer; the poor are getting poorer. The middle class is getting squeezed. Let's move forward on issues like energy dependence, real security, and affordable health care. Let's build on the progress we made on Tuesday with our vote on Iraq.

On Tuesday, Democrats and Republicans voted overwhelmingly to express no confidence in the administration's Iraq policy. We must continue to push the President because it is clear that he has no interest in taking the Senate's advice.

Instead of changing course, as the Senate demanded, the White House has decided to reignite the Cheney-Rove smear machine and attack its critics instead. We saw it yesterday with Congressman JACK MURTHA. While I don't agree with the immediate withdrawal plan Congressman MURTHA proposed, this brave man's patriotism and his commitment to defend our country should never be questioned, especially by this White House, as it was.

Congressman MURTHA served valiantly in Vietnam. He is a highly decorated veteran, someone who knows what it is like to bleed in combat, literally. When he speaks, the White House should listen. They could learn something. Let's remember, Congressman MURTHA isn't the only combat veteran calling for a debate about Iraq. In the Senate, Republican Senator CHUCK HAGEL has also said it is our patriotic duty to question what is going on.

The deceiving, distorting, and divisive political attacks must end. We need an open, honest debate about what is happening in Iraq. Next year I hope Republicans will join with us in this debate. It is easy to attack those who don't agree with you. The hard part is leading and giving our troops the strategy for success.

The days and months ahead should be used to do the people's business. We can't change the past, but we can change the future.

Next year we need to focus on the priorities of American families. Together we can do better and give our citizens a government as good and honest as its people.

The PRESIDING OFFICER (Mr. TALENT). The Senator from Kentucky.

A SUCCESSFUL FIRST SESSION

Mr. MCCONNELL. Mr. President, I listened carefully to my good friend, the Democratic leader, give his evaluation of the year that is coming to a conclusion. Let me just suggest that I, not surprisingly, see it somewhat differently. In my couple of decades here in the Senate, this has been quite possibly the most successful first session of a Congress in my time here.

We began the year by passing a much needed class action reform bill that was long overdue to deal with one of the areas of the litigation craze that is bad for American business and bad for our economy. We followed on with the Bankruptcy Reform Act, long in the making, way overdue, to deal with people who have increasingly decided not to accept their responsibilities and pay their debts.

We passed a budget, which is never easy around here, tax cuts, a Central American free-trade agreement, an energy bill, and a highway bill. We confirmed a new Justice to the Supreme Court. We passed a terrorism reinsurance measure and a pension reform bill.

It has been an extraordinarily successful first session of a Congress, and we have much to be proud of as we go toward the Thanksgiving holiday.

Even though my assessment of our accomplishments here differs dramatically from that of the Democratic leader, let me say to all our colleagues, Democrats and Republicans alike, we have much to be thankful for this Thanksgiving. We hope everyone will enjoy the holiday, come back refreshed for what we anticipate will be a very brief session the week of December 12.

I also want to say a word about Iraq. It is much in the news these days. The Senate spoke clearly this week that it is not in favor of cutting and running. On a bipartisan basis, the Senate said we will not cut and run in Iraq. That is the message of the votes that we had earlier this week. We intend to stay the course. We are winning in Iraq, and the policy is to win.

How do you measure success in Iraq? You measure it by the election last January which brought into office a temporary democratic government. Everyone remembers the ink-stained index fingers that were held up proudly by the Iraqis as they, at risk to their own lives, went to the polls and elected an interim government.

Last month on October 15—by the way, back in January, there was a 60-percent turnout, the same as our turnout last November and ours was 60 percent, higher than the turnout of 50 percent before that. The Iraqis turned out the same percentages last January as we did here, and I don't think any Americans were afraid they were going to be shot or blown up by a bomb if they went out to vote.

If that were not good enough, in the constitutional election on October 15, 63 percent of Iraqis turned out, and large numbers of Sunnis who had boycotted the election earlier began to participate.

Clearly, Iraq is heading in the right direction. Surveys taken in September indicate Iraqis are far more optimistic about their future than we are about ours in the United States. They are more optimistic about their future than we are ours here. So the Iraqis feel they are on the right path. They are going to finish the job on December 15 when they elect the first permanent democratic government in Iraqi history, a fairly unusual thing in that part of the world, I think we will all agree.

Next year, that permanent democratic government will increasingly be responsible for its own future and the fate of its own citizens as the Iraqi military improves month after month.

So we do, indeed, have much to be thankful for this Thanksgiving. Most of all, we are grateful for our wonderful troops who have done an astonishing job in Iraq. They are proud of their work. They are somewhat perplexed about the perception that they are failing when they all know they are succeeding dramatically. Hopefully, in the new year, we will be able to do a better job of getting out the entire story in

Iraq, which is that dramatic progress is being made. After all, when this democratic government is elected on December 15, it will be less than 3 years from the time Saddam Hussein was toppled to the election of a permanent democratic government in Iraq. It took us 11 years in this country to get from the Declaration of Independence to the writing of the Constitution in our first democratic election.

We are very impatient for immediate success. In fact, the Iraqis have come a long way in a short period of time under very difficult circumstances. We are proud of them and, most of all, we are proud of our troops who made it possible for that to happen.

With that, Mr. President, I think it is time to begin to wrap up in the Senate.

First, I congratulate the House of Representatives and the Senate. We will shortly be passing a bill to honor a great American, Rosa Parks, by placing a statue of her in the Capitol. I am very gratified by the swift action of the House, followed on by the Senate tonight. We have assured that Americans who visit this place 100 years from now will see her statue and reflect on how one woman's courage altered a nation.

I am also pleased and grateful to my colleagues, particularly Senator DODD in the Senate and Representative JESSE JACKSON, Jr., in the House, who took the lead over there for moving quickly to accord Ms. Parks the honor she so richly deserves. I look forward to the day when her statue is unveiled and placed in this historic building alongside other American heroes.

Ms. Parks' passing on October 24, just a few weeks ago, left us with sadness, but also with deep gratitude to the gift she left all of us.

I am reminded of Dr. Martin Luther King's conviction that human progress never rolls in on the wheels of inevitability. It comes through the tireless efforts of men. Today this Congress has taken steps to ensure Parks' achievements will never be forgotten.

RECOGNIZING 50TH ANNIVERSARY OF ROSA LOUISE PARKS' REFUSAL TO GIVE UP HER SEAT

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H. Con. Res. 208, and that the Senate then proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 208) recognizing the 50th anniversary of Rosa Louise Parks' refusal to give up her seat on the bus and the subsequent desegregation of American society.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statement relating to the concurrent resolution be printed in the RECORD, without further intervening action or debate.

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

The concurrent resolution (H. Con. Res. 208) was agreed to.

The preamble was agreed to.

AUTHORIZING EXTENSION OF UNCONDITIONAL AND PERMANENT NONDISCRIMINATORY TREATMENT

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Finance be discharged from further consideration of S. 632, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 632) to authorize the extension of unconditional and permanent nondiscriminatory treatment (permanent normal trade relations treatment) to the products of Ukraine, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The bill (S. 632) was read the third time and passed, as follows:

S. 632

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

SECTION 1. FINDINGS.

Congress finds that Ukraine—

(1) allows its citizens the right and opportunity to emigrate, free of any heavy tax on emigration or on the visas or other documents required for emigration and free of any tax, levy, fine, fee, or other charge on any citizens as a consequence of the desire of such citizens to emigrate to the country of their choice;

(2) has received normal trade relations treatment since concluding a bilateral trade agreement with the United States that entered into force on June 23, 1992, which remains in force and provides the United States with important rights;

(3) has been found to be in full compliance with the freedom of emigration requirements under title IV of the Trade Act of 1974 since 1997;

(4) has committed itself to ensuring freedom of religion and preventing intolerance;

(5) has committed itself to continuing its efforts to return religious property to religious organizations in accordance with existing law;

(6) has taken significant steps demonstrating its intentions to build a friendly and cooperative relationship with the United States including participating in peacekeeping efforts in Europe; and

(7) has made progress toward meeting international commitments and standards in the most recent Presidential runoff elections, including in the implementation of Ukraine's new elections laws.

SEC. 2. TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO UKRAINE.

(a) PRESIDENTIAL DETERMINATIONS AND EXTENSION OF UNCONDITIONAL AND PERMANENT NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(1) determine that such title should no longer apply to Ukraine; and

(2) after making a determination under paragraph (1) with respect to Ukraine, proclaim the extension of unconditional and permanent nondiscriminatory treatment (permanent normal trade relations treatment) to the products of that country.

(b) TERMINATION OF APPLICATION OF TITLE IV.—On and after the effective date of the extension under subsection (a)(2) of nondiscriminatory treatment to the products of Ukraine, chapter 1 of title IV of the Trade Act of 1974 shall cease to apply to that country.

Mr. MCCONNELL. Mr. President, I further ask that the bill be held at the desk.

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

DIRECTING THE JOINT COMMITTEE ON THE LIBRARY TO OBTAIN A STATUE OF ROSA PARKS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration of H. R. 4145, which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H. R. 4145) to direct the Joint Committee on the Library to obtain a statue of Rosa Parks and to place the statue in the United States Capitol in National Statuary Hall, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. KERRY. Mr. President, last night, the House of Representatives passed H.R. 4145, a bill to direct the Architect of the Capitol to obtain a statue of Rosa Parks and to place the statue in the United States Capitol in National Statuary Hall. Today, the Senate unanimously passed this legislation, and I rise to thank my colleagues in this body and in the House of Representatives for their leadership and support for this important legislation, which sends a message of hope and freedom to the American people.

Earlier this week a resolution sponsored by Senator MCCONNELL and Senator DODD passed this body to honor Mrs. Parks. I thank Senators MCCONNELL and DODD for their leadership on this issue and considering my concerns. I supported Mr. MCCONNELL's and Mr. DODD's measure because I believe it is paramount that we honor Rosa Parks in our Capitol. However, I wanted to be clear that her statue should be in Statuary Hall, and I was glad to join Representative JESSE JACKSON Jr. of Illinois in his effort to make that happen.

Largely regarded as the mother of the modern day Civil Rights movement, Mrs. Parks' act of courage on

December 1, 1955, inspired a movement that eventually brought about laws to end segregation, ensure voting rights, end discrimination in housing, and create a greater equality throughout this nation. Moreover, it taught us all that one individual can help to change the world from the way things are to the way things ought to be. With the passage of this legislation, we ensure that her memory is enshrined in the most hallowed halls of our Government. On November 3, 2005, I introduced S. 1959, the companion legislation to Representative JACKSON's H.R. 4145, which would also place a statue of Rosa Parks in Statuary Hall in the Capitol. This is a location of great significance, particularly on this occasion and particularly with this individual. While there are memorials for prominent African Americans in the Capitol Collection, none of those are located in the hall that gives a State-by-State account of our country's history.

This week, Representative JACKSON and I began a national week of action to pass our legislation honoring Rosa Parks with a statue in National Statuary Hall. I thank Representative JACKSON for his leadership on this important effort. It was through his vision and dedication that we were able to reach our goal of having this legislation pass Congress by December 1, 2005—the 50th anniversary of Rosa Parks' courageous decision not to move to the back of the bus. I also thank Senators MCCONNELL and DODD for helping to make that happen. It could not have been enacted without their support.

Finally, I thank Senator OBAMA, Senator SMITH and my other Senate colleagues who cosponsored S. 1959 for their support in raising the awareness and helping to ensure the passage of this legislation. Mrs. Parks' legacy, and that of the movement she began, has been served well by this bipartisan effort to honor her in Statuary Hall.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, and that any statement relating to the bill be printed in the RECORD, without intervening action or debate.

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

The bill (H.R. 4145) was read the third time and passed.

EXPRESSING SENSE OF SENATE ON TRIAL, SENTENCING AND IMPRISONMENT OF MICHAEL KHODORKOVSKY AND PLATON LEBEDEV

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 322 submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 322) expressing the sense of the Senate on the trial, sentencing and imprisonment of Michael Khodorkovsky and Platon Lebedev.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

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

The resolution (S. Res. 322) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 322

Whereas the United States supports the development of democracy, civil society, and the rule of law in the Russian Federation;

Whereas the rule of law and the guarantee of equal justice under the law are fundamental attributes of democratic societies;

Whereas the trial, sentencing, and imprisonment of Mikhail Khodorkovsky and Platon Lebedev have raised troubling questions about the impartiality and integrity of the judicial system in Russia;

Whereas the Department of State 2004 Country Report on Human Rights Practices in Russia stated that the arrest of Mr. Khodorkovsky was ''widely believed to have been prompted, at least in part, by the considerable financial support he provided to opposition groups;''

Whereas Secretary of State Condoleezza Rice has remarked that the arrest of Mr. Khodorkovsky and the dismantling of his company have ''raised significant concerns'' about the independence of the judiciary in Russia;

Whereas the independent non-governmental organization Freedom House has asserted that the conviction of Mr. Khodorkovsky ''underscores the serious erosion of the rule of law and growing intolerance for political dissent in Russia'';

Whereas upon concluding an investigation of the facts surrounding the case of Mr. Khodorkovsky and Mr. Lebedev, the Human Rights Committee of the Parliamentary Assembly of the Council of Europe determined that the two men were ''arbitrarily singled out'' by the Russia authorities, violating the principle of equality before the law;

Whereas in May 2005, a Moscow court sentenced Mr. Khodorkovsky to serve 9 years in prison;

Whereas Article 73 of the Russian Criminal Penitentiary Code stipulates that except under extraordinary circumstances, prisoners serve their terms of deprivation of liberty on the territory of subjects of the Russian Federation where they reside or were convicted;

Whereas on or about October 16, 2005, Mr. Khodorkovsky was sent to prison camp YG 14/10 in the Chita Region of Siberia;

Whereas on or about October 16, 2005, Mr. Lebedev was sent to penal camp number 98/3 in the arctic region of Yamal-Nenets;

Whereas the transfer of Mr. Khodorkovsky and Mr. Lebedev constitutes an apparent violation of Russia law and hearkens back to the worst practices and excesses of the Soviet era;

Whereas a broad coalition of human rights advocates and intellectuals in Russia have appealed to Vladimir Lukin, the Human Rights Commissioner of the Russian Federation, to investigate and rectify any abuse of Russia law associated with the transfer of Mr. Khodorkovsky and Mr. Lebedev; and

Whereas the selective disregard for the rule of law by officials of the Russian Federation further undermines the standing and status of the Russian Federation among the democratic nations of the world: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the criminal justice system in Russia has not accorded Mikhail Khodorkovsky and Platon Lebedev fair, transparent, and impartial treatment under the laws of the Russian Federation;

(2) the standing and status of the Russian Federation among the democratic nations of the world would be greatly enhanced if the authorities of the Russian Federation were to take the necessary actions to dispel widespread concerns that—

(A) the criminal cases against Mr. Khodorkovsky, Mr. Lebedev, and their associates are politically motivated;

(B) the transfer of Mr. Khodorkovsky and Mr. Lebedev to prison camps thousands of kilometers from their homes and families represents a violation of the norms and practices of Russia law; and

(C) in cases dealing with perceived political threats to the authorities, the judiciary of Russia is an instrument of the Kremlin and such judiciary is not truly independent; and

(3) notwithstanding any other disposition of the cases of Mr. Khodorkovsky and Mr. Lebedev, and without prejudice to further disposition of same, Mr. Khodorkovsky and Mr. Lebedev should be transferred to penal facilities with locations that are consonant with the norms and general practices of Russia law.

EXPRESSING SENSE OF SENATE THAT UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS NOT BE ALLOWED TO EXERCISE CONTROL OVER INTERNET

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 323, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 323) expressing the sense of the Senate that the United Nations and other international organizations should not be allowed to exercise control over the Internet.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 323) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 323

Whereas market-based policies and private sector leadership have given the Internet the flexibility to evolve;

Whereas given the importance of the Internet to the global economy, it is essential

that the underlying domain name system and technical infrastructure of the Internet remain stable and secure;

Whereas the Internet was created in the United States and has flourished under United States supervision and oversight, and the Federal Government has followed a path of transferring Internet control from the defense sector to the civilian sector, including the Internet Corporation for Assigned Names and Numbers (ICANN) with the goal of full privatization;

Whereas the developing world deserves the access to knowledge, services, commerce, and communication, the accompanying benefits to economic development, education, and health care, and the informed discussion that is the bedrock of democratic self-government that the Internet provides;

Whereas the explosive and hugely beneficial growth of the Internet did not result from increased government involvement but from the opening of the Internet to commerce and private sector innovation;

Whereas on June 30, 2005, President George W. Bush announced that the United States intends to maintain its historic role over the master ''root zone'' file of the Internet, which lists all authorized top-level Internet domains;

Whereas the recently articulated principles of the United States on the domain name and addressing system of the Internet (DNS) are that—

(1) the Federal Government will—

(A) preserve the security and stability of the DNS;

(B) take no action with the potential to adversely affect the effective and efficient operation of the DNS; and

(C) maintain the historic role of the United States regarding modifications to the root zone file;

(2) governments have a legitimate interest in the management of country code top level domains (ccTLD);

(3) the United States is committed to working with the international community to address the concerns of that community in accordance with the stability and security of the DNS;

(4) ICANN is the appropriate technical manager of the Internet, and the United States will continue to provide oversight so that ICANN maintains focus and meets its core technical mission; and

(5) dialogue relating to Internet governance should continue in multiple relevant fora, and the United States encourages an ongoing dialogue with all stakeholders and will continue to support market-based approaches and private sector leadership;

Whereas the final report issued by the Working Group on Internet Governance (WGIG), established by the United Nations Secretary General in accordance with a mandate given during the first World Summit on the Information Society, and comprised of 40 members from governments, private sector, and civil society, issued 4 possible models, 1 of which envisages a Global Internet Council that would assume international Internet governance;

Whereas that report contains recommendations for relegating the private sector and nongovernmental organizations to an advisory capacity;

Whereas the European Union has also proposed transferring control of the Internet, including the global allocation of Internet Protocol number blocks, procedures for changing the root zone file, and rules applicable to DNS, to a ''new model of international cooperation'' which could confer significant leverage to the Governments of Iran, Cuba, and China, and could impose an undesirable layer of politicized bureaucracy on the operations of the Internet that could result in an inadequate response to the rapid pace of technological change;

Whereas some nations that advocate radical change in the structure of Internet governance censor the information available to their citizens through the Internet and use the Internet as a tool of surveillance to curtail legitimate political discussion and dissent, and other nations operate telecommunications systems as state-controlled monopolies or highly-regulated and highly-taxed entities;

Whereas some nations in support of transferring Internet governance to an entity affiliated with the United Nations, or another international entity, might seek to have such an entity endorse national policies that block access to information, stifle political dissent, and maintain outmoded communications structures;

Whereas the structure and control of Internet governance has profound implications for homeland security, competition and trade, democratization, free expression, access to information, privacy, and the protection of intellectual property, and the threat of some nations to take unilateral actions that would fracture the root zone file would result in a less functional Internet with diminished benefits for all people;

Whereas in the Declaration of Principles of the First World Summit on the Information Society, held in Geneva in 2003, delegates from 175 nations declared the ''common desire and commitment to build a people-centered, inclusive and development oriented Information Society, where everyone can create, access, utilize and share information and knowledge'';

Whereas delegates at the First World Summit also reaffirmed, ''as an essential foundation of the Information Society, and as outlined in Article 19 of the Universal Declaration of Human Rights, that everyone has the right to freedom of opinion and expression'' and that ''this right includes freedom to hold opinions without interference and to seek, receive and import information and ideas through any media and regardless of frontiers'';

Whereas the United Nations Secretary General has stated the objective of the 2005 World Summit on the Information Society in Tunis is to ensure ''benefits that new information and communication technologies, including the Internet, can bring to economic and social development'' and that ''to defend the Internet is to defend freedom itself''; and

Whereas discussions at the November 2005 World Summit on the Information Society may include discussion of transferring control of the Internet to a new intergovernmental entity, and could be the beginning of a prolonged international debate regarding the future of Internet governance: Now, therefore, be it

Resolved, That the Senate—

(1) calls on the President to continue to oppose any effort to transfer control of the Internet to the United Nations or any other international entity;

(2) applauds the President for—

(A) clearly and forcefully asserting that the United States has no present intention of relinquishing the historic leadership role the United States has played in Internet governance; and

(B) articulating a vision of the future of the Internet that places privatization over politicization with respect to the Internet; and

(3) calls on the President to—

(A) recognize the need for, and pursue a continuing and constructive dialogue with the international community on, the future of Internet governance; and

(B) advance the values of an open Internet in the broader trade and diplomatic conversations of the United States.

EXPRESSING SUPPORT FOR PEOPLE OF SRI LANKA

Mr. MCCONNELL. I now ask unanimous consent that the Senate proceed to the consideration of S. Res. 324, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 324) expressing support for the people of Sri Lanka in the wake of the tsunami and the assassination of the Sri Lankan Foreign Minister and urging support and respect for free and fair elections in Sri Lanka.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 324) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 324

Whereas, on December 26, 2004, Sri Lanka was struck by a tsunami that left some 30,000 dead and hundreds of thousands of people homeless;

Whereas the United States and the world community recognized the global importance of preventing that tragedy from spiraling into an uncontrolled disaster and sent aid to Sri Lanka to provide immediate relief;

Whereas the massive tsunami reconstruction effort in Sri Lanka creates significant challenges for the country;

Whereas the democratic process in Sri Lanka is further challenged by the refusal of the Liberation Tigers of Tamil Eelam, a group that the Secretary of State has designated as a Foreign Terrorist Organization, to renounce violence as a means of effecting political change;

Whereas, on August 12, 2005, the Sri Lankan Foreign Minister Lakhsman Kadirgamar was assassinated at his home in Colombo in a brutal terrorist act that has been widely attributed to the Liberation Tigers of Tamil Eelam by officials in Sri Lanka, the United States, and other countries;

Whereas democratic elections are scheduled to be held in Sri Lanka on November 17, 2005; and

Whereas the United States has an interest in a free and fair democratic process in Sri Lanka, and the peaceful resolution of the insurgency that has afflicted Sri Lanka for more than two decades: Now, therefore, be it

Resolved, That the Senate—

(1) expresses its support for the people of Sri Lanka as they recover from the devastating tsunami that occurred on December 26, 2004, and the assassination of the Sri Lankan Foreign Minister Lakhsman Kadirgamar on August 12, 2005;

(2) expresses its support for the courageous decision by the democratically-elected Government of Sri Lanka, following the assassination of Foreign Minister Kadirgamar, to remain in discussions with the Liberation

Tigers of Tamil Eelam in an attempt to resolve peacefully the issues facing the people of Sri Lanka; and

(3) urges all parties in Sri Lanka to remain committed to the negotiating process and to make every possible attempt at national reconciliation.

AUTHORIZATION FOR PRINTING OF SENATE ELECTION LAW GUIDEBOOK

Mr. MCCONNELL. Mr. President, I now ask unanimous consent that the Senate proceed to the consideration of S. Res. 325, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 325) to authorize the printing of a revised edition of the Senate Election Law Guidebook.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 325) was agreed to, as follows:

S. RES. 325

Resolved, That the Committee on Rules and Administration shall prepare a revised edition of the Senate Election Law Guidebook, Senate Document 106–14 , and that such document shall be printed as a Senate document.

SEC. 2. There shall be printed, beyond the usual number, 500 additional copies of the document specified in the first section for the use of the Committee on Rules and Administration.

CHILD SAFETY PILOT PROGRAM

Mr. MCCONNELL. Mr. President, I now ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 298, S. 1961.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1961) to extend and expand the Child Safety Pilot Program.

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCONNELL. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The bill (S. 1961) was read the third time and passed, as follows:

S. 1961

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 ''Extending the Child Safety Pilot Program Act of 2005''.

SEC. 2. EXTENSION OF THE CHILD SAFETY PILOT PROGRAM.

Section 108 of the PROTECT Act (42 U.S.C. 5119a note) is amended—

(1) in subsection (a)—

(A) in paragraph (2)(B), by striking ''A volunteer organization in a participating State may not submit background check requests under paragraph (3).'';

(B) in paragraph (3)—

(i) in subparagraph (A), by striking ''a 30-month'' and inserting: ''a 60-month'';

(ii) by striking subparagraph (B) and inserting the following:

''(B) PARTICIPATING ORGANIZATIONS.—

''(i) ELIGIBLE ORGANIZATIONS.—Eligible organizations include—

''(I) the Boys and Girls Clubs of America;

''(II) the MENTOR/National Mentoring Partnership;

''(III) the National Council of Youth Sports; and

''(IV) any nonprofit organization that provides care, as that term is defined in section 5 of the National Child Protection Act of 1993 (42 U.S.C. 5119c), for children.

''(ii) PILOT PROGRAM.—The eligibility of an organization described in clause (i)(IV) to participate in the pilot program established under this section shall be determined by the National Center for Missing and Exploited Children according to criteria established by such Center, including the potential number of applicants and suitability of the organization to the intent of this section.'';

(iii) by striking subparagraph (C) and inserting the following:

''(C) APPLICANTS FROM PARTICIPATING ORGANIZATIONS.—Participating organizations may request background checks on applicants for positions as volunteers and employees who will be working with children or supervising volunteers.'';

(iv) in subparagraph (D), by striking ''the organizations described in subparagraph (C)'' and inserting ''participating organizations''; and

(v) in subparagraph (F), by striking ''14 business days'' and inserting ''10 business days''; and

(2) in subsection (c)(1), by striking ''and 2005'' and inserting ''through 2008''.

VESSEL HULL DESIGN PROTECTION AMENDMENTS of 2005

Mr. MCCONNELL. Mr. President, I ask unanimous consent the Judiciary Committee be discharged from further consideration of S. 1785 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1785) to amend chapter 13 of title 17, United States Code (relating to the vessel hull design protection), to clarify the distinction between a hull and a deck, to provide factors for the determination of the protectability of a revised design, to provide guidance for assessments of substantial similarity, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, Senator CORNYN and I have already worked together on significant Freedom of Information Act legislation and on counterfeiting legislation during the first session of this Congress. Today, we pass yet another bill and take our partnership to the high seas, or at least to our Nation's boat manufacturing industry, with the Vessel Hull Design Protection Act Amendments of 2005.

Designs of boat vessel hulls are often the result of a great deal of time, effort, and financial investment. They are afforded intellectual property protection under the Vessel Hull Design Protection Act that Congress passed in 1998. This law exists for the same reason that other works enjoy intellectual property rights: to encourage continued innovation, to protect the works that emerge from the creative process, and to reward the creators. Recent courtroom experience has made it clear that the protections Congress passed 7 years ago need some statutory refinement to ensure they meet the purposes we envisioned. The Vessel Hull Design Protection Act Amendments shore up the law, making an important clarification about the scope of the protections available to boat designs.

We continue to be fascinated with, and in so many ways dependent on, bodies of water, both for recreation and commerce. More than 50 percent of Americans live on or near the coastline in this country. We seem always to be drawn to the water, whether it is the beautiful Lake Champlain in my home State of Vermont or the world's large oceans. And as anyone who has visited our seaports can attest, much of our commerce involves sea travel. I would like to thank Senators KOHL and HATCH for cosponsoring this legislation. Protecting boat designs and encouraging innovation in those designs are worthy aims, and I am grateful that we have moved to pass this bipartisan legislation.

Mr. MCCONNELL. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid on the table with no intervening action or debate, and any statements be printed in the RECORD.

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

The bill (S. 1785) was read the third time and passed, as follows:

S. 1785

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 ''Vessel Hull Design Protection Amendments of 2005''.

SEC. 2. DESIGNS PROTECTED.

Section 1301(a) of title 17, United States Code, is amended by striking paragraph (2) and inserting the following:

''(2) VESSEL FEATURES.—The design of a vessel hull or deck, including a plug or mold, is subject to protection under this chapter, notwithstanding section 1302(4).''.

SEC. 3. DEFINITIONS.

Section 1301(b) of title 17, United States Code, is amended—

(1) in paragraph (2), by striking ''vessel hull, including a plug or mold,'' and inserting ''vessel hull or deck, including a plug or mold,'';

(2) by striking paragraph (4) and inserting the following:

''(4) A 'hull' is the exterior frame or body of a vessel, exclusive of the deck, superstructure, masts, sails, yards, rigging, hardware, fixtures, and other attachments.''; and

(3) by adding at the end the following:

''(7) A 'deck' is the horizontal surface of a vessel that covers the hull, including exterior cabin and cockpit surfaces, and exclusive of masts, sails, yards, rigging, hardware, fixtures, and other attachments.''.

LAND CONVEYANCE IN THE CITY OF RICHFIELD, UTAH

Mr. MCCONNELL. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 282, H.R. 680.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 680) 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.

Mr. MCCONNELL. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 680) was read the third time and passed.

DESIGNATING THE HOLLY A. CHARETTE POST OFFICE

DESIGNATING THE RANDALL D. SHUGHART POST OFFICE BUILDING

DESIGNATING THE VINCENT PALLADINO POST OFFICE

DESIGNATING THE WILLIE VAUGHN POST OFFICE

Mr. McCONNELL. Mr. President, I ask unanimous consent the Homeland Security and Governmental Affairs Committee be discharged from further consideration, and the Senate proceed to the immediate consideration of S. 1989, H.R. 2062, H.R. 2183, and H.R. 3853, all en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senate will proceed to the consideration of the measures en bloc.

Mr. MCCONNELL. I ask unanimous consent the bills be read a third time and passed and the motions to reconsider be laid on the table en bloc.

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

The bill (H.R. 2062) was read the third time and passed.

The bill (H.R. 2183) was read the third time and passed.

The bill (H.R. 3853) was read the third time and passed.

The bill (S. 1989) was read the third time and passed as follows:

S. 1989

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

SECTION 1. HOLLY A. CHARETTE POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 57 Rolfe Square in Cranston, Rhode Island, shall be known and designated as the ''Holly A. Charette 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 ''Holly A. Charette Post Office''.

DARFUR PEACE AND ACCOUNTABILITY ACT OF 2005

Mr. MCCONNELL. Mr. President, I ask unanimous consent the Committee on Foreign Relations be discharged from further consideration of S. 1462 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1462) to promote peace and accountability in Sudan, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. CORZINE. Mr. President, today the Senate has passed the bipartisan Darfur Peace and Accountability Act introduced by my colleague, Senator BROWNBACK, and myself. This legislation is a critical step in finally stopping the genocide raging in Darfur and bringing lasting peace to the region.

It has been 15 months since the Congress declared the atrocities in Darfur to be genocide, and over a year since the administration made the same declaration. Yet far too little has been done to live up to our moral obligation to actually save lives. Fellow human beings are being mercilessly slaughtered. We have the capacity to protect them. If we do not, history will forever condemn our failure. That is what this bill is about.

This is the second time a version of this bill has passed the Senate. In April, the bill was included as an amendment to the emergency supplement appropriations bill but was stripped out in conference. This time, however, I am hopeful that the bill will be passed into law. A dedicated, bipartisan group of House members, including Congressman PAYNE, have pushed this legislation. Through their efforts and with the support of leadership, we can pass this bill.

That's when the work will really begin. This legislation outlines the policies and provides the authorities necessary to stop the genocide.

First, the bill recognizes that boots on the ground are needed to provide security. It calls for the rapid expansion of the size and mandate of African Union, AU, forces in Darfur. We must, however, provide actual resources to the AU for it to be effective. Just a few weeks ago, a Senate amendment to the Foreign Operations appropriations bill for $50 million was removed in conference, leaving the AU with an ever-increasing shortfall at precisely the worst moment. By passing this legislation, the Senate has once again stressed the need for greater U.S. assistance to the AU. The administration must now follow up by requesting significant funding for the AU in its next supplemental request.

While we must provide all necessary resources to the AU, we should also recognize its limitations. This bill identifies specific areas where NATO should provide assistance, including training, logistics, command and control, and intelligence.

The message is clear: the AU's failure will be ours. And, as the genocide continues to unfold, there will be only one question. Were all available resources expended to stop it?

Second, the bill insists that the United States work to impose sanctions currently available under existing U.N. Security Council resolutions and seek to pass a new, more effective resolution. The U.N. must impose the targeted sanctions promised under previous resolutions. And it must extend the arms embargo to include all of Sudan and thus truly ensure that weapons do not end up in Darfur.

The bill grants the President the authority to impose real sanctions—blocking of assets and denial of visas—to those responsible for genocide, war crimes and crimes against humanity, and requires that he report to Congress any waiver of those sanctions. Individual accountability changes behavior. This is a powerful tool, and I am hopeful that the President will use it to its fullest.

This bill has other critical provisions. It denies entry to our ports to ships working with Sudan's oil sector. It prohibits assistance to countries violating the arms embargo. And it calls for a Presidential envoy to bring the full weight of this administration to bear on stopping the genocide and resolving the crisis engulfing Sudan and the region.

Darfur must be a priority. The United States has faced resistance to multilateral sanctions against Sudan. But the answer is not to give up. The issue should be raised in bilateral and multilateral settings. Countries that do business with Sudan and seek to shield the government from sanctions need to understand that we are absolutely committed to stopping genocide and that our bilateral relations are at stake.

There is no time to lose. The situation in Darfur is deteriorating by the day. AU troops have been attacked, held hostage and killed. IDP camps have been overrun in recent weeks and dozens have been slaughtered. Hundreds of thousands of internally displaced persons can no longer be reached by humanitarian organizations. The conflict has spread into Chad, which already is straining to support 200,000 Darfur refugees. We are looking at the complete meltdown of the region. What positive efforts have been made in the last year and a half, the incredible work of NGOs, the important efforts of a couple thousand AU troops in a region the size of Texas, could soon be reversed.

I am grateful to my colleagues on both sides of the aisle who have supported this bill and have joined me in

demanding that we end this genocide. I must also recognize the incredible efforts of civic and student groups, people of faith of all religions and denominations, and Americans from all over the country and from all walks of life who have come together on this issue.

I have visited the IDP camps of Darfur and camps for Darfur refugees in Chad. But in our time, when news of human misery crosses the globe in an instant, none of us can pretend that we don't see. That is why so many of our citizens have risen up and demanded action, not just words.

The American people understand what Elie Wiesel said about Darfur well over a year ago. He asked:

How can a citizen of a free country not pay attention? How can anyone, anywhere not feel outraged? How can a person, whether religious or secular, not be moved by compassion? And above all, how can anyone who remembers remain silent?

Elie Wiesel was referring of course to the memory of the Holocaust from which the moral imperative of our day was borne: ''never again.'' Never again will we stand by. Never again will we forget our common humanity. Never again will we turn away.

Mr. MCCONNELL. I ask unanimous consent that the Brownback amendment at the desk be agreed to, the bill as amended be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the measure be printed in the RECORD.

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

The amendment (No. 2674) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The bill (S. 1462), as amended, was read the third time and passed, as follows:

S. 1462

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 ''Darfur Peace and Accountability Act of 2005''.

SEC. 2. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) GOVERNMENT OF SUDAN.—

(A) IN GENERAL.—The term ''Government of Sudan'' means the National Congress Party, formerly known as the National Islamic Front, government in Khartoum, Sudan, or any successor government formed on or after the date of the enactment of this Act (including the coalition National Unity Government agreed upon in the Comprehensive Peace Agreement for Sudan), except that such term does not include the regional Government of Southern Sudan.

(B) OFFICIALS OF THE GOVERNMENT OF SUDAN.—The term ''Government of Sudan'', when used with respect to an official of the Government of Sudan, does not include an individual—

(i) who was not a member of such government prior to July 1, 2005; or

(ii) who is a member of the regional Government of Southern Sudan.

(3) COMPREHENSIVE PEACE AGREEMENT FOR SUDAN.—The term ''Comprehensive Peace Agreement for Sudan'' means the peace agreement signed by the Government of Sudan and the Sudan People's Liberation Movement/Army (SPLM/A) in Nairobi, Kenya, on January 9, 2005.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) On July 22, 2004, the House of Representatives and the Senate declared that the atrocities occurring in the Darfur region of Sudan are genocide.

(2) On September 9, 2004, Secretary of State Colin L. Powell stated before the Committee on Foreign Relations of the Senate, ''genocide has been committed in Darfur and... the Government of Sudan and the [Janjaweed] bear responsibility—and genocide may still be occurring''.

(3) On September 21, 2004, in an address before the United Nations General Assembly, President George W. Bush affirmed the Secretary of State's finding and stated, ''[a]t this hour, the world is witnessing terrible suffering and horrible crimes in the Darfur region of Sudan, crimes my government has concluded are genocide''.

(4) On July 30, 2004, the United Nations Security Council passed Security Council Resolution 1556, calling upon the Government of Sudan to disarm the Janjaweed militias and to apprehend and bring to justice Janjaweed leaders and their associates who have incited and carried out violations of human rights and international humanitarian law, and establishing a ban on the sale or supply of arms and related materiel of all types, including the provision of related technical training or assistance, to all nongovernmental entities and individuals, including the Janjaweed.

(5) On September 18, 2004, the United Nations Security Council passed Security Council Resolution 1564, determining that the Government of Sudan had failed to meet its obligations under Security Council Resolution 1556, calling for a military flight ban in and over the Darfur region, demanding the names of Janjaweed militiamen disarmed and arrested for verification, establishing an International Commission of Inquiry on Darfur to investigate violations of international humanitarian and human rights laws, and threatening sanctions should the Government of Sudan fail to fully comply with Security Council Resolutions 1556 and 1564, including such actions as to affect Sudan's petroleum sector or individual members of the Government of Sudan.

(6) The Report of the International Commission of Inquiry on Darfur established that the ''Government of the Sudan and the Janjaweed are responsible for serious violations of international human rights and humanitarian law amounting to crimes under international law,'' that ''these acts were conducted on a widespread and systematic basis, and therefore may amount to crimes against humanity,'' and that Sudanese officials and other individuals may have acted with ''genocidal intent''.

(7) The Report of the International Commission of Inquiry on Darfur further notes that, pursuant to its mandate and in the course of its work, the Commission had collected information relating to individual perpetrators of acts constituting ''violations of international human rights law and international humanitarian law, including crimes against humanity and war crimes'' and that a sealed file containing the names of those individual perpetrators had been delivered to the United Nations Secretary-General.

(8) On March 24, 2005, the United Nations Security Council passed Security Council Resolution 1590, establishing the United Nations Mission in Sudan (UNMIS), consisting of up to 10,000 military personnel and 715 civilian police and tasked with supporting implementation of the Comprehensive Peace Agreement for Sudan and ''closely and continuously liais[ing] and coordinat[ing] at all levels with the African Union Mission in Sudan (AMIS) with a view towards expeditiously reinforcing the effort to foster peace in Darfur''.

(9) On March 29, 2005, the United Nations Security Council passed Security Council Resolution 1591, extending the military embargo established by Security Council Resolution 1556 to all the parties to the N'djamena Ceasefire Agreement and any other belligerents in the states of North Darfur, South Darfur, and West Darfur, calling for an asset freeze and travel ban against those individuals who impede the peace process, constitute a threat to stability in Darfur and the region, commit violations of international humanitarian or human rights law or other atrocities, are responsible for offensive military overflights, or violate the military embargo, and establishing a Committee of the Security Council and a Panel of Experts to assist in monitoring compliance with Security Council Resolutions 1556 and 1591.

(10) On March 31, 2005, the United Nations Security Council passed Security Council Resolution 1593, referring the situation in Darfur since July 1, 2002, to the prosecutor of the International Criminal Court and calling on the Government of Sudan and all parties to the conflict to cooperate fully with the Court.

(11) In remarks before the G–8 Summit on June 30, 2005, President Bush reconfirmed that ''the violence in Darfur is clearly genocide'' and ''the human cost is beyond calculation''.

(12) On July 30, 2005, Dr. John Garang de Mabior, the newly appointed Vice President of Sudan and the leader of the Sudan People's Liberation Movement/Army (SPLM/A) for the past 21 years, was killed in a tragic helicopter crash in southern Sudan, sparking riots in Khartoum and challenging the commitment of all the people of Sudan to the Comprehensive Peace Agreement for Sudan.

SEC. 4. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the genocide unfolding in the Darfur region of Sudan is characterized by atrocities directed against civilians, including mass murder, rape, and sexual violence committed by the Janjaweed and associated militias with the complicity and support of the National Congress Party-led faction of the Government of Sudan;

(2) all parties to the conflict in the Darfur region have continued to violate the N'djamena Ceasefire Agreement of April 8, 2004, and the Abuja Protocols of November 9, 2004, and violence against civilians, humanitarian aid workers, and personnel of the African Union Mission in Sudan (AMIS) is increasing;

(3) the African Union should rapidly expand the size and amend the mandate of the African Union Mission in Sudan (AMIS) to authorize such action as may be necessary to protect civilians and humanitarian operations, and deter violence in the Darfur region without delay;

(4) the international community, including the United Nations, the North Atlantic Treaty Organization (NATO), the European Union, and the United States, should immediately act to mobilize sufficient political, military, and financial resources to support the expansion of the African Union Mission

in Sudan so that it achieves the size, strength, and capacity necessary for protecting civilians and humanitarian operations, and ending the continued violence in the Darfur region;

(5) if an expanded and reinforced African Union Mission in Sudan fails to stop genocide in the Darfur region, the international community should take additional, dispositive measures to prevent and suppress acts of genocide in the Darfur region;

(6) acting under Article 5 of the Charter of the United Nations, the United Nations Security Council should call for suspension of the Government of Sudan's rights and privileges of membership by the General Assembly until such time as the Government of Sudan has honored pledges to cease attacks upon civilians, demobilize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance in the Darfur region, and allow for safe, unimpeded, and voluntary return of refugees and internally displaced persons;

(7) the President should use all necessary and appropriate diplomatic means to ensure the full discharge of the responsibilities of the Committee of the United Nations Security Council and the Panel of Experts established pursuant to section 3(a) of Security Council Resolution 1591 (March 29, 2005);

(8) the United States should not provide assistance to the Government of Sudan, other than assistance necessary for the implementation of the Comprehensive Peace Agreement for Sudan, the support of the regional Government of Southern Sudan and marginalized areas in northern Sudan (including the Nuba Mountains, Southern Blue Nile, Abyei, Eastern Sudan (Beja), Darfur, and Nubia), as well as marginalized peoples in and around Khartoum, or for humanitarian purposes in Sudan, until such time as the Government of Sudan has honored pledges to cease attacks upon civilians, demobilize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance in the Darfur region, and allow for safe, unimpeded, and voluntary return of refugees and internally displaced persons;

(9) the President should seek to assist members of the Sudanese diaspora in the United States by establishing a student loan forgiveness program for those individuals who commit to return to southern Sudan for a period of not less than 5 years for the purpose of contributing professional skills needed for the reconstruction of southern Sudan;

(10) the President should appoint a Presidential Envoy for Sudan to provide stewardship of efforts to implement the Comprehensive Peace Agreement for Sudan, seek ways to bring stability and peace to the Darfur region, address instability elsewhere in Sudan and northern Uganda, and pursue a truly comprehensive peace throughout the region;

(11) in order to achieve the goals specified in paragraph (10) and to further promote human rights and civil liberties, build democracy, and strengthen civil society, the Presidential Envoy for Sudan should be empowered to promote and encourage the exchange of individuals pursuant to educational and cultural programs, including programs funded by the United States Government;

(12) the international community should strongly condemn attacks against humanitarian workers and demand that all armed groups in the Darfur region, including the forces of the Government of Sudan, the Janjaweed, associated militias, the Sudan Liberation Movement/Army (SLM/A), the Justice and Equality Movement (JEM), and all other armed groups to refrain from such attacks;

(13) the United States should fully support the Comprehensive Peace Agreement for Sudan and urge rapid implementation of its terms; and

(14) the new leadership of the Sudan People's Liberation Movement (SPLM) should—

(A) seek to transform the SPLM into an inclusive, transparent, and democratic political body;

(B) reaffirm the commitment of the SPLM to bringing peace not only to southern Sudan, but also to the Darfur region, eastern Sudan, and northern Uganda; and

(C) remain united in the face of potential efforts to undermine the SPLM.

SEC. 5. SANCTIONS IN SUPPORT OF PEACE IN DARFUR.

(a) BLOCKING OF ASSETS AND RESTRICTION ON VISAS.—Section 6 of the Comprehensive Peace in Sudan Act of 2004 (Public Law 108–497; 50 U.S.C. 1701 note) is amended—

(1) in the heading of subsection (b), by inserting ''OF APPROPRIATE SENIOR OFFICIALS OF THE SUDANESE GOVERNMENT'' after ''ASSETS'';

(2) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively; and

(3) by inserting after subsection (b) the following new subsection:

''(c) BLOCKING OF ASSETS AND RESTRICTION ON VISAS OF CERTAIN INDIVIDUALS IDENTIFIED BY THE PRESIDENT.—

''(1) BLOCKING OF ASSETS.—Beginning on the date that is 30 days after the date of the enactment of the Darfur Peace and Accountability Act of 2005, and in the interest of contributing to peace in Sudan, the President shall, consistent with the authorities granted in the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), block the assets of any individual who the President determines is complicit in, or responsible for, acts of genocide, war crimes, or crimes against humanity in Darfur, including the family members or any associates of such individual to whom assets or property of such individual was transferred on or after July 1, 2002.

''(2) RESTRICTION ON VISAS.—Beginning on the date that is 30 days after the date of the enactment of the Darfur Peace and Accountability Act of 2005, and in the interest of contributing to peace in Sudan, the President shall deny visas and entry to any individual who the President determines is complicit in, or responsible for, acts of genocide, war crimes, or crimes against humanity in Darfur, including the family members or any associates of such individual to whom assets or property of such individual was transferred on or after July 1, 2002.''.

(b) WAIVER.—Section 6(d) of the Comprehensive Peace in Sudan Act of 2004 (as redesignated by subsection (a)) is amended by adding at the end the following new sentence: ''The President may waive the application of paragraph (1) or (2) of subsection (c) with respect to an individual if—

''(1) the President determines that such a waiver is in the national interest of the United States; and

''(2) prior to exercising the waiver, the President transmits to the appropriate congressional committees a notification of the waiver that includes the name of the individual and the reasons for the waiver.''.

(c) SANCTIONS AGAINST CERTAIN JANJAWEED COMMANDERS AND COORDINATORS.—The President should immediately consider imposing the sanctions described in section 6(c) of the Comprehensive Peace in Sudan Act of 2004 (as added by subsection (a)) against the Janjaweed commanders and coordinators identified by former United States Ambassador-at-Large for War Crimes before the Subcommittee on Africa of the Committee on International Relations of the House of Representatives on June 24, 2004.

SEC. 6. ADDITIONAL AUTHORITIES TO DETER AND SUPPRESS GENOCIDE IN DARFUR.

(a) UNITED STATES ASSISTANCE TO SUPPORT AMIS.—Section 7 of the Comprehensive Peace in Sudan Act of 2004 (Public Law 108–497; 50 U.S.C. 1701 note) is amended—

(1) by striking ''Notwithstanding'' and inserting ''(a) GENERAL ASSISTANCE.—Notwithstanding''; and

(2) by adding at the end the following new subsection:

''(b) ASSISTANCE TO SUPPORT AMIS.—Notwithstanding any other provision of law, the President is authorized to provide assistance, on such terms and conditions as the President may determine and in consultation with the appropriate congressional committees, to reinforce the deployment and operations of an expanded African Union Mission in Sudan (AMIS) with the mandate, size, strength, and capacity to protect civilians and humanitarian operations, stabilize the Darfur region of Sudan and dissuade and deter air attacks directed against civilians and humanitarian workers, including but not limited to providing assistance in the areas of logistics, transport, communications, materiel support, technical assistance, training, command and control, aerial surveillance, and intelligence.''.

(b) NATO ASSISTANCE TO SUPPORT AMIS.—The President should instruct the United States Permanent Representative to the North Atlantic Treaty Organization (NATO) to use the voice, vote, and influence of the United States at NATO to advocate NATO reinforcement of the African Union Mission in Sudan (AMIS), upon the request of the African Union, including but not limited to the provision of assets to dissuade and deter offensive air strikes directed against civilians and humanitarian workers in the Darfur region of Sudan and other logistical, transportation, communications, training, technical assistance, command and control, aerial surveillance, and intelligence support.

(c) DENIAL OF ENTRY AT UNITED STATES PORTS TO CERTAIN CARGO SHIPS OR OIL TANKERS.—

(1) IN GENERAL.—The President should take all necessary and appropriate steps to deny the Government of Sudan access to oil revenues, including by prohibiting entry at United States ports to cargo ships or oil tankers engaged in business or trade activities in the oil sector of Sudan or involved in the shipment of goods for use by the armed forces of Sudan, until such time as the Government of Sudan has honored its commitments to cease attacks on civilians, demobilize and demilitarize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance, and allow for the safe and voluntary return of refugees and internally displaced persons.

(2) EXCEPTION.—Paragraph (1) shall not apply with respect to cargo ships or oil tankers involved in an internationally-recognized demobilization program or the shipment of non-lethal assistance necessary to carry out elements of the Comprehensive Peace Agreement for Sudan.

(d) PROHIBITION ON ASSISTANCE TO COUNTRIES IN VIOLATION OF UNITED NATIONS SECURITY COUNCIL RESOLUTIONS 1556 AND 1591.—

(1) PROHIBITION.—Amounts made available to carry out the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) may not be used to provide assistance to the government of a country that is in violation of the embargo on military assistance with respect to Sudan imposed pursuant to United Nations Security Council Resolutions 1556 (July 30, 2004) and 1591 (March 29, 2005).

(2) WAIVER.—The President may waive the application of paragraph (1) if the President determines and certifies to the appropriate congressional committees that it is in the national interests of the United States to do so.

SEC. 7. MULTILATERAL EFFORTS.

The President shall direct the United States Permanent Representative to the United Nations to use the voice and vote of the United States to urge the adoption of a resolution by the United Nations Security Council which—

(1) supports the expansion of the African Union Mission in Sudan (AMIS) so that it achieves the mandate, size, strength, and capacity needed to protect civilians and humanitarian operations, and dissuade and deter fighting and violence in the Darfur region of Sudan, and urges member states of the United Nations to accelerate political, material, financial, and other assistance to the African Union toward this end;

(2) reinforces efforts of the African Union to negotiate peace talks between the Government of Sudan, the Sudan Liberation Movement/Army (SLM/A), the Justice and Equality Movement (JEM), and associated armed groups in the Darfur region, calls on the Government of Sudan, the SLM/A, and the JEM to abide by their obligations under the N'Djamena Ceasefire Agreement of April 8, 2004 and subsequent agreements, urges all parties to engage in peace talks without preconditions and seek to resolve the conflict, and strongly condemns all attacks against humanitarian workers and African Union personnel in the Darfur region;

(3) imposes sanctions against the Government of Sudan, including sanctions against individual members of the Government of Sudan, and entities controlled or owned by officials of the Government of Sudan or the National Congress Party in Sudan until such time as the Government of Sudan has honored its commitments to cease attacks on civilians, demobilize and demilitarize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance, and allow for the safe and voluntary return of refugees and internally displaced persons;

(4) extends the military embargo established by United Nations Security Council Resolutions 1556 (July 30, 2004) and 1591 (March 29, 2005) to include a total prohibition on the sale or supply of offensive military equipment to the Government of Sudan, except for use in an internationally-recognized demobilization program or for non-lethal assistance necessary to carry out elements of the Comprehensive Peace Agreement for Sudan;

(5) calls upon those member states of the United Nations that continue to undermine efforts to foster peace in Sudan by providing military assistance and equipment to the Government of Sudan, the SLM/A, the JEM, and associated armed groups in the Darfur region in violation of the embargo on such assistance and equipment, as called for in United Nations Security Council Resolutions 1556 and 1591, to immediately cease and desist; and

(6) acting under Article 5 of the Charter of the United Nations, calls for suspension of the Government of Sudan's rights and privileges of membership by the General Assembly until such time as the Government of Sudan has honored pledges to cease attacks upon civilians, demobilize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance in the Darfur region, and allow for safe, unimpeded, and voluntary return of refugees and internally displaced persons.

SEC. 8. CONTINUATION OF RESTRICTIONS.

Restrictions against the Government of Sudan that were imposed or are otherwise applicable pursuant to Executive Order 13067 of November 3, 1997 (62 Federal Register 59989), title III and sections 508, 512, 527, and 569 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447), or any other similar provision of law, should remain in effect and should not be lifted pursuant to such provisions of law until the President transmits to the appropriate congressional committees a certification that the Government of Sudan is acting in good faith—

(1) to peacefully resolve the crisis in the Darfur region of Sudan;

(2) to disarm, demobilize, and demilitarize the Janjaweed and all government-allied militias;

(3) to adhere to United Nations Security Council Resolutions 1556 (2004), 1564 (2004), 1591 (2005), and 1593 (2005);

(4) to negotiate a peaceful resolution to the crisis in eastern Sudan;

(5) to fully cooperate with efforts to disarm, demobilize, and deny safe haven to members of the Lords Resistance Army; and

(6) to fully implement the Comprehensive Peace Agreement for Sudan without manipulation or delay, including by—

(A) implementing the recommendations of the Abyei Commission Report;

(B) establishing other appropriate commissions and implementing and adhering to the recommendations of such commissions consistent with the terms of the Comprehensive Peace Agreement for Sudan;

(C) adhering to the terms of the Wealth Sharing Agreement; and

(D) withdrawing government forces from southern Sudan consistent with the terms of the Comprehensive Peace Agreement for Sudan.

SEC. 9. ASSISTANCE EFFORTS IN SUDAN.

(a) ADDITIONAL AUTHORITIES.—Section 501(a) of the Assistance for International Malaria Control Act (Public Law 106–570; 114 Stat. 350; 50 U.S.C. 1701 note) is amended—

(1) by striking ''Notwithstanding any other provision of law'' and inserting the following:

''(1) IN GENERAL.—Notwithstanding any other provision of law'';

(2) by inserting ''civil administrations,'' after ''indigenous groups,'';

(3) by striking ''areas outside of control of the Government of Sudan'' and inserting ''southern Sudan, southern Kordofan/Nuba Mountains State, Blue Nile State, and Abyei'';

(4) by inserting before the period at the end the following: '', including the Comprehensive Peace Agreement for Sudan''; and

(5) by adding at the end the following new paragraph:

''(2) CONGRESSIONAL NOTIFICATION.—Assistance may not be obligated under this subsection until 15 days after the date on which the President has provided notice thereof to the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1) in accordance with the procedures applicable to reprogramming notifications under such section.''.

(b) EXCEPTION TO PROHIBITIONS IN EXECUTIVE ORDER NO. 13067.—Subsection (b) of such section is amended—

(1) in the heading, by striking ''EXPORT PROHIBITIONS'' and inserting ''PROHIBITIONS IN EXECUTIVE ORDER NO. 13067'';

(2) by striking ''shall not'' and inserting ''should not'';

(3) by striking ''any export from an area in Sudan outside of control of the Government of Sudan, or to any necessary transaction directly related to that export'' and inserting ''activities or related transactions with respect to southern Sudan, southern Kordofan/Nuba Mountains State, Blue Nile State, or Abyei''; and

(4) by striking ''the export or related transaction'' and all that follows and inserting ''such activities or related transactions would directly benefit the economic recovery and development of those areas and people.''.

SEC. 10. REPORTS.

(a) REPORT ON AFRICAN UNION MISSION IN SUDAN (AMIS).—Section 8 of the Sudan Peace Act (Public Law 107–245; 50 U.S.C. 1701 note) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

''(c) REPORT ON AFRICAN UNION MISSION IN SUDAN (AMIS).—In conjunction with reports required under subsections (a) and (b) of this section thereafter, the Secretary of State shall submit to the appropriate congressional committees a report, to be prepared in conjunction with the Secretary of Defense, on—

''(1) efforts to fully deploy the African Union Mission in Sudan (AMIS) with the size, strength, and capacity necessary to stabilize the Darfur region of Sudan and protect civilians and humanitarian operations;

''(2) the needs of AMIS to ensure success, including in the areas of housing, transport, communications, equipment, technical assistance, training, command and control, intelligence, and such assistance as is necessary to dissuade and deter attacks, including by air, directed against civilians and humanitarian operations;

''(3) the current level of United States assistance and other assistance provided to AMIS, and a request for additional United States assistance, if necessary;

''(4) the status of North Atlantic Treaty Organization (NATO) plans and assistance to support AMIS; and

''(5) the performance of AMIS in carrying out its mission in the Darfur region.''.

(b) REPORT ON SANCTIONS IN SUPPORT OF PEACE IN DARFUR.—Section 8 of the Sudan Peace Act (Public Law 107–245; 50 U.S.C. 1701 note), as amended by subsection (a), is further amended—

(1) by redesignating subsection (d) (as redesignated) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

''(d) REPORT ON SANCTIONS IN SUPPORT OF PEACE IN DARFUR.—In conjunction with reports required under subsections (a), (b), and (c) of this section thereafter, the Secretary of State shall submit to the appropriate congressional committees a report regarding sanctions imposed under subsections (a) through (d) of section 6 of the Comprehensive Peace in Sudan Act of 2004, including—

''(1) a description of each sanction imposed under such provisions of law; and

''(2) the name of the individual or entity subject to the sanction, if applicable.''.

(c) REPORT ON INDIVIDUALS IDENTIFIED BY THE UNITED NATIONS IN CONNECTION WITH GENOCIDE, WAR CRIMES, AND CRIMES AGAINST HUMANITY OR OTHER VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW IN DARFUR.—Section 8 of the Sudan Peace Act (Public Law 107–245; 50 U.S.C. 1701 note), as amended by subsections (a) and (b), is further amended—

(1) by redesignating subsection (e) (as redesignated) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

''(e) REPORT ON INDIVIDUALS IDENTIFIED BY THE UNITED NATIONS IN CONNECTION WITH GENOCIDE, WAR CRIMES, AND CRIMES AGAINST

HUMANITY OR OTHER VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW IN DARFUR.—Not later than 30 days after the date on which the United States has access to any of the names of the individuals identified by the International Commission of Inquiry on Darfur (established pursuant to United Nations Security Council Resolution 1564 (2004)), or the names of the individuals designated by the Committee of the United Nations Security Council (established pursuant to United Nations Security Council Resolution 1591 (2005)), the Secretary of State shall submit to the appropriate congressional committees a report containing an assessment as to whether such individuals may be subject to sanctions under section 6 of the Comprehensive Peace in Sudan Act of 2004 (as amended by the Darfur Peace and Accountability Act of 2005) and the reasons for such determination.''.

Mr. MCCONNELL. Mr. President, I suggest we are getting pretty good at this.

The PRESIDING OFFICER. The Chair agrees.

YEAR OF POLIO EDUCATION

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the HELP Committee be discharged from further consideration and the Senate now proceed to S. Res. 304.

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

The clerk will report the bill by title.

The legislative clerk read as follows:

A resolution (S. Res. 304) to designate the period beginning on November 1, 2005, and ending on October 31, 2006, as the Year of Polio Education.

There being no objection, the Senate proceeded to considerthe resolution.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 304) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 304

Whereas 2005 is the 50th anniversary of the injectable polio vaccine;

Whereas the polio vaccines eliminated naturally occurring polio cases in the United States but have not yet eliminated polio in other parts of the world;

Whereas as few as 57 percent of American children receive all doses of necessary vaccines during childhood, including the polio vaccine;

Whereas the Centers for Disease Control and Prevention recommends that every child in the United States receive all doses of the inactivated polio vaccine;

Whereas the success of the polio vaccines has caused people to forget the 1,630,000 Americans born before the development of the vaccines who had polio during the epidemics in the middle of the 20th century;

Whereas at least 70 percent of paralytic polio survivors and 40 percent of nonparalytic polio survivors are developing post-polio sequelae, which are unexpected and often disabling symptoms that occur about 35 years after the poliovirus attack, including overwhelming fatigue, muscle weakness, muscle and joint pain, sleep disorders, heightened sensitivity to anesthesia, cold pain, and difficulty swallowing and breathing;

Whereas 2005 is the 131st anniversary of the diagnosis of the first case of post-polio sequelae and is the 21st anniversary of the creation of the International Post-Polio Task Force;

Whereas research and clinical work by members of the International Post-Polio Task Force have discovered that post-polio sequelae can be treated, and even prevented, if polio survivors are taught to conserve energy and use assistive devices to stop damaging and killing the reduced number of overworked, poliovirus-damaged neurons in the spinal cord and brain that survived the polio attack;

Whereas many medical professionals, and polio survivors, do not know of the existence of post-polio sequelae, or of the available treatments; and

Whereas the mission of the International Post-Polio Task Force includes educating medical professionals and the world's 20,000,000 polio survivors about post-polio sequelae through the international Post-Polio Letter Campaign, The Post-Polio Institute at New Jersey's Englewood Hospital and Medical Center, the publication of The Polio Paradox, and the television public service announcement provided by the National Broadcasting Company: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the need for every child, in America and throughout the world, to be vaccinated against polio;

(2) recognizes the 1,630,000 Americans who survived polio, their new battle with post-polio sequelae, and the need for education and appropriate medical care;

(3) requests that every State designate the period beginning on November 1, 2005, and ending on October 31, 2006, as the ''Year of Polio Education'' to promote vaccination and post-polio sequelae education and treatment; and

(4) requests that all appropriate Federal departments and agencies take immediate action to educate—

(A) the people of the United States about the need for polio vaccination; and

(B) polio survivors and medical professionals in the United States about the cause and treatment of post-polio sequelae.

DRIVE SAFER SUNDAY

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 326, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 326) designating November 27, 2005 as ''Drive Safer Sunday.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 326) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 326

Whereas motor vehicle travel is the primary means of transportation in the United States;

Whereas everyone on the roads and highways needs to drive more safely to reduce deaths and injuries resulting from motor vehicle accidents;

Whereas the death of almost 43,000 people a year in more than 6 million highway crashes in America has been called an epidemic by Transportation Secretary Norman Mineta;

Whereas according to the National Highway Transportation Safety Administration, wearing a seat belt saved 15,434 lives in 2004; and

Whereas the Sunday after Thanksgiving is the busiest highway traffic day of the year: Now, therefore, be it

Resolved, That the Senate—

(1) encourages—

(A) high schools, colleges, universities, administrators, teachers, primary schools, and secondary schools to launch campus-wide educational campaigns to urge students to be careful about safety when driving;

(B) national trucking firms to alert their drivers to be especially focused on driving safely during the heaviest traffic day of the year, and to publicize the importance of the day using Citizen's band (CB) radios and in truck stops across the Nation;

(C) clergy to remind their members to travel safely when attending services and gatherings;

(D) law enforcement personnel to remind drivers and passengers to drive particularly safely on the Sunday after Thanksgiving; and

(E) everyone to use the Sunday after Thanksgiving as an opportunity to educate themselves about highway safety; and

(2) designates November 27, 2005, as ''Drive Safer Sunday''.

LITTLE ROCK CENTRAL HIGH SCHOOL DESEGREGATION 50TH ANNIVERSARY COMMEMORATIVE COIN ACT

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be discharged from further consideration of H.R. 358, and the Senate proceed to its immediate consideration.

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

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 358) Little Rock Central High School Desegregation 50th Anniversary Commemorative Coin Act.

There being no objection, the Senate proceeded to considerthe bill.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Pryor amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the measure be printed in the RECORD.

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

The amendment (No. 2675) was agreed to, as follows:

(Purpose: To provide a complete substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Little Rock Central High School Desegregation 50th Anniversary Commemorative Coin Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) September 2007, marks the 50th anniversary of the desegregation of Little Rock Central High School in Little Rock, Arkansas.

(2) In 1957, Little Rock Central High was the site of the first major national test for the implementation of the historic decision of the United States Supreme Court in *Brown, et al. v. Board of Education of Topeka, et al.*, 347 U.S. 483 (1954).

(3) The courage of the ''Little Rock Nine'' (Ernest Green, Elizabeth Eckford, Melba Pattillo, Jefferson Thomas, Carlotta Walls, Terrence Roberts, Gloria Ray, Thelma Mothershed, and Minnijean Brown) who stood in the face of violence, was influential to the Civil Rights movement and changed American history by providing an example on which to build greater equality.

(4) The desegregation of Little Rock Central High by the 9 African American students was recognized by Dr. Martin Luther King, Jr. as such a significant event in the struggle for civil rights that in May 1958, he attended the graduation of the first African American from Little Rock Central High School.

(5) A commemorative coin will bring national and international attention to the lasting legacy of this important event.

SEC. 3. COIN SPECIFICATIONS.

(a) DENOMINATIONS.—The Secretary of the Treasury (hereinafter in this Act referred to as the ''Secretary'') shall mint and issue not more than 500,000 $1 coins each of which shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches; and

(3) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5136 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 4. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—The design of the coins minted under this Act shall be emblematic of the desegregation of the Little Rock Central High School and its contribution to civil rights in America.

(b) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(1) a designation of the value of the coin;

(2) an inscription of the year ''2007''; and

(3) inscriptions of the words ''Liberty'', ''In God We Trust'', ''United States of America'', and ''E Pluribus Unum''.

(c) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with the Commission of Fine Arts; and

(2) reviewed by the Citizens Coinage Advisory Committee established under section 5135 of title 31, United States Code.

SEC. 5. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) COMMENCEMENT OF ISSUANCE.—The Secretary may issue coins minted under this Act beginning January 1, 2007, except that the Secretary may initiate sales of such coins, without issuance, before such date.

(c) TERMINATION OF MINTING AUTHORITY.—No coins shall be minted under this Act after December 31, 2007.

SEC. 6. SALE OF COINS.

(a) SALE PRICE.—Notwithstanding any other provision of law, the coins issued under this Act shall be sold by the Secretary at a price equal to the sum of the face value of the coins, the surcharge required under section 7(a) for the coins, and the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, and marketing).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS AT A DISCOUNT.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

SEC. 7. SURCHARGES.

(a) SURCHARGE REQUIRED.—All sales shall include a surcharge of $10 per coin.

(b) DISTRIBUTION.—Subject to section 5134(f) of title 31, United States Code, and subsection (d), all surcharges which are received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Secretary of the Interior for the protection, preservation, and interpretation of resources and stories associated with Little Rock Central High School National Historic Site, including the following:

(1) Site improvements at Little Rock Central High School National Historic Site.

(2) Development of interpretive and education programs and historic preservation projects.

(3) Establishment of cooperative agreements to preserve or restore the historic character of the Park Street and Daisy L. Gatson Bates Drive corridors adjacent to the site.

(c) LIMITATION.—Notwithstanding subsection (a), no surcharge may be included with respect to the issuance under this Act of any coin during a calendar year if, as of the time of such issuance, the issuance of such coin would result in the number of commemorative coin programs issued during such year to exceed the annual 2 commemorative coin program issuance limitation under section 5112(m)(1) of title 31, United States Code (as in effect on the date of the enactment of this Act). The Secretary of the Treasury may issue guidance to carry out this subsection.

(d) CREDITABLE FUNDS.—Notwithstanding any other provision of the law and recognizing the unique partnership nature of the Department of Interior and the Little Rock School District at the Little Rock Central High School National Historic Site and the significant contributions made by the Little Rock School District to preserve and maintain the historic character of the high school, any non-Federal funds expended by the school district (regardless of the source of the funds) for improvements at the Little Rock Central High School National Historic Site, to the extent such funds were used for the purposes described in paragraph (1), (2), or (3) of subsection (b), shall be deemed to meet the requirement of funds from private sources of section 5134(f)(1)(A)(ii) of title 31, United States Code, with respect to the Secretary of the Interior.

The bill (H.R. 358), as amended, was passed.

UNANIMOUS CONSENT AGREEMENT H. CON. RES. 308

Mr. MCCONNELL. Mr. President, I ask unanimous consent that notwithstanding the adjournment of the Senate, when the Senate receives from the House a correcting resolution relating to the Treasury-Transportation conference report, the text of which is identical to the concurrent resolution at the desk, the concurrent resolution be considered and agreed to, and the motion to reconsider be laid upon the table.

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

UNANIMOUS CONSENT AGREEMENT—CONFERENCE REPORT TO ACCOMPANY H.R. 3058

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the previous order with respect to the conference report to accompany H.R. 3058 be modified to allow for adoption of the conference report, notwithstanding the adjournment of the Senate.

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

AUTHORIZATION TO SIGN ENROLLED BILLS OR JOINT RESOLUTIONS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that during the adjournment of the Senate, the majority leader, the majority whip, and the senior Senator from Virginia be authorized to sign duly enrolled bills or joint resolutions.

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

AUTHORIZATION FOR COMMITTEES TO REPORT

Mr. MCCONNELL. Mr. President, I ask unanimous consent, notwithstanding the Senate's adjournment, committees be authorized to report legislative and executive matters on Thursday, December 8, 2005, from 10 a.m. to 12 noon.

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

AUTHORIZATION TO MAKE APPOINTMENTS

Mr. MCCONNELL. Mr. President, I ask unanimous consent, notwithstanding the upcoming recess or adjournment of the Senate, the President of the Senate, the President pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses or by order of the Senate.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive

session to consider the following nominations on today's Executive Calendar: Calendar 35, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 469, and all nominations on the Secretary's desk.

Further, I ask that the following committees be discharged from further consideration of the listed nominations and the Senate proceed to their consideration en bloc:

Foreign relations, Alejandro Daniel Wolff, Ronald L. Schlicher, Carol van Voorst, Ross Wilson, Donald M. Payne, Edward Randall Royce, Promotion List (pn999).

I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF THE INTERIOR

Patricia Lynn Scarlett, of California, to be Deputy Secretary of the Interior.

IN THE AIR FORCE

The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force to the grades indicated under title 10, U.S.C., section 12203.

To be major general

Brigadier General Larita A. Aragon, 0000
Brigadier General Tod M. Bunting, 0000
Brigadier General Craig E. Campbell, 0000
Brigadier General William R. Cotney, 0000
Brigadier General R. Anthony Haynes, 0000
Brigadier General Charles V. Ickes, II, 0000
Brigadier General Robert A. Knauff, 0000
Brigadier General James R. Marshall, 0000
Brigadier General Terry L. Scherling, 0000
Brigadier General Michael J. Shira, 0000
Brigadier General Emmett R. Titshaw, Jr., 0000

To be brigadier general

Colonel David S. Angle, 0000
Colonel Thomas M. Botchie, 0000
Colonel Richard W. Burris, 0000
Colonel Garry C. Dean, 0000
Colonel Michael J. Dornbush, 0000
Colonel Kathleen E. Fick, 0000
Colonel Edward R. Flora, 0000
Colonel James H. Gwin, 0000
Colonel Scott B. Harrison, 0000
Colonel David M. Hopper, 0000
Colonel Howard P. Hunt, III, 0000
Colonel Cynthia N. Kirkland, 0000
Colonel John M. Motley, Jr., 0000
Colonel Gerald C. Olesen, 0000
Colonel Alan W. Palmer, 0000
Colonel Michael L. Peplinski, 0000
Colonel Esther A. Rada, 0000
Colonel Alex D. Roberts, 0000

The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force to the grades indicated under title 10, U.S.C., section 12203.

To be brigadier general

Colonel Steven R. Doohen, 0000

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Colonel Daniel R. Eagle, 0000

IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. David D. McKiernan, 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. Peter W. Chiarelli, 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. Keith W. Dayton, 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 R. Wood, 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. William T. Nesbitt, 0000

The following Army National Guard of the United States officers for appointment in the Reserve of the Army to the grades indicated under Title 10, U.S.C., Section 12203:

To be major general

Brigadier General Robert P. French, 0000
Brigadier General Donald J. Goldhorn, 0000
Brigadier General Richard B. Moorhead, 0000
Brigadier General Marvin W. Pierson, 0000
Brigadier General Stewart A. Reeve, 0000
Brigadier General Randall E. Sayre, 0000
Brigadier General Theodore G. Shuey, Jr., 0000
Brigadier General Thomas L. Sinclair, 0000
Brigadier General David A. Sprynczynatyk, 0000
Brigadier General Stephen F. Villacorta, 0000
Brigadier General Gregory L. Wayt, 0000
Brigadier General John J. Weeden, 0000
Brigadier General Deborah C. Wheeling, 0000

To be brigadier general

Colonel Ricky G. Adams, 0000
Colonel Stephen E. Bogle, 0000
Colonel Brent M. Boyles, 0000
Colonel Stephen C. Burritt, 0000
Colonel Andrew C. Burton, 0000
Colonel Cameron A. Crawford, 0000
Colonel Joseph G. DePaul, 0000
Colonel Mark C. DoW, 0000
Colonel Douglas B. Earhart, 0000
Colonel William L. Enyart, Jr., 0000
Colonel Glenn C. Hammond, III, 0000
Colonel David L. Harris, 0000
Colonel Robert A. Harris, 0000
Colonel Grant L. Hayden, 0000
Colonel John W. Heltzel, 0000
Colonel Leodis T. Jennings, 0000
Colonel Larry D. Kay, 0000
Colonel Jeff W. Mathis, III, 0000
Colonel Wendell B. McLain, 0000
Colonel Timothy S. Phillips, 0000
Colonel Janet E. Phipps, 0000
Colonel Stanley R. Putnam, 0000
Colonel Ronald J. Randazzo, 0000
Colonel Joseph M. Richie, 0000
Colonel King E. Sidwell, 0000
Colonel Eugene A Stockton, 0000
Colonel Timothy I. Sullivan, 0000
Colonel Richard E. Swan, 0000
Colonel James H. Trogdon, III, 0000
Colonel James D. Tyre, 0000
Colonel Terry L. Wiley, 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 brigadier general

Col. Guy L. Sands-Pingot, 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 brigadier general

Col. Mitchell L. Brown, 0000

IN THE NAVY

The following named officer fur appointment as Chief of Naval Personnel, United States Navy, and appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., 601 and 5141:

To be vice admiral

Rear Adm. John C. Harvey, Jr., 0000

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Capt. Frank Thorp, IV, 0000

IN THE COAST GUARD

The following named officers for appointment in the United States Coast Guard to the grade indicated under Title 14, U.S.C., Section 271:

To be rear admiral (lower half)

Capt. William D. Baumgartner, 0000
Capt. Manson K. Brown, 0000
Capt. John S. Burhoe, 0000
Capt. Wayne E. Justice, 0000
Capt. Daniel B. Lloyd, 0000
Capt. Robert C. Parker, 0000
Capt. Brian M. Salerno, 0000

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE

PN561 AIR FORCE nominations (2242) beginning BRIAN F. * ABELL, and ending RAY A. * ZUNIGA, which nominations were received by the Senate and appeared in the Congressional Record of May 26, 2005.

PN1070 AIR FORCE nomination of Jon R. Stovall, which was received by the Senate and appeared in the Congressional Record of November 10, 2005.

PN1071 AIR FORCE nomination of Kenneth W. Bullock, which was received by the Senate and appeared in the Congressional Record of November 10, 2005.

PN1072 AIR FORCE nominations (2) beginning RANDALL S. LECHEMINANT, and ending SCOTT H. R. LEE, which nominations were received by the Senate and appeared in the Congressional Record of November 10, 2005.

PN1073 AIR FORCE nomination of Rena A. Nicholas, which was received by the Senate and appeared in the Congressional Record of November 10, 2005.

PN1074 AIR FORCE nomination of Jeffrey S. Brittig, which was received by the Senate and appeared in the Congressional Record of November 10, 2005.

PN1075 AIR FORCE nomination of Albert J. Bainger, which was received by the Senate and appeared in the Congressional Record of November 10, 2005.

IN THE ARMY

PN1009 ARMY nominations (5) beginning ROBINETTE J. AMAKER, and ending JOSEF H. MOORE, which nominations were received by the Senate and appeared in the Congressional Record of October 25, 2005.

PN1010 ARMY nominations (6) beginning TERRY K. BESCH, and ending JOHN R. TABER, which nominations were received by

the Senate and appeared in the Congressional Record of October 25, 2005.

PN1011 ARMY nominations (16) beginning KIMBERLY K. ARMSTRONG, and ending KELLY A. WOLGAST, which nominations were received by the Senate and appeared in the Congressional Record of October 25, 2005.

PN1012 ARMY nominations (38) beginning RANDALL G. ANDERSON, and ending JOHN H. TRAKOWSKI JR., which nominations were received by the Senate and appeared in the Congressional Record of October 25, 2005.

PN1016 ARMY nominations (5) beginning ROBERT DEMPSTER, and ending ERROL LADER, which nominations were received by the Senate and appeared in the Congressional Record of October 26, 2005.

PN1017 ARMY nominations (22) beginning MIMMS MABEE, and ending JIMMIE PEREZ, which nominations were received by the Senate and appeared in the Congressional Record of October 26, 2005.

PN1018 ARMY nominations (2) beginning MICHELLE BEACH, and ending HELEN LAQUAY, which nominations were received by the Senate and appeared in the Congressional Record of October 26, 2005.

PN1019 ARMY nominations (4) beginning GREGORY BREWER, and ending TERRELL MORROW, which nominations were received by the Senate and appeared in the Congressional Record of October 26, 2005.

PN1038 ARMY nominations (3) beginning WALTER J. AUSTIN, and ending KEITH C. SMITH, which nominations were received by the Senate and appeared in the Congressional Record of November 4, 2005.

PN1076 ARMY nomination of Jack N. Washburne, which was received by the Senate and appeared in the Congressional Record of November 10, 2005.

PN1077 ARMY nominations (5) beginning BARRY J. BERNSTEIN, and ending JUAN M. VERA, which nominations were received by the Senate and appeared in the Congressional Record of November 10, 2005.

PN1078 ARMY nominations (2) beginning MELVIN S. HOGAN, and ending JOSEPH M. JACKSON, which nominations were received by the Senate and appeared in the Congressional Record of November 10, 2005.

IN THE COAST GUARD

PN843 COAST GUARD nomination of Kathleen M. Donohoe, which was received by the Senate and appeared in the Congressional Record of September 8, 2005.

PN984 Alejandro Daniel Wolff. of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Representative of the United States of America to the Sessions of the General Assembly of the United Nations, during his tenure of service as Deputy Representative of the United States of America to the United Nations.

PN983 Alejandro Daniel Wolff, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be the Deputy Representative of the United States of America to the United Nations, with the rank and status of Ambassador Extraordinary and Plenipotentiary, and the Deputy Representative of the United States of America in the Security Council of the United Nations.

PN982 Ronald L. Schlicher, of Tennessee, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cyprus.

PN1022 Carol van Voorst, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Iceland.

PN1023 Ross Wilson, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Turkey.

PN1065 Donald M. Payne, of New Jersey, to be a Representative of the United States of America to the Sixtieth Session of the General Assembly of the United Nations.

PN1066 Edward Randall Royce, of California, to be a Representative of the United States of America to the Sixtieth Session of the General Assembly of the United Nations.

The following-named Career Members of the Senior Foreign Service of the Department of State for promotion in the Senior Foreign Service to the classes indicated: Career Members of the Senior Foreign Service of the United States of America, Class of Career Minister:

R. Nicholas Burns, of Massachusetts
Eric S. Edelman, of Virginia
James Franklin Jeffrey, of Virginia
Kristie Anne Kenney, of Virginia

Career Members of the Senior Foreign Service of the United States of America, Class of Minister-Counselor:

Kathleen Hatch Allegrone, of Virginia
Jonathan Mark Aloisi, of California
Jay N. Anania, of Connecticut
Alexander A. Arvizu, of Colorado
David L. Ballard, of Texas
William M. Bartlett, of Virginia
Patricia A. Butenis, of Virginia
Frederick Bishop Cook, of Florida
Ernest E. Davis, of Missouri
Kathleen R. Davis, of California
Scott H. Delisi, of Minnesota
David Tannrath Donahue, of Indiana
Edward Kwok Hee Dong, of California
Joseph R. Donovan, Jr., of New York
Patrick D. Donovan, of Virginia
Charles Lewis English, of Florida
Gary M. Gibson, of Maryland
Mary Ellen T. Gilroy, of Virginia
George A. Glass, of New Jersey
Patricia Haslach, of Oregon
William J. Haugh, of Virginia
Eric G. John, of Indiana
John J. Keyes III, of Florida
Michael David Kirby, of Ohio
L.W. Koengeter, of Florida
Alan Bryan Cedric Latimer, of Georgia
Sally Mathiasen Light, of Washington
Hugo L. Lorens, of Florida
Jackson C. McDonald, of Florida
William Joseph McGlynn, Jr., of California
Luis G. Moreno, of Florida
David D. Nelson, of South Dakota
Carol Zelis Perez, of Texas
Roger Dwayne Pierce, of Virginia
Marguerita D. Ragsdale, of Virginia
Charles Aaron Ray, of Texas
James P. Reid, of California
Ronald Sinclair Robinson, of Virginia
Leslie Ventura Rowe, of Washington
Daniel A. Russell, of Maine
John Frederick Sammis, of Virginia
Robin Renee Sanders, of New York
Kyle R. Scott, of Arizona
Daniel Bennett Smith, of Colorado
Douglas Gordon Spelman, of Virginia
Susan H. Swart, of Virginia
Harlan D. Wadley, of Washington
D. Bruce Wharton, of Virginia
James G. Williard, of Florida
Robert T. Yamate, of California

The following-named Career Members of the Foreign Service for promotion into the Senior Foreign Service, and for appointment as Consular officers and Secretaries in the Diplomatic Service, as indicated: Career Members of the Senior Foreign Service of the United States of America, Class of Counselor:

Richard Alan Albright, of Ohio
Gerald C. Anderson, of Illinois
David Egert Appleton, of New Hampshire
Gary G. Bagley, of California
Richard C. Beer, of Virginia
Scott D. Bellard, of the District of Columbia
Eric David Benjaminson, of Oregon
Earle C. Blakeman III, of the District of Columbia
John Brien Brennan, of Virginia
Dolores Marie Brown, of Virginia
Raymond Lewis Brown; of California
Sue Kathrine Brown, of Texas
Lee A. Brudvig, of California
Beatrice A. Camp, of Virginia
Lois Ann Cecsarini, of Connecticut
Judith Beth Cefkin, of Texas
Linda Carol Cheatham, of Texas
Andrew Gilman Chritton, of Texas
John W. Davison, of Pennsylvania
Thomas Lawrence Delare, of Virginia
J. Thomas Dougherty, of Wyoming
Mary Dale Draper, of California
Gordon K. Duguid, of Illinois
Susan M. Elbow, of the District of Columbia
Thomas Scott Engle, of the District of Columbia
Henry S. Ensher, of California
Paul Michael Fitzgerald, of Virginia
William E. Fitzgerald, of New York
Robert Stephen Ford, of Maryland
John Gilmore Fox, of California
Atim Eneida George, of California
Alan Eric Greenfield, of Maine
Jeri S. Guthrie-Corn, of California
Dean J. Haas, of California
Mary E. Hickey, of California
Greta Christine Holtz, of Florida
Jason P. Hyland, of Virginia
Kevin M. Johnson, of New York
Margaret Ellen Keeton, of California
Damaris A. Kirchhofer, of Hawaii
Edward J. Kulakowski, of Virginia
Jerry P. Lanier, of North Carolina
Edward Alex Lee, of Texas
David Erik Lindwall, of Texas
Eric H. Madison, of Virginia
Frank J. Manganiello, of Virginia
Alberta Mayberry, of Virginia
James P. McAnulty, of Virginia
Maria Elizabeth McKay, of Florida
Alan Greeley Misenheimer, of Virginia
Robin Jan Morritz, of Illinois
Christopher W. Murray, of the District of Columbia
Adam E. Namm, of Virginia
Patricia Nelson-Douvelis, of Virginia
Richard Norland, of Missouri
Maureen E. Park, of Virginia
Geeta Pasi. of New York
Lawrence G. Richter, of California
Ferial Ara Saeed, of California
Richard Milton Sanders, of Pennsylvania
Eric T. Schultz, of Colorado
Sandra Jean Shipshock, of Virginia
Gregory S. Stanford, of Florida
David L. Stone, of Louisiana
W. Stuart Symington IV, of Missouri
Lucy Tamlyn, of New York
Douglas B. Wake, of New York
Vivian S. Walker, of California
Charles H. Walsh, Jr., of Oregon
Laurie B. Weitzenkorn, of Florida
Mark A. Wentworth, of Maine
Bruce Williamson, of Virginia
Claud R. Young, Jr., of the District of Columbia

Career Members of the Senior Foreign Service, Class of Counselor, and Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

Randall D. Bennett, of Maryland
David J. Benson, of Florida
Roger N. Cohen, of Florida
James T. Cronin, Jr., of Virginia
Rodney Allen Evans, of Virginia
Walter G. Felt, of Virginia
Lester S. Folensbee, of Virginia

William S. Green, of Ohio
Stephen Richard Hartwell, of New Hampshire
Mark Jeffrey Hipp, of Washington
Mark J. Hunter, of Florida
David G. Kidd, of Virginia
Timothy C. Lawson, of Ohio
Russell G. Le Clair, Jr., of Illinois
Patrick Joseph Meagher, of California
Thomas S. Miller, of Minnesota
Barry M. Moore, of Texas
Claude J. Nebel, Jr., of New Hampshire
Christopher J. Paul, of Florida
Robert G. Reed, of Virginia
Terrence K. Williamson, of Maryland
Jacob M. Wohlman, of Florida
Charles E. Wright, of California

LEGISLATIVE SESSION

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

PRESIDENTIAL $1 COIN ACT OF 2005

Mr. MCCONNELL. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 190, S. 1047.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1047) 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.

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCONNELL. I ask unanimous consent the amendment at the desk be agreed to, the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, and any statements relating to be bill be printed in the RECORD.

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

The amendment (No. 2676) was agreed to, as follows:

On page 6, strike lines 6 through 11, and insert the following:

''(B) CONTINUITY PROVISIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A), the Secretary shall continue to mint and issue $1 coins which bear any design in effect before the issuance of coins as required under this subsection (including the so-called 'Sacagawea-design' $1 coins).

''(ii) CIRCULATION QUANTITY.—Beginning January 1, 2007, and ending upon the termination of the program under paragraph (8), the Secretary annually shall mint and issue such 'Sacagawea-design' $1 coins for circulation in quantities of no less than ⅓ of the total $1 coins minted and issued under this subsection.''.

On page 17, lines 6 and 7, strike ''transportation and''.

On page 17, line 7, strike ''and entities''.

On page 17, line 18, strike ''1-year'' and insert ''2-year''.

On page 17, line 24, strike ''prominently''.

On page 23, line 18, strike ''$20'' and insert ''$50''.

On page 24, line 2, strike ''$20'' and insert ''$50''.

On page 24, line 3, insert ''and proof'' after ''bullion''.

On page 24, line 4, strike ''not to exceed 500,000 in any year'' and insert ''in such quantities, as the Secretary, in the Secretary's discretion, may prescribe''.

On page 25, line 23, strike ''the face value of the coins; and'' and insert ''the market value of the bullion at the time of sale; and''.

On page 26, between lines 9 and 10, insert the following:

''(8) PROTECTIVE COVERING.—

''(A) IN GENERAL.—Each bullion coin having a metallic content as described in subsection (a)(11) and a design specified in paragraph (2) shall be sold in an inexpensive covering that will protect the coin from damage due to ordinary handling or storage.

''(B) DESIGN.—The protective covering required under subparagraph (A) shall be readily distinguishable from any coin packaging that may be used to protect proof coins minted and issued under this subsection.''.

The bill (S. 1047), as amended, was read the third time and passed.

S. 1047

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 ''Presidential $1 Coin Act of 2005''.

TITLE I—PRESIDENTIAL $1 COINS

SEC. 101. FINDINGS.

Congress finds the following:

(1) There are sectors of the United States economy, including public transportation, parking meters, vending machines, and low-dollar value transactions, in which the use of a $1 coin is both useful and desirable for keeping costs and prices down.

(2) For a variety of reasons, the new $1 coin introduced in 2000 has not been widely sought-after by the public, leading to higher costs for merchants and thus higher prices for consumers.

(3) The success of the 50 States Commemorative Coin Program (31 U.S.C. 5112(l)) for circulating quarter dollars shows that a design on a United States circulating coin that is regularly changed in a manner similar to the systematic change in designs in such Program radically increases demand for the coin, rapidly pulling it through the economy.

(4) The 50 States Commemorative Coin Program also has been an educational tool, teaching both Americans and visitors something about each State for which a quarter has been issued.

(5) A national survey and study by the Government Accountability Office has indicated that many Americans who do not seek, or who reject, the new $1 coin for use in commerce would actively seek the coin if an attractive, educational rotating design were to be struck on the coin.

(6) The President is the leader of our tripartite government and the President's spouse has often set the social tone for the White House while spear-heading and highlighting important issues for the country.

(7) Sacagawea, as currently represented on the new $1 coin, is an important symbol of American history.

(8) Many people cannot name all of the Presidents, and fewer can name the spouses, nor can many people accurately place each President in the proper time period of American history.

(9) First Spouses have not generally been recognized on American coinage.

(10) In order to revitalize the design of United States coinage and return circulating coinage to its position as not only a necessary means of exchange in commerce, but also as an object of aesthetic beauty in its own right, it is appropriate to move many of the mottos and emblems, the inscription of the year, and the so-called ''mint marks'' that currently appear on the 2 faces of each circulating coin to the edge of the coin, which would allow larger and more dramatic artwork on the coins reminiscent of the so-called ''Golden Age of Coinage'' in the United States, at the beginning of the Twentieth Century, initiated by President Theodore Roosevelt, with the assistance of noted sculptors and medallic artists James Earle Fraser and Augustus Saint-Gaudens.

(11) Placing inscriptions on the edge of coins, known as edge-incusing, is a hallmark of modern coinage and is common in large-volume production of coinage elsewhere in the world, such as the 2,700,000,000 2-Euro coins in circulation, but it has not been done on a large scale in United States coinage in recent years.

(12) Although the Congress has authorized the Secretary of the Treasury to issue gold coins with a purity of 99.99 percent, the Secretary has not done so.

(13) Bullion coins are a valuable tool for the investor and, in some cases, an important aspect of coin collecting.

SEC. 102. PRESIDENTIAL $1 COIN PROGRAM.

Section 5112 of title 31, United States Code, is amended by adding at the end the following:

''(n) REDESIGN AND ISSUANCE OF CIRCULATING $1 Coins Honoring Each of the Presidents of the United States.—

''(1) REDESIGN BEGINNING IN 2007.—

''(A) IN GENERAL.—Notwithstanding subsection (d) and in accordance with the provisions of this subsection, $1 coins issued during the period beginning January 1, 2007, and ending upon the termination of the program under paragraph (8), shall—

''(i) have designs on the obverse selected in accordance with paragraph (2)(B) which are emblematic of the Presidents of the United States; and

''(ii) have a design on the reverse selected in accordance with paragraph (2)(A).

''(B) CONTINUITY PROVISIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A), the Secretary shall continue to mint and issue $1 coins which bear any design in effect before the issuance of coins as required under this subsection (including the so-called 'Sacagawea-design' $1 coins).

''(ii) CIRCULATION QUANTITY.—Beginning January 1, 2007, and ending upon the termination of the program under paragraph (8), the Secretary annually shall mint and issue such 'Sacagawea-design' $1 coins for circulation in quantities of no less than ⅓ of the total $1 coins minted and issued under this subsection.''.

''(2) DESIGN REQUIREMENTS.—The $1 coins issued in accordance with paragraph (1)(A) shall meet the following design requirements:

''(A) COIN REVERSE.—The design on the reverse shall bear—

''(i) a likeness of the Statue of Liberty extending to the rim of the coin and large enough to provide a dramatic representation of Liberty while not being large enough to create the impression of a '2-headed' coin;

''(ii) the inscription '$1' ; and

''(iii) the inscription 'United States of America'.

''(B) COIN OBVERSE.—The design on the obverse shall contain—

''(i) the name and likeness of a President of the United States; and

''(ii) basic information about the President, including—

''(I) the dates or years of the term of office of such President; and

''(II) a number indicating the order of the period of service in which the President served.

''(C) EDGE-INCUSED INSCRIPTIONS.—

''(i) IN GENERAL.—The inscription of the year of minting or issuance of the coin and

the inscriptions 'E Pluribus Unum' and 'In God We Trust' shall be edge-incused into the coin.

''(ii) PRESERVATION OF DISTINCTIVE EDGE.-The edge-incusing of the inscriptions under clause (i) on coins issued under this subsection shall be done in a manner that preserves the distinctive edge of the coin so that the denomination of the coin is readily discernible, including by individuals who are blind or visually impaired.

''(D) INSCRIPTIONS OF 'LIBERTY'.—Notwithstanding the second sentence of subsection (d)(1), because the use of a design bearing the likeness of the Statue of Liberty on the reverse of the coins issued under this subsection adequately conveys the concept of Liberty, the inscription of 'Liberty' shall not appear on the coins.

''(E) LIMITATION IN SERIES TO DECEASED PRESIDENTS.—No coin issued under this subsection may bear the image of a living former or current President, or of any deceased former President during the 2-year period following the date of the death of that President.

''(3) ISSUANCE OF COINS COMMEMORATING PRESIDENTS.—

''(A) ORDER OF ISSUANCE.—The coins issued under this subsection commemorating Presidents of the United States shall be issued in the order of the period of service of each President, beginning with President George Washington.

''(B) TREATMENT OF PERIOD OF SERVICE.—

''(i) IN GENERAL.—Subject to clause (ii), only 1 coin design shall be issued for a period of service for any President, no matter how many consecutive terms of office the President served.

''(ii) NONCONSECUTIVE TERMS.—If a President has served during 2 or more nonconsecutive periods of service, a coin shall be issued under this subsection for each such nonconsecutive period of service.

''(4) ISSUANCE OF COINS COMMEMORATING 4 PRESIDENTS DURING EACH YEAR OF THE PERIOD.—

''(A) IN GENERAL.—The designs for the $1 coins issued during each year of the period referred to in paragraph (1) shall be emblematic of 4 Presidents until each President has been so honored, subject to paragraph (2)(E).

''(B) NUMBER OF 4 CIRCULATING COIN DESIGNS IN EACH YEAR.—The Secretary shall prescribe, on the basis of such factors as the Secretary determines to be appropriate, the number of $1 coins that shall be issued with each of the designs selected for each year of the period referred to in paragraph (1).

''(5) LEGAL TENDER.—The coins minted under this title shall be legal tender, as provided in section 5103.

''(6) TREATMENT AS NUMISMATIC ITEMS.—For purposes of section 5134 and 5136, all coins minted under this subsection shall be considered to be numismatic items.

''(7) ISSUANCE OF NUMISMATIC COINS.—The Secretary may mint and issue such number of $1 coins of each design selected under this subsection in uncirculated and proof qualities as the Secretary determines to be appropriate.

''(8) TERMINATION OF PROGRAM.—The issuance of coins under this subsection shall terminate when each President has been so honored, subject to paragraph (2)(E), and may not be resumed except by an Act of Congress.

''(9) REVERSION TO PRECEDING DESIGN.—Upon the termination of the issuance of coins under this subsection, the design of all $1 coins shall revert to the so-called 'Sacagawea-design' $1 coins.''.

SEC. 103. FIRST SPOUSE BULLION COIN PROGRAM.

Section 5112 of title 31, United States Code, as amended by section 102, is amended by adding at the end the following:

''(o) FIRST SPOUSE BULLION COIN PROGRAM.—

''(1) IN GENERAL.—During the same period described in subsection (n), the Secretary shall issue bullion coins under this subsection that are emblematic of the spouse of each such President.

''(2) SPECIFICATIONS.—The coins issued under this subsection shall—

''(A) have the same diameter as the $1 coins described in subsection (n);

''(B) weigh 0.5 ounce; and

''(C) contain 99.99 percent pure gold.

''(3) DESIGN REQUIREMENTS.—

''(A) COIN OBVERSE.—The design on the obverse of each coin issued under this subsection shall contain—

''(i) the name and likeness of a person who was a spouse of a President during the President's period of service;

''(ii) an inscription of the years during which such person was the spouse of a President during the President's period of service; and

''(iii) a number indicating the order of the period of service in which such President served.

''(B) COIN REVERSE.—The design on the reverse of each coin issued under this subsection shall bear—

''(i) images emblematic of the life and work of the First Spouse whose image is borne on the obverse; and

''(ii) the inscription 'United States of America'.

''(C) DESIGNATED DENOMINATION.—Each coin issued under this subsection shall bear, on the reverse, an inscription of the nominal denomination of the coin which shall be '$10'.

''(D) DESIGN IN CASE OF NO FIRST SPOUSE.—In the case of any President who served without a spouse—

''(i) the image on the obverse of the bullion coin corresponding to the $1 coin relating to such President shall be an image emblematic of the concept of 'Liberty'—

''(I) as represented on a United States coin issued during the period of service of such President; or

''(II) as represented, in the case of President Chester Alan Arthur, by a design incorporating the name and likeness of Alice Paul, a leading strategist in the suffrage movement, who was instrumental in gaining women the right to vote upon the adoption of the 19th amendment and thus the ability to participate in the election of future Presidents, and who was born on January 11, 1885, during the term of President Arthur; and

''(ii) the reverse of such bullion coin shall be of a design representative of themes of such President, except that in the case of the bullion coin referred to in clause (i)(II) the reverse of such coin shall be representative of the suffrage movement.

''(E) DESIGN AND COIN FOR EACH SPOUSE.—A separate coin shall be designed and issued under this section for each person who was the spouse of a President during any portion of a term of office of such President.

''(F) INSCRIPTIONS.—Each bullion coin issued under this subsection shall bear the inscription of the year of minting or issuance of the coin and such other inscriptions as the Secretary may determine to be appropriate.

''(4) SALE OF BULLION COINS.—Each bullion coin issued under this subsection shall be sold by the Secretary at a price that is equal to or greater than the sum of—

''(A) the face value of the coins; and

''(B) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

''(5) ISSUANCE OF COINS COMMEMORATING FIRST SPOUSES.—

''(A) IN GENERAL.—The bullion coins issued under this subsection with respect to any spouse of a President shall be issued on the same schedule as the $1 coin issued under subsection (n) with respect to each such President.

''(B) MAXIMUM NUMBER OF BULLION COINS FOR EACH DESIGN.—The Secretary shall—

''(i) prescribe, on the basis of such factors as the Secretary determines to be appropriate, the maximum number of bullion coins that shall be issued with each of the designs selected under this subsection; and

''(ii) announce, before the issuance of the bullion coins of each such design, the maximum number of bullion coins of that design that will be issued.

''(C) TERMINATION OF PROGRAM.—No bullion coin may be issued under this subsection after the termination, in accordance with subsection (n)(8), of the $1 coin program established under subsection (n).

''(6) QUALITY OF COINS.—The bullion coins minted under this Act shall be issued in both proof and uncirculated qualities.

''(7) SOURCE OF GOLD BULLION.—

''(A) IN GENERAL.—The Secretary shall acquire gold for the coins issued under this subsection by purchase of gold mined from natural deposits in the United States, or in a territory or possession of the United States, within 1 year after the month in which the ore from which it is derived was mined.

''(B) PRICE OF GOLD.—The Secretary shall pay not more than the average world price for the gold mined under subparagraph (A).

''(8) BRONZE MEDALS.—The Secretary may strike and sell bronze medals that bear the likeness of the bullion coins authorized under this subsection, at a price, size, and weight, and with such inscriptions, as the Secretary determines to be appropriate.

''(9) LEGAL TENDER.—The coins minted under this title shall be legal tender, as provided in section 5103.

''(10) TREATMENT AS NUMISMATIC ITEMS.—For purposes of section 5134 and 5136, all coins minted under this subsection shall be considered to be numismatic items.''.

SEC. 104. REMOVAL OF BARRIERS TO CIRCULATION.

Section 5112 of title 31, United States Code, as amended by sections 102 and 103, by adding at the end the following:

''(p) REMOVAL OF BARRIERS TO CIRCULATION OF $1 COIN.—

''(1) ACCEPTANCE BY AGENCIES AND INSTRUMENTALITIES.— Beginning January 1, 2006, all agencies and instrumentalities of the United States, the United States Postal Service, all non-appropriated fund instrumentalities established under title 10, United States Code, all transit systems that receive operational subsidies or any disbursement of funds from the Federal Government, such as funds from the Federal Highway Trust Fund, including the Mass Transit Account, and all entities that operate any business, including vending machines, on any premises owned by the United States or under the control of any agency or instrumentality of the United States, including the legislative and judicial branches of the Federal Government, shall take such action as may be appropriate to ensure that by the end of the 2-year period beginning on such date—

''(A) any business operations conducted by any such agency, instrumentality, system, or entity that involve coins or currency will be fully capable of accepting and dispensing $1 coins in connection with such operations; and

''(B) displays signs and notices denoting such capability on the premises where coins or currency are accepted or dispensed, including on each vending machine.

''(2) PUBLICITY.—The Director of the United States Mint, shall work closely with consumer groups, media outlets, and schools

to ensure an adequate amount of news coverage, and other means of increasing public awareness, of the inauguration of the Presidential $1 Coin Program established in subsection (n) to ensure that consumers know of the availability of the coin.

''(3) COORDINATION.—The Board of Governors of the Federal Reserve System and the Secretary shall take steps to ensure that an adequate supply of $1 coins is available for commerce and collectors at such places and in such quantities as are appropriate by—

''(A) consulting, to accurately gauge demand for coins and to anticipate and eliminate obstacles to the easy and efficient distribution and circulation of $1 coins as well as all other circulating coins, from time to time but no less frequently than annually, with a coin users group, which may include—

''(i) representatives of merchants who would benefit from the increased usage of $1 coins;

''(ii) vending machine and other coin acceptor manufacturers;

''(iii) vending machine owners and operators;

''(iv) transit officials;

''(v) municipal parking officials;

''(vi) depository institutions;

''(vii) coin and currency handlers;

''(viii) armored-car operators;

''(ix) car wash operators; and

''(x) coin collectors and dealers;

''(B) submitting an annual report to the Congress containing—

''(i) an assessment of the remaining obstacles to the efficient and timely circulation of coins, particularly $1 coins;

''(ii) an assessment of the extent to which the goals of subparagraph (C) are being met; and

''(iii) such recommendations for legislative action the Board and the Secretary may determine to be appropriate;

''(C) consulting with industry representatives to encourage operators of vending machines and other automated coin-accepting devices in the United States to accept coins issued under the Presidential $1 Coin Program established under subsection (n) and any coins bearing any design in effect before the issuance of coins required under subsection (n) (including the so-called 'Sacagawea-design' $1 coins), and to include notices on the machines and devices of such acceptability;

''(D) ensuring that—

''(i) during an introductory period, all institutions that want unmixed supplies of each newly-issued design of $1 coins minted under subsections (n) and (o) are able to obtain such unmixed supplies; and

''(ii) circulating coins will be available for ordinary commerce in packaging of sizes and types appropriate for and useful to ordinary commerce, including rolled coins;

''(E) working closely with any agency, instrumentality, system, or entity referred to in paragraph (1) to facilitate compliance with the requirements of such paragraph; and

''(F) identifying, analyzing, and overcoming barriers to the robust circulation of $1 coins minted under subsections (n) and (0), including the use of demand prediction, improved methods of distribution and circulation, and improved public education and awareness campaigns.

''(4) BULLION DEALERS.—The Director of the United States Mint shall take all steps necessary to ensure that a maximum number of reputable, reliable, and responsible dealers are qualified to offer for sale all bullion coins struck and issued by the United States Mint.

''(5) REVIEW OF CO-CIRCULATION.—At such time as the Secretary determines to be appropriate, and after consultation with the Board of Governors of the Federal Reserve System, the Secretary shall notify the Congress of its assessment of issues related to the co-circulation of any circulating $1 coin bearing any design, other than the so-called 'Sacagawea-design' $1 coin, in effect before the issuance of coins required under subsection (n), including the effect of co-circulation on the acceptance and use of $1 coins, and make recommendations to the Congress for improving the circulation of $1 coins.''.

SEC. 105. SENSE OF THE CONGRESS.

It is the sense of the Congress that—

(1) the enactment of this Act will serve to increase the use of $1 coins generally, which will increase the circulation of the so-called ''Sacagawea- design'' $1 coins that have been and will continue to be minted and issued;

(2) the continued minting and issuance of the so-called ''Sacagawea-design'' $1 coins will serve as a lasting tribute to the role of women and Native Americans in the history of the United States;

(3) the full circulation potential and cost-savings benefit projections for the $1 coins are not likely to be achieved unless the coins are delivered in ways useful to ordinary commerce;

(4) the coins issued in connection with this title should not be introduced with an overly expensive taxpayer-funded public relations campaign;

(5) in order for the circulation of $1 coins to achieve maximum potential—

(A) the coins should be as attractive as possible; and

(B) the Director of the United States Mint should take all reasonable steps to ensure that all $1 coins minted and issued remain tarnish-free for as long as possible without incurring undue expense; and

(6) if the Secretary of the Treasury determines to include on any $1 coin minted under section 102 of this Act a mark denoting the United States Mint facility at which the coin was struck, such mark should be edge-incused.

TITLE II—BUFFALO GOLD BULLION COINS

SEC. 201. GOLD BULLION COINS.

Section 5112 of title 31, United States Code, is amended—

(1) in subsection (a), by adding at the end the following:

''(11) A $50 gold coin that is of an appropriate size and thickness, as determined by the Secretary, weighs 1 ounce, and contains 99.99 percent pure gold.''; and

(2) by adding at the end, the following:

''(q) GOLD BULLION COINS.—

''(1) IN GENERAL.—Not later than 6 months after the date of enactment of the Presidential $1 Coin Act of 2005, the Secretary shall commence striking and issuing for sale such number of $50 gold bullion and proof coins as the Secretary may determine to be appropriate, in such quantities, as the Secretary, in the Secretary's discretion, may prescribe.

''(2) INITIAL DESIGN.—

(A) IN GENERAL.—Except as provided under subparagraph (B), the obverse and reverse of the gold bullion coins struck under this subsection during the first year of issuance shall bear the original designs by James Earle Fraser, which appear on the 5-cent coin commonly referred to as the 'Buffalo nickel' or the '1913 Type 1'.

''(B) VARIATIONS.—The coins referred to in subparagraph (A) shall—

''(i) have inscriptions of the weight of the coin and the nominal denomination of the coin incused in that portion of the design on the reverse of the coin commonly known as the 'grassy mound'; and

''(ii) bear such other inscriptions as the Secretary determines to be appropriate.

''(3) SUBSEQUENT DESIGNS.—After the 1-year period described to in paragraph (2), the Secretary may—

''(A) after consulting with the Commission of Fine Arts, and subject to the review of the Citizens Coinage Advisory Committee, change the design on the obverse or reverse of gold bullion coins struck under this subsection; and

''(B) change the maximum number of coins issued in any year.

''(4) SOURCE OF GOLD BULLION.—

(A) IN GENERAL.—The Secretary shall acquire gold for the coins issued under this subsection by purchase of gold mined from natural deposits in the United States, or in a territory or possession of the United States, within 1 year after the month in which the ore from which it is derived was mined.

''(B) PRICE OF GOLD.—The Secretary shall pay not more than the average world price for the gold mined under subparagraph (A).

''(5) SALE OF COINS.—Each gold bullion coin issued under this subsection shall be sold for an amount the Secretary determines to be appropriate, but not less than the sum of—

''(A) the market value of the bullion at the time of sale; and

''(B) the cost of designing and issuing the coins, including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping.

''(6) LEGAL TENDER.—The coins minted under this title shall be legal tender, as provided in section 5103.

''(7) TREATMENT AS NUMISMATIC ITEMS.—For purposes of section 5134 and 5136, all coins minted under this subsection shall be considered to be numismatic items.''.

''(8) PROTECTIVE COVERING.—

''(A) IN GENERAL.—Each bullion coin having a metallic content as described in subsection (a)(11) and a design specified in paragraph (2) shall be sold in an inexpensive covering that will protect the coin from damage due to ordinary handling or storage.

''(B) DESIGN.—The protective covering required under subparagraph (A) shall be readily distinguishable from any coin packaging that may be used to protect proof coins minted and issued under this subsection.''.

TITLE III—ABRAHAM LINCOLN BICENTENNIAL 1-CENT COIN REDESIGN

SEC. 301. FINDINGS.

Congress finds the following:

(1) Abraham Lincoln, the 16th President, was one of the Nation's greatest leaders, demonstrating true courage during the Civil War, one of the greatest crises in the Nation's history.

(2) Born of humble roots in Hardin County (present-day LaRue County), Kentucky, on February 12, 1809, Abraham Lincoln rose to the Presidency through a combination of honesty, integrity, intelligence, and commitment to the United States.

(3) With the belief that all men are created equal, Abraham Lincoln led the effort to free all slaves in the United States.

(4) Abraham Lincoln had a generous heart, with malice toward none, and with charity for all.

(5) Abraham Lincoln gave the ultimate sacrifice for the country he loved, dying from an assassin's bullet on April 15, 1865.

(6) All Americans could benefit from studying the life of Abraham Lincoln, for Lincoln's life is a model for accomplishing the ''American dream'' through honesty, integrity, loyalty, and a lifetime of education.

(7) The year 2009 will be the bicentennial anniversary of the birth of Abraham Lincoln.

(8) Abraham Lincoln was born in Kentucky, grew to adulthood in Indiana, achieved fame in Illinois, and led the nation in Washington, D.C.

(9) The so-called ''Lincoln cent'' was introduced in 1909 on the 100th anniversary of Lincoln's birth, making the obverse design the most enduring on the nation's coinage.

(10) President Theodore Roosevelt was so impressed by the talent of Victor David Brenner that the sculptor was chosen to design the likeness of President Lincoln for the coin, adapting a design from a plaque Brenner had prepared earlier.

(11) In the nearly 100 years of production of the ''Lincoln cent'', there have been only 2 designs on the reverse: the original, featuring 2 wheat-heads in memorial style enclosing mottoes, and the current representation of the Lincoln Memorial in Washington, D.C.

(12) On the occasion of the bicentennial of President Lincoln's birth and the 100th anniversary of the production of the Lincoln cent, it is entirely fitting to issue a series of 1-cent coins with designs on the reverse that are emblematic of the 4 major periods of President Lincoln's life.

SEC. 302. REDESIGN OF LINCOLN CENT FOR 2009.

(a) IN GENERAL.—During the year 2009, the Secretary of the Treasury shall issue 1-cent coins in accordance with the following design specifications:

(1) OBVERSE.—The obverse of the 1-cent coin shall continue to bear the Victor David Brenner likeness of President Abraham Lincoln.

(2) REVERSE.—The reverse of the coins shall bear 4 different designs each representing a different aspect of the life of Abraham Lincoln, such as—

(A) his birth and early childhood in Kentucky;

(B) his formative years in Indiana;

(C) his professional life in Illinois; and

(D) his presidency, in Washington, D.C.

(b) ISSUANCE OF REDESIGNED LINCOLN CENTS IN 2009.—

(1) ORDER.—The 1-cent coins to which this section applies shall be issued with 1 of the 4 designs referred to in subsection (a)(2) beginning at the start of each calendar quarter of 2009.

(2) NUMBER.—The Secretary shall prescribe, on the basis of such factors as the Secretary determines to be appropriate, the number of 1-cent coins that shall be issued with each of the designs selected for each calendar quarter of 2009.

(c) DESIGN SELECTION.—The designs for the coins specified in this section shall be chosen by the Secretary—

(1) after consultation with the Abraham Lincoln Bicentennial Commission and the Commission of Fine Arts; and

(2) after review by the Citizens Coinage Advisory Committee.

SEC. 303. REDESIGN OF REVERSE OF 1-CENT COINS AFTER 2009.

The design on the reverse of the 1-cent coins issued after December 31, 2009, shall bear an image emblematic of President Lincoln's preservation of the United States of America as a single and united country.

SEC. 304. NUMISMATIC PENNIES WITH THE SAME METALLIC CONTENT AS THE 1909 PENNY.

The Secretary of the Treasury shall issue 1-cent coins in 2009 with the exact metallic content as the 1-cent coin contained in 1909 in such number as the Secretary determines to be appropriate for numismatic purposes.

SEC. 305. SENSE OF THE CONGRESS.

It is the sense of the Congress that the original Victor David Brenner design for the 1-cent coin was a dramatic departure from previous American coinage that should be reproduced, using the original form and relief of the likeness of Abraham Lincoln, on the 1-cent coins issued in 2009.

NATIONAL FLOOD INSURANCE PROGRAM FURTHER ENHANCED BORROWING AUTHORITY ACT OF 2005

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4133, which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4133) to temporarily increase the borrowing authority of the Federal Emergency Management Agency for carrying out the national flood insurance program.

There being no objection, the Senate proceeded to consider the bill.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 2673) was agreed to, as follows:

AMENDMENT NO. 2673

On page 2 line 12 strike ''8,500,000,000'' and insert ''18,500,000,000''.

At the end insert the following:

"SEC. 3. EMERGENCY SPENDING.

The amendment made under section 2 is designated as emergency spending, as provided under section 402 of H. Con. Res. 95 (109th Congress).''

The bill (H.R. 4133), as amended, was read the third time and passed.

Mr. MCCONNELL. So Mr. President, we are near the end of this session.

ORDERS FOR MONDAY, DECEMBER 12, 2005

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment under the provisions of H. Con. Res. 307 until 2 p.m. on Monday, December 12. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and then the Senate proceed to a period of morning business.

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

PROGRAM

Mr. MCCONNELL. Mr. President, we have had a busy and productive week, and I believe we are now ready to adjourn for the Thanksgiving break. As I indicated, we will return to business on Monday, December 12. We expect to have some additional conference reports from the House, including the PATRIOT Act conference report. I do not anticipate votes on Monday, December 12 or Tuesday, December 13. However, Senators should be ready for a busy week beginning on Wednesday. That would be December 14. Votes are expected as early as Wednesday morning.

ADJOURNMENT UNTIL MONDAY, DECEMBER 12, 2005, AT 2 P.M.

Mr. MCCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the provisions of H. Con. Res. 307.

There being no objection, the Senate, at 6:19 p.m., adjourned until Monday, December 12, 2005, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate November 18, 2005:

DEPARTMENT OF THE INTERIOR

DAVID LONGLY BERNHARDT, OF COLORADO, TO BE SOLICITOR OF THE DEPARTMENT OF THE INTERIOR, VICE SUE ELLEN WOOLDRIDGE.

DEPARTMENT OF STATE

MICHAEL W. MICHALAK, OF MICHIGAN, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS UNITED STATES SENIOR OFFICIAL TO THE ASIA-PACIFIC ECONOMIC COOPERATION FORUM.

JAMES D. MCGEE, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE UNION OF COMOROS.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate Friday, November 18, 2005:

DEPARTMENT OF THE INTERIOR

PATRICIA LYNN SCARLETT, OF CALIFORNIA, TO BE DEPUTY SECRETARYOF THE INTERIOR.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF STATE

RONALD L. SCHLICHER, OF TENNESSEE, TO BE AMBASSADOR TO THE REPUBLIC OF CYPRUS.

CAROL VAN VOORST, OF VIRGINIA, TO BE AMBASSADOR TO THE REPUBLIC OF ICELAND.

ROSS WILSON, OF MARYLAND, TO BE AMBASSADOR TO THE REPUBLIC OF TURKEY.

DONALD M. PAYNE, OF NEW JERSEY, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTIETH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

EDWARD RANDALL ROYCE, OF CALIFORNIA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTIETH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

UNITED NATIONS

ALEJANDRO DANIEL WOLFF, OF CALIFORNIA, TO BE THE DEPUTY REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS, WITH THE RANK AND STATUS OF AMBASSADOR, AND THE DEPUTY REPRESENTATIVE OF THE UNITED STATES OF AMERICA IN THE SECURITY COUNCIL OF THE UNITED NATIONS.

ALEJANDRO DANIEL WOLFF, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS, DURING HIS TENURE OF SERVICE AS DEPUTY REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS.

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIGADIER GENERAL LARITA A. ARAGON
BRIGADIER GENERAL TOD M. BUNTING
BRIGADIER GENERAL CRAIG E. CAMPBELL
BRIGADIER GENERAL WILLIAM R. COTNEY
BRIGADIER GENERAL R. ANTHONY HAYNES

BRIGADIER GENERAL CHARLES V. ICKES II
BRIGADIER GENERAL ROBERT A. KNAUFF
BRIGADIER GENERAL JAMES R. MARSHALL
BRIGADIER GENERAL TERRY L. SCHERLING
BRIGADIER GENERAL MICHAEL J. SHIRA
BRIGADIER GENERAL EMMETT R. TITSHAW, JR.

To be brigadier general

COLONEL DAVID S. ANGLE
COLONEL THOMAS M. BOTCHIE
COLONEL RICHARD W. BURRIS
COLONEL GARRY C. DEAN
COLONEL MICHAEL J. DORNBUSH
COLONEL KATHLEEN E. FICK
COLONEL EDWARD R. FLORA
COLONEL JAMES H. GWIN
COLONEL SCOTT B. HARRISON
COLONEL DAVID M. HOPPER
COLONEL HOWARD P. HUNT III
COLONEL CYNTHIA N. KIRKLAND
COLONEL JOHN M. MOTLEY, JR.
COLONEL GERALD C. OLESEN
COLONEL ALAN W. PALMER
COLONEL MICHAEL L. PEPLINSKI
COLONEL ESTHER A. RADA
COLONEL ALEX D. ROBERTS

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COLONEL STEVEN R. DOOHEN

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COLONEL DANIEL R. EAGLE

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. DAVID D. MCKIERNAN

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. PETER W. CHIARELLI

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. KEITH W. DAYTON

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 R. WOOD

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. WILLIAM T. NESBITT

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIGADIER GENERAL ROBERT P. FRENCH
BRIGADIER GENERAL DONALD J. GOLDHORN
BRIGADIER GENERAL RICHARD B. MOORHEAD
BRIGADIER GENERAL MARVIN W. PIERSON
BRIGADIER GENERAL STEWART A. REEVE
BRIGADIER GENERAL RANDALL E. SAYRE
BRIGADIER GENERAL THEODORE G. SHUEY, JR.
BRIGADIER GENERAL THOMAS L. SINCLAIR
BRIGADIER GENERAL DAVID A. SPRYNCZYNATYK
BRIGADIER GENERAL STEPHEN F. VILLACORTA
BRIGADIER GENERAL GREGORY L. WAYT
BRIGADIER GENERAL JOHN J. WEEDEN
BRIGADIER GENERAL DEBORAH C. WHEELING

To be brigadier general

COLONEL RICKY G. ADAMS
COLONEL STEPHEN E. BOGLE
COLONEL BRENT M. BOYLES
COLONEL STEPHEN C. BURRITT
COLONEL ANDREW C. BURTON
COLONEL CAMERON A. CRAWFORD
COLONEL JOSEPH G. DEPAUL
COLONEL MARK C. DOW
COLONEL DOUGLAS B. EARHART
COLONEL WILLIAM L. ENYART, JR.
COLONEL GLENN C. HAMMOND III
COLONEL DAVID L. HARRIS
COLONEL ROBERT A. HARRIS
COLONEL GRANT L. HAYDEN
COLONEL JOHN W. HELTZEL
COLONEL LEODIS T. JENNINGS
COLONEL LARRY D. KAY
COLONEL JEFF W. MATHIS III
COLONEL WENDELL B. MCLAIN
COLONEL TIMOTHY S. PHILLIPS
COLONEL JANET E. PHIPPS
COLONEL STANLEY R. PUTNAM
COLONEL RONALD J. RANDAZZO
COLONEL JOSEPH M. RICHIE
COLONEL KING E. SIDWELL
COLONEL EUGENE A. STOCKTON
COLONEL TIMOTHY I. SULLIVAN
COLONEL RICHARD E. SWAN
COLONEL JAMES H. TROGDON III
COLONEL JAMES D. TYRE
COLONEL TERRY L. WILEY

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 brigadier general

COL. GUY L. SANDS-PINGOT

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 brigadier general

COL. MITCHELL L. BROWN

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF NAVAL PERSONNEL, UNITED STATES NAVY, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., 601 AND 5141:

To be vice admiral

REAR ADM. JOHN C. HARVEY, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. FRANK THORP IV

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES COAST GUARD TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 271:

To be rear admiral (lower half)

CAPT. WILLIAM D. BAUMGARTNER
CAPT. MANSON K. BROWN
CAPT. JOHN S. BURHOE
CAPT. WAYNE E. JUSTICE
CAPT. DANIEL B. LLOYD
CAPT. ROBERT C. PARKER
CAPT. BRIAN M. SALERNO

FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING WITH R. NICHOLAS BURNS AND ENDING WITH CHARLES E. WRIGHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 17, 2005.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING WITH BRIAN F. ABELL AND ENDING WITH RAY A. ZUNIGA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 26, 2005.

AIR FORCE NOMINATION OF JON R. STOVALL TO BE COLONEL.

AIR FORCE NOMINATION OF KENNETH W. BULLOCK TO BE LIEUTENANT COLONEL.

AIR FORCE NOMINATIONS BEGINNING WITH RANDALL S. LECHEMINANT AND ENDING WITH SCOTT H. R. LEE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 10, 2005.

AIR FORCE NOMINATION OF RENA A. NICHOLAS TO BE MAJOR.

AIR FORCE NOMINATION OF JEFFREY S. BRITTIG TO BE MAJOR.

AIR FORCE NOMINATION OF ALBERT J. BAINGER TO BE MAJOR.

IN THE ARMY

ARMY NOMINATIONS BEGINNING WITH ROBINETTE J. AMAKER AND ENDING WITH JOSEF H. MOORE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 25, 2005.

ARMY NOMINATIONS BEGINNING WITH TERRY K. BESCH AND ENDING WITH JOHN R. TABER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 25, 2005.

ARMY NOMINATIONS BEGINNING WITH KIMBERLY K. ARMSTRONG AND ENDING WITH KELLY A. WOLGAST, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 25 2005.

ARMY NOMINATIONS BEGINNING WITH RANDALL G. ANDERSON AND ENDING WITH JOHN H. TRAKOWSKI, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 25, 2005.

ARMY NOMINATIONS BEGINNING WITH ROBERT DEMPSTER AND ENDING WITH ERROL LADER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 26, 2005.

ARMY NOMINATIONS BEGINNING WITH MIMMS MABEE AND ENDING WITH JIMMIE PEREZ, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 26, 2005.

ARMY NOMINATIONS BEGINNING WITH MICHELLE BEACH AND ENDING WITH HELEN LAQUAY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 26, 2005.

ARMY NOMINATIONS BEGINNING WITH GREGORY BREWER AND ENDING WITH TERRELL MORROW, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 26, 2005.

ARMY NOMINATIONS BEGINNING WITH WALTER J. AUSTIN AND ENDING WITH KEITH C. SMITH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 4, 2005.

ARMY NOMINATION OF JACK N. WASHBURNE TO BE COLONEL.

ARMY NOMINATIONS BEGINNING WITH BARRY J. BERNSTEIN AND ENDING WITH JUAN M. VERA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 10, 2005.

ARMY NOMINATIONS BEGINNING WITH MELVIN S. HOGAN AND ENDING WITH JOSEPH M. JACKSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 10, 2005.

IN THE COAST GUARD

COAST GUARD NOMINATION OF KATHLEEN M. DONOHOE TO BE CAPTAIN.