



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 109th CONGRESS, FIRST SESSION

Vol. 151

WASHINGTON, MONDAY, DECEMBER 12, 2005

No. 158

Senate

The Senate met at 2 p.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, You reveal Yourself in the glory of the heavens and in the whisper of conscience. Make us aware of Your presence as this day unfolds. Grant that this knowledge of Your involvement in our day will influence our thoughts, words, and deeds. Help us to focus on serving and pleasing You, as You lift us above suspicions and fears. Sustain our lawmakers in their important work. Remind them that to do something well usually requires the patience to not hurry the process. Remove perplexities and give them Your peace. Open their minds to the counsels of Your eternal wisdom. Increase in us all a hunger and thirst for righteousness.

We pray in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

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

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we are returning to session in order to conclude our work for the first session of the 109th Congress. I want to welcome everybody back after a couple of weeks where people have been with constituents and people have been working very hard to bring to conclusion many of the issues that were left unfinished a couple of weeks ago. Real progress has been made over the course of the last 2 weeks. Over the course of this past weekend, a lot of work has been done. As I mentioned prior to Thanksgiving, we will be working today and tomorrow on a number of issues. However, the first rollcall vote will be on Wednesday morning.

Many of our colleagues have asked about the schedule for this week, this weekend, as well as next week. As things unfold and as my discussions with the Democratic leader continue, we will be forthcoming to let people know exactly what we expect. We would like to finish up our work as quickly as possible prior to the Christmas holiday. However, everyone does need to be prepared to stay as long as necessary to finish the work that is before us.

Today, we expect to reach an agreement on several motions to instruct the conferees on the deficit reduction bill that is at the desk. We would have those motions debated tomorrow, on Tuesday, and on Wednesday, with votes to occur or begin to occur Wednesday morning.

We also expect to debate the Bahrain Free Trade Agreement during tomorrow's session under a short time agreement.

The PATRIOT Act conference report will arrive in the Senate sometime this

week, and we will proceed to that conference report when it is available.

Chairman WARNER has completed work on the Defense authorization conference report, and that may also be around here midweek.

We also need to complete the appropriations process by taking up and taking action on the final 2 conference reports. This week we need to act on the Labor-HHS appropriations as well as the Defense Appropriations Committee reports.

I mentioned reconciliation. A lot of work has been done over the course of the last several weeks among the various committees. I want to continue to encourage all chairmen to aggressively work with their House counterparts on this important reconciliation bill. Clearly, a lot of work remains, but with the cooperation and patience of all Members, I believe we can get our work done and adjourn in a timely way. It is going to be up to each and every one of us to decide when we will be able to finish our business and adjourn this session. Senators will need to keep their schedules flexible over the course of this week and I believe we can finish everything this week. If not, we would have to continue into next week—or this week and this weekend, and if not, we would have to continue into the early part of next week, but we should be able to complete everything this week. Again, everybody, please keep your schedules flexible.

I do want to thank all Senators in advance for their help as we schedule these final days.

I yield the floor.

FILIBUSTERING

Mr. BYRD. Mr. President, will the distinguished majority leader yield?

Mr. FRIST. I am happy to.

Mr. BYRD. I want to congratulate the majority leader on helping to get these appropriations bills all passed. We discussed this, he and I, several

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



Printed on recycled paper.

S13427

months ago. It was my hope then that the leader would help to get all the bills passed so that we would not have an omnibus bill. He indicated he was going to try to do that, and he has tried and I want to congratulate him. I want to thank him for that.

I think we ought to always pass these appropriations bills. The distinguished Presiding Officer, when he was chairman, got all the bills out of the committee; Senator STEVENS got all the appropriations bills out of the committee. He was the chairman of the committee, I believe, at that point, the Appropriations Committee. I was the ranking member. I complimented him then. I compliment the distinguished majority leader and Senator THAD COCHRAN on getting this done. I compliment him.

While I am complimenting the Senator, I want to ask the Senator a question, and I do it with great respect. I respect the Senator from Tennessee. He is a great physician. And every night I pray to the Great Physician and the Senator from Tennessee is following in the footsteps of that Great Physician.

But I have a question. I saw something which concerned me in the paper this morning, the Washington Post. The Washington Post had the good judgment to place this in a very visible place in the Post. It is a great newspaper. Page A5. Here are the headlines that bothered me:

Frist Cautions Senators Against Stalling Alito Vote.

And then the subheadline:

Democrats Don't Plan Filibuster.

The first paragraph says:

Senate majority leader Bill Frist, Republican, Tennessee, threatened—

That is a bad word, "threatened"—yesterday, to strip Democrats of the power to filibuster. . . .

I am a Democrat, and it has never been my desire to strip Republicans of their power to filibuster. I was here—I believe the first election I cast a vote in was 1936. I think I was old enough to vote then. I would have been 20 years old in that session of Congress, which met in January 1937.

I believe there were only 16 Republicans in the Senate at that time. The Senate only had 96 Members then. It didn't have 100 but 96 Members. There were only 16 Republicans and there were 4 independents—former and later, et cetera—and there were 76 Democrats. Can you imagine that? Yet there was never any threat on the part of the Democrats in 1936. I think that was the first time I cast a vote, and I was proud of that Democratic Congress. I don't think there was any threat on the part of Republicans to kill the filibuster, to kill the provisions in Senate rule XXII that allowed freedom of speech in the Senate. When I saw this a few months back, we had this wave of insaneness, that swept over the Senate. We were talking about the nuclear option, so-called constitutional option. There is nothing in the Constitution about it. It is an unconstitutional option.

I was sorry to see that my friend, Senator FRIST, this fine Senator from Tennessee, the majority leader of the Senate and a great physician, was threatening—this is what the newspaper said—"threatened yesterday to strip Democrats of the power to filibuster if they blocked the vote on Supreme Court nominee Samuel A. Alito, Jr."

That nominee came in to see me a while back. I had a nice talk with him. I was much impressed by Judge Alito. I haven't made up my mind yet. But I liked what he said when he was in my office, and I might vote for him. I don't know yet.

But I have not heard a Democrat use the word "filibuster" in connection with this nomination. I haven't heard anybody use that word "filibuster." It was news to me that the distinguished majority leader was talking about a threat of stripping Democrats of the power to filibuster if they block the vote on Supreme Court nominee Samuel A. Alito, Jr.

Just one more minute, and then I will yield to the distinguished leader.

This is my 47th year in the Senate. I will finish the 47th year this month. And I never dreamed that during my tenure in the Senate—I didn't know how long the tenure would be at that time—there would be any effort to undermine, or to terminate, or to threaten the freedom of speech in the Senate. That is a freedom that goes back to the Magna Carta in 1215, and then in the reign of Henry IV. He reigned in England during the years 1399 to 1413. And during his tenure he proclaimed that the members of the House of Commons had a perfect right to speak their minds. So there was freedom of speech in the English House of Commons under Henry IV.

Then when the Declaration of Rights came along in 1689, before the Commons would crown the two sovereigns, William and Mary, as King and Queen in England, they exacted from those two individuals a promise that they would honor the rights of Englishmen, the rights of people in the House of Commons, to speak their minds. That was on February 13, 1689. Then on December 16, 1689, they wrote that into the law. That became a statute in the Bill of Rights.

In the United States, our forefathers drew those provisions from the English Bill of Rights into our own Bill of Rights 100 years later, in 1789.

So I am greatly disturbed when any majority leader, a Senator as powerful as the distinguished Senator from Tennessee—as I have been majority leader, I know the power of a majority leader—but I would never, I say this with respect to the distinguished Senator—and when we were in power, the Democrats, as I say, when Republicans only had 16 Members here, the Democrats could easily have killed freedom of speech in the Senate and not allowed the Republicans to filibuster. But there was never any thought of it.

That is not a great idea. It didn't take a fellow to fall off a turnip truck to think of that. There is nothing brilliant about saying if there is a filibuster, all we need is the might and power of the majority to vote the rules are wrong and interpret them differently. And it could be done; no doubt about it. We could do that. But the Democrats never—and no party in history, Republicans or Democrats—threatened to deny freedom of speech to members of the minority. I daresay a lot of Members on that side of the aisle, the Republican side of the aisle, don't like that idea. I don't think they would agree with that because they have a right to filibuster, too. The Republicans do. I respect that right.

I am sorry I read that by the Senator. I will read it once more.

Senate majority leader Bill Frist, Republican of Tennessee, threatened yesterday to strip Democrats of the power to filibuster if they block the vote on Supreme Court nominee Samuel A. Alito, Jr.

I haven't heard any Democrat talk about that. As a matter of fact, I think we are going to have a vote on him. We will debate it. We certainly have a right to debate. I joined the group of 14 so there wouldn't be filibusters against these judgeships, except in extreme cases when I might join a filibuster, too. But may I say most respectfully to the distinguished leader, I hope we will quit talk about this so-called "nuclear option." That is a threat to the freedom of speech, freedom of speech, freedom of speech, here in the Senate.

I yield to the distinguished Senator, the leader whom I do respect.

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. FRIST. Thank you, Mr. President.

Let me take a look at the article. I haven't read the Washington Post today. But I appreciate my good friend and colleague bringing this to my attention.

The Senator is right. It says, "Frist cautions Senators against stalling Alito vote."

It is pretty accurate. And I guess the Senator's followup statement is that no Democrat is talking about filibuster, and here you have the majority leader of this body saying if there is a filibuster he is going to ask for an up-or-down vote consistent with giving advice and consent. There are lots of ways of giving advice and consent. But I know the distinguished colleague from West Virginia has been focused on lots of things going on.

But let me better inform him about what the other headlines have been saying about what Democrats are thinking and doing—the allegation that no Democrats are thinking about filibuster, citing headlines.

It is a pretty accurate article, actually, as I glance through it.

Associated Press, November 1, 2005.

These are just some other headlines that are out there.

Republicans Enthusiastic About Alito While Democrats Are Wondering Whether To Filibuster.

That is November 1.

Headline in the Bergen County, New Jersey Record: "Democrats Mull Possible Filibuster," November 21.

Boston Globe, November 4, 2005: "Democrats Won't Rule Out Filibuster."

The Hill, which we all see several times a week, November 1: "Dems Hint At Filibuster."

The Washington Times, November 3: "Senators to Weigh 'Circumstances' for a Filibuster."

And the International Herald Tribune, other headlines: "Democrats Don't Rule Out Filibuster To Block Nominee."

Those are some of the other headlines that at least cause the leader on this side of the aisle to say—not just this majority leader, not just Chris Wallace. He asked the question, if a filibuster is conducted, you can see all around the country—whether it is up in New Jersey, in Boston, MA, or right here on the Hill—there must be some Democrats thinking, at least thinking, contemplating, how we can use a tool we use.

I would argue, and I know there is a difference of opinion, unfairly, against not just one nominee or two or three but four, five, six, seven, eight, nine, 10 times in the last 3 years Presidential nominees who had gone through committee, come to the Senate, filibustered again and again and again—used as a regular tool. That is wrong.

Therefore, I believe in the principle of an up-or-down vote. If someone is nominated by the President and has the highest qualifications according to the American Bar Association, with advice and consent under the Constitution, they have gone through the committee, come from the committee and were recommended to this Senate, I believe in that principle of an up-or-down vote.

Those are the various headlines. The response would be, but those are the headlines and headlines are like these headlines in here, some headline writer writes it. Clearly, Democrats are thinking about it.

What about individuals?

Senator REID himself said Democrats would consider all filibusters and a filibuster to Alito is possible.

From November 1, the Boston Globe: Senate Minority Leader Harry Reid pledged that Democrats will consider all options at their disposal if they decide to stop Alito's nomination. Though Reid said Democrats will wait for confirmation hearings before choosing their strategy, he noted that Bush is 'near the bottom of his popularity' in opinion polls and that a filibuster to defeat Alito is possible.

The Democrat leader, talking about a filibuster being possible, so an accusation that this leader is the one initiating discussion about filibuster is wrong.

I continue with Reid spokesman Jim Manley on Alito:

All procedural options are on the table.

Our colleague, CHARLES SCHUMER, from New York:

Nothing is on the table, and nothing is off the table.

Senator BARBARA BOXER from California:

The filibuster's on the table.

These are all quotations, from Republicans enthusiastic about Alito and Democrats wonder whether to filibuster.

The Associated Press, November 1, Senator BOXER:

The filibuster's on the table.

Senator TOM HARKIN not only believes there will be a filibuster but relishes the prospect—that is not a quotation; this is sort of a point taken from the quotation from an article in the Baltimore Sun November 2.

Senator TOM HARKIN, Iowa, Democrat said:

I believe Democrats will filibuster this nominee on the basis that he's way too ideologically to the right. We need a moderate on the court, not an avowed rightwinger like him that would upset the balance.

These are from your side of the aisle. I know my distinguished colleague is not aware of these, but that comes to me.

Senator DICK DURBIN to CBC's Jan Crawford Greenberg:

Are you refusing to rule that filibuster out now? Do you think that's still likely or is it just highly unlikely?

Senator DURBIN responds:

Let's complete the hearing in January, then make a decision whether we should go forward with the nomination of Judge Alito.

That was November 6.

Senator BIDEN on November 17, from the Congress Daily AM:

As Democrats stepped up questioning of Samuel Alito's Supreme Court nomination, Sen. Joseph Biden, D-Del., warned the nominee Wednesday he might need Biden's vote on a potential filibuster if the judge is not forthright during hearings . . . I told him you probably don't need my vote to get on the bench, Biden continues, but if you are disingenuous in the hearings, you may need my vote relating to a filibuster.

Senator RUSS FEINGOLD—again, to show it is not just one or two or three or four, said it was perfectly fine to use a filibuster. Those are Senator FEINGOLD's words on ABC's This Week.

I think it's perfectly fine to use a filibuster if somebody is clearly unacceptable. That is an option we have. It has almost never been used with regard to a Supreme Court justice, so it takes an extreme case, but I was the one Democrat who was unhappy publicly with the sort of deal that was made earlier in the year that kind of let certain judges go through that shouldn't have gone through. The right to filibuster is part of our role in the Senate, and we should reserve the right but use it only very sparingly.

After meeting with Judge Alito, Senator TIM JOHNSON basically refused to rule out supporting a filibuster.

I will leave all those options on the table.

That is a sampling of what I hear directly from the Senate. As my distinguished colleague from West Virginia knows, all these outside groups complicate matters on both sides. We have the sort of party activist and liberal in-

terest groups. We have the DNC Chairman Howard Dean saying the following, from Reuters, November 13:

Despite early signals to the contrary, U.S. Senate Democrats must keep open the option of blocking a confirmation vote on U.S. Supreme Court nominee Samuel Alito, Democratic Party leader Howard Dean said on Sunday . . . Dean, asked if Democrats should keep the possibility of a filibuster on the table, said, 'Absolutely. Of course we should.'

My response in large part is there is a lot of talk about filibuster out there. If the filibuster is going to be threatened by Democrats on a man such as Judge Alito who does have that modest temperament, who has been confirmed by this body two times, who has been involved with 2,500 cases before, has written 200 opinions, who my distinguished colleagues have had the chance to meet with, I have had the chance to meet with, has the sort of temperament where he will not be legislating from the bench, he deserves a vote in the Senate. Vote him up, vote him down, if that is the way Members feel, but he deserves a vote in the Senate.

I don't think it will come to a filibuster. I don't want it to come to a filibuster. I haven't even brought the filibuster up except in response to a question on television on one of the Sunday shows, but I did make it clear at the Republican conference that I strongly believe a man of the quality of Sam Alito simply deserves the respect, the dignity of having a vote in this Senate. Everyone can vote the way they want to. Again, it will be overwhelming by the time we finish this process. That will be, I believe, before January 20, at some point.

I don't want to posture on this. This is not a Democratic or Republican issue. This is an American issue. It is an issue that reflects on this Senate because it is our unique responsibility.

I am absolutely confident in large part because of the challenges we have gone through for the last 2½ years in talking about filibuster and having it not used very rarely. We are not talking about filibustering legislation where you can come in and modify and go to conference and have all these procedural tools. We are talking about the dignity of giving up-or-down votes in the Senate. It has been tough.

As the distinguished former majority leader knows, it has been very tough the last 3 years working through this process, where for 214 years, for judicial nominees coming from the executive branch, coming from the President of the United States, coming here is the tool of a filibuster being used routinely, 10 times—10 times—in the last 3 years, where for the 214 years before that, rare, rare, rare, rare.

So I feel we are back on course today. I do not think we will see a filibuster. I do not think people really want a filibuster. I think there is a lot of posturing there. But I will do everything I possibly can. If your side chooses, if the Democrat side chooses to filibuster, chooses to obstruct, chooses to

stop this Nation's business, I will use all the tools. If they pull that sheath out, if the other side pulls that sheath out, I will use all the tools I have to simply get an up-or-down vote on the floor of the Senate for the President's judicial nominees.

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

Mr. FRIST. Yes.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from West Virginia.

Mr. BYRD. I am sorry to hear the distinguished majority leader say what he just said. In the first place, I hear no talk of a filibuster. But who knows? If something should come up that we have not seen heretofore or have not heard heretofore about the nominee, which is entirely possible—not probable, I don't think—if that should happen, I can understand how Senators would say they are not going to give up the right to filibuster in such an event. I do not foresee that. The threat itself is a threat against freedom of speech.

Now, the distinguished Senator from Tennessee is a great physician. But this is the Senate. And the Senator talks about our forefathers. Our forefathers did not deign to stoop to a King or a President. And this Senate is a forum, probably the only forum that is left in this country, where freedom of speech reigns. That is the purpose of this Senate. That is why we have a Senate. I would hope that the distinguished Senator, who is a distinguished physician, would not have it on his escutcheon that he threatened freedom of speech in the Senate and threatened the filibuster.

The filibuster has been around a long time. It has a bad name in some instances, but filibusters have sometimes been the tool by which free men and women in this Senate have exercised their right to oppose something. And I detest this mention of a nuclear option, the constitutional option. There is nothing constitutional about it, nothing. Nothing constitutional about that.

Freedom of speech is underwritten in the Constitution and the Bill of Rights—freedom of speech—and that also includes the Senate. Freedom of speech, we have always had freedom of speech in the Senate. And as I say, any person who fell off a turnip truck could think of the idea: Well, if we have enough numbers, if we just go against the rules and throw reason to the winds, we can stop a filibuster. We can take that away from the Democrats. How terrible that would be.

I hope I will never hear the Senator from Tennessee say this again. He is a Senator, and the right of freedom of speech is his as the majority leader, and he should embrace that right with the intention to die if necessary if anyone sought to take that freedom of speech away from the Senate.

We are here as emissaries of the people who send us here. And the people out there in West Virginia, they cannot

speak on this Senate floor. Young people out there in West Virginia or in Tennessee cannot speak on this Senate floor. But their representatives in the Senate—I am one of those—have a right to speak as long as I can stand on my feet. And I will do it.

Now, I am not threatening a filibuster. But I have filibustered in the past. And I would do so again. I will say to the distinguished Senator, I have been in the Senate 47 years. Now, I will guarantee the Senate, if we ever have that—I would suggest the Senator not even use the threat again. I do not mean to be lecturing the Senator of what he can and cannot do. He can do that. He has freedom of speech, as I have. He can threaten anything he wants. He is the majority leader. And he may have the power to carry it off. But he might not have.

Now, I will guarantee you one thing, I say, Mr. Leader, when somebody tries to kill freedom of speech in the Senate, they are going to have the American people to deal with—the American people. That is what our Constitution is all about: freedom of speech, freedom of the press, freedom of religion. And freedom of speech obtains here in the Senate, always has for 218 years.

And I tell you, my friend, here is one Senator who is not going to be threatened and is not going to be persuaded by any threat against freedom of speech. I will die for that right. Our forefathers died for it. Our British forefathers died for it. And they fought for hundreds of years against tyrannical monarchs so that the right of freedom of speech, control of the purse, and such things, would be there in the House of Commons.

I am so sorry. I have been here, I have served under several majority leaders, Republican and Democrat. Not once did any of them ever threaten to kill freedom of speech in the Senate. And I hope the Senator will think twice, three times, before he ever threatens that again. There is not going to be any filibuster against Alito.

Mr. FRIST. Good. Good.

Mr. BYRD. And I am against any filibuster. That is why I joined the 14. We stopped it. I thought we were past that. I hope the Senator will forgive me. I do not mean disrespect to him, but he is talking about freedom of speech. I respect the Senator. But I respect the Senate more, and I respect the Constitution and I respect freedom of speech more. And that is why I was so interested in knowing why the Senator was talking about killing the filibuster and killing freedom of speech and killing a Senate rule. We have ways of changing the rules. If we do not like the rules, there is a way, under the rules, that one can change them. But never has anybody threatened to stop this constitutional right to freedom of speech. I detest it. And I want the Senator to know, if he ever really tries to pull that tool—and he can do so; he is the leader, he has a right, if he wants

to do that, but I will tell you one thing. This will not make a Senator's name in history. It will not be etched in stone. Future generations will not rise up to bless a Senator who tries to destroy freedom of speech in the Senate.

I say this with great respect to the Senator. I will tell you, he is a physician. I am not. He can do things I cannot do with a knife. He has saved many lives, I am sure. And I praise him for that. I know he goes out and serves the people. Even as a Senator, he goes out there and uses that fine brain of his in helping people. But for God's sake, this is the Senate. I have been here 47 years. I did not come here to see freedom of speech curtailed in this Senate. And when there is an effort to curtail it, they have ROBERT C. BYRD and a whole group of persons on both sides of the aisle—I would say there are Republicans in here who would not stand for that.

I have said enough. I do not intend to carry this on. But I am glad we had an opportunity to discuss this because I hope the Senator from Tennessee fully understands that is not to be talked about in this Senate. Republicans do not like it either. And there have been fine Republican leaders. Howard Baker, a former Republican leader, was a real statesman. The Panama Canal treaties would not have been approved by this Senate had it not been for Howard Baker. And those Senators—Bob Dole, others, Everett Dirksen—my goodness, they never threatened freedom of speech in the Senate.

Republicans as well as Democrats have seen the wisdom of being able to filibuster if they are trying to protect the people of their State or the people of the country from some violation of their constitutional rights.

I thank the Senator. He has been very respectful toward me. I hope I am just as respectful toward him. If he wants to say anything now, he has the floor.

Mr. FRIST. Mr. President, I thank my distinguished colleague from West Virginia. Citing headlines, I guess to score political points, is useful. But I think the headlines you cite, without citing the headlines I cited—I had eight or nine that basically say Democrats are threatening filibuster, at least to our colleagues or to the American people. I think we have clarified that, where Democrats—and I named six Senators on your side of the aisle who are talking about filibuster. So we cleared that up. I appreciate my distinguished colleague saying that while I was on the floor so we can clear that up, the other side of the aisle having used filibusters in the past, having in an unprecedented way or at least talking about the filibuster out there.

I also appreciate, secondly, the respect my distinguished colleague from West Virginia has on freedom of speech, which I share. You can start with the Alito nomination, which is the real thrust, the real crux of what

we are talking about, this outstanding individual, and you could move to talking about the filibuster, which I certainly didn't start talking about but Democrats started talking about. Then you could move to what my response would likely be, and that is saying filibusters—I thought we had been through that. We said unless it is an extraordinary circumstance, filibusters are off the table. Yet you still hear about it. Then you move to, Well, if they do filibuster, Senator FRIST, what are you likely to do? Then you can move off to freedom of speech. I think that was a useful discussion and conversation, but let's come back to what we are talking about.

We ended pretty much saying that my distinguished colleague from West Virginia doesn't expect a filibuster, that he is not going to participate in a filibuster. I don't expect a filibuster.

With the hearings starting on the 9th, with time on the floor, full hearings—and we have waited until after the Christmas holidays so people can actually be studying papers and all the 3,000 cases and 300 opinions—we are giving plenty of time for the process to work. So we don't expect a filibuster. I think we can hypothetically go across all of these potential happenings and occurrences. But all that does come back to the fact, and it centers on the Alito nomination, there is no reason for a filibuster, I don't believe. I believe my Democratic colleague doesn't believe that.

Clearly, there is no reason at this juncture. A lot of the attacks, which are coming from the political left and the extreme left, are part of sort of a spaghetti strategy of throwing spaghetti against the wall and hoping something will stick and maybe that will precipitate votes against Alito for that reason. I don't think they are going to stick. A lot of the criticism we are hearing about Judge Alito today, or the critiques, you really just didn't hear over his 15 years on the bench or in these 3,500 cases. I think all of the attacks we hear on Alito himself are simply not working. The nomination is right on track. The leadership worked together with the Judiciary Committee in terms of setting a time line that we are right on track to fulfill.

A lot of people are trying to say Alito is extreme, and those attacks simply are not sticking because he is not extreme. He is not an ideologue. He did not prejudge cases that came before him. As I was reading this weekend, I came across one of Alito's former law clerks who said this week—and he happens to be a registered Democrat; he still has the "Kerry For President" bumper sticker on the back of his car—he said: Until I read his 1985 Reagan job application, I could not tell you what his politics were. When we worked on cases, we reached the same result about 95 percent of the time. It was my experience that Judge Alito was and is capable of setting aside any personal biases he may have when he judges.

Mr. BYRD. I believe that.

Mr. FRIST. The final words: He is the consummate professional.

I think all these attacks that are going on, since that really is the issue at hand, we need to put aside all of these partisan attacks, all of these unfair attacks by either extremist groups or Senators, and let's look at his qualifications. Let's go through the hearing process. Let's come to the floor, let's have an orderly debate, and then let's, at the end of all of that, not deny people, not deny our colleagues, the opportunity, the right to be able to vote yes or no after we go through that process.

Mr. BYRD. Will the Senator yield?

Mr. FRIST. I am happy to yield.

Mr. BYRD. I see nothing in the Constitution that requires an up-or-down vote on any nominee. The Constitution just says that the Senate shall have the power, and the Senate uses that power. It is in the Constitution.

Mr. FRIST. And my response would simply be that the Constitution says advice and consent.

Mr. BYRD. Yes.

Mr. FRIST. And I think advice and consent for somebody who has gone through the nomination process, the recommendations, through the Judiciary Committee, hearings, recommended to this floor, I would argue, not written in the Constitution, but under advice and consent, you can't vote with your hands in your pocket. You can't say yes or no.

Mr. BYRD. The Constitution doesn't say that.

Mr. FRIST. I would argue that the dignity of this institution has worked for 214 years. So why deny it? Especially why deny it with a qualified nominee like Alito.

Mr. BYRD. Will the Senator yield?

Mr. FRIST. I would be happy to.

Mr. BYRD. All this business about us working for 214 years, there have been a lot of misquotations of history when people talk like that. I say that a Senator has a right under the Constitution to object for whatever reasons—they may not be plausible reasons—to object to any nominee he wishes. The Constitution says the Senate has the power of advice and consent. So it doesn't say how that consent will be measured. It doesn't say it has to be an up-or-down vote. Nothing in the history, nothing in the Constitution says that. If you can point that out in the Constitution to me, where it says that a nominee shall have the right to an up-or-down vote—can the Senator point that out in the Constitution to me? Can the Senator point that out in the Constitution to me?

Mr. FRIST. Mr. President, if the distinguished Senator from West Virginia would let me answer, I would be happy to.

Mr. BYRD. Yes.

Mr. FRIST. It is not in the Constitution that a Senator specifically has the right for an up-or-down vote. I am saying the dignity of the institution to give advice and consent deserves an up-

or-down vote on the floor of the Senate. What the Constitution does say—which is why it is called the constitutional option, not because it is written in the Constitution—is that this body makes its own rules. The constitutional option is basically just that. You take it to this body and you say: Do these Senators deserve an up-or-down vote on the floor of the U.S. Senate? Let's vote on that.

Mr. BYRD. No.

Mr. FRIST. That is what the constitutional option is.

Mr. BYRD. He doesn't have a right to an up-or-down vote. A nominee doesn't have a right to an up-or-down vote.

Mr. FRIST. That is where we disagree.

Mr. BYRD. The Senator can't find that in writing anywhere in the Constitution. I can vote against a nominee just because, any Senator can vote against a nominee just because—

Mr. FRIST. But you get a vote.

Mr. BYRD. The nominee doesn't part his hair on the right or left side. The Senator doesn't have to explain why he votes against. That is his right.

Mr. FRIST. But he voted, and that is the point.

Mr. BYRD. May or may not vote. The Constitution doesn't require that, and the Senator can't find it in the Constitution. He can say all he wants.

Mr. FRIST. Mr. President, it doesn't say in the Constitution that you can vote; it says you can give advice and consent and that the Senate makes the rules as to whether you vote or not. We just disagree. Obviously, this goes back to the whole filibuster argument for judicial nominees. I simply believe in the principle that once someone comes to the floor, they deserve, in order to give advice and consent, an up-or-down vote.

Mr. McCONNELL. Will the majority leader yield?

Mr. FRIST. I am happy to yield.

Mr. BYRD. Will the leader yield to me?

Mr. FRIST. Let me yield to my distinguished colleague, and then I will be happy to yield to the Senator from West Virginia.

Mr. BYRD. I will be glad to take on both Senators in defense of the Constitution.

Mr. McCONNELL. Did the majority leader yield to me?

Mr. FRIST. Yes.

Mr. McCONNELL. Mr. President, I have listened with great interest to the exchange on the television monitor back in my office and thought I might come down and join you both.

Let me suggest that it could be argued that you are both right. What I believe, I say to my good friend from West Virginia, the majority leader is talking about is what is precedent in the Senate. There is a lot of discussion about "stare decisis." Lawyers use that term to refer to respect for the precedent.

Mr. BYRD. Yes, let the decision stand.

Mr. McCONNELL. The precedent in the Senate for 214 years prior to the

last Congress was the judges who came to the floor got an up-or-down vote.

Mr. BYRD. I am not sure about that.

Mr. McCONNELL. Is that not the case, I ask the majority leader—

Mr. BYRD. I am not sure about that history.

Mr. McCONNELL. —that when nominees came to the floor who enjoyed majority support in the Senate, they got an up-or-down vote? Has that not been what the leader argues for? And to the substantial credit of our friend from West Virginia, this whole controversy was largely defused last summer, was it not?

Mr. BYRD. Yes.

Mr. McCONNELL. We have not been filibustering judges during this first session of Congress, and we have been giving judges an up-or-down vote as a direct result of the Senate's collective decision to sort of step back from the brink and honor the traditions of the Senate. Has that not been the case, I ask my friend, the majority leader?

Mr. FRIST. Mr. President, that is my understanding. This is exactly where we were about a year ago, after this long period of 214—or 218 years, as my colleague from West Virginia was saying on the side. When we are talking about filibustering—this is important to say for the people watching, not so much for colleagues—it is a very important tool for this body to use, for the minority to use, and it has been used really all the time for legislative issues.

As we design legislation, which can be shaped, manipulated, defeated, and approved, these nominees who come from the executive branch, the President, are different. Ultimately, you cannot cut a person in half. You can operate on them, but you cannot cut them in half. You cannot move them aside. Ultimately, the only way to give that advice and consent—and the way it has been done for those 218 years—is that once they come to the floor, having gone through committee, they get the courtesy, the dignity, consistent with the principles of this body, of an up-or-down vote.

Mr. BYRD. That is not history. That is not even recent history.

Mr. FRIST. And then it changed about 3 years ago, where for all of this period of time, it didn't occur; that is, a nominee who had majority support being denied a vote on the floor of the Senate. Then it happened 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 times, all in a period of about 18 months.

Then progress was made. We kind of put that all back in its cage. It still can be brought out. That is where some of these threatening issues are coming from. We don't think it should be brought out. Let's give the nominee an up-or-down vote after we have had plenty of time to debate and talk about and discuss that process.

That is my understanding of the history. I know we will get a different version here shortly, but that is the lay of the land in the past and where we

are today. I want to keep coming back to the Alito nomination. That is ultimately where the decision will be made.

I yield the floor.

Mr. BYRD. I thank the majority leader. I hope my PA system is on here. This country is a great country, but it has never perfected a good PA system. I think this one is working.

May I say to the distinguished Senator, on vote No. 37, 106th Congress, on the nomination of Richard A. Paez to be U.S. circuit judge, vote on cloture on March 8, 2000, the distinguished Senator from Tennessee, Mr. FRIST, voted to filibuster. The question was on a cloture motion to end a filibuster. Cloture was agreed to by three-fifths vote, but the distinguished Senator from Tennessee chose to exercise his right, and he voted against cloture. He voted to filibuster. So the worm turns. The day may come when the Senator may want to filibuster. He will never find me on the side of saying I will cut off your right to talk.

Mr. FRIST. Mr. President, I will not reclaim the floor. But what happened to those judges? Not with my principle as an up-or-down vote, but I ask my distinguished colleague what happened. Ultimately, they got an up-or-down vote on the floor of the Senate. That is all this discussion is about.

Mr. BYRD. Some of them did.

Mr. FRIST. The Senator cited Paez. He got an up-or-down vote on the floor of the Senate. All I am arguing for is an up-or-down vote. It is simple. Vote for or against them, and they win or they lose, and you start over or not.

Mr. BYRD. That has never been the rule here. Senators have a right to talk, to filibuster.

Mr. McCONNELL. Will the majority leader yield?

Mr. FRIST. Yes.

Mr. BYRD. The distinguished Senator from Tennessee, may I say, is wrong when he cites history. History is not on his side. I tell you something else. Not all nominees have had up-or-down votes. A lot of them are bottled up in committees. That is one way of killing them. That is one way of denying them their right, as the Senator says, to an up-or-down vote. They are killed in committees. The Senator is a member of the Republican Party, the Grand Old Party, and I respect that party. I am for a two-party system. But I will tell you, the Senator doesn't come into court with clean hands when he talks about the right of an individual to have an up-or-down vote. The Republicans have killed lots of nominees in committees, not letting them have an up-or-down vote. At least 61 nominees did not get out of committee. Not all nominees have had up-or-down votes.

Mr. FRIST. Mr. President, I yield to my colleague from Kentucky.

Mr. McCONNELL. Mr. President, would the majority leader not agree with the Senator from Kentucky that the Paez and Berzon nominations to

which our good friend from West Virginia refers—in both instances, you were not the leader at the time; you were a Member but not the leader. The majority leader and the leader of the other side jointly filed cloture, not for the purpose of defeating the nomination but for the purpose of guaranteeing that the nominees got an up-or-down vote.

There were one or more Senators, I expect, on our side of the aisle who did not want those nominees to get an up-or-down vote. So in that particular instance, Senator Daschle and Senator LOTT used the device of cloture, not to kill the nomination but to advance the nomination, move it to final passage.

I say to my friend, the majority leader, it is largely irrelevant how he may have voted on cloture as a rank-and-file member of the Republican Conference on that particular day. The leader of our party at the time and the other party at the time were honoring the principle to which the leader has been speaking, guaranteeing that those nominees got an up-or-down vote by the only device they could, by filing cloture and moving forward.

So that is entirely consistent with the point my good friend, the majority leader, has been making here on floor, and the end result was that those two nominees—very controversial on this side—ended up getting an up-or-down vote and being confirmed by the Senate, and they are now called Judge Paez and Judge Berzon.

Mr. FRIST. Mr. President, I am going to close by saying I very much appreciate the colloquy, the back and forth we have had over the last hour. These are important issues when you are talking about nominations for the Supreme Court, which will far outlast, once confirmed, many of us in this body, and the importance of this process. I believe what is important for the American people to understand, even in this back and forth now, is we are committed to a fair process and a process that should be dignified; that we need to have civil debate, and we will have that on this particular nomination, which is where the focus is, where I want to rest so we are not talking about what we will do from that side or this side, but focus on the fact that among all the responsibilities that we have, that we are given in the Constitution, this nomination process is one that is important, that should be dignified, especially if we want people to continue putting themselves forward as potential nominees. We should not be in the business of character assassination, and we should not be in the business of not giving people the opportunity to fulfill a process and have it unfairly blocked as we go forward.

I think it is important—again, not as Democrats or Republicans or party or partisan issues—to not allow the debate to get so hot, high, and heated that we interrupt the process. We are about midway through the time Judge Alito has been nominated. I am very

pleased by our leadership at the Judiciary level, with Senator LEAHY, Senator SPECTER, and the committee, in terms of their approach. They have a tremendous working relationship, which is very important as we go through these hearings which will begin on the 9th.

Those hearings will be several days. They will be thorough; they will be exhaustive. It is important to this body to have the information to know how to vote—not whether to vote but how to vote, and questions, I am sure, will arise from the hearings—and that we be able to have both the appropriate amount of time for discussion and then come to the floor and have a full debate, and then approve or disapprove of that nomination.

Again, I appreciate the chance to have this discussion. I know the distinguished Senator from Massachusetts has been waiting an hour to speak. We will continue the dialog. I very much respect the comments of my distinguished colleague from West Virginia. He teaches me all the time. I listen, and he knows I listen as we go through. We disagree on certain principles. I know one is not freedom of speech, or respect for the Constitution, or respect for this institution.

I yield the floor.

Mr. BYRD. Mr. President, the Senator has yielded the floor. Let me say, as the Chair recognizes me, to the distinguished Senator, I say again, I respect him, but I hope he will never leave as part of his legacy the destruction of freedom of speech in the U.S. Senate. And may I say to him once finally, that if he ever tries to exercise that so-called constitutional option, which is an unconstitutional option, he flies in the face of history, he flies in the face of our forefathers, he flies in the face of the Constitution, the right to freedom of speech. If he ever tries that, he is going to see a real filibuster if I am living and able to stand on my feet or sit in my seat.

I respect him as a Senator, but I respect the Senate even more. I respect freedom of speech even more. And if the Senator wants a fight, let him try it. I am 88 years old, but I can still fight, and fight I will for freedom of speech, for the constitutional right of freedom of speech. I haven't been here 47 years to see that freedom of speech whittled away and undermined. I haven't been here that long, I haven't been here 47 years to see that.

I hope the Senator will take what I say as being in the spirit of friendship. But with something so important—and it was here a long time before I came here. It is the Constitution of the United States and freedom of speech, and we are going to have freedom of speech here.

If I elect to filibuster against a nominee, it will be for good reason. I don't intend to join a filibuster. That is why I joined the group of 13, and I made the 14th. I think we avoided a filibuster. I don't expect to filibuster on this.

I tell you one thing, I am tired of hearing this threat thrown in our faces

that this so-called nuclear option will be used if we decide we want to filibuster. If there is good reason to filibuster an individual, why, let a Senator filibuster him. There are some of the names around, and I hope the President will not send one of them up, but there are some around on which there will be a filibuster. I compliment the President on avoiding that. We don't need that kind of disruption here. We don't need that kind of divisiveness. We need togetherness. I hope we will have togetherness.

I thank the Senator for his courtesies. I respect him. I respect him, but I tell you, I expect, if the Lord lets me live, to continue to fight for this Constitution and for this institution and for freedom of speech against all comers on either side of the aisle—either side. I would not stand still a minute if a Democratic leader over here threatened to kill freedom of speech in the Senate. I wouldn't stand still for that. No, no, I wouldn't do that, Democrat or Republican.

I thank the Senator. I respect him. When I meet him in the corridors, I will meet him with a smile.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, once again I thank my distinguished colleague from West Virginia for his insightful comments. I do want to keep the focus at this point—I have a feeling he is going to want to say something after I close, but I think it is time to put partisanship aside.

Mr. BYRD. Yes. Amen.

Mr. FRIST. To put threats of filibuster aside before we have even had the hearings. I am not bringing up filibuster.

Mr. BYRD. That is freedom of speech.

Mr. FRIST. I didn't bring it up yesterday. I responded to a question, and then I did cite what six Democratic Senators have said and what eight newspapers have said about what is coming from the other side. But I think it is time to put it aside and to focus on the nomination. Freedom of speech, which is important, which I love, I cherish, that is why I am here, we can debate that. I am not sure what we are debating. We can debate that. I thought we finished that. We talked about filibusters 6 months ago. It is time to focus on this nomination, which is what the American people want us to do.

We are talking about one of the most fundamental responsibilities in this body, and that is looking at an individual—and I would argue a very qualified individual—having a process that is fair, that is dignified, that is respectful and gives people the opportunity to give advice and consent. That is my goal, and that is what I am going to do my best to achieve.

I think that is going to be the last thing I say. But I thank the Senator very much. I appreciate the comments from the distinguished Senator.

Mr. BYRD. Mr. President, may I say to the majority leader, there are those

who filibuster sometimes, but they, too, can be dignified. I have seen filibusterers who were dignified. The late Senator Richard Russell and some of my friends on that side of the aisle when I came here filibustered with dignity. Talking about dignity, you can be against something and filibuster and still do it with dignity. I thank the Senator. I thank the Senator.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I know not many of our colleagues are here at this time, but I certainly hope a number of Americans have been listening to a very important history lesson and a real lesson about the rules and some fundamental issues and rights that have been debated over the last hour in the Senate. I think it has been enormously helpful and very informative.

I am a member of the Judiciary Committee. I have attended some 22 of these nominations. I have spent a good deal of time since the Senate went into recess in preparation for these hearings and will continue to do so. But I join with my friend and colleague from West Virginia in saying that I do not know a single member, certainly of the Judiciary Committee, who has said they are going to filibuster this nominee. Nor do I know a single member of this side of the aisle who has stated they were going to go ahead with a filibuster.

A number of our colleagues, including myself, have been asked, Does this mean under any circumstances you will not? The appropriate answer is, as the Senator from West Virginia stated so clearly and compellingly, we are not going to give up any of our rights prior to consideration of a nominee until there has been a completion of the hearings and until we make a balanced and informed judgment.

That is the responsibility we have because the Constitution has stated so. During the debates at the Constitutional Convention, our Founding Fathers considered on four different occasions who would have the right to nominate judges to the Supreme Court.

On three of the four they gave the complete power and authority to the Senate. It was only in the last 10 days of the Constitutional Convention they decided that it would be a shared power: One, the President would nominate and, second, we had a constitutional responsibility to give our judgment whether we believed that nominee was committed to constitutional rights and liberties. That is the responsibility we have, which is an enormously important one.

I do not think anyone could have listened to the debate in the last hour or so and not understood the strong feelings that not only the Senator from West Virginia but all of us have on this particular judgment. I do not think there is a decision outside of the issues

of war and peace that is more important than the votes we cast for a nominee to the Supreme Court of the United States.

The debate is closed, but as a member of the committee I do want to correct a few items. We can go back through, but the record is very clear that Republicans have filibustered Democratic nominees. I was here at the time of Judge Fortas. So they have filibustered Democratic nominees in the past and denied them the right of a vote.

As Senator BYRD has pointed out, I have been a member of the Judiciary Committee where President Clinton's nominees were effectively killed by denying them the opportunity to have a hearing. I have been in the Senate when we have had what they call secret holds and that is when Republicans put a hold on a nominee so that we do not even get a chance to consider the nominee.

All of that is history and we should not be bothering about debating it. We can go back and debate whether it is history or it is not, but as a member of the Judiciary Committee and one who has been participating in these various debates and discussions, the record is very clear. It has been exhibited on the floor of the Senate in recent times in the discussions of it.

So I want to join my colleague and friend from West Virginia. The last thing we need now is threats about the process and the procedure. What we need to have is an informed hearing on this nominee. As nice, decent, and fine a nominee as we might have, that in and of itself is not enough to promote this individual to the Supreme Court of the United States. Any nominee has to demonstrate his or her core commitment to constitutional values. Those are the most precious rights and liberties we have. The essence of the terms of the Constitution is to protect the rights and liberties of individuals, as has been pointed out by the Senator from West Virginia, from tyrannical governments, kings and monarchies. This is enormously important. We take our responsibilities extremely seriously.

Reference was made during the consideration of the 1985 memorandum that Judge Alito had written, and I am not going to spend a great deal of time this afternoon going through it, but there are troublesome aspects of statements he made when he was applying for a job in the Justice Department. He has pointed out that it was just applying for a job in the Justice Department. So when he said he was so critical of the Warren Court that made judgments and decisions that guaranteed the rights of counsel in the *Gideon v. Wainwright* case, also the one-man, one-vote case which has been so fundamental against the background and history of gerrymandering of voters in this country which has excluded the rights of people, on those two important decisions—or the rights of a de-

fendant in *Miranda*—when these decisions now are bedrock in terms of jurisprudence, we have to ask what was so troublesome to him in 1985 about those particular judgments and decisions?

He says he was just applying for a job. Well, he was 35 years old. Now he is applying for another job. So there are important issues and questions which we have every right to go into. As to the *Vanguard* case, Judge Alito mentioned he would recuse himself from any decisions on the *Vanguard* case. Then the case comes for a decision in his court and he does not recuse himself. Then he writes to the Judiciary Committee some time later—after he had been to the Judiciary Committee and gave the Judiciary Committee the assurance he would recuse himself, he decided himself he would no longer recuse himself. Is that not interesting? Who did he notify? Did he notify the Judiciary Committee he changed his mind? Did he notify the circuit court? The White House says the reason he did it was because of a computer glitch.

Then he says to the members of the Judiciary Committee that he did it because it was a pro se case, so it did not make much difference. Yet a pro se case is probably the most important. Those are cases which involve such individuals where they do not involve a whole battery of lawyers or law firms.

When he gives his word to the Senate Judiciary Committee and then changes his mind, is it not worth finding out something about this nominee?

So we are looking forward to this hearing. These hearings are enormously important. As one who has gone through the cases in which he has dissented—a good part of the cases he has been a part of the majority, a good part of the cases have not been published, they are nonpublished cases—I am certainly concerned about certain patterns that indicate a greater proclivity toward the powerful and less interest in protecting the smaller person, the little guy, on many of these cases. I am not prepared to make a judgment or decision on this.

This is an enormously important consideration, and I could not agree more with the Senator from West Virginia. Why do we need to divert focus and attention on the process and the procedure when there is not a single member in the Senate who has said they were going to filibuster? Why attempt to chill debate and discussion? The only effect of this kind of comment is basically to threaten or to chill debate and discussion about a nominee.

The Senator from West Virginia is not going to be intimidated, nor myself, but I do not think that serves the process well. It was entirely appropriate for the Senator from West Virginia to point out these comments that were on the front section of a newspaper, the *New York Times*, but wherever it was, wherever it was said, it was being said by the majority leader and

the message was very clear. I certainly received the message, although I did not accept it. I do not think I would have been as clear and as eloquent as the Senator from West Virginia, but the message was very clear, do not you dare take too much time in consideration of this nominee or I am going to change the rules of the Senate in ways that are going to deny free speech. That is not where we should be in terms of giving fairness to this nominee and to give him the kind of thoughtful hearing which the Judiciary Committee is capable of doing and which it did under Chairman SPECTER during the Roberts hearing.

I think Americans who followed that would feel the nominee was treated with respect and dignity and that members of the Judiciary Committee had opportunities to inquire and also to hear from other outside witnesses. That is the way it should go. I am confident that is the way it will go.

I agree with my friend and colleague from West Virginia, the less talk about the threats about changing the rules of the Senate and particularly by the leadership, the better off we are going to be.

Mr. BYRD. Would the distinguished Senator yield?

Mr. KENNEDY. I would be glad to yield.

Mr. BYRD. Mr. President, first, I apologize to the distinguished Senator for imposing on his patience. He sat back in that chair and he was in the Senate Chamber before I was today. He sat patiently through that long, drawn-out discussion, and I apologize to him for my part in imposing on his time and patience.

Secondly, let me thank him for his clear, lucid, reasonable, and thoughtful comments concerning the subject matter that has been discussed. He has always taken advantage of the opportunity to serve the people of the country, to serve the country, and to serve the Senate. If something seemed right or seemed wrong, he was willing to speak out. I will always admire him for those things. I thank him for what he has said today. I think, again, it reflects great dignity upon the Senator and his thoughtfulness. He is a Senator *sui generis*, in the fact that he speaks his mind—he is never backward about that. He can do that with me, too. And he has done that with me in the past. I respect him for it.

I thank the Senator for his comments. He certainly has engaged in a discussion today that I think makes a great contribution, not only to this discussion and this subject matter, but he continues as he has for years, so many years during my tenure here, to contribute greatly as a statesman who has been worthy of a seat in the Constitutional Convention or a seat in the first Senate calling that Congress. He could have been in any of those debates at any time in the history of this country.

I respect him for it. He is an outstanding Senator and one upon whose

services history will certainly report with great support. I thank him so much. I thank Senator KENNEDY very much.

Mr. KENNEDY. I thank my friend from West Virginia. That is what that previous hour was about, and why it was so important, because it was about preserving this institution. I know I speak for all of us, I think pretty generally across both sides of the aisle, in saying that there is no individual who is more dedicated to the preservation of this institution and the magnificent framework in which our Founding Fathers had conceived of it. It was really that issue that was talked about in that previous hour.

It is important, as all of us go through the process of pressing our own views and our own vision about the future of this country, that we hear the clear and persuasive and knowledgeable voice, the voice of history, that speaks about the institution and its importance to the American people. That is what we just heard with the exchange of the Senator from West Virginia. That is why I was so pleased to have an opportunity to listen. I just wish the other 98 Senators had that opportunity to be so informed as well. I thank the Senator for his kind words.

Mr. BYRD. I thank the Senator again. I feel pretty well today. I have had the flu over the weekend, but I am glad I came to the Senate today.

Mr. KENNEDY. I think you got your message across pretty well.

Mr. BYRD. I thank the Senator and I thank all Senators.

Mr. KENNEDY. I thank Senator BYRD.

Mr. President, I know we are in the morning hour of business; am I correct? I would like to be able to speak continuously. Do we have a time limit? I would like to be able to speak until I conclude.

The PRESIDING OFFICER. There is no limitation.

PENSIONS, RECONCILIATION AND EDUCATION FUNDING

Mr. KENNEDY. Mr. President, as Congress meets for a final session before we adjourn for the holidays, we should be focused on the true meaning of Christmas and the special thoughts that Americans of many faiths have at this time of year regarding their families, their friends and neighbors, and the rest of humanity.

Christmas is a season of great hope—a time of goodwill and special caring for others. That's what we should remember as we celebrate the birth of Christ, and the glad tidings of great joy that came to us that day.

There are those in America who urge the return of the word "Christmas" to this holiday season. I believe that Christmas is more than a word. It is a belief in a power far greater than ourselves. It is a belief in the possibility of lives full of hope and fulfillment. It is a belief that each of us has a sacred ob-

ligation to care for one another and to help those in need—to lend a hand to the least of those in our midst.

But I am sad to report, that is not what we are seeing in Congress this week.

As families across America struggle to make ends meet with higher health costs, higher college costs, higher gas prices, higher heating costs, and higher housing costs, Congress is about to make things worse for them.

Millionaires will be given tens of thousands of dollars in new tax breaks, but Medicaid cuts could mean that 22 million poor Americans will face a reduction in help from that lifesaving program and two million others may lose their health care entirely.

Proposed budget cuts would mean that 750,000 poor preschoolers who are eligible for Head Start won't be able to get into the program.

More than a quarter of a million poor Americans could lose their food stamps, and could face hunger. These cuts are proposed just as the Department of Agriculture reports that 38 million Americans face hunger, an increase of 5 million in 5 years.

Hundreds of thousands of children could lose their child support because of Republican proposals to cut enforcement against delinquent fathers.

Three million poor children could be left behind in school. They won't get the quality teachers and after-school help and supplemental services they need to catch up and succeed.

Hundreds of thousands of airline workers—the ones who are helping us get home for the holidays—could see their pensions hanging in the balance, and millions of other Americans could lose their pensions, too.

That is what is at stake in Congress this Christmas. Are these actions consistent with the spirit of this holiday season? Rather than debate whether the word "Christmas" should appear in our stores and on our greeting cards, shouldn't we be living out the hope that came from the first Christmas and do more for our fellow citizens than greater tax breaks for the rich and greater hardship for the poor and struggling middle class?

As Christian leader Reverend Jim Wallis said last week:

The Bible does not condemn prosperity. It just insists that it be shared.

So I would hope that those in Congress who seek to lavish more tax breaks on the privileged few at the expense of the rest of America will reconsider—not only at Christmas, but throughout the year.

Otherwise, what we face this week is a Republican plan in which billions of dollars will go from programs that assist low income families and senior citizens into the pockets of the already wealthy.

The provisions in the House bill that would cut the tax rate on capital gains and dividend income are particularly unfair, because more than 86 percent of the tax benefits will go to taxpayers

with incomes above \$100,000 a year. Nearly half the benefits—45 percent—will go to taxpayers with incomes over \$1 million a year. The average millionaire will save \$32,000 a year from these tax breaks for capital gains and dividends. In stark contrast, families with incomes less than \$100,000 would receive an average tax cut of only \$29.

This is by no means the only outrageous provision in the Republican plan—just the most costly. There are others. Republicans in the House propose a \$5 billion tax break for financial services companies doing business in foreign countries. This provision actually creates a tax incentive for these huge corporations to invest abroad instead of in the United States.

The spirit of Christmas should compel us to take another path. We should start investing in the health and well-being of all families. The average family is being squeezed unmercifully by stagnant wages and ever-increasing costs for the basic necessities of life. The cost of health insurance has risen 59 percent in the last five years. Gasoline is up 74 percent. College tuition is up 46 percent. Housing is up 44 percent. The list goes on and on, up and up—and paychecks are buying less each year.

The economic trends are very disturbing for any who are willing to look at them objectively. The gap between rich and poor has been widening in recent years. Mr. President, 37 million Americans now live in poverty, up 19 percent during the Bush Administration. One in six American children lives in poverty and 14 million children go to bed hungry each night. Long-term unemployment is at historic highs.

The silent slavery of poverty is not so silent anymore. Katrina focused the Nation's attention on the immense hardships that low-income Americans face each day, and presented us with an historic and challenging opportunity to find better ways to lift up the most vulnerable among us.

This is Christmas. Surely, the American people deserve better.

In the Senate, we did our best to respond to the needs of average Americans by helping to expand access to a college education. We cut the fat out of bank profits and put it back where it belongs—helping students afford the cost of college. Our bill included a virtually unprecedented increase in need-based aid—over \$8.25 billion over 5 years.

All together, it provides \$12 billion in new aid and additional benefits for needy children who have the ability to go to schools and colleges all across this country—bipartisan, unanimous, out of our committee and on the floor of the Senate, all in jeopardy this afternoon. Hopefully, our good chairman, Chairman ENZI, will be able to fight for those provisions. But that is now in jeopardy from those who believe that tax breaks are more important than our children's future. Americans know that education is the great equalizer. When young people work hard,

study, play by the rules to be well qualified academically, they should be able to attend college. The cost of public college tuition fees has skyrocketed 46 percent since 2001. That leaves the lowest income students at 4-year public colleges with an average of \$5,800 in unmet need.

Too many qualified students, 400,000 each year, do not go to a 4-year college. They can't afford it. They have the academic ability to succeed in those schools and colleges. They will not do that, and they cannot do that because of the finances. Almost 200,000 do not attend even a community college.

This is not acceptable, and we should be able to do better.

In addition, the Republican plan, as we found in the bill funding education and health care, will cut funds for public schools for the first time in a decade, leaving 3 million children behind. It provides no new funds for afterschool programs. It strips funding for technology in our schools.

The bill covers even less of the cost of meeting the educational needs of students with disabilities. Instead of meeting our promise to parents and communities to do more, we are doing less.

Remember when we passed the IDEA program, we said we would establish that the Federal Government would get 40 percent to pay for disabled children and that we expect the States and local communities to pick up the difference. Now we are retreating.

We have attempted, under the leadership of Senator HARKIN, to be able to meet that responsibility. And now we are finding that 18 percent is slipping and going in the wrong direction rather than helping States, local communities and parents, particularly the parents that have disabled children.

It leaves Pell grants frozen in place for the fourth year in a row, even as college costs are soaring.

That is in the Republican proposal.

The Republican proposal cuts job training, even as the number of good jobs is shrinking, and fails to provide adequate increases for programs to ensure worker safety.

We have 161,100 unemployed workers in my State of Massachusetts. Yet funds for unemployment insurance offices and to help unemployed workers with job-seeking are being cut.

The proposal cuts job training, even as the number of good jobs is shrinking. We have 73,000 jobs that are going, that are vacant by employers all over our State. But we are missing is the linkage between training these workers so they can get these jobs and so they will be taxpayers contributing to their community and making a difference. We are cutting back on that program.

The House bill cuts the child support enforcement program by \$5 billion over 5 years, resulting in a \$24 billion reduction in child support collections over the next ten years. The House bill will reduce child support collections in Massachusetts by \$140 million over the

next five years. This is an enforcement program to make those who have an obligation to children take personal responsibility and help their children grow and learn. The House bill cuts this necessary and successful support program.

There are currently over 13,500 children in Massachusetts waiting for child care. Do you know what? We are cutting back the number of Child care subsidies for low income families. Who knows how many more thousands of people will not work because they cannot provide and look after their children any longer.

Does that particularly make sense with regard to the child and the parent in terms of the family? Clearly, it does not.

Funding for unemployment insurance has been cut by \$141 million, and funds for programs to help unemployed workers with job seeking have been cut by \$89 million, even in the wake of Hurricane Katrina, with 8 million Americans unemployed.

We know those within the administration would like to pretend Katrina never existed and the devastation that took place in Mississippi and New Orleans never happened. Those people should disappear, deny that those States are part of the United States of America. We are one country. We do have one history. We are one Nation. And now we pretending, evidently, that disaster never took place.

Finally, I want to go into the area of health care. We live in an era of medical miracles. This is the life science century. We have had the mapping of the human genome, the DNA, the sequencing of the gene. These breakthroughs which were unheard of 10, 15, 20, 30 years ago, bringing together the latest new technologies in engineering, with the latest in terms of the possibility of research—and the possibilities are virtually unlimited in our lifetime—to see major breakthroughs for new cures for multiple sclerosis, cancer, diabetes, Parkinson's disease, and Alzheimer's disease.

What do we do after the Congress and Senate doubled the NIH budget? We see the possibilities, but we are basically cutting back on those possibilities and cutting back for giving help and assistance to our fellow citizens.

Finally, I am deeply concerned about what is happening to the millions of our fellow citizens who are looking to retirement and looking to pensions. We know there is effectively a three-legged stool for retirees. If you look at what has happened to their savings, they have been effectively eviscerated, wiped out because of the sudden increased costs that working families have been affected by. If they had been in the 401(k)s, they have had virtual stability and very little growth in recent years.

The last major part is the pensions, and 700 companies have dropped their pension plans, and an estimated \$8 billion in future benefits has been lost to

American workers in the period of the last 5 years—\$8 billion that has been paid in by American workers who sacrifice; who say: No, we will not take more wages to provide for our family now, we want to put something aside for when we require. No, we will not take that extra money so we can have a little vacation. We will put it aside. We need those resources. We will put it aside for another day. No, we will sacrifice in terms of additional time. We will work overtime, and we will contribute into the pensions, \$8 billion in the last 5 years—and those numbers are going to continue unless we pass a pension bill.

We can't get in conference with the House of Representatives. Do you want to know why? Because House Leadership is holding a bill effectively hostage in the House of Representatives.

What are you going to tell those airline workers? You talk about abuse of power and abuse of authority. It is absolutely outrageous.

The Senate moved toward a pension bill last month. We passed that with two dissenting votes—not everything that Senator ENZI would have wanted, not everything that I would have wanted, certainly not what a lot of others would have wanted. Our leaders in this, Senators MIKULSKI, TOM HARKIN, JEFF BINGAMAN, and many others, bipartisan in nature, Republican and Democrats alike, got together and passed that legislation under the leadership of Senator ENZI, and we are being effectively stonewalled.

The House could have engaged in a bi-partisan process. But instead they chose to forge ahead with a bill that has no Democratic support and that threatens our manufacturing companies, cutting off benefits for workers whose plants close; leaves older workers without protections when their companies switch to new plans; and leaves workers at the mercy of conflicted investment advice. That is why they are unable to pass legislation this year.

I urge members of the House to take a page from the Senate's book. It is not too late to reach a consensus on a bill that can be passed quickly with Democratic support.

We are talking about the holiday season. We are talking about the Christmas time. Hundreds of thousands of workers, retirees of airline companies, see their retirement on the line.

That includes the retired mechanic, Randy Daly, of Apple Valley, MN, who spent 40 years as a mechanic at Northwest Airlines. At 61, he thought his best years were ahead of him. But now he has learned, if his company's pension plan fails, he stands to lose over 40 percent of his retirement benefits. Most of his fellow retirees fear a similar fate.

Our airline companies are under tremendous financial pressure from terrorism, the recent catastrophes of Hurricane Rita and Hurricane Katrina, and increased jet fuel costs. Some of these

companies have filed for bankruptcy. The list goes on, as the Senator from West Virginia knows.

The whole challenge is for many manufacturers, the hundreds of thousands of workers in companies such as Bethlehem Steel, LTV, many of the coal and other companies where workers have paid the price and lost their pensions. We should not be waiting more time for the brink of failure before we act. This legislation helps nearly millions of workers and retirees. We should not at this time turn them down.

In the pension bill we also included the key reforms to respond to the Enron, the WorldComs, and other corporate scandals where employees were forced to invest in company stock at a huge risk and then lost it all while the employers walked away with huge pension security packages.

Finally, we address the women's retirement security with provisions from the Women's Pension Protection Act, which was bipartisan. The Senator from Maine, Senator SNOWE, myself, and many others, recognized the particular challenges women have in terms of the pension issue.

American workers and their families expect Congress to protect their hard-earned pensions. Americans expect Congress to help them send their children to college, not make it more expensive at a time when workers need more and more skills. Americans expect Congress to increase, not cut, education and job training. Americans expect Congress to help secure health care, not cut health care assistance. Americans expect more from us. Americans deserve better, especially at this Christmastime.

Mr. BYRD. Will the Senator yield?

Mr. KENNEDY. I am happy to yield.

Mr. BYRD. Mr. President, I thank the Senator for the speech he made. I am glad I stayed and listened to his speech. It is one of his finest speeches. It is a speech made in the true spirit of Christmas, too. The Senator, once again, stands for the poor, the down-trodden, those who cannot be here to speak for themselves.

I thank the Senator for this speech. He is truly in my book one of the great Senators for all time. We have not always agreed. We have not even liked each other in long ages ago, times past. But that is in the past. I think so highly of this Senator. I am glad I stayed here to hear this speech. It was certainly thoughtful. It was needed at this time. I congratulate the Senator. Tomorrow, I may speak a little bit on the same subject—not as eloquently as he has but certainly along the same line.

I hope I can do that.

Mr. KENNEDY. I thank the Senator for his kind words and for his typical graciousness. I am so glad we had an opportunity to have a brief celebration at your recent birthday. It is good to see the Senator up, as always, in fighting trim and fighting form.

I am grateful for the Senator's comments.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. The Senator from Wyoming.

ACCENTING THE POSITIVE

Mr. THOMAS. Mr. President, I have a few issues to discuss in morning business. First, I desire to be more positive than what we have been hearing. It makes one depressed to hear the negative discussions. There are quite a number of positive things happening in this country. Perhaps we ought to talk about them.

We have had the extraordinary growth in gross domestic production, growth in the economy over the last number of months, particularly in the last month, 3.5 percent growth. We have had more jobs than we have had for a very long time. We have more people working than we have had for a very long time. Certainly there are always issues we can talk about. The fact is we are moving forward on these issues. We are doing the things that need to be done. Indeed, we should.

I am sometimes a little distressed that we seem to think the Federal Government is in charge of everything that affects our lives. That probably is not the case. We are also dealing with a great deficit. Yet we want to talk constantly about how we need more money for this and more money for that, more money for all these things. We are in a country where we have several levels of government. There ought to be some division of responsibility. That is our system. We should have somewhat of a limited Federal Government, we are not into every issue. It is disappointing to hear that everything occurring to everyone is a responsibility of the Federal Government.

We also ought to understand when we have some sort of effort to reduce taxes, that helps increase the economy. We have seen more revenues when we have less taxes. The economy grows. There is more investment and we create jobs. Those are good things. Occasionally we ought to talk about that.

I understand a person opposed to the administration wants to talk about the bad stuff. I will primarily talk a little bit more about Iraq and the situation we are in there. It has been an issue for all of us, and tends to be something we are all very much concerned about. However, the discussions lately have changed somewhat. That is a good thing.

Almost no one is suggesting that U.S. troops ought to remain in Iraq forever. We hear all the views, people talking about this point of view, that point of view. But since the beginning, there was the notion that we have a job to do, and as soon as that job is finished we need to get out. That is not a new topic.

I have to admit completing the job can be defined differently by different people. However, the fact is almost everyone at the same time suggests that the troops need to remain in their cur-

rent numbers until the insurgency is suppressed. Most everyone agrees with that.

In the beginning, some of the folks in the House of Representatives were making the point to get them out of there now, get them out in 6 months, but they have moderated that and are saying, yes, we need to change what we are doing; we need to complete our job. We see more and more people wanting to do that. The administration has been talking for some time, of course, about reducing the number of troops in the process of doing that but not setting a date.

My point is it is interesting, and the media has something to do with this, to try to show the differences, but the fact is there is quite a bit of similarity among the things that people are saying with regard to Iraq.

Few people agree with the idea of increasing the number of troops. There is some talk about that. But that is not generally agreed to. Of course, almost no one agrees the troops ought to be pulled out immediately at a certain time.

My point is there seems to be great differences between the critics and the administration. But when they look at it, everyone is pretty much on the same side. We need to finish our job, reduce our troops there, turn it over to the Iraqis as soon as possible. The time to do that, the way you do that, there is an area for difference, but that is a common argument.

I am trying to say, finger-pointing aside, regarding the debate over whether we should begin to gradually have a withdrawal of troops, there is no debate over that. How you do it, of course, there are different views. There is no disagreement as to bringing the news into the political process. I think it is exciting that this week there will be an election and we will see what kind of bringing there is into that process.

So I guess I am kind of pleased that even though we have differences of view—and that is perfectly legitimate—I am finding there is less difference in the policy between the people who have disagreement than there might have been in the past.

Obviously, the war on terrorism is being fought overseas in Afghanistan and Iraq. Of course, fundamentally, it has changed the environment that has given rise to the Islamic extremism that brought about the attacks, and so on. In a broad sense, that is exactly why we are there. It is one to bring justice back to the perpetrators, but also to change the conditions in the Middle East. I think that basically is beginning to happen: the introduction of a stable democracy and freedom, a democracy that is shaped on the basis of what Iraqis want. We are not imposing on them the same kind of system we have here necessarily; for instance, that there has to be endless discussion on the floor. We are not saying that. There are great steps being made in de-liberation there.

I guess it has been a year and a half since I have been in Iraq, but certainly I think some real progress has been made. I felt as if there had been great progress when I was there. And as to the polls, in the preliminary election, ABC News shows that three-fourths of the Iraqi people express confidence in these elections. That is good and 70 percent approve of the new Iraqi constitution. In a country that has never done those kinds of things before, that is an excellent movement.

We are talking about positive things, which does not mean everything is great, of course. But it does mean we are moving forward, and there is an unmistakable shift from tyranny to democracy that is taking place.

As to the Iraqi forces, we all want them to shoulder a greater share of security efforts. In fact, that is happening. Now, I am also one who believes the system we have used, the military system, has to change as the situation changes. It was one kind of a military opportunity to be moving into Iraq to get rid of Saddam, and having troop movements, routine, normal military activities. Now the time has changed.

I was very impressed with the conversation I had with a police officer from Cheyenne, WY, who was there on a contract to help train police who said: That has all changed now. Instead of having platoons and companies moving around, we are having two or three insurgents over here, and we need more of a police kind of a system rather than a larger military system. I think certainly that is true.

And the Iraqis are moving forward. There are now 97 Iraqi army battalions conducting operations. Thirty-three Iraqi army battalions have assumed their own areas of responsibility. This is a good thing. The Iraqi navy is guarding its coastline and protecting offshore oil platforms. The Iraqi air force is moving supplies throughout the country. Iraqi border police are manning 170 border forts and 22 ports of entry.

Certainly, there is a lot to do yet, probably more in the support—the supply support, the management from the background—as there is in being on the front lines as far as the military of the United States is concerned. I hope and think that movement and that change of role is indeed taking place. There are some 68,000 police who are there. So we are making some progress.

Again, some time ago, when I was there, I was real pleased. We would go down the road in a military vehicle and all the little kids would be waving their arms. We went to some schools. We went to some hospitals.

Now we are getting a report that 762 out of 834 schools are back in place. That is a good move—not complete, of course, not perfect. It is also reported that 12 out of 29 hospitals are back in place; 5 out of 12 major airports are functioning. So there is a great deal going on. It is reported that 144 out of

222 water treatment stations are functioning. There is still work to do, but, nevertheless, a substantial amount of work has been done.

So the fact is, of course, the road from tyranny to freedom is not an easy process. It is a process that we have not always experienced in the past. So as we see new challenges, then we have to face them in different ways. Having been in the military, I know sometimes it is difficult to sort of change the methods the military is accustomed and trained to do. But these are different sorts of challenges. I am very proud of the military in doing what they have done.

The al-Qaida terrorist leader has indicated that Iraq is a central battlefield for this war, certainly in terms of terrorism. And our people continue, of course, to do well in spite of the deadly insurgency. That is a tough thing. The insurgency is just people coming out of nowhere with bombs, roadside bombs in cars.

So I guess really what I am trying to say is there is good evidence that things are going well—not as well as you would like, obviously. There are improvements being made. We are moving towards our goal. The goal is to be able to turn this back over to the Iraqis, to return our folks home as soon as possible. Everyone agrees with that: as soon as possible. There is always room for disagreement as to what is necessary, of course, to be able to do that.

But despite the naysayers we hear here, the Iraqis are generally optimistic. A recent ABC News poll showed that 70 percent of Iraqis sampled said life in Iraq was “good.” So in addition to that, of course, the actions that are being taken are being felt in Egypt, Libya, Lebanon, Kuwait, and Saudi Arabia. So we are having some sort of an impact in that whole Middle East area, which is, of course, what we had hoped to be able to do.

So these are some of the things that are happening there. I think there is a surprising amount of optimism about the living conditions improving. Time magazine and others did some analysis and showed living conditions were rated positively for 7 out of 10 Iraqis. I presume that is a legitimate sort of sample. At any rate, it certainly sounds so. Average household income has soared some 60 percent in the last 20 months. It is only \$263, but nevertheless that is substantially more than they had.

So in any event, we have a challenge yet before us. I think there is increasing recognition that we are there until our job is finished; that our job is to turn it over to the Iraqis; that we ought to indeed move and continue to move towards doing that as soon as we can; that the reduction of our troops, as soon as possible, is the goal of all of us. I think the change in the role certainly is a goal as well. And that, too, is happening.

So I guess the bottom line of what I have read here and what I am saying is

that even though, for various reasons, it seems as if there is a great difference, I think you can see, as you hear about the difference in the parties here, and so on, that there is not that kind of a spread. Sure, there is room for discussion. But the fact is, the majority of people here want to stay until the job is done. The majority wants to turn it over to the Iraqis. The majority wants to remove our folks as soon as we can. And that includes the administration and the folks in opposition.

So that is a good sign that we are moving forward. And I hope certainly we can continue to do that, we can continue to support our goal there and, maybe more importantly, support our men and women who are there committed to carrying out this goal and to helping provide freedom around the world and to protect freedom in our country.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

THE PATRIOT ACT

Mr. SPECTER. Mr. President, I have sought recognition to describe the conference report on the PATRIOT Act, which was agreed to by conferees in the House of Representatives and the Senate last Thursday. This is the first time the Senate has been in session since that time, and the first opportunity for me to make a floor statement outlining the provisions of the conference report.

I begin by thanking the distinguished chairman of the House Judiciary Committee, Congressman JAMES SENSENBRENNER, for his cooperation and cordiality in working through many very difficult issues to come to agreement between the House and Senate conferees.

There has been general agreement that reauthorization of the PATRIOT Act is necessary as an important tool in the fight against terrorism. One item which the PATRIOT Act accomplished, which was enacted shortly after 3,000 Americans were killed and many wounded on 9/11, was elimination of the so-called wall, so that evidence gathered under the Foreign Intelligence Surveillance Act could be used in a criminal prosecution. Prior to the enactment of that provision, if there was evidence obtained under the Foreign Intelligence Surveillance Act, which has a slightly lesser standard than probable cause used for a criminal search warrant, it could not be used for a criminal case. There is no disagreement, to my knowledge, with the proposition that this provision is very important and ought to be retained.

Similarly, other provisions of the PATRIOT Act have been conceded to be important: the provisions on obtaining records, the provisions on wiretaps—although subject to some limitations, and I voted against that provision when the bill was up shortly after the 9/11 attacks in 2001—and provisions on delayed notice warrants. And there are many provisions which there has been general agreement ought to be retained.

There have been questions raised, and appropriately so, about the sweep of the PATRIOT Act and whether it could accomplish its designed purposes while providing more protection for civil rights and civil liberties. A good bit of the public debate—most of the public debate—has been focused on those provisions. The conference report makes vast improvements on existing law on items such as obtaining business records, the so-called library record provision; on the delayed notice provisions; and on roving wiretaps. There are limitations now imposed on national security letters, which have been in effect for decades. They were not created by the PATRIOT Act, but the reauthorization of the PATRIOT Act has provided a forum for reconsideration of the way national security letters are used and to provide safeguards for civil liberties.

The principal concern expressed publicly about the PATRIOT Act is the ability of law enforcement to obtain business records—it has been commonly referred to as the “library records provision.” There is great concern about obtaining somebody’s library records by an agent unilaterally, who makes the certification that the records are sought for an investigation, and the agent on his or her own goes and obtains the records. The conference report is a vast improvement on existing law because the conference report imposes judicial review, not quite up to the standard of probable cause for a search and seizure warrant or probable cause for an arrest warrant but cause shown.

The statute provides that the court may issue an order for records only on “a statement of facts showing that there are reasonable grounds to believe that the tangible things sought are relevant to an authorized investigation to protect against international terrorism.”

Having judicial intervention between the assertions of the law enforcement officer and the invasion of privacy to get these records is the common law standard; that is, the American way of protecting civil liberties. So the impartial magistrate is interposed between the police and law enforcement official and the citizen.

The Senate bill provided that relevance would be established only on a showing one of three things:

No. 1, that the records pertain to “a foreign power or an agent of a foreign power; two, the activities of a suspected agent of a foreign power who is

the subject of an authorized investigation; or three, an individual in contact with or known to a suspected agent of a foreign power.”

The conference report makes an important change to the standard from the Senate bill. This change was made after a closed-door briefing with the Department of Justice was able to show strong reasons to allow the judge to authorize obtaining records where one of those three conditions had not been met, where there was a terrorism investigation underway, and those records were crucial to moving ahead with that terrorism investigation.

I believe, while it would be preferable to have the Senate version, that this provision is reasonable and realistic and is certainly not a substantial basis, not really any basis at all, for rejecting the conference report.

The next most highly publicized concern has been on the so-called national security letter. I repeat, the national security letter was not created by the PATRIOT Act passed shortly after 9/11 but has been an investigative tool for decades. Under current law, there is no explicit right on the part of someone who has been served with a national security letter to do anything about it except to comply. The conclusion has been reached that the recipient may not make a disclosure of that national security letter.

The conference report is a vast improvement. I have used the word “vast” repeatedly because it makes a very extensive improvement by enabling the recipient to go to a lawyer. It explicitly says you can go to your lawyer and you can challenge the national security letter and you can go to court. You can have the national security letter quashed if it is unreasonable, oppressive, or otherwise contrary to law. When you go to court, you can get permission to tell the target of the national security letter about the national security letter, if the judge finds that doing so would not harm national security, interfere with an investigation or diplomatic relations, or risk death or bodily injury to another person.

The judicial review is somewhat limited in that there is a presumption that the certification by high-ranking officials of the Department of Justice or the FBI or the requesting agency will be conclusive on whether the disclosure will be harmful to national security or diplomatic relations.

What was not understood, really misunderstood, during the course of the deliberation in the conference, was that the Senate bill, which was widely heralded as being a remarkably good bill, agreed to by all 18 members of the Judiciary Committee—and it is very unusual to have the Judiciary Committee agree unanimously on anything, let alone on a matter of civil rights, but that was done. Then, when the bill was forwarded to the floor, it went on our so-called unanimous consent calendar, which means it was passed by

unanimous consent without any floor debate. It is highly unusual and perhaps unprecedented on a bill of this magnitude to be on the unanimous consent calendar because people all thought it was fine. That requires the absence of an objection. Any one Senator can prevent it going on to the unanimous consent calendar. That means 100 Senators have to in effect have acquiesced.

The provision in the Senate bill was that “in reviewing a nondisclosure requirement, a certification by the government that the disclosure may endanger the national security of the United States or interfere with diplomatic relations will be treated as conclusive unless the court finds that the certification was made in bad faith.”

As I said before, it was misunderstood and not noted by the conferees as to that provision in the Senate bill which drew only praise, not an objection. But there was an objection raised to a provision in the conference report which is more protective of civil liberties than that which was in the Senate report.

The conference report specifies “if at the time of the petition, the Attorney General, the Deputy Attorney General, an Assistant Attorney General, or the Director of the Federal Bureau of Investigation, or in the case of a request by a department agency, or instrumentality of the Federal Government other than the Department of Justice, the head or deputy head of such department, agency, or instrumentality”—here comes the critical language—“certifies that disclosure may endanger the national security of the United States or interfere with diplomatic relations, such certification shall be treated as conclusive unless the court finds that the certification was made in bad faith.”

So the conference report is more protective of civil rights than was the Senate bill, which was so widely praised, because in the Senate bill you had to have a certification by the Government, which means any agent of the Government. But in the conference report, it was ratcheted up to require certification by these high-ranking officials, such as the Attorney General or the head of the FBI or the department heads or Assistant Attorneys General, all of whom are subject to Senate confirmation.

I think, had the misconception not prevailed about the presence of that provision in the Senate bill, our conference would have been a lot shorter, and I think it fair to say, not with absolute certainty but fair to say, it would have had more signatures on the conference report.

But in any event, the conference report gives much more by way of protection of civil liberties than is present under existing law.

The third issue which was taken up to enhance the protection of civil liberties is the delayed notice provision, or the so-called “sneak and peek provision.” This involves a situation where

there would be a warrant to search someone's house or apartment surreptitiously; that is, without giving notice to the individual.

Under existing law, under the PATRIOT Act, the Government must notify the individual within a reasonable period of time. Reasonable has no definitive limit, is vague and indefinite; it is open to very wide interpretation as to what constitutes reasonable. The conference report imposes a maximum time limit of 30 days, which can be extended on cause shown if certain specific criteria were met.

The Senate bill had a 7-day notice requirement. The House bill had a 180-day requirement, and the compromise was 30 days. So most of the provisions of the Senate bill or most of the substance of the Senate bill was agreed to. Now you have a set time limit, unless cause is shown to extend it; again, what I would characterize fairly as a vast improvement. Then there are provisions under the roving wiretap laws. I have always been concerned about the intrusion of privacy under wiretaps. In my days as district attorney, I was the sole district attorney among the 67 Pennsylvania counties to oppose legislation on wiretaps. When the PATRIOT bill came to the Senate shortly after September 11, I was one of the few Senators who voted against the wiretap provision.

Law enforcement has made a case in support of a roving wiretap and the PATRIOT Act conference report protects civil liberties additionally by requiring that there be an identification of the individual, a description, and that there be a showing that the individual will seek to try to evade detection of the wiretap so that on that provision, as well, there is an enhancement of civil liberties.

Perhaps the most contentious issue that was taken up by the conference was the issue of the sunset. The House of Representatives asked for a sunset of 10 years in their bill. The Senate bill has a sunset of 4 years. The House proposed, in a very forceful way, a compromise at 7 years, splitting the difference. The sunset provision is very important because all of the provisions of the PATRIOT Act expire at the end of the sunset unless there is a renewal. This puts law enforcement on notice that there will be oversight by the Judiciary Committees of both Houses, and the Senate Judiciary Committee has been very diligent on oversight and is committed to extensive oversight on this bill however it comes out.

There were very long, detailed, extensive negotiations. I thank the White House. I thank the President, who was personally acquainted with this issue. I had the opportunity to travel with him to Philadelphia earlier today where he made a speech about Iraq. He said to me, it was my expectation if we fulfilled your request for assistance on getting a 4-year sunset, there would be a little more receptivity for the bill. I am paraphrasing what was involved.

This issue went to the highest level of the Federal Government. We had tremendous assistance from the White House on the sunset provision. Not only was the President conversant with it, as I have stated, but the Vice President was involved in the negotiations, the Chief of Staff, Andrew Card, whom I talked to on a number of occasions, and others in the White House. This 4-year sunset is a major, major, major improvement for civil liberties interests in that these provisions will be in existence not for 10 years, 7 years, 6, 5, but only for 4 years.

In essence, we have a bill which is not perfect. I don't know that we deal in perfection in the legislative process. The whole art of politics and legislation is the art of accommodation, conciliation, and compromise, which is a worthwhile concept. That is the way we work in a democracy. No one gets their way entirely.

If I had my preference, we would have taken the Senate bill lock, stock, and barrel, and that would have been it. But we have a bicameral legislature and considerations and issues raised by the House of Representatives, I think again, are fairly raised and fairly stated. I explicitly compliment Chairman SENSENBRENNER for his cooperation and his good work on this bill.

That is, believe it or not, a somewhat abbreviated version of this legislation, this complex legislation.

We had a letter from six of our colleagues—Senator CRAIG, Senator SUNUNU, Senator MURKOWSKI, Senator DURBIN, Senator FEINGOLD, Senator SALAZAR—and I ask unanimous consent that a copy of their letter to me and a copy of my letter to them be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, November 17, 2005.

Hon. ARLEN SPECTER,
Chairman, U.S. Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

Hon. PATRICK LEAHY,
Ranking Member, U.S. Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

Hon. PAT ROBERTS,
Chairman, U.S. Senate Select Committee on Intelligence, Hart Senate Office Building, Washington, DC.

Hon. JOHN D. ROCKEFELLER IV,
Ranking Member, U.S. Senate Select Committee on Intelligence, Hart Senate Office Building, Washington, DC.

DEAR CHAIRMAN SPECTER, CHAIRMAN ROBERTS, RANKING MEMBER LEAHY, AND RANKING MEMBER ROCKEFELLER: We write to express our deep concern about the draft Patriot Act reauthorization conference report made available to us early this afternoon. As you know, the Senate version of the bill, passed by unanimous consent in July, was itself a compromise that resulted from intense negotiations by Senators from all sides of the partisan and ideological divides. Unfortunately, the conference committee draft retreats significantly from the bipartisan consensus we reached in the Senate. It does not

accomplish what we and many of our colleagues in the Senate believe is necessary—a reauthorization bill that continues to provide law enforcement with the tools to investigate possible terrorist activity while making reasonable changes to the original law to protect innocent people from unnecessary and intrusive government surveillance.

To support this bill, we would need to see significant movement back toward the Senate position in the following areas:

1. SECTION 215

The draft conference report would allow the government to obtain sensitive personal information on a mere showing of relevance. This would allow government fishing expeditions. As business groups like the U.S. Chamber of Commerce have argued, the government should be required to convince a judge that the records they are seeking have some connection to a suspected terrorist or spy.

The draft conference report does not permit the recipient of a Section 215 order to challenge its automatic, permanent gag order. Courts have held that similar restrictions violate the First Amendment. The recipient of a Section 215 order is entitled to meaningful judicial review of the gag order.

2. NATIONAL SECURITY LETTERS

The draft conference report does not provide meaningful judicial review of an NSL's gag order. It requires the court to accept as conclusive the government's assertion that a gag order should not be lifted, unless the court determines the government is acting in bad faith. The recipients of NSLs are entitled to meaningful judicial review of a gag order.

The draft conference report makes it a crime, punishable by up to one year in prison, for individuals to disclose that they have received an NSL, even if they believe their rights have been violated. Violating an NSL gag order should only be a crime if the NSL recipient intends to obstruct justice.

3. SUNSETS

The draft conference report includes seven-year sunsets, which are too long. Congress should have the opportunity to again review the controversial provisions of the Patriot Act before the final year of the next presidential term. Four-year sunsets would ensure accountability and effective oversight.

The draft conference report does not sunset the NSL authority. In light of recent revelations about possible abuses of NSLs, the NSL provision should sunset in no more than four years so that Congress will have an opportunity to review the use of this power.

4. SNEAK AND PEEK WARRANTS

The draft conference report requires the government to notify the target of a "sneak and peek" search no earlier than 30 days after the search, rather than within seven days, as the Senate bill provides and as pre-Patriot Act judicial decisions required. The conference report should include a presumption that notice will be provided within a significantly shorter period in order to better protect Fourth Amendment rights. The availability of additional 90-day extensions means that a shorter initial time frame should not be a hardship on the government.

For the past several years, our bipartisan coalition has been working together to highlight and fix the civil liberties problems posed by the Patriot Act. We introduced the SAFE Act to address those problems, while still maintaining important law enforcement powers needed to combat terrorism. We cannot support a conference report that would eliminate the modest protections for civil liberties that were agreed to unanimously in the Senate.

The conference report, in its current form, is unacceptable. We hope that you, as members of the conference committee, will consider making the changes set forth above. If further changes are not made; we will work to stop this bill from becoming law. Thank you for your consideration.

Sincerely,

LARRY E. CRAIG.
JOHN E. SUNUNU.
LISA MURKOWSKI.
DICK DURBIN.
RUSS FEINGOLD.
KEN SALAZAR.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

Hon. LARRY E. CRAIG.
Hon. JOHN E. SUNUNU.
Hon. LISA MURKOWSKI.
Hon. RICHARD J. DURBIN.
Hon. RUSSELL D. FEINGOLD.
Hon. KEN SALAZAR.

DEAR COLLEAGUES: I am in receipt of your November 17 letter outlining your concerns about the draft Conference Report reauthorizing the USA PATRIOT Act. My purpose in writing is to explain how the final Conference Report addresses the issues you have identified; or, where the issues are not addressed, to explain why I am nonetheless comfortable with the bill. Ultimately, my aim is to demonstrate to you that the bill is one civil libertarians can, and should, embrace.

Addressing each of your concerns in turn:

1. SECTION 215

The draft Conference Report would allow the government to obtain sensitive personal information on a mere showing of relevance. This would allow government fishing expeditions. As business groups like the U.S. Chamber of Commerce have argued, the government should be required to convince a judge that the records they are seeking have some connection to a suspected terrorist or spy.

Although the Conference Report does authorize the FISA court in certain narrow circumstances to issue an order under Section 215 upon a showing of relevance, I respectfully disagree that the result is a provision more open to abuse. In fact, the additional protections we have obtained in the Conference Report make Section 215 unquestionably more protective of civil liberties and privacy rights than current law, and likely even more protective of those rights than the Senate bill.

First, it is important not to overstate the significance of the fact that the FISA court, in extraordinary circumstances only, will allow a 215 order upon a showing of relevance to a terrorism investigation. The relevance standard will apply only in extraordinary circumstances because the Conference Report channels all applications for Section 215 orders into the three categories delineated in the Senate bill. By providing a presumption of relevance when the government can demonstrate a connection to a suspected terrorist or spy, the bill ensures that requests falling outside the three categories will be the exception and not the rule. Indeed, the presumption ensures that law enforcement will face an uphill battle in any effort to obtain a 215 order that does not fall into one of the three categories and thereby provides an incentive for the FBI to use the tool only when it can show a connection to a suspected terrorist or spy. Some flexibility was necessary because the Justice Department was able to demonstrate, in a classified setting, that circumstances arise in which it is necessary to obtain an individual's records in an authorized investigation in which it is not

possible to demonstrate that the individual is working on behalf of a foreign power or a known terrorist organization.

In addition, the Conference Report includes a number of safeguards against abuse of Section 215 that neither the Senate bill nor the House bill contained. First, the Conference Report would require a comprehensive audit by the Justice Department's famously independent Inspector General of law enforcement's use of Section 215. The Inspector General's reports will examine the use of Section 215 both before and after reauthorization of the PATRIOT Act. Second, the Conference Report would permit, for the first time, public reporting of the total number of 215 orders sought and granted. A third safeguard against the possibility of fishing expeditions is the Conference Report's provision that Section 215 orders may not be used for the purpose of conducting threat assessments. This requirement ensures that Section 215 will be used only during those authorized investigations that have progressed beyond the initial stages. A fourth new safeguard is that every order under Section 215 will require minimization procedures that sharply curtail the retention and dissemination of information concerning United States citizens. These minimization procedures will prevent the government from stockpiling information on American citizens or from maintaining records on citizens who are only incidental to the investigation.

Finally, it is important to point out that the conferees obtained all of these additional protections without sacrificing the critical improvements over the current Section 215 that made the Senate's PATRIOT bill attractive to so many: (1) the requirement of a statement of facts to accompany an application for an order under Section 215; (2) the express vesting of discretion in the FISA judge to review, and to reject, the FBI's application for a 215 order; (3) the express right of recipients to consult legal counsel and seek judicial review of 215 orders; (4) the requirement of approval by senior FBI officials before the government can seek library records, medical records, educational records, gun records, and other sensitive documents; (5) the enhanced reporting to Congress on the use of Section 215, including specific information concerning requests for the most sensitive documents; (6) the requirement that 215 orders can compel the production only of those tangible things that could be obtained under a grand jury subpoena or other orders issued by federal courts; and (7) the inclusion of a four-year sunset provision to guarantee that Congress will revisit Section 215 at a later time.

The draft Conference Report does not permit the recipient of a Section 215 order to challenge its automatic, permanent gag order. Courts have held that similar restrictions violate the First Amendment. The recipient of a Section 215 order is entitled to meaningful judicial review of the gag order.

After extensive discussion of this issue by the conferees, I was able to conclude that the statutory scheme that the Conference Report establishes would permit adequate judicial review of the nondisclosure requirement.

Primarily, this review occurs because an order under Section 215 cannot issue without advance approval by the FISA court. This review is not only important as a practical matter, in that it guarantees judicial scrutiny of the confidentiality provision in each 215 order; but it could well prove dispositive in any First Amendment challenge. In fact, one federal court that invalidated the nondisclosure requirement of an NSL on First Amendment grounds specifically singled out the absence of explicit judicial review in the present law as the principal reason the regime governing nondisclosure of orders

under Section 215 was preferable. *Doe v. Ashcroft*, 334 F. Supp. 2d 471, 515 (S.D.N.Y. 2004) ("Furthermore, these provisions are not quite as severe as those contained in the NSL statutes because, with one narrow exception for certain FISA surveillance orders [that is not relevant here], they apply in contexts in which a court authorizes the investigative method in the first place."); cf. *Doe v. Gonzales*, 386 F. Supp. 2d 66, 80 (D. Conn. 2005) (criticizing the law governing NSLs on First Amendment grounds because it "provides no judicial review of the NSL or the need for its non-disclosure provision").

2. NATIONAL SECURITY LETTERS

The draft Conference Report does not provide meaningful judicial review of an NSL's gag order. It requires the court to accept as conclusive the government's assertion that a gag order should not be lifted, unless the court determines the government is acting in bad faith. The recipients of NSLs are entitled to meaningful judicial review of a gag order.

As an initial matter, the ability to challenge the issuance of an NSL remains the same as that necessary for challenging a grand jury subpoena. A party challenging an NSL may be successful if it is shown that compliance with the NSL would be unreasonable, oppressive, or otherwise in violation of the law. The provision at issue relates only to the question of whether the recipient of the NSL may disclose that fact. In that situation, the deference a court must show to the government is not nearly as broad as stated. Specifically, the court is required to treat a government certification with deference only when the government asserts that removing the nondisclosure requirement would endanger the national security of the United States or interfere with diplomatic relations. Even so, the court is able to invalidate the nondisclosure requirement in the event the government acts in "bad faith." In all other circumstances, the Conference Report makes no provision for any special deference to the government.

Furthermore, it is important to note that substantively identical language was included in the Senate bill, which passed this body by unanimous consent. See S. 1389 §8(b)(2) ("In reviewing a nondisclosure requirement, the certification by the Government that the disclosure may endanger the national security of the United States or interfere with diplomatic relations shall be treated as conclusive unless the court finds that the certification was made in bad faith."); see also H.R. 3199 §16.

The conference adopted an important additional safeguard ensuring that the presumption will be used only sparingly. Under the Conference Report, the Attorney General, the Deputy Attorney General, an Assistant Attorney General, the Director of the FBI, or an official of similar stature in another agency must personally make the requisite certification in order to obtain the conclusive presumption. This is in contrast to the House bill, which allowed this certification to be made by the Special Agent in Charge of any one of the FBI's 56 field offices, and the Senate bill, which provided for certification by "the Government," generally. In light of this additional safeguard over and above what was in either bill, as well as additional public reporting and Inspector General reports concerning NSLs, my hope is that this provision will not prevent you from supporting the Conference Report.

The draft Conference Report makes it a crime, punishable by up to one year in prison, for individuals to disclose that they have received an NSL, even if they believe their rights have been violated. Violating an NSL gag order should only be a crime if the NSL recipient intends to obstruct justice.

The final Conference Report addresses this concern in full. After intense negotiations involving various Senators and House Members and the Senate and House leadership, the one-year misdemeanor for knowing and disclosure of an NSL was struck from the bill. Consistent with your request, violation of the NSL nondisclosure provision is only a crime if the NSL recipient intends to obstruct justice.

At the same time, I did want to take the opportunity to clarify some facts about the NSL nondisclosure requirement, which will not have the onerous impact on individual rights that is implied. First, in contrast to current law, NSLs will not automatically carry an injunction against disclosure; it is only when the government certifies that disclosure may result in a danger to national security or to the physical safety of an individual, or in interference with an investigation or diplomatic relations, that confidentiality is even on the table. Second, the Conference Report explicitly provides that individuals can disclose the existence of the NSL both to those to whom such disclosure is necessary to comply with the request and, critically, to an attorney "to obtain legal advice or legal assistance with respect to the request." Thus, an individual who believes her rights have been violated will be able to consult counsel to explore her options for redressing any grievance. Third, and also in contrast to current law, the Conference Report includes a detailed mechanism for judicial review of the nondisclosure requirement. The end result is that any individual whose rights may have in fact been violated will have a forum in which to petition for relief.

3. SUNSETS

The draft Conference Report includes seven-year sunsets, which are too long. Congress should have the opportunity to again review the controversial provisions of the Patriot Act before the final year of the next presidential term. Four-year sunsets would ensure accountability and effective oversight.

The final Conference Report addresses this concern in full. After intense negotiations involving various Senators and House Members, the Senate and House leadership, and the Administration, the seven-year sunsets were reduced to four years.

In addition, Section 106A of the Conference Report, which does not have an analogue in either bill and was generated during the conference, provides that the Inspector General of the Department of Justice will conduct two comprehensive audits of the use of Section 215. Together with the sunsets, these provisions go farther than even the Senate bill did in ensuring that the Justice Department is fully accountable for its use of Section 215. The Inspector General is known, justifiably, for his thorough, independent-minded, and hard-hitting reports, so there is every reason to think that these inquiries will be an effective check on the Justice Department. Moreover, the release of each report will be occasion for front-page news stories, Congressional briefings, and public hearings—all of which will generate fresh political will and opportunity to rectify any problematic aspects of Section 215.

The draft Conference Report does not sunset the NSL authority. In light of recent revelations about possible abuses of NSLs, the NSL provision should sunset in no more than four years so that Congress will have an opportunity to review the use of this power.

NSLs have been used since at least the 1970s. No evidence exists suggesting their use has ever been abused, nor until now has anyone requested NSLs be subject to a sunset. Neither the House nor the unanimously passed Senate bill contained a sunset provi-

sion for NSLs. Nevertheless, the Conference Report contains new accountability provisions and creates additional opportunities for oversight. As with Section 215, the Conference Report requires audits by the Inspector General of law enforcement's use of NSLs. Section 119 of the Conference Report, which was generated during the conference, requires two such comprehensive audits. These audits should have much the same effect as a sunset.

Despite recent press reports, there is no evidence that NSLs have been abused. Much of the relevant information about NSLs is classified, so any individual news story will understandably omit critical information that is available to lawmakers. Thus, I strongly encourage you or your staff to contact the Intelligence Committee if you are interested in the complete picture concerning the use of NSLs. I think you will be satisfied, as I was, that the media coverage vastly overstates any such "problems."

4. SNEAK AND PEEK WARRANTS

The draft Conference Report requires the government to notify the target of a "sneak and peek" search no earlier than 30 days after the search, rather than within seven days, as the Senate bill provides and as pre-Patriot Act judicial decisions required. The Conference Report should include a presumption that notice will be provided within a significantly shorter period in order to better protect Fourth Amendment rights. The availability of additional 90-day extensions means that a shorter initial time frame should not be a hardship on the government.

As you know, I was able to include in the Senate bill a 7-day limit on the period in which notice can be delayed in delayed-notice search warrants. The House bill, of course, adopted a limit of 180 days, and the House was insistent on not going any lower than 90 days—a period that, it was argued, is consistent with the analogous limit for Title III wiretaps. Moreover, while it is true that the Second Circuit indicated that 7 days was a presumptively reasonable period of delay, the Fourth Circuit countenanced an initial delay of 45 days. Still, my twin objectives in conference were to retain a shortened delay period and to mitigate the significant problem of courts permitting open-ended notification delays.

The Conference Report provides that the maximum period for which notice can initially be delayed is 30 days. Although this period is a few weeks longer than the 7-day time limit from the Senate bill, it is considerably shorter than the 180 days permitted in the House bill and is a significant improvement over the original PATRIOT Act, which included no limits on the period of delay other than what was "reasonable." We were also able to eliminate the possibility of open-ended delays by mandating that notification occur on a date certain. In addition, the Conference Report preserves from the Senate bill both public reporting provisions and the requirement that extensions of the delay period be granted only upon an updated showing of the need for further delay.

Finally, it is important to be mindful of the very limited scope of this issue. Even in the national emergency following September 11, 2001, delayed-notice searches were exceedingly rare. Indeed, the Justice Department has estimated that delayed-notice warrants constituted less than one-fifth of one percent of all search warrants executed by Department components between enactment of the PATRIOT Act and January 31, 2005.

I appreciate the opportunity to explain my views regarding the Conference Report, and I remain grateful for your insights on these important issues. The Conference Report goes far in achieving the aims of the original

Senate bill; namely, it permits law enforcement the necessary tools to protect the country against terrorist acts while at the same time safeguarding the civil liberties we all cherish. In particular, what sets the Conference Report apart from even the Senate bill is its detailed reporting requirements to Congress and the public and its interposition of judicial review on some of the more controversial provisions. Requiring both detailed reporting and Inspector General audits will enable the Congress, as well as the public, to guard vigilantly against any possible governmental incursions upon civil liberties.

Very truly yours,

ARLEN SPECTER.

Mr. SPECTER. I ask unanimous consent that a copy of a "Dear Colleague" letter circulated generally to all the Senators dated December 9, 2005, be printed in the RECORD.

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

UNITED STATES SENATE,
COMMITTEE ON THE JUDICIARY,

Washington, DC, December 9, 2005.

DEAR COLLEAGUE: Upon the Senate's return during the week of December 12th, we will be voting on the conference report reauthorizing the USA PATRIOT Act. I write to seek your support and to explain how the provisions of the conference report retain the most important civil liberties and privacy protections from the bill that passed the Senate and include additional safeguards that emerged from the negotiations between the House and Senate conferees. The conference report retains the tools essential to law enforcement in fighting international terrorism while significantly expanding protections for civil liberties from the Act currently in force.

Although the conference report contains many valuable provisions, such as important protections for the nation's seaports and mass transportation systems, as well as new penalties to combat the growing problem with methamphetamine abuse, I would like to focus on several of the more contentious provisions of the PATRIOT Act itself.

SECTION 215: BUSINESS RECORDS

The most controversial provision of the PATRIOT Act has been Section 215, the so-called "library records" provision. The conference report adds several safeguards to prevent abuse of Section 215 that neither the Senate bill nor the House bill contained. First, the conference report requires a comprehensive audit by the Justice Department's independent Inspector General of law enforcement use of Section 215. Second, the conference report will permit, for the first time, public reporting of the total number of 215 orders sought and granted. A third safeguard is the conference report's provision that Section 215 orders may not be used merely for threat assessments. This requirement ensures that Section 215 will be used only during those authorized investigations that have progressed somewhat beyond the initial stages. A fourth new safeguard is that every order under Section 215 will require minimization procedures that curtail the retention and dissemination of information concerning United States citizens.

The conference report also retains key provisions from the Senate bill: (1) the requirement of a statement of facts to accompany an application for an order under Section 215; (2) the express vesting of discretion in the FISA judge to review, and to reject, the FBI's application for a 215 order; (3) the express right of recipients to consult legal counsel and seek judicial review of 215 orders; (4) the requirement of approval by the

FBI Director, Deputy Director, or Executive Assistant Director for National Security before the government can seek library records, medical records, or other sensitive documents; (5) the enhanced reporting to Congress on the use of Section 215, including specific information concerning requests for the most sensitive documents; (6) the requirement that 215 orders can compel the production only of those tangible things that could be obtained under a grand jury subpoena or other orders issued by federal courts; and (7) the inclusion of a four-year sunset provision to guarantee that Congress will revisit Section 215 at a later time.

The major difference between the Senate bill and the conference report with respect to Section 215 is that the conference report authorizes the FISA court in certain narrow circumstances to issue a Section 215 order upon a showing of relevance to an already authorized terrorism investigation without a demonstration that the person's records being requested is a known terrorist or acting on behalf of a foreign power. The relevance standard will apply only in extraordinary circumstances because the conference report is set up so as to channel all applications for orders under Section 215 into the three categories the Senate established in its reauthorization bill. By establishing three circumstances to demonstrate relevance when the government shows a connection to a suspected terrorist or spy, the bill ensures that requests falling outside the three categories will be the exception and not the rule. Thus, the Senate bill's three-part test remains a substantial safeguard in the conference report.

Law enforcement will face an uphill battle in any effort to obtain a 215 order that does not fall into one of the three categories and thereby provides an incentive for the FBI to use the tool only when it can show a connection to a suspected terrorist or spy. This provision was deemed necessary because the Department of Justice was able, in a classified setting, to demonstrate that circumstances may exist in which an individual may not be known to a foreign power or be a recognized terrorist but may nevertheless be crucial to an authorized terrorism investigation.

NATIONAL SECURITY LETTERS

The conference report also makes important changes to the laws governing National Security Letters (NSLs), which the FBI has used for several decades to request communications records and financial information from third parties in intelligence and terrorism cases. First and foremost, the conference report makes explicit the right of NSL recipients to ask a court to set aside the requirement to turn over information as well as the requirement to keep the request for information confidential. This is in stark contrast to current law, which affords no such explicit right. Second, in a protection analogous to one provided for Section 215, the conference report requires the Justice Department's Inspector General to audit the FBI's use of NSLs. Finally, the conference report significantly enhances reporting to Congress and requires an annual public report on the FBI's use of NSLs. These reporting requirements enable both Congress, and the public, to ensure that NSLs are not being abused.

SECTION 213: DELAYED-NOTICE WARRANTS

The conference report has retained the important protections from the Senate bill's amendments to Section 213 of the PATRIOT Act, which authorizes warrants allowing the government to wait a number of days after the search before notifying the target. The conference report requires that a target be notified within 30 days of the search, unless the facts of the case justify a later date. Al-

though this period is longer than the 7-day time limit from the Senate bill, it is considerably shorter than the 180 days permitted in the House bill and is a significant improvement over the original PATRIOT Act, which imposes no limits on the period of delay beyond what is "reasonable." And, like the Senate bill, the conference report permits extensions of the delay period only upon an updated showing of the need for further delay. As in the Senate bill, these extensions are limited to 90 days, unless the facts justify a longer delay. Finally, and again like the Senate bill, the conference report requires public reporting of all delayed notice warrants.

SECTION 206: MULTIPOINT WIRETAP ORDERS

Many, including myself, have discussed the need for changes to Section 206 of the PATRIOT Act, which authorizes multipoint or "roving" wiretap orders. I think the conference report successfully meets that need. The ability of the Justice Department to obtain multipoint wiretaps is in part a result of changes in communications technology that have made the use of cell phones ubiquitous. Terrorists have taken advantage of those changes to cover their tracks by using multiple phones.

Borrowing elements from both the House and Senate bills, the conference report limits the use of roving wiretaps to those cases in which the FBI includes in its application a "specific" description of the target and "specific facts in the application" that show the target's actions may thwart surveillance efforts. Further, the conference report adopts the Senate bill's requirement that the FBI notify the court within 10 days of moving its surveillance of a target from one telephone number to another. As an additional safeguard, the conference report requires that the FBI report periodically to Congress on its use of the roving wiretap authority. Finally, like the Senate bill, the conference report includes a four-year sunset for Section 206 so that Congress will revisit this provision in the near future. I believe these important modifications will go far in preventing abuse of this provision.

Much of the criticism has really involved complaints about the current PATRIOT Act without understanding the improvements in the conference report. Numerous hearings have determined that the PATRIOT Act has not been subject to abuse. But in order to promote public confidence, the conference report includes significant changes that will enhance oversight by the Congress, the judiciary and the public at large. The conference report represents a balanced compromise designed to maintain our ability to investigate—and hopefully preempt—terrorist attacks, while ensuring that the rights enshrined in our Constitution are not violated.

Very truly yours,

ARLEN SPECTER.

Mr. SPECTER. The schedule which is currently anticipated is that the House of Representatives will take up this bill and vote on Wednesday and the Senate will take up a motion to proceed to vote on Wednesday. There is talk of a filibuster. Whatever Senators choose to exercise whatever rights they have, we will see, but I thought it would be useful in talking to a number of colleagues today, the request was made to see something in the CONGRESSIONAL RECORD which goes into some detail in hitting the hot spots, but I add to my colleagues who may be listening or staffers of my colleagues who may be listening or who may read this in the CONGRESSIONAL RECORD which

will be in print today, my staff and I are ready, willing, and able to elaborate further on the substance of the conference report. This report has been the subject of negotiations between the House and Senate for weeks and has consumed all of last week.

I thank the staffs on both the House and the Senate for extraordinarily diligent work, working around the clock. This was a full-time venture for me, personally, and other Members for the past many days. We have moved ahead because this bill expires on December 31. For those who want to reargue it and relitigate it and reconsider it, it will not get any better. If we go back to conference, were that course to be followed, there are a lot of limitations in the wings that could be added. With only that one provision about the conclusive presumption having been an issue, and it having been in the Senate bill which, again I repeat, we were misinformed about and the vast improvements on the issues we have mentioned, it is a bill that ought to be accepted so we can move on.

We have a very heavy schedule in the Judiciary Committee. When we return in early January before the Senate goes into session, we have the confirmation hearings of Judge Alito for the Supreme Court scheduled on the 9th of January. We then have scheduled as the first item of legislative business asbestos reform when we go back into session on the 23rd. The first item of legislative business will be available on January 24. Then we have the issue of immigration reform, which is very high on the agenda. We have backing up the matter of reporters' privilege or reporters' shield and a long list of items of other confirmation proceedings to take up the time of the Judiciary Committee.

I invite my colleagues' careful consideration, and I repeat the availability of staff and myself personally to answer any questions or make any elaborations.

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

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

HUMAN RIGHTS DAY

Mr. COLEMAN. Mr. President, in recognition of Human Rights Day on December 10, I rise to pay tribute to some of the bravest human rights advocates in this hemisphere Cubans who have dared to raise their voices to protest a regime they rightfully see as anti-democratic and harshly repressive.

Cuba is the only country in the Western Hemisphere that has not held democratic elections in recent decades. Fidel Castro has served as dictator for

over four decades, and his regime does not permit free speech or free enterprise. What is particularly reprehensible is the treatment Castro doles out to those who desire freedom on the island.

This week, the EU will present its Sakharov Prize for Freedom of Thought to the Ladies in White, the mothers and wives of Cuban political prisoners who hold peaceful demonstrations each Sunday to protest the imprisonment of their husbands and sons, some for more than 20 years, for political reasons. I extend my congratulations to these worthy award recipients and to the Sakharov Prize selection committee for their continuing attention to Cuba.

Three years ago, the same prize was awarded to Oswaldo Payá, organizer of the Varela Project, which seeks a referendum on open elections, freedom of speech, freedom for political prisoners, and free enterprise. Despite the imprisonment of more than 50 organizers and continuous government harassment, the Varela Project continues to gather more signatures. To date, more than 35,000 ordinary Cubans have signed the petition at great personal risk and joined a historic national grassroots movement. Mr. Payá also continues to work with other dissidents to plan for Cuba's transition to democracy. I have met with Mr. Payá and found him to be an extraordinary individual.

All this is happening in a context of increasing demands for freedom by the Cuban people. This year's edition of the report entitled "Steps to Freedom" by the Miami-based Directorio chronicled 1,805 acts of nonviolent civil protest and 1,371 vigils for the freedom of political prisoners throughout Cuba, including one major conference on May 20. This represents a significant increase since the first such report in 1997, which found only 44 acts of civil protest, all of which were limited to Havana only. The increasing courage of the Cuban people to stand up for their human rights is all the more remarkable since it is happening in the midst of continuing arrests and "actos de repudio" organized by the Castro government.

In 2003, I traveled to Cuba with an open mind about U.S. trade and travel policy. During my trip I was touched by the stories I heard of people imprisoned for such "crimes" as opening a library, belonging to an independent trade union, or being members of Doctors Without Borders. Since that trip, I have come to believe that supporting those who are working for freedom is the single most important policy we can espouse toward Cuba.

Democracy in Cuba is not something the United States can or should impose. What we can do is support the efforts of the Cuban people to achieve their God-given right to live in a free society. On this Human Rights Day, I salute the Ladies in White, Mr. Payá, and all the other Cubans working for human rights and freedom in their country.

WORLD AIDS DAY

Mrs. FEINSTEIN. Mr. President, I rise today, on World AIDS Day, to remember the 20 million people who have died as a result of the largest pandemic in human history and with the hope that the 40 million people worldwide who are currently living in the shadow of this devastating illness will not be added to the list of lives lost.

The human immunodeficiency virus, HIV, is a certain and silent killer, decimating entire generations, crippling continents, and orphaning as many children as the populations of Los Angeles, Chicago, and New York City combined.

While scientific advances promise new hope for so many, we are still far from winning the war on this deadly virus much more must be done.

AIDS was first identified in the United States in Los Angeles in 1981.

In that year, as mayor of San Francisco, I allocated \$180,000 for the treatment of this disease. By the time I left the mayor's office in 1988, funds allocated for AIDS programs in San Francisco had grown to over \$20 million, more than that of the Federal Government. At that time, the crisis had exploded. AIDS cases reported in the United States had ballooned exponentially from 189 in 1981 to a staggering 32,311.

Today, there are over 1 million Americans living with HIV, and the damage this disease continues to inflict across the globe is shocking.

Worldwide, some 40 million people are living with HIV; 95 percent of those 40 million reside in developing nations. Tragically, only 12 percent of those infected are able to access the antiretroviral drugs needed to significantly extend and improve the quality of their lives.

It costs an estimated \$300 per person per year to purchase the drugs to treat someone with HIV in the developing world, which is less than one dollar per day. As Americans, it is imperative that we acknowledge the AIDS crisis and its causes both globally and locally but our current efforts are simply not enough.

Sub-Saharan Africa, for example, accounts for only 10 percent of the global population but is home to 60 to 70 percent of the worlds reported cases of HIV. Those infected in the region comprise some 25 million of the 40 million people worldwide stricken with the disease.

In Botswana, a staggering 39 percent of the entire population is HIV positive, and the average life expectancy for a baby born in 2010 will be 27 years a figure not seen since the end of the 19th century.

Although some countries have been remarkably proactive in preventing the spread of the virus, HIV remains rampant in others. In most countries, women are disproportionately affected by HIV, in some African nations outnumbering men by more than a 3 to 1 margin.

Sadly, our plight in America continues as well. New advances in antiretroviral drugs show promise in helping many, but AIDS remains an incurable, fatal disease. Especially disconcerting in this country are the disproportionate numbers of minorities and gay men contracting HIV.

African-American women comprise some 72 percent all women diagnosed with HIV in the United States. While African Americans make up only 12 percent of the American population, they account for about 40 percent of AIDS cases diagnosed since the pandemic began.

Perhaps most disturbing, a recent study revealed that 46 percent of Black gay men tested were HIV positive, and of those tested, two-thirds were unaware of their status.

In my home State of California, 45 percent of Los Angeles nursing homes reported that they would not provide treatment for an HIV-positive patient, and one-third of the city's OBGYNs would refuse to treat a mother with HIV.

As a Senator representing the State with the second-highest cumulative number of persons living with AIDS in the United States, I have taken a proactive approach to securing funding for those who so desperately need help battling this disease by consistently supporting increased funding and reauthorization of the Ryan White CARE Act.

I have been a cosponsor of the Early Treatment for HIV Act since the 107th Congress, legislation that would ensure low-income HIV patients receive access to antiretroviral drugs from Medicaid before their immune systems are crippled by the disease.

Additionally, I have been a cosponsor of the Microbicide Development Act since the 107th Congress, a bill to expand, intensify, and coordinate research and development of microbicides to prevent the transmission of HIV and other sexually transmitted diseases. Today's prevention options such as condoms and mutual monogamy are not feasible for millions of people around the world, especially women. Many women lack the social or economic power to insist their partners use condoms. Microbicides are user-controlled products in the form of gels, creams, or films that kill or inactivate the bacteria and viruses that cause HIV/AIDS and other sexually transmitted diseases and their use empowers women to protect themselves from contracting this disease.

To combat AIDS in the developing world, I cosponsored the Kennedy-Feinstein-Feingold Amendment to Help Fight HIV/AIDS, urging developing countries to use compulsory licensing to greatly increase the amount of safe, generic drugs made available to HIV/AIDS patients.

I also authored an amendment to strike language requiring that one-third of funding from the President's Global HIV/AIDS initiative go to "abstinence until marriage" programs to

ensure that our prevention dollars use the comprehensive "ABC" approach, Abstinence, Be Faithful, use Condoms to prevent the spread of HIV.

In the 24 years since AIDS was first diagnosed, America and the world have made tremendous strides in battling HIV. The average life expectancy of someone infected with HIV has risen dramatically since the disease was first identified. Despite our best efforts, the war on AIDS is still not won. Even the most optimistic estimates predict a vaccine may be another 10 years away. As Americans, we must do everything in our power to expedite the defeat of this disease.

I urge my fellow senators and the Bush administration to do everything in their power to find a cure for the AIDS pandemic and adequately fund research and treatment of HIV/AIDS. While our efforts have been great, the toll AIDS has taken on the world has been far greater.

It is my hope that our unwavering dedication to helping the countless victims of HIV/AIDS will continue well beyond World AIDS Day. It should be our goal to band together to work to find the cure for this deadly illness which transcends gender, race, and nationality.

On this day, I encourage people around the world to take time to ponder the vast scope of the AIDS pandemic, and remember those we have lost. But let us not remember them in sorrow but, rather, let their memory inspire our efforts to prevent any further devastation from this virus. Amidst our many domestic and international problems, let us remember that AIDS has cruelly cut short tens of millions of lives, more than that of any warlord, dictator, or natural disaster in human history. This disease has ravaged a continent, orphaned innumerable children, and torn apart entire communities. Millions more will die of AIDS this year, and millions more, including newborn infants, will become infected. Until the day when this virus no longer threatens the lives of millions of innocent people, we all must pledge to keep this fight alive.

It is our responsibility as representatives of the people to take action now to eradicate this deadly disease. Each day we wait is another day when someone's loved one will fall victim to this virus. Silence is approval, and it is our duty to raise our voices for those whose voices have been silenced. It is our duty to further the strides taken since the first case was diagnosed in 1981, so our generation can celebrate the day when the last case is cured. As I have said before, "I was there in the beginning, and I plan to be there in the end."

ADDITIONAL STATEMENTS

HONORING THE COMMUNITY HARVEST FOOD BANK OF NORTHEAST INDIANA

● Mr. BAYH. Mr. President, I rise today to pay tribute to a remarkable organization in my home State, the Community Harvest Food Bank of Northeast Indiana. Each night, nearly 600,000 Hoosiers go to bed hungry, including 190,000 children. The numbers are heartbreaking, particularly during the holiday season, but thanks to the Community Harvest Food Bank of Northeast Indiana, our State is making strides to end this terrible tragedy.

The Community Harvest Food Bank of Northeast Indiana has been a leader in the efforts to eliminate hunger across Indiana. Each year, Community Harvest collects and distributes more than 7 million pounds of donated surplus food through a network of more than 550 social service agencies. Each of these agencies offers invaluable assistance to hungry children, the working poor, and the elderly and helps ensure that every Hoosier has access to a healthy meal. Recently, the organization was named the 2005 Food Bank of the Year by America's Second Harvest—an honor never before awarded to an Indiana food bank. This award recognizes the hard work, dedication, energy, and efficiency of the organization, as well as its inspired leadership under Jane Avery.

With Jane at the helm, Community Harvest has achieved organizational excellence, while continuing to do God's work, making sure that all our neighbors are cared for and fed. One of the lessons I learned from my parents was that life is not about what you take out of it, but what you put back in. Jane lives that sentiment to the fullest every day. Her work has made Indiana a better place to live for all of us.

This year has been particularly hard on many Hoosier families and communities, making the work of Community Harvest especially critical. Businesses across the State have suffered layoffs, and families have lost their homes in recent tornados and storms, all while gas and heating prices have continued to increase. The Community Harvest Food Bank allows families to stretch their budget further, so they don't have to face the impossible decision of choosing between paying bills and putting food on the table. Each week, between 50,000 and 54,000 children and adults in 9 counties in Indiana are able to sit down to a hot meal because of Community Harvest's work.

It is part of the fabric of life in Indiana that we all look out for our neighbors, aiding them through tough times and celebrating in good times. The Community Harvest Food Bank of Northeast Indiana is the kind of organization that keeps the Hoosier tradition of compassion alive and makes me proud to be a Hoosier.

It is my great honor to recognize Jane Avery and the Community Harvest Food Bank of Northeast Indiana for their service to the State of Indiana.●

CONGRATULATING MASON CORINTH ELEMENTARY SCHOOL

● Mr. BUNNING. Mr. President, today I rise to congratulate Mason Corinth Elementary School of Williamstown, KY. Mason Corinth Elementary School is recognized as the recipient of the Fitness for Life Around Grant County, FFLAG, Silver Award for the Worksite Wellness Program.

FFLAG was created in 2002 to raise awareness about physical activity and proper nutrition. In September of 2005, FFLAG expanded their program to focus on worksite wellness by inviting Grant County businesses and organizations to take part in the Workplace Wellness Program. The program focused on budget allocation for worksite wellness programs, employees' personal dedication to fitness, communication about wellness in the workplace, and on environmental changes that can help make our offices, stores, schools, and factories healthier places to work. I am proud to say that Mason Corinth School is one of the worthy recipients of the Silver Award.

Sadly, the State of Kentucky is suffering from a health epidemic. Over two-thirds of adults in our State suffer from obesity. And this epidemic is not only hurting our waistlines, but also our pocketbooks. In 2003, over \$1.1 billion was spent by Kentuckians on health problems caused by obesity. That is why programs which promote healthy living, such as FFLAG, are so important for the future of our Commonwealth.

Mason Corinth Elementary School is a shining example of how our Kentucky schools can help Kentuckians lead better, healthier lives.

I congratulate Mason Corinth Elementary 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 Mason Corinth Elementary School accomplishes in the future.●

CONGRATULATING CRITTENDEN-MOUNT ZION ELEMENTARY SCHOOL

● Mr. BUNNING. Mr. President, today I rise to congratulate Crittenden-Mount Zion Elementary School of Dry Ridge, KY. Crittenden-Mount Zion Elementary School is recognized as the recipient of the Fitness for Life Around Grant County, FFLAG, Silver Award for the Worksite Wellness Program.

FFLAG was created in 2002 to raise awareness about physical activity and proper nutrition. In September of 2005, FFLAG expanded their program to focus on worksite wellness by inviting Grant County businesses and organizations to take part in the Workplace

Wellness Program. The program focused on budget allocation for worksite wellness programs, employees' personal dedication to fitness, communication about wellness in the workplace, and on environmental changes that can help make our offices, stores, schools, and factories healthier places to work. I am proud to say that Crittenden-Mount Zion School is one of the worthy recipients of the Silver Award.

Sadly, the State of Kentucky is suffering from a health epidemic. Over two-thirds of adults in our State suffer from obesity. And this epidemic is not only hurting our waistlines, but also our pocketbooks. In 2003, over \$1.1 billion was spent by Kentuckians on health problems caused by obesity. That is why programs which promote healthy living, such as FFLAG, are so important for the future of our Commonwealth.

Crittenden-Mount Zion Elementary School is a shining example of how our Kentucky schools can help Kentuckians lead better, healthier lives.

I congratulate Crittenden-Mount Zion Elementary 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 Crittenden-Mount Zion Elementary School accomplishes in the future.●

CONGRATULATING PERFORMANCE PIPE MANUFACTURING

● Mr. BUNNING. Mr. President, today I rise to congratulate the employees of Performance Pipe Manufacturing of Williamstown, KY. Performance Pipe Manufacturing is recognized as the recipient of the Fitness for Life Around Grant County, FFLAG, Gold Award for the Worksite Wellness Program.

FFLAG was created in 2002 to raise awareness about physical activity and proper nutrition. In September of 2005, FFLAG expanded their program to focus on work site wellness by inviting Grant County businesses and organizations to take part in the Workplace Wellness Program. The program focused on budget allocation for worksite wellness programs, employees' personal dedication to fitness, communication about wellness in the workplace, and on environmental changes that can help make our offices, stores, schools, and factories healthier places to work. I am proud to say that Performance Pipe Manufacturing is one of the worthy recipients of the Gold Award.

Sadly, the State of Kentucky is suffering from a health epidemic. Over two-thirds of adults in our State suffer from obesity. And this epidemic is not only hurting our waistlines, but also our pocketbooks. In 2003, over \$1.1 billion was spent by Kentuckians on health problems caused by obesity. That is why programs which promote healthy living, such as FFLAG, are so

important for the future of our Commonwealth.

Performance Pipe Manufacturing is a shining example of how our Kentucky businesses can help Kentuckians lead better, healthier lives.

I congratulate Performance Pipe Manufacturing on this achievement. The employees of Performance Pipe Manufacturing are an inspiration to all of Kentucky.●

IN MEMORY OF DR. JOHN V. WEHAUSEN

● Mrs. FEINSTEIN. Mr. President, I rise today to honor a pioneering scientist and mathematician—Dr. John V. Wehausen. Considered one of the world's leading researchers in the field of hydrodynamics, Professor Wehausen passed away on October 6 of this year. I wish to send my sincerest condolences to his family, friends, and colleagues.

A professor emeritus of engineering science at the University of California, Berkeley, Dr. Wehausen left behind a monumental body of work and vast pioneering contributions to a number of academic fields. Some of his work, now decades old, still remains an important resource for scholars and students.

Professor Wehausen was born in Duluth, MN, and grew up in the suburbs of Chicago. He matriculated at the University of Michigan where he earned B.S. and Ph.D. degrees in mathematics as well as an M.S. in physics.

He left Ann Arbor for Brown University in Rhode Island where he not only began a long and prestigious teaching career, but also met his wife, Mary Katherine Wertime. Ms. Wehausen preceded her husband in death in 2001 after 62 years of marriage.

After Brown, Professor Wehausen spent teaching stints at Columbia University and the University of Missouri before working for the U.S. Navy during World War II in operations analysis and research and development.

In 1956, Professor Wehausen accepted a position at the University of California, Berkeley, where he taught until 1984 and where he remained an active researcher thereafter. Shortly after arriving at UC-Berkeley, Professor Wehausen helped form the Department of Naval Architecture, one of the first programs of its kind in the Nation.

During the decades he spent at UC-Berkeley, Professor Wehausen not only produced volumes of influential scholarship but also garnered a reputation as a faculty member who respected and cared for his students. A respect reciprocated by his many students.

More than a prodigious researcher and instructor, Professor Wehausen held a great love for languages, music, and literature. He gained proficiency in a number of languages and also was an accomplished musician.

Professor Wehausen has left behind a great legacy of scholarship. His many awards testify to his abilities and his

determination. Among his many honors were the Davidson Medal from the Society of Naval Architects and Marine Engineers, an honorary doctorate degree from the Joseph Fourier University in France, and the International Lifetime Achievement Award from the American Society of Mechanical Engineers.

His four children all live in my home State of California, and I send them my deepest condolences at the passing of their father. Professor Wehausen made monumental contributions to the fields of math and science, and the influence of his life's work will surely live on for many generations to come.●

RECOGNITION OF NORMAN SCARBOROUGH

● Mr. GRAHAM. Mr. President, today I wish to recognize Mr. Norman Scarborough of Clinton, SC, who has been named the South Carolina Professor of the Year by the Council for Advancement and Support of Education, CASE. The Professor of the Year awards are the only national awards that recognize college and university professors for excellence in undergraduate teaching and mentoring. Professor Scarborough is to be commended for this exceptional honor, and I wish to extend my personal congratulations.

Professor Scarborough is currently a member of the Department of Economics and Business Administration at Presbyterian College in Clinton, where he has served since 1979. He teaches classes on business law, small business management, management information systems, and business statistics. Professor Scarborough has numerous publications having either authored or coauthored 7 books and 6 papers on everything from economic development to the Internet. His professional and scholarly affiliations include Phi Kappa Phi, the American Management Academy, the United States Association of Small Business Entrepreneurship, and the Society for the Advancement of Management. Professor Scarborough also founded the student business club at Presbyterian College.

In the classroom, Professor Scarborough is known for his preparation and enthusiasm. He prides himself on encouraging his students to think critically about his lessons instead of simply memorizing them. Professor Scarborough also emphasizes the practical application of the subjects he teaches, preaching to his students about how his lessons can be used in life.

Professor Scarborough has garnered the personal and professional respect of his students, colleagues, and neighbors. He is well-deserving of recognition for his efforts and work. I commend Professor Scarborough, the South Carolina Professor of the Year, for his award and wish him great success in his future.●

HONORING HUGH SIDNEY

• Mr. HAGEL. Mr. President, on November 21, America lost a great journalist and a wonderful human being when Hugh Sidey passed away at the age of 78. Hugh Sidey was a man I admired and read for many, many years. He was an observer of the world and a preeminent chronicler of our times. It was one of the great joys of my life that since coming to the Senate 9 years ago, I had the opportunity, from time to time, to sit-down with Hugh Sidey and get his sense of the world. He understood the intricacies of politics and policy but, more than that, he understood the human dynamic of our business. He understood people.

Hugh Sidey approached the world with a Midwestern sensibility and a simple decency. Raised in a newspaper family in Greenfield, IA, he learned his craft at the Omaha World-Herald among other stops early in his career. At Time Magazine he covered every American President from Dwight Eisenhower to George W. Bush. He understood politics and the presidency because he understood America. In a 1979 Time Magazine Presidency column, Hugh Sidey said this about our political system:

Politics, when all is said and done, is a business of belief and enthusiasm. Hope energizes, doubt destroys. Hopelessness is not our heritage.

That observation hangs on the wall of my Senate office. In three simple sentences, Hugh Sidey summed up what is good about our country and what American politics can be at its best.

President Gerald Ford paid an eloquent tribute to the life and legacy of Hugh Sidey in a November 26th Washington Post op-ed. Mr. President, I submit President Ford's tribute to this great American for the CONGRESSIONAL RECORD. America will miss Hugh Sidey.

The tribute follows.

[From the Washington Post, Nov. 26, 2005]
THE FRIENDSHIP, AND TOUGHNESS, OF HUGH
SIDNEY

(By Gerald R. Ford)

It wasn't supposed to be this way. Like most men my age, I have given a thought or two to my funeral. As a former president, I'm almost required to, since the military periodically updates its plans, and each presidential family is solicited for personal touches. Among these is a choice of eulogists. Thus it was, a few months ago, that I called Hugh Sidey.

We'd known each other forever. Hugh coming to Washington just a few years after the voters of Michigan's 5th Congressional District sent me there. Maybe it was our shared Midwestern background, his transparent decency or the tough but fair coverage he accorded me and nine other American presidents; in any event, I had always regarded Hugh as a friend. So I asked him if he would do me the honor of speaking at Washington's National Cathedral when the time came.

I did so in part for symbolic reasons. I like reporters, even if I haven't always liked what some wrote about me. I figure that's a pretty minor price to pay for a free press in a free society. But I also hoped to remind people in our often overheated era that it is

possible for a politician and a journalist to enjoy mutual respect, admiration and, yes, friendship, all the while understanding the necessarily adversarial relationship that often exists between those in power and those who report on their activities.

Hugh Sidey died this week at the age of 78. Anyone who read him knew America's presidents. Anyone who knew him knew America. In a very real sense, he never left Greenfield, Iowa, where four generations of Sideys practiced journalism with integrity and the perspective that laughter uniquely supplies. "A sense of humor . . . is needed armor," he once wrote of the presidency. "Joy in one's heart and some laughter on one's lips is a sign that the person down deep has a pretty good grasp on life."

Hugh had a sure grasp of life. An insider who never forgot those on the outside, he was warm and wise about Washington and its rituals. He appreciated Woodrow Wilson's observation that men who arrive in our nation's capital—presidents included—have a tendency to either grow or swell. But he was incapable of cynicism. Hugh scored more than, his share of scoops, but along with the ability to pierce official secrecy went an empathy that enabled him to see the White House and its occupants first and always as very human beings.

Whether reporting of the U-2 crisis, the Missiles of October or the 22nd of November; Vietnam or Watergate; Richard Nixon's opening to China, or Jimmy Carter's high-risk diplomacy at Camp David; Ronald Reagan's years of renewal; the tumult of the '90s followed by the shattering events of Sept. 11—Hugh put readers at the center of events. At the same time, he made it possible for millions who might never visit the White House to experience it, in good and not so good times, through a President's eyes and ears.

Over the years he became something of a Washington institution himself, seemingly as much a part of the presidency as Air Force One or Camp David. Yet he never behaved like an institution, and I suspect he never stopped pinching himself over his extraordinary good fortune.

For his friends, and they are legion, the good fortune was to know and learn from and simply enjoy Hugh's company. Now he is forever part of the old house whose history he brought to life. Hugh not only explained Washington to the rest of America; by being the kind of person, he was, no less than by setting the highest of journalistic standards, Hugh Sidey also embodied the best of America in Washington.●

CONGRATULATING THE MASSACHUSETTS LATINO CHAMBER OF COMMERCE

• Mr. KERRY. Mr. President, I wish to congratulate the Massachusetts Latino Chamber of Commerce, La Cámara de Comercio, on the opening of their new Business Center in Springfield, MA. The Business Center will be the home of a number of Latino-owned businesses as well as providing owners with workshops and trainings for members to gain knowledge in their perspective business area. In addition, the center will establish a computer lab to assist members with business research and planning. The new center will serve as a resource able to provide support, referral, and advocacy services to small business owners. La Cámara de Comercio will establish a computer center to assist members with business

research and planning, as well as business language seminars. Latino businesses across the Commonwealth from Springfield to Boston are helping us to better compete in the global market. It is my privilege to congratulate La Cámara de Comercio on this new endeavor.●

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under authority of the order of the Senate of January 4, 2005, the Secretary of the Senate, on November 21, 2005, during the adjournment of the Senate, received a message from the House of Representatives announcing that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 308. Concurrent resolution directing the Clerk of the House of Representatives to make a technical correction in the enrollment of H.R. 3058.

The message also 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. 3058) making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes.

The message further announced that pursuant to section 208 of the Legislative Reorganization Act of 1946 (2 U.S.C. 75a-1), and the order of the House of January 4, 2005, the Speaker appoints as Clerk of the House of Representatives: Mrs. Karen L. Haas of Maryland.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

H.R. 4133. An act to temporarily increase the borrowing authority of the Federal Emergency Management Agency for carrying out the national flood insurance program.

Under the authority of the order of January 4, 2005, the enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS) during the adjournment of the Senate, on November 21, 2005.

The message also announced that pursuant to section 208 of the Legislative Reorganization Act of 1946 (2 U.S.C. 75a-1), and the order of the House of January 4, 2005, the Speaker appoints as Clerk of the House of Representatives Mrs. Karen L. Haas of Maryland.

ENROLLED BILLS SIGNED

Under authority of the order of the Senate of January 4, 2005, the Secretary of the Senate, on November 22,

2005, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

H.R. 680. An act to direct the Secretary of the 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.

H.R. 2062. An act to designate the facility of the United States Postal Service located at 57 West Street in Newville, Pennsylvania, as the "Randall D. Shughart Post Office Building".

H.R. 2183. An act to designate the facility of the United States Postal Service located at 567 Tompkins Avenue in Staten Island, New York, as the "Vincent Palladino Post Office".

H.R. 2528. An act 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.

H.R. 3853. An act to designate the facility of the United States Postal Service located at 208 South Main Street in Parkdale, Arkansas, as the Willie Vaughn Post Office.

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.

Under the authority of the order of January 4, 2005, the enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS) during the adjournment of the Senate, on November 22, 2005.

ENROLLED BILL SIGNED

Under authority of the order of the Senate of January 4, 2005, the Secretary of the Senate, on November 28, 2005, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker pro tempore (Mr. WOLF) has signed the following enrolled bill:

H.R. 3058. An act making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes.

Under the authority of the order of January 4, 2005, the enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS) during the adjournment of the Senate, on November 28, 2005.

Under authority of the order of the Senate of January 4, 2005, the Secretary of the Senate, on December 7, 2005, during the adjournment of the Senate, received a message from the House of Representatives announcing that the House has agreed to the following bills, without amendment:

S. 52. An act to direct the Secretary of the Interior to convey a parcel of real property to Beaver County, Utah.

S. 136. An act to authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist certain local school districts in the

State of California in providing educational services for students attending schools located within Yosemite National Park, to authorize the Secretary of the Interior to adjust the boundaries of the Golden Gate National Recreation Area, to adjust the boundaries of Redwood National Park, and for other purposes.

S. 212. An act to amend the Valles Caldera Preservation Act to improve the preservation of the Valles Caldera, and for other purposes.

S. 279. An act to amend the Act of June 7, 1924, to provide for the exercise of criminal jurisdiction.

S. 1886. An act to authorize the transfer of naval vessels to certain foreign recipients.

ENROLLED BILLS SIGNED

Under authority of the order of the Senate of January 4, 2005, the Secretary of the Senate, on December 8, 2005, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

S. 52. An act to direct the Secretary of the Interior to convey a parcel of real property to Beaver County, Utah.

S. 136. An act to authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist certain local school districts in the State of California in providing educational services for students attending schools located within Yosemite National Park, to authorize the Secretary of the Interior to adjust the boundaries of the Golden Gate National Recreation Area, to adjust the boundaries of Redwood National Park, and for other purposes.

S. 212. An act to amend the Valles Caldera Preservation Act to improve the preservation of the Valles Caldera, and for other purposes.

S. 279. An act to amend the Act of June 7, 1924, to provide for the exercise of criminal jurisdiction.

S. 1886. An act to authorize the transfer of naval vessels to certain foreign recipients.

MESSAGE FROM THE HOUSE

At 2:02 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House insist upon its amendment to the bill (S. 1281) to authorize appropriations for the National Aeronautics and Space Administration for science, aeronautics, exploration, exploration capabilities, and the Inspector General, and for other purposes, for fiscal years 2006, 2007, 2008, 2009, and 2010, and ask a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints the following members as the managers of the conference on the part of the House:

From the Committee on Science, for consideration of the Senate bill and the House amendment, and modifications committed to conference: Mr. BOEHLERT, Mr. CALVERT, Mr. HALL, Mr. SMITH of Texas, Mr. GORDON, Mr. UDALL of Colorado, and Mr. HONDA: Provided, that Ms. JACKSON-LEE of Texas is appointed in lieu of Mr. HONDA for consideration of sections 111 and 615

of the House amendment, and modifications committed to conference.

From the Committee on Government Reform, for consideration of sections 153 and 606 of the Senate bill, and section 703 of the House amendment, and modifications committed to conference: Mr. TOM DAVIS of Virginia, Mr. TURNER, and Mr. WAXMAN.

For consideration of the Senate bill and House amendment, and modifications committed to conference: Mr. DELAY.

The message also announced that the House insist upon its amendment to the bill (S. 467) to extend the applicability of the Terrorism Risk Insurance Act of 2002, and ask a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints the following members as the managers of the conference on the part of the House:

From the Committee on Financial Services, for consideration of the Senate bill and the House amendment, and modifications committed to conference: Mr. OXLEY, Mr. BAKER, Ms. PRYCE of Ohio, Mrs. KELLY, Mr. KANJORSKI, Mr. CAPUANO, and Mr. CROWLEY: Provided, that Mr. ISRAEL is appointed in lieu of Mr. CAPUANO for consideration of sections 4, 5, and 7 of the Senate bill, and sections 103 and 105 of the House amendment, and modifications committed to conference.

From the Committee on the Judiciary, for consideration of sections 2 and 6 of the Senate bill and modifications committed to conference: Mr. SENSENBRENNER, Mr. GOODLATTE, and Mr. CONYERS.

For consideration of the Senate bill and the House amendment, and modifications committed to conference: Mr. SESSIONS.

The message further announced that the House disagree to the amendment of the Senate to 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, and agree to the further conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following members as the managers of the conference on the part of the House: Mr. REGULA, Mr. ISTOOK, Mr. WICKER, Mrs. NORTHUP, Ms. GRANGER, Mr. PETERSON of Pennsylvania, Mr. SHERWOOD, Mr. WELDON of Florida, Mr. WALSH, Mr. LEWIS of California, Mr. OBEY, Mr. HOYER, Mrs. LOWEY, Ms. DELAURO, Mr. JACKSON of Illinois, Mr. KENNEDY of Rhode Island, and Ms. ROYBAL-ALLARD.

The message also announced that the House agree to the amendments of the Senate 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.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 327. An act to allow binding arbitration clauses to be included in all contracts affecting land within the Gila River Indian Community Reservation.

H.R. 585. An act to require Federal land managers to support, and to communicate, coordinate, and cooperate with, designated gateway communities, to improve the ability of gateway communities to participate in Federal land management planning conducted by the Forest Service and agencies of the Department of the Interior, and to respond to the impacts of the public use of the Federal lands administered by these agencies, and for other purposes.

H.R. 1129. An act to authorize the exchange of certain land in the State of Colorado.

H.R. 1400. An act to amend title 18, United States Code, to provide penalties for aiming laser pointers at airplanes, and for other purposes.

H.R. 1721. An act to amend the Federal Water Pollution Control Act to reauthorize programs to improve the quality of coastal recreation waters, and for other purposes.

H.R. 2017. An act to amend the Torture Victims Relief Act of 1998 to authorize appropriations to provide assistance for domestic and foreign programs and centers for the treatment of victims of torture, and for other purposes.

H.R. 3269. An act to amend the International Organizations Immunities Act to provide for the applicability of that Act to the Bank for International Settlements.

H.R. 3812. An act to authorize the Secretary of the Interior to prepare a feasibility study with respect to the Mokelumne River, and for other purposes.

H.R. 3963. An act to amend the Federal Water Pollution Control Act to extend the authorization of appropriations for Long Island Sound.

H.R. 4096. An act to amend the Internal Revenue Code of 1986 to extend to 2006 the alternative minimum tax relief available in 2005 and to index such relief for inflation.

H.R. 4195. An act to authorize early repayment of obligations to the Bureau of Reclamation within Rogue River Valley Irrigation District or within Medford Irrigation District.

H.R. 4297. An act to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006.

H.R. 4311. An act to amend section 105(b)(3) of the Ethics in Government Act of 1978 (5 U.S.C. App.).

H.R. 4324. An act to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the predisaster mitigation program, and for other purposes.

H.R. 4340. An act to implement the United States-Bahrain Free Trade Agreement.

H.R. 4388. An act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

H.R. 4440. An act to amend the Internal Revenue Code of 1986 to provide tax benefits for the Gulf Opportunity Zone and certain areas affected by Hurricanes Rita and Wilma, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 196. Concurrent resolution honoring the pilots of United States commercial air carriers who volunteer to participate in the Federal flight deck officer program.

H. Con. Res. 273. Concurrent resolution recognizing the 50th anniversary of the Montgomery bus boycott.

H. Con. Res. 280. Concurrent resolution mourning the horrific loss of life caused by

the floods and mudslides that occurred in October 2005 in Central America and Mexico and expressing the sense of Congress that the United States should do everything possible to assist the affected people and communities.

The message further announced that the House has agreed to the resolution (H. Res. 581) that Karen L. Haas, a citizen of the State of Maryland, has been elected Clerk of the House of Representatives of the One Hundred Ninth Congress.

The message also announced that pursuant to 10 U.S.C. 9355(a), amended by Public Law 108-375, and the order of the House of January 4, 2005, the Speaker appoints the following Member of the House of Representatives to the Board of Visitors to the United States Air Force Academy: Mr. HEFLEY of Colorado.

Ordered further, that pursuant to 10 U.S.C. 9355(a), amended by Public Law 108-375, and the order of the House of January 4, 2005, the Speaker appoints the following member on the part of the House of Representatives to the Board of Visitors to the United States Air Force Academy: Mr. Hansford T. Johnson of Virginia.

ENROLLED BILLS SIGNED

The following enrolled bills, previously signed by the Speaker of the House, were signed on today, December 12, 2005, by the President pro tempore (Mr. STEVENS):

S. 52. All act to direct the Secretary of the Interior to convey a parcel of real property to Beaver County, Utah.

S. 136. An act to authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist certain local school districts in the State of California in providing educational services for students attending schools located within Yosemite National Park, to authorize the Secretary of the Interior to adjust the boundaries of the Golden Gate National Recreation Area, to adjust the boundaries of Redwood National Park, and for other purposes.

S. 212. An act to amend the Valles Caldera Preservation Act to improve the preservation of the Valles Caldera, and for other purposes.

S. 279. An act to amend the Act of June 7, 1924, to provide for the exercise of criminal jurisdiction.

S. 1886. An act to authorize the transfer of naval vessels to certain foreign recipients.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 585. An act to require Federal land managers to support, and to communicate, coordinate, and cooperate with, designated gateway communities, to improve the ability of gateway communities to participate in Federal land management planning conducted by the Forest Service and agencies of the Department of the Interior, and to respond to the impacts of the public use of the Federal lands administered by these agencies, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1129. An act to authorize the exchange of certain land in the State of Colorado; to

the Committee on Energy and Natural Resources.

H.R. 1721. An act to amend the Federal Water Pollution Control Act to reauthorize programs to improve the quality of coastal recreation waters, and for other purposes; to the Committee on Environment and Public Works.

H.R. 3269. An act to amend the International Organizations Immunities Act to provide for the applicability of that Act to the Bank for International Settlements; to the Committee on Foreign Relations.

H.R. 3812. An act to authorize the Secretary of the Interior to prepare a feasibility study with respect to the Mokelumne River and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4195. An act to authorize early repayment of obligations to the Bureau of Reclamation within Rogue River Valley Irrigation District or within Medford Irrigation District; to the Committee on Energy and Natural Resources.

H.R. 4324. An act to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the predisaster mitigation program, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 196. Concurrent resolution honoring the pilots of United States commercial air carriers who volunteer to participate in the Federal flight deck officer program; to the Committee on Commerce, Science, and Transportation.

H. Con. Res. 273. Concurrent resolution recognizing the 50th anniversary of the Montgomery bus boycott; to the Committee on the Judiciary.

H. Con. Res. 280. Concurrent resolution mourning the horrific loss of life caused by the floods and mudslides that occurred in October 2005 in Central America and Mexico and expressing the sense of Congress that the United States should do everything possible to assist the affected people and communities; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4340. An act to implement the United States-Bahrain Free Trade Agreement.

H.R. 4297. An act to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 4096. An act to amend the Internal Revenue Code of 1986 to extend to 2006 the alternative minimum tax relief available in 2005 and to index such relief for inflation.

H.R. 4388. An act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

H.R. 4440. An act to amend the Internal Revenue Code of 1986 to provide tax benefits for the Gulf Opportunity Zone and certain areas affected by Hurricanes Rita and Wilma, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, December 12, 2005, she

had presented to the President of the United States the following enrolled bill:

S. 52. An act to direct the Secretary of the Interior to convey a parcel of real property to Beaver County, Utah.

S. 136. An act to authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist certain local school districts in the State of California in providing educational services for students attending schools located within Yosemite National Park, to authorize the Secretary of the Interior to adjust the boundaries of the Golden Gate National Recreation Area, to adjust the boundaries of Redwood National Park, and for other purposes.

S. 212. An act to amend the Valles Caldera Preservation Act to improve the preservation of the Valles Caldera, and for other purposes.

S. 279. An act to amend the Act of June 7, 1924, to provide for the exercise of criminal jurisdiction.

S. 1886. An act to authorize the transfer of naval vessels to certain foreign recipients.

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-4761. A message from the President of the United States, transmitting, pursuant to law, an Executive Order that amends Executive Order 13288 of March 6, 2003, relative to blocking property of additional persons undermining democratic processes or institutions in Zimbabwe; to the Committee on Banking, Housing and Urban Affairs.

EC-4762. A communication from the Regulatory Specialist, Office of the Comptroller of the Currency, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Assessment of Fees" (RIN1557-AC96) received on November 28, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC-4763. A communication from the Regulatory Specialist, Office of the Comptroller of the Currency, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "One-Year Post-Employment Restrictions for Senior Examiners" (RIN1557-AC94) received on November 28, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC-4764. A communication from the Counsel for Legislation and Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Revisions to the Public Housing Operating Fund Program; Correction to Formula Implementation Date" ((RIN2577-AC51)(FR-4874-C-09)) received on November 28, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC-4765. A communication from the Assistant to the Board, Legal Division, Federal Reserve Board of Governors, transmitting, pursuant to law, the report of a rule entitled "One-Year Post-Employment Restrictions for Senior Examiners" (Docket No. R-1230) received on November 28, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC-4766. A communication from the Assistant to the Board, Legal Division, Federal Reserve Board, transmitting, pursuant to law, the report of a rule entitled "Amendments to Regulations J and CC to Address Remotely Created Checks" (Docket No. R-1226) re-

ceived on November 28, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC-4767. A communication from the Assistant to the Board, Legal Division, Federal Reserve Board of Governors, transmitting, pursuant to law, the report of a rule entitled "Fair Credit Reporting Medical Information Regulations" (Docket No. R-1188) received on November 28, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC-4768. A communication from the Director, Regulations Management, Office of Regulation Policy and Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Patients' Rights" (RIN2900-AL66) received on November 28, 2005; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

Under the authority of the order of the Senate of November 18, 2005, the following reports of committees were submitted on December 8, 2005:

By Mr. INHOFE, from the Committee on Environment and Public Works, without amendment:

S. 158. A bill to establish the Long Island Sound Stewardship Initiative (Rept. No. 109-185).

By Mr. INHOFE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1400. A bill to amend the Federal Water Pollution Control Act and the Safe Drinking Water Act to improve water and wastewater infrastructure in the United States (Rept. No. 109-186).

By Mr. INHOFE, from the Committee on Environment and Public Works, with amendments:

S. 1496. A bill to direct the Secretary of the Interior to conduct a pilot program under which up to 15 States may issue electronic Federal migratory bird hunting stamps (Rept. No. 109-187).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 310. A bill to direct the Secretary of the Interior to convey the Newlands Project Headquarters and Maintenance Yard Facility to the Truckee-Carson Irrigation District in the State of Nevada (Rept. No. 109-188).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment:

S. 435. A bill to amend the Wild and Scenic Rivers Act to designate a segment of the Farmington River and Salmon Brook in the State of Connecticut for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes (Rept. No. 109-189).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 648. A bill to amend the Reclamation States Emergency Drought Relief Act of 1991 to extend the authority for drought assistance (Rept. No. 109-190).

By Mr. INHOFE, from the Committee on Environment and Public Works, with amendments:

S. 1165. A bill to provide for the expansion of the James Campbell National Wildlife Refuge, Honolulu County, Hawaii (Rept. No. 109-191).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment:

S. 1025. A bill to amend the Act entitled "An Act to provide for the construction of the Cheney division, Wichita Federal rec-

lamation project, Kansas, and for other purposes" to authorize the Equus Beds Division of the Wichita Project (Rept. No. 109-192).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 1096. A bill to amend the Wild and Scenic Rivers Act to designate portions of the Musconetcong River in the State of New Jersey as a component of the National Wild and Scenic Rivers System, and for other purposes (Rept. No. 109-193).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with amendments and an amendment to the title:

S. 1310. A bill to authorize the Secretary of the Interior to allow the Columbia Gas Transmission Corporation to increase the diameter of a natural gas pipeline located in the Delaware Water Gap National Recreation Area (Rept. No. 109-194).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 1552. A bill to amend Public Law 97-435 to extend the authorization for the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University until December 31, 2009 (Rept. No. 109-195).

S. 1578. A bill to reauthorize the Upper Colorado and San Juan River Basin endangered fish recovery implementation programs (Rept. No. 109-196).

S. 1760. A bill to authorize early repayment of obligations to the Bureau of Reclamation within Rogue River Valley Irrigation District or within Medford Irrigation District (Rept. No. 109-197).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1860. A bill to amend the Energy Policy Act of 2005 to improve energy production and reduce energy demand through improved use of reclaimed waters, and for other purposes (Rept. No. 109-198).

By Mr. GRASSLEY, from the Committee on Finance, without amendment:

S. 2027. A bill to implement the United States-Bahrain Free Trade Agreement (Rept. No. 109-199).

By Mr. MCCAIN, from the Committee on Indian Affairs, without amendment:

S. 881. A bill to provide for equitable compensation to the Spokane Tribe of Indians of the Spokane Reservation for the use of tribal land for the production of hydropower by the Grand Coulee Dam, and for other purposes (Rept. No. 109-200).

S. 1892. A bill to amend Public Law 107-153 to modify a certain date (Rept. No. 109-201).

By Mr. STEVENS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute and an amendment to the title:

S. 517. A bill to establish a Weather Modification Operations and Research Board, and for other purposes (Rept. No. 109-202).

By Mr. STEVENS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1408. A bill to strengthen data protection and safeguards, require data breach notification, and further prevent identity theft (Rept. No. 109-203).

S. 1753. A bill to establish a unified national hazard alert system, and for other purposes (Rept. No. 109-204).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MCCAIN, from the Committee on Indian Affairs, with amendments:

S. 731. A bill to recruit and retain more qualified individuals to teach in Tribal Colleges or Universities (Rept. No. 109-205).

S. 1003. A bill to amend the Act of December 22, 1974, and for other purposes (Rept. No. 109-206).

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. NELSON of Florida:

S. 2080. A bill to amend title XVIII of the Social Security Act to prohibit physicians and other health care practitioners from charging a membership or other incidental fee (or requiring purchase of other items or services) as a prerequisite for the provision of an item or service to a medicare beneficiary; to the Committee on Finance.

By Mr. COLEMAN (for himself, Mr. DAYTON, Mr. DEWINE, and Mrs. HUTCHISON):

S. 2081. 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. SUNUNU (for himself, Mr. LEAHY, Mr. CRAIG, Mr. ROCKEFELLER, Ms. MURKOWSKI, Mr. KENNEDY, Mr. LEVIN, Mr. DURBIN, Ms. STABENOW, and Mr. SALAZAR):

S. 2082. A bill to amend the USA PATRIOT Act to extend the sunset of certain provisions of that Act and the lone wolf provision of the Intelligence Reform and Terrorism Prevention Act of 2004 to March 31, 2006; to the Committee on the Judiciary.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2083. A bill to prohibit the Assistant Secretary of Homeland Security (Transportation Security Administration) from removing any item from the current list of items prohibited from being carried aboard a passenger aircraft; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FRIST (for himself, Mr. REID, Mr. COLEMAN, Mr. DAYTON, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. BURR, Mr. BYRD, Ms. CANTWELL, Mr. CARPER, Mr. CHAFEE, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COBURN, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. CORNYN, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mr. DEMINT, Mr. DEWINE, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUE, Mr. ISAKSON, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MARTINEZ, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MUR-

KOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. OBAMA, Mr. PRYOR, Mr. REED, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, Mr. THOMAS, Mr. THUNE, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, and Mr. WYDEN):

S. Res. 330. A resolution relative to the death of Eugene Joseph McCarthy, former United States Senator for the State of Minnesota; considered and agreed to.

By Mr. NELSON of Florida (for himself and Mr. TALENT):

S. Con. Res. 68. A resolution designating May 20, 2006, as "Negro Leaguers Recognition Day."; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 211

At the request of Mrs. CLINTON, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 211, a bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral on human services, volunteer services, and for other purposes.

S. 333

At the request of Mr. SANTORUM, the names of the Senator from Maine (Ms. SNOWE), the Senator from Idaho (Mr. CRAIG) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors 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.

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of S. 333, *supra*.

S. 382

At the request of Mr. REED, his name was added as a cosponsor of S. 382, a bill to amend title 18, United States Code, to strengthen prohibitions against animal fighting, and for other purposes.

At the request of Mr. ENSIGN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 382, *supra*.

S. 438

At the request of Mr. ENSIGN, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 438, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 548

At the request of Mr. CONRAD, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 548, a bill to amend the Food Security Act of 1985 to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make their land available for access by the public under programs administered by States and tribal governments.

S. 633

At the request of Mr. JOHNSON, the name of the Senator from New Hamp-

shire (Mr. GREGG) 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. 738

At the request of Mr. SANTORUM, his name was added as a cosponsor of S. 738, a bill to provide relief for the cotton shirt industry.

S. 863

At the request of Mr. CONRAD, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 863, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centenary of the bestowal of the Nobel Peace Prize on President Theodore Roosevelt, and for other purposes.

S. 877

At the request of Mr. DOMENICI, the name of the Senator from Maine (Ms. SNOWE) 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. 1086

At the request of Mr. HATCH, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 1086, a bill to improve the national program to register and monitor individuals who commit crimes against children or sex offenses.

S. 1112

At the request of Mr. GRASSLEY, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 1112, a bill to make permanent the enhanced educational savings provisions for qualified tuition programs enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001.

S. 1139

At the request of Mr. SANTORUM, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Rhode Island (Mr. REED) 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. 1196

At the request of Mr. CORZINE, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1196, a bill to provide for disclosure of fire safety standards and measures with respect to campus buildings, and for other purposes.

S. 1272

At the request of Mr. NELSON of Nebraska, the names of the Senator from Connecticut (Mr. DODD), the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors 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.

S. 1317

At the request of Mr. HATCH, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 1317, a bill to provide for the collection and maintenance of cord blood units for the treatment of patients and research, and to amend the Public Health Service Act to authorize the Bone Marrow and Cord Blood Cell Transplantation Program to increase the number of transplants for recipients suitable matched to donors of bone marrow and cord blood.

S. 1353

At the request of Mr. REID, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1353, a bill to amend the Public Health Service Act to provide for the establishment of an Amyotrophic Lateral Sclerosis Registry.

S. 1376

At the request of Mr. COCHRAN, the names of the Senator from Maine (Ms. SNOWE) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 1376, a bill to improve and expand geographic literacy among kindergarten through grade 12 students in the United States by improving professional development programs for kindergarten through grade 12 teachers offered through institutions of higher education.

S. 1441

At the request of Mr. THOMAS, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1441, a bill to amend the Internal Revenue Code of 1986 to include wireless telecommunications equipment in the definition of qualified technological equipment for purposes of determining the depreciation treatment of such equipment.

S. 1448

At the request of Mr. DURBIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1448, a bill to improve the treatment provided to veterans suffering from post-traumatic stress disorder.

S. 1462

At the request of Mr. BROWNBACK, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1462, a bill to promote peace and accountability in Sudan, and for other purposes.

S. 1488

At the request of Mr. VITTER, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1488, a bill to withhold funding from the United Nations if the United Nations abridges the rights provided by the Second Amendment to the Constitution, and for other purposes.

S. 1504

At the request of Mr. ENSIGN, the name of the Senator from Alabama (Mr. SHELBY) 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. 1562

At the request of Mr. JOHNSON, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 1562, a bill to provide for the merger of the bank and savings association deposit insurance funds, to modernize and improve the safety and fairness of the Federal deposit insurance system, and for other purposes.

S. 1687

At the request of Ms. MIKULSKI, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1687, a bill to amend the Public Health Service Act to provide waivers relating to grants for preventive health measures with respect to breast and cervical cancers.

S. 1698

At the request of Mr. KERRY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1698, a bill to accelerate efforts to develop vaccines for diseases primarily affecting developing countries and for other purposes.

S. 1779

At the request of Mr. AKAKA, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor 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. 1881

At the request of Mrs. FEINSTEIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1881, a bill to require the Secretary of the Treasury to mint coins in commemoration of the Old Mint at San Francisco otherwise known as the "Granite Lady", and for other purposes.

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1881, *supra*.

S. 1915

At the request of Mr. ENSIGN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1915, a bill to amend the Horse Protection Act to prohibit the shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling, or donation of horses and other equines to be slaughtered for human consumption, and for other purposes.

S. 1930

At the request of Mr. REID, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from California (Mrs. BOXER) were added as

cosponsors of S. 1930, a bill to expand the research, prevention, and awareness activities of the National Institute of Diabetes and Digestive and Kidney Diseases and the Centers for Disease Control and Prevention with respect to inflammatory bowel disease.

S. 1937

At the request of Mr. NELSON of Florida, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 1937, a bill to expand certain preferential trade treatment for Haiti.

S. 1975

At the request of Mr. OBAMA, the names of the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Vermont (Mr. LEAHY) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 1975, a bill to prohibit deceptive practices in Federal elections.

S. 1998

At the request of Mr. CONRAD, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 1998, a bill to amend title 18, United States Code, to enhance protections relating to the reputation and meaning of the Medal of Honor and other military decorations and awards, and for other purposes.

S. 2010

At the request of Mr. HATCH, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2010, a bill to amend the Social Security Act to enhance the Social Security of the Nation by ensuring adequate public-private infrastructure and to resolve to prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation, and for other purposes.

S. CON. RES. 65

At the request of Mr. OBAMA, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. Con. Res. 65, a concurrent resolution recognizing the benefits and importance of Federally-qualified health centers and their Medicaid prospective payment system.

S. RES. 219

At the request of Mrs. FEINSTEIN, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. Res. 219, a resolution designating March 8, 2006, as "Endangered Species Day", and encouraging the people of the United States to become educated about, and aware of, threats to species, success stories in species recovery, and the opportunity to promote species conservation worldwide.

S. RES. 283

At the request of Mr. ALLEN, the names of the Senator from Alaska (Mr. STEVENS) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. Res. 283, a resolution recognizing the contributions of Korean Americans to the United States

and encouraging the celebration of "Korean American Day".

S. RES. 320

At the request of Mr. ENSIGN, the names of the Senator from Virginia (Mr. ALLEN), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Massachusetts (Mr. KERRY) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of 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.

AMENDMENT NO. 2579

At the request of Mr. BAYH, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of amendment No. 2579 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 2599

At the request of Mr. CONRAD, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of amendment No. 2599 intended to be 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 Mr. NELSON of Florida:

S. 2080. A bill to amend title XVIII of the Social Security Act to prohibit physicians and other health care practitioners from charging a membership or other incidental fee (or requiring purchase of other items or services) as a prerequisite for the provision of an item or service to a medicare beneficiary; to the Committee on Finance.

Mr. NELSON of Florida. Mr. President, I rise today to introduce the Equal Access to Medicare Act of 2005 to combat the growing practice of health care often called "concierge" medicine. As my colleagues may recall I introduced similar legislation in the past two sessions of Congress to deal with the growing problem of doctors shutting down their practices and opening new ones, only accepting those patients willing to pay a membership fee. These fees range from \$60 to \$15,000 annually. By charging these extraneous and unwarranted dues or requiring patients to purchase non-Medicare covered services, doctors can shrink their practices, maintain a high profit margin, and continue billing Medicare, all on the backs of low and middle-income beneficiaries.

This is a dangerous model that causes significant disparities in the

care available to Medicare beneficiaries. A doctor receiving Medicare reimbursement should not be allowed to turn away Medicare beneficiaries who cannot or choose not to pay membership fees or fees for other non-Medicare covered services. My bill simply prevents Medicare from providing payments to doctors who charge their patients membership fees or any other incidental or extraneous fees, or who require the purchase of non-Medicare covered services as a condition for the provision of Medicare covered services.

Since the introduction of this bill in 2001, the practice has been expanding with versions in many States. According to a recent GAO report, the number of physicians practicing concierge medicine has increased by more than 10 times in the past 5 years. As an increasing number of Medicare beneficiaries voice their concerns, it is time for Congress to act. Should this practice proliferate, a doctor shortage for low and middle-income Medicare beneficiaries is likely, exacerbating an already ailing health care marketplace.

I must emphasize that this bill does not interfere with the ability of doctors to limit the size of their practices or to be adequately compensated; it simply applies the same standard private insurance companies apply to their providers—that doctors may not select patients based upon willingness or ability to pay an entrance fee.

I hope my colleagues will join me in helping Medicare keep its promise of accessibility to seniors who have paid a lifetime of "premiums."

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. 2080

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 "Equal Access to Medicare Act of 2005".

SEC. 2. PROHIBITION OF INCIDENTAL FEES AND REQUIRED PURCHASE OF NONCOVERED ITEMS OR SERVICES UNDER MEDICARE.

(a) IN GENERAL.—Section 1842 of the Social Security Act (42 U.S.C. 1395u) is amended by adding at the end the following new subsection:

"(u) PROHIBITION OF INCIDENTAL FEES OR REQUIRING PURCHASE OF NONCOVERED ITEMS OR SERVICES.—

"(1) IN GENERAL.—A physician, practitioner (as described in subsection (b)(18)(C)), or other individual may not—

"(A) charge a membership fee or any other incidental fee to a medicare beneficiary (as defined in section 1802(b)(5)(A)); or

"(B) require a medicare beneficiary (as so defined) to purchase a noncovered item or service as a prerequisite for the provision of a covered item or service to the beneficiary under this title.

"(2) CONSTRUCTION.—Nothing in this subsection shall be construed to apply the prohibition under paragraph (1) to a physician, practitioner, or other individual described in such subsection who does not accept any funds under this title."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to membership fees and other charges made, or purchases of items and services required, on or after the date of enactment of this Act.

By Mr. SUNUNU (for himself, Mr. LEAHY, Mr. CRAIG, Mr. ROCKFELLER, Ms. MUKOWSKI, Mr. KENNEDY, Mr. LEVIN, Mr. DURBIN, Ms. STABENOW, and Mr. SALAZAR):

S. 2082. A bill to amend the USA PATRIOT Act to extend the sunset of certain provisions of that Act and the lone wolf provision of the Intelligence Reform and Terrorism Prevention Act of 2004 to March 31, 2006; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, On a September morning 4 years ago nearly 3,000 lives were lost on American soil, and our lives as Americans changed in an instant. In the aftermath of the 9/11 attacks, Congress moved swiftly to pass anti-terrorism legislation. The fires were still smoldering at Ground Zero in New York City when the USA PATRIOT Act became law on October 30, 2001, just 6 weeks after the attacks.

Many of us here in the Senate 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, and we tried our best to strike the right balance.

One of the fruits of that bipartisanism was the PATRIOT Act's sunset provisions. These key provisions set an expiration date of December 31, 2005, on certain government powers that had great potential to affect the civil liberties of the American people. Republican House Majority Leader Dick Arney and I insisted on these sunsets to ensure that Congress would revisit the PATRIOT Act within a few years and consider refinements to protect the rights and liberties of all Americans more effectively, and we prevailed.

Sadly, the Bush administration and the Republican congressional leadership have squandered key opportunities to improve the PATRIOT Act. The House-Senate conference report filed last week by Republican lawmakers falls short of what the American people expect and deserve from us. The bipartisan Senate bill, which the Senate Judiciary Committee and then the Senate adopted unanimously, struck a far better balance.

The reauthorization of the PATRIOT Act must have the confidence of the American people. The Congress should not rush ahead to enact flawed legislation to meet a deadline that is within our power to extend. We owe it to the American people to get this right.

The way forward to a sensible and workable bipartisan bill is clear. Today I am pleased to join with Senator SUNUNU and others to introduce a bill to extend the sunsets on the expiring PATRIOT Act powers until March 31, 2006. Our bill also extends for three

months the so-called “lone wolf” FISA surveillance authority, which Congress enacted last year as part the Intelligence Reform and Terrorism Prevention Act.

The deadline that Congress imposed to ensure oversight and accountability should not now become a barrier to achieving bipartisan compromise and the best bill we can forge together. This is a vital debate, and these are vital issues to all Americans. If a brief extension is needed to produce a better bill that will better serve all of our citizens, then by all means, let us give ourselves that time. 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. 2082

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

SECTION 1. EXTENSION OF SUNSET OF CERTAIN PROVISIONS OF THE USA PATRIOT ACT AND THE LONE WOLF PROVISION OF THE INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.

Section 224(a) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107-56; 115 Stat. 295) is amended by striking “December 31, 2005” and inserting “March 31, 2006”.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 330—RELATIVE TO THE DEATH OF EUGENE JOSEPH MCCARTHY, FORMER UNITED STATES SENATOR FOR THE STATE OF MINNESOTA

Mr. FRIST (for himself, Mr. REID, Mr. COLEMAN, Mr. DAYTON, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. BURR, Mr. BYRD, Ms. CANTWELL, Mr. CARPER, Mr. CHAFEE, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COBURN, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. CORNYN, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mr. DEMINT, Mr. DEWINE, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUE, Mr. ISAKSON, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MARTINEZ, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. OBAMA, Mr. PRYOR, Mr. REED, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SANTORUM, Mr. SARBANES, Mr. SCHU-

MER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, Mr. THOMAS, Mr. THUNE, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 330

Whereas Eugene J. McCarthy devoted many years of his life to teaching in public high schools and other institutions of higher learning in the service of the youth of our Nation;

Whereas Eugene J. McCarthy served in the House of Representatives from 1949 to 1959;

Whereas Eugene J. McCarthy served the people of Minnesota with distinction from 1959 to 1971 in the United States Senate;

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Eugene J. McCarthy, former member of the United States Senate.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of the Honorable Eugene J. McCarthy.

SENATE CONCURRENT RESOLUTION 68—DESIGNATING MAY 20, 2006, AS “NEGRO LEAGUERS RECOGNITION DAY.”

Mr. NELSON of Florida (for himself and Mr. TALENT) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 68

Whereas even though African Americans were excluded from playing in the major leagues of their time with their white counterparts, the desire of many African Americans to play baseball could not be repressed;

Whereas Major League Baseball did not fully integrate its league until July 1959;

Whereas African Americans began organizing their own professional baseball teams in 1885;

Whereas the skills and abilities of Negro League players eventually made Major League Baseball realize the need to integrate the sport;

Whereas six separate baseball leagues, known collectively as the “Negro Baseball Leagues”, were organized by African Americans between 1920 and 1960;

Whereas the Negro Baseball Leagues included exceptionally talented players who played the game at its highest level;

Whereas on May 20, 1920, the Negro National League, the first successful Negro League, played its first game;

Whereas Andrew “Rube” Foster, on February 13, 1920, at the Paseo YMCA in Kansas City, Missouri, founded the Negro National League and also managed and played for the Chicago American Giants, and later was inducted into the Baseball Hall of Fame;

Whereas Leroy “Satchel” Paige, who began his long career in the Negro Leagues and did not make his Major League debut until the age of 42, is considered one of the greatest pitchers the game has ever seen, and during his long career thrilled millions of baseball fans with his skill and legendary showboating, and was later inducted into the Baseball Hall of Fame;

Whereas Josh Gibson, who was the greatest slugger of the Negro Leagues, tragically died

months before the integration of baseball, and was later inducted into the Baseball Hall of Fame;

Whereas Jackie Robinson, whose career began with the Negro League Kansas City Monarchs, became the first African American to play in the Major Leagues in April 1947, was named Major League Baseball Rookie of the Year in 1947, subsequently led the Brooklyn Dodgers to 6 National League pennants and a World Series championship, and was later inducted into the Baseball Hall of Fame;

Whereas Larry Doby, whose career began with the Negro League Newark Eagles, became the first African American to play in the American League in July 1947, was an All-Star 9 times in Negro League and Major League Baseball, and was later inducted into the Baseball Hall of Fame;

Whereas John Jordan “Buck” O’Neil was a player and manager of the Negro League Kansas City Monarchs, became the first African American coach in the Major Leagues with the Chicago Cubs in 1962, served on the Veterans Committee of the National Baseball Hall of Fame, chairs the Negro Leagues Baseball Museum Board of Directors, and has worked tirelessly to promote the history of the Negro Leagues; and

Whereas by achieving success on the baseball field, African American baseball players helped break down color barriers and integrate African Americans into all aspects of society in the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) designates May 20, 2006, as “Negro Leaguers Recognition Day”; and

(2) recognizes the teams and players of the Negro Baseball Leagues for their achievements, dedication, sacrifices, and contributions to both baseball and our Nation.

Mr. NELSON of Florida, Mr. President, I, along with Senator TALENT, proudly submit a resolution recognizing May 20, 2006 as, “Negro Leaguers Recognition Day.”

Since 1885, long before Major League Baseball was integrated in 1947, African Americans were organizing their own professional leagues. These leagues did not succeed because of racial prejudice and lack of adequate financial backing. However, this changed dramatically with the inception of the first successful Negro league. On May 20, 1920, the Negro National League played its first game. Its creation was the result of the efforts of an African American player and manager named Andrew “Rube” Foster. Mr. Foster’s success inspired the formation of other leagues.

As a result, on October 3, 1924, the first Negro League World Series game was played between the Kansas City Monarchs of the Negro National League and Hilldale of Philadelphia of the Eastern Colored League. This historic and exhaustive first series lasted ten games, covered a span of almost three weeks, and was played in four different cities. In the end, Kansas City claimed the championship.

But the lasting legacy of the Negro leagues, as the six separate leagues between 1920 and 1960 are collectively known, are the tremendous baseball players they produced. Some of the names we know and some we don’t. Among them is Jackie Robinson, the first African American to break the

baseball color barrier; Leroy "Satchel" Paige, who was considered one of the greatest pitchers of all time; Josh Gibson, who was a prolific home-run hitter; Larry Doby, the first African American to play in the American League in July 1947; and John Jordan "Buck" O'Neil, who was the first African American coach in the Major Leagues and who is now head of the Negro Leagues Baseball Museum.

It is important that we remember and honor these players. In breaking down the baseball color barrier, these pioneers dealt a blow to hatred and prejudice across America. Today, we can honor them by declaring May 20, 2006 as, "Negro Leaguers Recognition Day."

AUTHORITIES FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Monday, December 12, 2005, at 2:30 p.m., on TSA's New Security Procedures and Changes to the Prohibited Items List.

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

RELATIVE TO THE DEATH OF EUGENE JOSEPH MCCARTHY

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 330, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will state the resolution by title. The bill clerk read as follows:

A resolution (S. Res. 330) relative to the death of Eugene Joseph McCarthy, former U.S. Senator from the State of Minnesota.

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. 330) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 330

Whereas Eugene J. McCarthy devoted many years of his life to teaching in public high schools and other institutions of higher learning in the service of the youth of our Nation;

Whereas Eugene J. McCarthy served in the House of Representatives from 1949 to 1959;

Whereas Eugene J. McCarthy served the people of Minnesota with distinction from 1959 to 1971 in the United States Senate;

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Eugene J. McCarthy, former member of the United States Senate.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of the Honorable Eugene J. McCarthy.

COMMEMORATING THE LIFE, ACHIEVEMENTS, AND CONTRIBUTIONS OF ALAN A. REICH

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from and the Senate proceed to the consideration of S. Res. 321.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 321) commemorating the life, achievements, and contributions of Alan A. Reich.

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. 321) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

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.

NATIONAL FUND FOR EXCELLENCE IN AMERICAN INDIAN EDUCATION AMENDMENTS ACT OF 2005

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 188, S. 1231.

The PRESIDING OFFICER. The clerk will state the bill by title.

The bill clerk read as follows:

A bill (S. 1231) to amend the Indian Self-Determination and Education Assistance Act

to modify provisions relating to the National Fund for Excellence in American Indian Education.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Indian Affairs with an amendment.

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 1231

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

SECTION 1. SHORT TITLE.

[Indian Education Amendments Act of 2005].

SEC. 2. NATIONAL FUND FOR EXCELLENCE IN AMERICAN INDIAN EDUCATION.

[Section 501 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458bbb) is amended—

“(1) in subsection (g), by striking paragraphs (1) and (2) and inserting the following:

“(1) IN GENERAL.—The officers of the Foundation shall be—

“(A) a chief operating officer, to be appointed in accordance with paragraph (2); and

“(B) any other officers, to be appointed or elected in accordance with the constitution and bylaws of the Foundation.

“(2) CHIEF OPERATING OFFICER.—

“(A) APPOINTMENT.—The Board shall appoint a chief operating officer to the Foundation.

“(B) REQUIREMENTS.—The chief operating officer of the Foundation shall—

“(i) demonstrate experience and knowledge in matters relating to—

“(I) education, in general; and

“(II) education of Indians, in particular; and

“(ii) serve at the direction of the Board.”;

“(2) by adding at the end the following:

“(o) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There is authorized to be appropriated to carry out this section \$5,000,000 for each of fiscal years 2007 through 2009.

“(2) EFFECT ON OTHER FUNDS.—Funds appropriated under paragraph (1) shall not reduce the amount of funds available for any other program relating to Indian education.”.

SEC. 3. ADMINISTRATIVE SERVICES AND SUPPORT.

[Section 502 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458bbb-1) is amended—

“(1) in subsection (a), by striking paragraph (2) and inserting the following:

“(2) may provide funds—

“(A) to pay the operating costs of the Foundation; and

“(B) to reimburse travel expenses of a member of the Board under section 501; and”;

“(2) in subsection (b), by inserting “operating and” before “travel expenses”.]

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Fund for Excellence in American Indian Education Amendments Act of 2005”.

SEC. 2. NATIONAL FUND FOR EXCELLENCE IN AMERICAN INDIAN EDUCATION.

Section 501 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458bbb) is amended—

(1) in subsection (g), by striking paragraphs (1) and (2) and inserting the following:

“(1) IN GENERAL.—The officers of the Foundation shall be—

“(A) a chief operating officer, to be appointed in accordance with paragraph (2); and

“(B) any other officers, to be appointed or elected in accordance with the constitution and bylaws of the Foundation.

“(2) CHIEF OPERATING OFFICER.—

“(A) APPOINTMENT.—The Board shall appoint a chief operating officer to the Foundation.

“(B) REQUIREMENTS.—The chief operating officer of the Foundation shall—

“(i) demonstrate experience and knowledge in matters relating to—

“(I) education, in general; and

“(II) education of Indians, in particular; and

“(ii) serve at the direction of the Board.”;

(2) in subsection (l)(1), by striking “Beginning with” and all that follows through subparagraph (B) and inserting the following: “For each fiscal year following the first fiscal year during which the Foundation is in operation, the administrative costs of the Foundation shall not exceed—

“(A) for the first fiscal year, an amount equal to 20 percent of the sum of—

“(i) the amounts transferred to the Foundation under subsection (m) during the preceding fiscal year; and

“(ii) donations received from private sources during the preceding fiscal year;

“(B) for the second fiscal year, an amount equal to 15 percent of the sum of—

“(i) the amounts transferred to the Foundation under subsection (m) during the preceding fiscal year; and

“(ii) donations received from private sources during the preceding fiscal year; and

“(C) for the third fiscal year, and each fiscal year thereafter, an amount equal to 10 percent of the sum of—

“(i) the amounts transferred to the Foundation under subsection (m) during the preceding fiscal year; and

“(ii) donations received from private sources during the preceding fiscal year.”;

(3) by adding at the end the following:

“(o) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There is authorized to be appropriated to carry out this section \$5,000,000 for each of fiscal years 2007 through 2009.

“(2) EFFECT ON OTHER FUNDS.—Funds appropriated under paragraph (1) shall not reduce the amount of funds available for any other program relating to Indian education.”.

SEC. 3. ADMINISTRATIVE SERVICES AND SUPPORT.

Section 502 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458bbb-1) is amended—

(1) in subsection (a), by striking paragraph (2) and inserting the following:

“(2) may provide funds—

“(A) to pay the operating costs of the Foundation; and

“(B) to reimburse travel expenses of a member of the Board under section 501; and”;

(2) in subsection (b)—

(A) in the subsection heading, by striking “REIMBURSEMENT” and inserting “REIMBURSEMENT”;

(B) by inserting “operating and” before “travel expenses”.

“(2) in subsection (b), by inserting “operating and” before “travel expenses”.

“(2) in subsection (b), by inserting “operating and” before “travel expenses”.

“(2) in subsection (b), by inserting “operating and” before “travel expenses”.

“(2) in subsection (b), by inserting “operating and” before “travel expenses”.

“(2) in subsection (b), by inserting “operating and” before “travel expenses”.

“(2) in subsection (b), by inserting “operating and” before “travel expenses”.

“(2) in subsection (b), by inserting “operating and” before “travel expenses”.

“(2) in subsection (b), by inserting “operating and” before “travel expenses”.

“(2) in subsection (b), by inserting “operating and” before “travel expenses”.

“(2) in subsection (b), by inserting “operating and” before “travel expenses”.

NATIONAL INDIAN GAMING COMMISSION ACCOUNTABILITY ACT OF 2005

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 193, S. 1295.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 1295) to amend the Indian Gaming Regulatory Act to provide for accountability and funding of the National Indian Gaming Commission.

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 that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 1295) was read the third time and passed, as follows:

S. 1295

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 “National Indian Gaming Commission Accountability Act of 2005”.

SEC. 2. COMMISSION ACCOUNTABILITY AND FUNDING.

(a) POWERS OF THE COMMISSION.—Section 7 of the Indian Gaming Regulatory Act (25 U.S.C. 2706) is amended by adding at the end the following:

“(d) APPLICATION OF GOVERNMENT PERFORMANCE AND RESULTS ACT.—

“(1) IN GENERAL.—In carrying out any action under this Act, the Commission shall be subject to the Government Performance and Results Act of 1993 (Public Law 103-62; 107 Stat. 285).

“(2) PLANS.—In addition to any plan required under the Government Performance and Results Act of 1993 (Public Law 103-62; 107 Stat. 285), the Commission shall submit a plan to provide technical assistance to tribal gaming operations in accordance with that Act.”.

(b) COMMISSION FUNDING.—Section 18(a)(2) of the Indian Gaming Regulatory Act (25 U.S.C. 2717(a)(2)) is amended by striking subparagraph (B) and inserting the following:

“(B) The total amount of all fees imposed during any fiscal year under the schedule established under paragraph (1) shall not exceed 0.080 percent of the gross gaming revenues of all gaming operations subject to regulation under this Act.”.

UNANIMOUS-CONSENT AGREEMENT—H.R. 4340

Mr. MCCONNELL. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, in consultation with the Democratic leader, the Senate proceed to the immediate consideration of H.R. 4340, the Bahrain Free Trade Agreement. I ask unanimous consent that there be 60 minutes of debate, with 20 minutes under the control of Senator DORGAN and 40 minutes equally divided between the majority and the minority, and that following the use or yielding back

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the committee-reported substitute be agreed to; the bill, as amended, be read the 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 committee amendment in the nature of a substitute was agreed to.

The bill (S. 1231), as amended, was read the third time and passed.

of time, the bill be read a third time and the Senate proceed to a vote on passage at a time to be determined by the majority leader in consultation with the Democratic leader.

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

NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION AU-
THORIZATION ACT OF 2005

Mr. McCONNELL. Mr. President, I ask that the Chair lay before the Senate a House message to accompany S. 1281.

The Chair laid before the Senate a message from the House of Representatives insisting upon its amendment to the bill (S. 1281) entitled "An Act to authorize appropriations for the National Aeronautics and Space Administration for science, aeronautics, exploration, exploration capabilities, and the Inspector General, and for other purposes, for fiscal years 2006, 2007, 2008, 2009, and 2010", and asking a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate disagree with the House amendment and agree with the request for a conference. I further ask that the Chair be authorized to appoint conferees on the part of the Senate with a ratio of 3 to 2.

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

The Presiding Officer (Mr. SUNUNU) appointed Mr. STEVENS, Mr. LOTT, Mrs. HUTCHISON, Mr. INOUE, and Mr. NELSON of Florida conferees on the part of the Senate.

MEASURES READ THE FIRST
TIME—H.R. 4096, H.R. 4388 and H.R.
4440

Mr. McCONNELL. I understand there are three bills at the desk and I ask for their first reading en bloc.

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

The clerk will report the bills by title.

The bill clerk read as follows:

A bill (H.R. 4096) to amend the Internal Revenue Code of 1986 to extend to 2006 the alternative minimum tax relief available in 2005 and to index such relief for inflation.

A bill (H.R. 4388) to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

A bill (H.R. 4440) to amend the Internal Revenue Code of 1986 to provide tax benefits for the Gulf Opportunity Zone and certain areas affected by Hurricanes Rita and Wilma, and for other purposes.

Mr. McCONNELL. I ask for second readings and in order to place the bills on the calendar under the provisions of rule XIV, I object to my own request, all en bloc.

The PRESIDING OFFICER. The objection is heard. The measures will be read again on the next legislative day.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Public Law 108-109, title VI, section 637, appoints the following individual to serve as a member of the Helping to Enhance the Livelihood of People (HELP) Around the Globe Commission: Jerome F. Climer of Virginia.

ORDERS FOR TUESDAY,
DECEMBER 13, 2005

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the

Senate completes its business today, it stand in adjournment until 11 a.m. tomorrow, Tuesday, December 13. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate proceed to a period for morning business.

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

PROGRAM

Mr. McCONNELL. Tomorrow the Senate will debate the Bahrain Free Trade Agreement under the previous order. The Senate will also begin debate on the motions to instruct conferees with respect to the deficit reduction bill. Members are reminded that we will have stacked votes on Wednesday morning and they should plan their schedules accordingly. We have a lot of work to finish this week and we will need the cooperation and patience of all Members to complete our work before Christmas.

ADJOURNMENT UNTIL 11 A.M.
TOMORROW

Mr. McCONNELL. 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 S. Res. 330 as a further mark of respect to the late Senator McCarthy.

There being no objection, the Senate, at 5:41 p.m., adjourned until Tuesday, December 13, 2005, at 11 a.m.